Final report Prisons of the Future

Cisca Joldersma (Ed.)

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1 Introductory Chapter Prisons of the Future
Cisca Joldersma

1.1 Future prisons

It is the year 2050. We travel around Europe. In every country, we look around for prisons. In our mind, we have the image of a traditional prison: a high secure building with fences, windows with bars, and cameras all around. We wonder why we cannot find these kinds of prisons.

We ask people in the street where to find a prison. They look at us if they have never heard of such a building where offenders are staying together, excluded from society. We further discuss with them the crime rate in their country. They explain that in the last years the crime rate decreased a little, but still offences are taking place. They have no idea where we can find offenders living together; offenders are part of society.

We interview experts of the criminal justice system, on what happened to their prisons. They tell us, that all around Europe, governments decided that new traditional prisons are not needed anymore. European criminal law has been changed and some offences are decriminalized, such as drug use and drunken driving. Drug users and drunk drivers are seduced to addiction treatment and urged to compensate victims. Research has also proved conclusively that detention is not effective and efficient to reduce recidivism. The longer offenders stay in traditional prisons, the higher the risk of recidivism, and the lower the chance of a successful reentry in society. Politicians have been convinced by researchers that traditional prisons primarily have a symbolic value to satisfy the public need. Traditional prisons appear to have deterrence effects on the public, but to some offenders they are – in a peculiar way – attractive. Consequently, other sanctions than regular imprisonment have become more common. More offenders stay at home, supervised by electronic monitoring. The use of community services has also increased, and offenders are supervised by layman probation officers. More offenders have been convicted by means of restraining and protecting orders. We like to know what happens when offenders breach the conditions, because traditional prisons are not available anymore as a last resort. New time-out facilities have been created. Offenders reside in an open, low secure setting. The time-out facilities are also accessible for ex-offenders who want to stay voluntarily because they feel they are at risk for relapse.

We still wonder what happens to offenders who have been convicted for serious crimes and who used to stay in high secure prisons. They admit that there are still a few old prisons available for offenders of serious crimes. However, moral quality of life inside the old prisons changed a lot in comparison to the past. Offenders with (life)long prison sentences are quite busy during working days. They work four days a week within the prison or outside the prison area. Additionally, within certain limits, they are enabled to autonomously take decisions regarding their personal life. With regard to sex offenders, circles of support and

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1 Cisca Joldersma is project manager of Prisons of the Future.
accountability have been established. After a short stay in prison, they are offered the possibility of a prerelease option to live in community with support and supervision of volunteers. Volunteers are coached by professionals. The circles help to manage sex offenders’ risk and support them in becoming part of the local community.

Walking around, we follow the sign of a forensic care hospital. The lady at the reception tells us that in this hospital, partners, family, worried neighbors or care takers can register patients for psychiatric treatment. The forensic care hospital also treats patients who have not already committed a serious crime, but who need psychiatric treatment due to their high risk profile and mental illness. The forensic care hospital provides voluntary treatment as well as enforced treatment.

We are curious what services can be provided to people who are in need of care, but avoid care at the same time. We think about homeless people with low secure risks, but socially unacceptable or deviant behavior. For these homeless people, tiny houses are available. The person who is not welcome anymore in a neighborhood, can register for renting such a ‘tiny house’. The houses can easily be moved to another area in case of nuisance.

We enter a community centre and ask if they know the offenders in the neighborhood. The neighborhood team confirms that there are some offenders living in their area. They try to support them on basic reintegration issues, such as housing, debts, relational issues, and basic social skills. They offer these services to inhabitants of the neighborhood, regardless of them being an offender or not. All clients are encountered respectfully; the client is ‘in the lead’ organizing as much as possible his of her own personalized trajectory.

The scenario above elaborates on basic principles as normalization and reintegration. It makes clear that prisons of the future are related to all kind of sentences, sanctions, psychiatric treatments, and social services. Furthermore, the focus in the project prisons of the future is on what happens in practice. Therefore, in this report we preferably use the term ‘prison and probation practice’ instead of prison or prison policy.

With regard to the scenario above, it is hard to believe that in the near future there are only a few prisons. On the contrary, other probable scenario’s are possible. A scenario could be that, in the near future, differences between offenders and other citizens will be more and more emphasized and offenders are more and more excluded from society. Offenders can be gathered in warehouses that are located in large prison industry complexes, far away from local communities. Another probable scenario is more focus on risk assessments. A high risk offender will be controlled at more areas of life than a low risk offender. The high risk offender has to stay in a high secure setting as long as it is expected that the offender will be of a high risk to society. Another possible scenario is that of personalized sentencing. Personalized sentencing is, as personalized medicine for the individual patient, customized to the individual offender. Deprivations of liberty can be matched precisely with the expected experience and impact they have on the offender.

In conclusion, there are different roads and routes to shape future prisons. It is hard to predict where we exactly are going to.
1.2 Do you know where you are going to?

The famous song “Theme from Mahogany” starts with the intriguing question “Do you know where you are going to?”. The project ‘prisons of the future’ concerns a similar question. Future prisons do not emerge ‘out of the blue’ and we also have to take into account where we are coming from. Therefore, current developments in prison and probation practice have to be analyzed in order to know where we can go to.\(^2\)

The question with regard to current developments is so easily formulated, but not so easy to answer. Looking to the recent past, a lot of changes can be detected in a country’s prison and probation practice. However, divergent opinions may exist on what former changes are important for what is really going on. Stakeholders involved in prison and probation practice have their own stories on what matters most. For example, policy makers and scientists can have different perceptions on what is going on, as well as practitioners of prison and probation practices. Consequently, it is hard to find out what was really going on in our prison and probation practice, and to analyze where we are now and where we are going to.

Subsequently, for ‘outsiders’ of the criminal justice system, such as citizens and the public in general, it is difficult to find out ‘what is taking place behind the walls of our prisons’. In other words, ‘prison is hidden from the public view’.\(^3\) Prison and probation practice still seems to be a black box. The project Prisons of the Future wants to open the black box of prison and probation practice.

Ervin Goffman was one of the first authors who was able to disclose the black box of our prisons. He analyzed what was going on in prisons and other ‘total institutions’. According to Goffman, a prison is a total institution that isolates prisoners from society. A total institution covers and governs all areas of a prisoner’s life. Consequently, the prison deprives prisoners of their social identity. Outside the walls of the prison, the prisoner is ‘nobody’. Consequently, prisoners try to develop an identity within the prison by creating ‘a second life’. In prison practice, an ‘upper’ world and an ‘underworld’ can emerge. The upper world corresponds to the formal rules and prisoners’ adaptation to these rules. The underworld relates to the informal culture and informal networks that emerge within the prison, between inmates mutually and in their relation to staff. Goffman designated the behavior of inmates in the ‘upper world’ as primary adaptation and the behavior of inmates in the ‘underworld’ as secondary adaptation.\(^4\)

Since Goffman, many researchers tried to open the black box of a prison. A lot of research has taken place within prisons, inspired by the early research of Goffman. Pains of imprisonment are distinguished, focusing on self respect of prisoners and the way the prison affects prisoners’ self esteems. Alison Liebling and her research group investigated the moral quality of life in prisons, especially based on the experiences of (lifelong) prisoners. Liebling makes clear that, in the course of time, the moral quality of life in the same prison can change and even can get worse due to particular circumstances.\(^5\)

\(^2\) See chapters 7 to 11 on current developments and future challenges.
\(^3\) Wilson, 2014, p. 86.
\(^4\) Goffman, 1961.
\(^5\) See also Chapter 2 in this report.
1.3 Political and societal context

Prison and probation practices can be viewed as social institutions, in which people come together for a specific purpose, and roles, positions, and values are organized in relatively stable patterns of human activities. In this regard, a prison can be viewed as a particular social institution, as well as community service, forensic care and probation service.

A lot of research focus on prison rates and crime rates in a country. For example, the British criminologist David Downes tried to understand why the number of prisoners in the Netherlands decreased whereas the crime rate was increasing at the same time. He compared the Netherlands with England and Wales where in the same period of time the numbers of prisoners were still increasing. However, crime rates and imprisonment rates “do not paint the full picture.” Other characteristics of prison and probation practice can be important as well, such as moral quality of life in prisons, activities inside and outside prisons and the use of alternatives to imprisonment.

In order to explore prison and probation practice, different explanatory factors can be taken into account. Many authors assume a relationship between the prison population in a country and the political economy of that country. For example, a neo-liberal, conservative corporatist, social democratic corporatist, and oriental corporatist political economies are distinguished. Others relate the political economy of a country to cultural, political and institutional structures. The political economy of a country, in relation to its cultural and political structures, is a ‘hard-to-change’ factor.

In this project, we preferably search for more ‘easy-to-change’ factors that influence prison and probation practice. One factor we pay attention to, is the level of political polarization with regard to issues of criminal justice in general and prison and probation practice in particular. Issues with regard to prison and probation practice can become more or less politicized in the course of time. Controversial political debates on these issues can hardly be resolved by scientific arguments; they are immune to resolution by an appeal to the facts. Controversial issues are politicized. For example, incidents can influence public emotions and political reactions to it. Politicians feel the urgent need to give expression to the public voice and, in particular, to take care of pains of criminality in particular. The phenomenon of politicization is accompanied by a dominant role of politicians in policy making. National prison and probation services have to deal with political pressure and to balance the pains of criminality with the needs of offenders.

1.4 Project objectives and project outline

The project Prisons of the Future is part of the Actions Grants from the Criminal Justice Annual Working program 2013. It concerns the theme ‘improving conditions relating to detention’ and the priority ‘Actions or studies that focus on alternatives to imprisonment’.

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7 Tubex, 2013.
9 See Chapter 5 in this report.
The project Prisons of the Future aims to give an impression of the future landscape of prison and probation practice. The landscape includes buildings such as future prisons, but also other institutional practices and the way they are shaped and organized.

Originally, the project aimed at developing a ‘toolkit of innovative options’\textsuperscript{10} for the future and the possibilities of applying these options in practice. To attain at future options, we assumed we need insights in ‘what works’ or, more specifically, in ‘working mechanisms’, i.e., what works, when, why, in what circumstances for whom? We also wanted to search for a common framework to analyze and assess current developments in prison and probation practice in different European countries.\textsuperscript{11}

During the project, we had to skip the idea of a toolkit. Through discussion and reflection, we discovered that it is not possible to develop a toolkit of options for the future. The emphasis on \textit{what} alternatives and future options was complemented by focusing on \textit{how} to apply sanctions and options in practice. The question of ‘how to apply for what reason’ became more important than the ‘what to apply’ question.

The adapted objectives of the project prisons are:
1. to get insight into current prison and probation practices in different European countries;
2. to analyze developments in prison and probation practices and to assess promising practices and how they can be applied in practice.

The objectives can be translated into the following central questions:
1. What are current developments in prison and probation practice?
2. What patterns can be recognized in prison and probation practice and how can they be assessed?
3. What are challenges for the future?

After describing and analyzing developments, patterns have to be detected. It can be questioned whether the future will evolve incrementally, or, will have its own revolutionary logic. During the project, we experienced that it is hard to imagine the long term future in 2050. Therefore, ‘future’ refers in the project to the near future in 2025.

The central questions have been answered on the basis of a participatory policy analysis methodology. In such a methodology, scientific insights are combined with subjective and tacit knowledge of prison and probation practice.\textsuperscript{12} During such an interactively shaped process, different perspectives and arguments can become intertwined in order to build a comprehensive framework on prison and probation practice.

The main activities during the project were three subsequent working sessions with three representatives of each European country involved in the project; a practice-oriented scientist, an expert-professional from prison and probation practice, and a policy maker. The

\textsuperscript{10} See Chapter 15.
\textsuperscript{11} See Chapter 12.
\textsuperscript{12} Geurts & Joldersma, 2001.
participating countries in the project were Sweden, Finland, Denmark, Belgium, and the Netherlands. Also, a team of the Confederation of European Probation (CEP) participated in the project as well as the executive director of EuroPris.

In addition to the participating teams, an expert committee was established. The expert committee was composed of scientists from different countries. Participants of the expert committee were: Alison Liebling from the UK; Eric Maes from Belgium; and Bas Vogelvang from the Netherlands.

The first working session was oriented at drawing up national trends of prison and probation policy in the last decade and developments in prison and probation practice. During the session, the different teams presented current developments in their prison and probation practice.

For the second working session, a few promising practices were selected and assessed in depth. The promising practices are Electronic Monitoring, COSA and PrisonCloud. A new Belgian prison was visited that applies PrisonCloud.

The third working session focused on exploring implementation problems that will be encountered by applying innovative options and the way these problems can be tackled in practice. Therefore, the participants were involved in a tailor-made gaming/simulation, especially developed for this session. They also visited and pre-assessed a new Dutch prison under construction.

The results of the three working sessions were presented and debated during a final working conference at 2-4 March 2016. The conference was organized by one of the co-beneficiary partners of the project, EuroPris.

1.5 Functions of prison and probation practice

In this section, some general features of current practices of prisons and probation are pointed out. These features signify the primary functions of prison, probation and other social institutions and how they change over time.

In many countries, it is argued that prisons function as a last resort. For example, contract treatment or conditional sentences are preferably applied. If offenders breach the conditions, they are finally sent to prison. Consequently, prisons can come to the fore, due to non-compliance. For serious crimes with many victims, prisons usually are still viewed as the ‘appropriate’ punishment. Nevertheless, the preferred option of imprisonment cannot always be lived up to. Due to practical reasons, such as budget cuts or overcrowding, alternatives to regular imprisonment can be applied. Consequently, a distinction can emerge between formal policy and informal practice. Practical reasons can influence whether prison actually functions as a first or a last resort.

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13 See Chapter 4.
14 See Chapter 3.
15 See Chapter 10.
The reasons why offenders are sent to prison can change over time. Historically, retribution and incapacitation have been primary purposes of imprisonment. In the course of time, rehabilitation of the offender has also become one of the main objectives. Currently, reducing recidivism has become a central objective of the criminal justice system in many countries. In some countries, the focus seems to shift to reintegration as a means for attaining reduction of recidivism. Accordingly, many countries changed their criminal justice laws by introducing new types of sanctions, such as fines and community services and options for psychiatric and addiction treatment. Consequently, the prison population changes and the prison itself functions not anymore as only a ‘safe haven’ to society by means of thick walls and deprivations of liberty. Imprisonment can be accompanied by reintegration activities that support reentry into society. Reintegration programs can start during detention, to be continued during, and after gradual release. Pre-release possibilities are usually combined with supervision. Consequently, the prison functions as a reconciliation of diverse objectives, such as reintegration, retribution, punishment, and restoration.

Current changes in prison and probation practice are often related to the introduction of new technology. New technology can serve different purposes. For example, offenders are offered more digital opportunities to keep virtual contact with their social environment. New technologies can support normalization and access to society. New technology can also influence the opportunities for face-to-face contacts between prisoners and staff. Consequently, technology can change the internal prison’s climate, and, subsequently, the function of a prison can change as well.

Many convictions, such as mandatory treatment or community services, are accompanied by supervision. Also, (earlier) release from prison is possible with supervision by probation officers. As a consequence, probation more and more replaces and complements imprisonment. Probation more and more can function as a ‘virtual prison’ where probation officers keep an eye on offenders in society and make them feel to be watched and controlled at a distance. The increased use of probation can also have the risk of net widening and broaden the impact of the criminal justice system.

In conclusion, prison and probation functions can change over time due to the introduction of new options and applications. Options can be ordered as ‘front-door’ options or ‘back-door’ options. Front-door options are used to avoid incarceration. Back-door options relate to early release from prison. The back-door options shorten the time the offender has to stay in prison. Many sanctions, such as community services, forensic (contract) care, and electronic monitoring can be used in prison sentences as both a front-door option or a back-door option.

1.6 Outline of the report

The report consists of three parts. In Part One, the members of the expert committee draw our attention to basic concepts in prison and probation practice. Alison Liebling focuses on what matters to prisoners and staff and how prisons can be assessed on their moral quality of life. Bas Vogelvang emphasizes the implications of desistance theory for prison and probation practice. Eric Maes introduces the different forms of electronic monitoring and
the contexts in which electronic monitoring can be applied and how it could be evaluated. Additionally, Cisca Joldersma reflects upon the relation between politics and prisons. Part I is closed by Ioan Durnescu, on behalf of CEP, who explores future prisons.

In Part Two, the different project teams describe developments in prison and probation in their countries. The Danish team elaborates on their prison and probation population and on basic principles behind prison and probation practice. They expect that the political focus may shift and a more victim-based approach can emerge. The Swedish team speculates about whether the present decrease in prison and probation populations will continue or level out. They explore innovative options, based on current or new legislation, and existing concepts or new innovations. In Finland, community service has a good reputation. Community sanctions are widely accepted as a replacement for short term prison sentences. Prisons are intended to be as open as possible, offering options for (pre-)release. In Belgium, electronic monitoring has replaced imprisonment due to conditions of overcrowding. New prisons were built, where prisoners have virtual access to society by means of PrisonCloud. In the Netherlands, the prison population declined and a lot of prisons had to be closed. The Dutch team focuses on new pilots and projects in which prison conditions are improved.

In the last part of the report, a comparative analysis of the preceding chapters is conducted and conclusions are drawn with regard to the central research questions. Based on the multilevel, socio-ecological model of Bronfenbrenner, different layers and contexts of prison and probation practice are distinguished. A few basic principles are formulated that together represent working mechanisms behind the landscape of prisons in the near future.

References


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2 The moral quality of prison life
Alison Liebling

“All prisoners shall be treated with the respect due to their inherent dignity and value as human beings. No prisoner shall be subjected to, and all prisoners shall be protected from, torture and other cruel, inhuman or degrading treatment or punishment, for which no circumstances whatsoever may be invoked as a justification. The safety and security of prisoners, staff, service providers and visitors shall be ensured at all times.”

2.1 Introduction

Most of my professional life has been devoted to the study of forms of imprisonment that do least harm, and which might be socially constructive rather than destructive and damaging. Using prisons less is the most important route to the prison’s legitimacy, but it remains essential to consider whether it is possible ‘to construct a form of imprisonment whose basic structure and daily practices are more or less acceptable to those who endure it’. There are qualitative as well as quantitative questions to be asked about prison use: how is punishment administered, practiced and experienced? How does power work? What are the consequences of these practices, and how do they shift over time? What can be learned by ‘a comparative moral evaluation of prisons’ across Europe? My research, with others, has attempted to conceptualize and operationalize the moral quality of life in prisons (mainly in England and Wales), and using data from these projects, to understand the differences between ‘unsurvivable’ prisons and those types, parts or aspects of prisons that facilitate survival and even personal growth. These kinds of prisons are not common, but it is possible to identify and describe, as well as capture empirically, the kinds of moral climates in which less harm is done. Prisoners are clear, once given an organized opportunity to speak, about what constitutes ‘inhuman and degrading treatment’. Indifferent as well as brutal treatment, lack of safety, and an absence of personal development opportunities, make prison suicides more likely. Conversely, moral climates that are respectful, lightly organized, and purposeful are survivable and may provide opportunities for individuals in them to grow and develop. There are powerful links between ‘moral climates’ and outcomes.

This research journey has been long and complex and is continuing. The relationship between the evidence, which is consistent, and practice, which is not, has been uneven. Certain basic facts stand out. If we were to design ‘Prisons of the future’ according to both normative requirements and empirical evidence (which align remarkably well), they would be derived from the following principles:

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1 Alison Liebling is Professor of Criminology and Criminal Justice and Director of the Prisons Research Centre at the University of Cambridge Institute of Criminology.
3 Liebling, with Arnold, 2004, p. 491.
4 Liebling, 2011a.
1. Human dignity (that is, respect, human worth/value, physical and psychological integrity, and the possibility of agency).
2. The avoidance of further damage or harm.
3. The right to develop the self; to learn, be active and productive.
4. The right to be important to other people (that is, to contact and recognition and to belong to a functioning society, including opportunities for work, restoration and repair).
5. The right to be responded to by a stable organization, with a stable and professional staff group, which strives continually for ‘whole system integrity’ and ‘professional development’ (through research, evaluation and reflexivity).

Evidence from research strongly supports the importance of these principles. Research should also test these principles against experience, continually. It is too easy to assume that officially stated principles are reflected in policy and practice, when they are not.

So ‘legitimate prisons of the future’ would combine fair and parsimonious use with humanizing or normalizing design, and maximum interior legitimacy or decent moral climate. Punishment would be ‘tempered with mercy’, as UK Secretary of State Michael Gove proposed in his 2015 speech to the Howard League for penal reform, and would aim to repair and reintegrate.

As part of the background to our discussions on possible futures, it was considered helpful to summarize the research evidence and theoretical understanding of prisons and their existing and varied moral qualities to date, based mainly on an extensive program of research carried out in England and Wales. The remainder of this chapter attempts to do that.

There are two ways of asking questions about the moral quality of prisons. The first is to ask, ‘can prisons ever be moral places?’ to which the answer is, ‘unlikely’. They are, as David Garland has argued, ‘tragic places’, inherently imperfect and flawed. Richard Sparks has argued that they suffer from an ‘inherent legitimacy deficit’ because of the imbalance of power they embody and the unclearly acknowledged political and economic purposes they serve. But prisons are moral places in another sense: they have distinct moral ecologies, or moral climates, and these differ. Prisons have both essential qualities, to do with their symbolic role, and the use of power, and they also have important differences related to how ‘good’ or ‘bad’ a form power takes in each establishment. So the second approach is to ask, what kind of moral climate does this prison have? Why does it operate in the way that it does? What are the effects of this climate, and what are its justifications? There are complex relationships between the first set of questions (relating to ‘exterior legitimacy’) and the second (what Sparks calls ‘interior legitimacy’), but for the purposes of this chapter, I shall focus primarily on the second.

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5 He cited John Milton (1667), “I shall temper so Justice with mercy” (Book X, lines 77-78), and also Winston Churchill in his reformist speech. Gove said that Ministry of Justice prison policy under his stewardship will be based on “evidence, reason, compassion and mercy”, as well as the belief that “every human life is precious, and we can transform lives if we have the patience, courage and tenacity to believe in change”(Gove, 2015).
7 Sparks, 1994.
My work, with others,9 has attempted to pursue this line of inquiry about how to meaningfully measure the quality of prison life over many years. Other scholars10 have attempted this before, but rarely from as ‘grounded’ a position. Our aim has been to provide a conceptual and methodological foundation for understanding prison life, based on extensive dialogue with prisoners and staff. The original project was tentative and exploratory, and aimed mainly at finding out whether ‘difficult to measure’ but essential features of a prison climate (such as the nature and quality of staff-prisoner relationships) could be measured. They could, as could many other important moral features of the prison experience, including good uses of authority. At least four surprising but important findings have arisen from this work:

I. the degree of consensus among prisoners from different backgrounds and jurisdictions about what matters in evaluating the quality of life in prison;
II. the importance of value balance in the prison quality framework, so security values as well as ‘harmony’ or relational values matter;
III. the clear empirical relationships between aspects of the moral climate as measured in the survey developed and several outcomes: such as, order, well-being, personal development and ‘political charge’, or anger and alienation among prisoners11 (there may also be a statistical relationship between a prison’s scores on Measuring the Quality of Prison Life (MQPL), that is, its moral profile, and recidivism);12
IV. there is a powerful resonance between these ‘important values that matter’ and most of the values embodied in statements of minimum standards in prison.

Bad prisons produce bad outcomes. They are bad when they humiliate, degrade, and abuse. They lie on a continuum in this respect, from the overtly inhuman to the (occasionally) regenerative. There is far more humiliation and abuse than many upholders of the prison think, including in the increasing resort to modern or new penological forms of imprisonment, in outsize establishments. There is also, importantly, a clear consensus and much empirical evidence on what the less degrading and destructive forms and uses of imprisonment look or feel like. Prisoners are articulate and well-informed analysts of these practices, and of the important differences between the more abusive and other prisons and their effects. These unexpectedly clear empirical findings have led to more systematic explorations, and to some clear conclusions about the dangers of illegitimate penal practices.

9 In particular, with Helen Arnold, Ben Crewe, Katherine Auty, Bethany Schmidt, Charles Elliott, Vicky Gadd, Susie Hulley, Claire McLean, Linda Durie, Grant Muir, Gerry Rose, John Rynne, Christina Straub, Jonathan Jacobs, Ruth Armstrong, Richard Bramwell and Ryan Williams. Others, including Deborah Kant, Amy Ludlow, Giulia Conto, Thomas Akoensi, and Alice Levins have contributed in valuable ways to relevant fieldwork, data collection and analysis. Tony Bottoms has contributed enormously to discussions of the meaning and relevance of this work. I am honoured and grateful to work with such outstanding colleagues.
10 such as Toch, 1992 and Moos, 1975.
11 We have defined this new dimension so far as ‘prisoner anger and alienation’. It includes feelings of anger and resentment against the state and its institutions. We are using it as an indicator of increased risk of violence, including extremist forms of violence.
12 see Harding, 2014; Auty and Liebling, in progress.
2.2 Methodology and development

The MQPL survey arose from social scientific rather than policy interests. Its original development was funded by a Home Office Innovative Research Challenge Award. Prior to this, the author’s explorations began as a result of a high level senior management dispute about a particular prison’s lack of quality, into which she was drawn. Its origins are in ‘research-for-knowledge’. Its main goal is accurate and authentic description, explanation, and conceptual clarity. Its cumulative development over a fifteen year period to date (2001-2015) means that empirical observations are used to develop conceptual categories (and eventually theories) relevant to prison life and experience, which in turn lead to better observations.

A significant property of the survey is that it is based on the use of Appreciative Inquiry (AI). This is a method originally developed to bring about organizational and economic transformation, but it has been adapted by the author and colleagues for use in research. It reveals underlying values, or what matters most to participants, and it does not avoid deliberation on the emotional component of experiencing, or being denied, ‘what matters most to you’. It represents a form of ‘strong evaluation’: that is, it invites reflection on our deepest held commitments, and encourages participants to notice and express them. Its effects are powerful and appreciative deliberations result in the careful identification of ‘what is’, and what is experienced as ‘best’, as well as what is lacking: an important supplement to the usual social science preoccupation with ‘problem-identification’. It inquires about what gives the research participants life and energy, and often leads to energetic (otherwise silenced) narratives about what the ‘better days or experiences in prison’ look like, or ‘when I feel most like a human being’. Appreciative Inquiry and MQPL results can be used to lead change. But this has been a somewhat underdeveloped aspect of its potential, at least in England and Wales. Consistent with many organizations undergoing modernization of their management practices, measurement of ‘moral’ performance has tended to be prioritized over management of better performance.

The ‘MQPL’ survey has an underlying conceptual framework incorporating notions of legitimacy, ‘right relationships’ and ‘value balance’. The concepts of ‘staff professionalism’ and ‘use of authority’ have emerged as key components in this framework as well as the concepts of humanity, respect and staff-prisoner relationships. The research program has confirmed the centrality of the complex work of prison officers to the quality of life in prison,
but also described what this means in practice. The best prison staff fuse care with power in a way that is challenging but achievable.\(^\text{21}\)

The in-depth, appreciative and qualitative origins of the MQPL survey explain its ‘face validity’. Staff and prisoners ‘recognize the results’ when they see the single Figure showing scores on all dimensions. It shows up important differences between prisons, within security and function categories, between as well as within and between the public and private sectors,\(^\text{22}\) and across jurisdictions.\(^\text{23}\) It facilitates some understanding of the differences between ‘exceptional quality’ prisons and more ordinary and less legitimate establishments. The Cambridge University Prisons Research Centre team are often invited to apply a qualitatively informed version of MQPL in specific establishments – an exercise we call ‘MQPL Plus’.\(^\text{24}\)

Some longitudinal studies including MQPL have been conducted, showing significant change (both improvement and deterioration) in particular establishments, sometimes as the result of a deliberate strategy (for example, a carefully implemented suicide prevention strategy, leading to improvement in prisoner well-being) but sometimes for reasons that are not easy to explain. Surveys conducted routinely by the Prison Service’s MQPL team are reported on with historical as well as comparative data, so it is possible to see quality of life over time, as well as against a comparator group. Sometimes the results are outstanding,\(^\text{25}\) or extremely poor.\(^\text{26}\) Such prisons require separate study aimed at explaining their outlier status. The cultural differences between apparently similar prisons are significant.

**2.3 Empirical relationships between prison moral climates and outcomes**

The in-depth, appreciative and qualitative origins of the MQPL survey explain its reasonable performance at an explanatory level. The results have been used to explain variations in:

a. levels of order;
b. suicide rates and levels of distress;
c. experiences of personal development, and
d. levels of ‘political charge’ or anger and alienation among prisoners, whilst controlling for individual differences and other potentially confounding variables.\(^\text{27}\)

The same set of ‘key dimensions’ (refined over a number of research projects) explain most of the variations in these outcomes: humanity, fairness, help and assistance, organization

\(^{21}\) Liebling, 2011b.

\(^{22}\) Liebling et al., 2011a; Crewe et al., 2011.

\(^{23}\) e.g., Johnsen et al., 2011.

\(^{24}\) ‘MQPL plus’ is an intensively-conducted, descriptive analysis of the social environment for staff and prisoners in a single prison establishment, using the conceptually validated version of the Measuring the Quality of Prison Life (MQPL) and Staff Quality of Life (SQL) surveys alongside detailed observation, and appreciative interviews with staff and prisoners. The research exercise is conducted by a highly experienced team of at least six members of the research centre, who spend 70 person days conducting the work. Data analysis is carried out collaboratively, with data from many other prisons in mind, so that any cultural diagnosis of the prison is well informed and fully contextual. See further Liebling et al., 2015b.

\(^{25}\) for example, results for Grendon; Ministry of Justice, 2014a and Warren Hill, Ministry of Justice, 2014b.

\(^{26}\) see, for example, recent results for Pentonville and Wormwood Scrubs; Ministry of Justice, 2014c; 2015.

\(^{27}\) for a summary of these studies, see Liebling and Auty, in progress.
and consistency, bureaucratic legitimacy, staff-prisoner relationships and staff professionalism. These dimensions, broadly reflecting the theoretical concept of legitimacy, generally operate together, so that ‘safety’, which is linked to ‘well-being’, is higher in prisons with better (more predictable) staff-prisoner relationships. Prisons feel less safe when staff are inconsistent and unapproachable, or unfair. ‘Higher moral quality’ prisons are found to be less damaging in many important respects. Legitimate prison climates are literally more ‘survivable’. They have fewer suicides, lower levels of distress, fewer risks of disorder, generate less anger and alienation, and may lead to better prospects on release.28

The importance of ‘right staff-prisoner relationships’ in the overall prison quality framework is critical. Relational treatment is linked to the ‘proper use of authority’, and emerges as one of the main foundations of legitimate treatment in prison.29 What these analyses show, is an underlying distinction between ‘contempt for personhood’30 at one end of a continuum, and ‘recognition of emergent personhood’31 at the other. Permanent imprisonment, isolation, lack of access to activity and education, and violations of human dignity or sacred beliefs, all breach this basic value. Above and below certain thresholds, distinct types of outcomes arise. Below the ‘recognition’ threshold, suicides, disorder, and other undesirable outcomes arise more frequently. Above the ‘recognition’ threshold, and where sentences are legitimate, personal development is sometimes possible. Ancient wisdom (on the importance of the virtues) and empirical research findings coincide. The continuum is uneven, so it is rare to find prison environments in the ‘recognition’ portion. But it is possible, more usually in countries that use imprisonment least. More often, we seem to be engaged in ‘practical employment of normative principles in order to explain their “failure to be realized” in existing society’.32

The MQPL survey has limits. It is tempting for senior managers to ‘go for the dimension scores’ instead of unpicking the detail. It can be conducted by inexperienced researchers without qualitative exploration – not consistent with its original spirit –, and leading to frustration when interpretation is required. Its results are detailed and complex and not easy to interpret without good working knowledge of prisons, and extensive qualitative familiarity with the establishment to which the results belong. Its conceptual framework – values-driven and closely related to the concept of legitimacy – is only partially understood ‘in the field’.33 It does not address some important (and changing) dimensions of the prisoner experience (like meaning and identity, religious feeling and activity, or the nature of relationships with family). It was developed in England and Wales, and yet is appealing to the research and policy community in some unexpected places, where cultural translation is

28 Auty and Liebling, in progress.
29 see Liebling, 2011b; Crewe et al., 2014; the other is legitimate sentencing, and sentencing-to-release structures.
30 Johnson, 2015.
31 Liebling et al., 2015a; Smith, 2010.
33 The results produce knowledge about what is, and what ‘ought to be’. The term ‘moral performance’ was coined at the end of the original study (Liebling, with Arnold, 2004) and reflects the role of the survey in describing how prisoners feel morally treated by the institution. That safety and security are as significant in the prisoner experience as respect and humanity supports the argument that the survey reflects prisoners’ ‘strong evaluations’ of what a legitimate prison feels like, rather than superficial preferences about material goods and freedoms.
tricky. All of these challenges, if faced, are likely to add to the most important goal of the original project: to understand, and find an appropriate language for describing, the prison experience and its effects. Its results help us to remain properly critical about the uses and purposes of the prison, and its varied manifestations. Questions of whether a particular design, or concept of a prison are ‘better’ than others are empirical questions. The empirical and the moral often coincide.

2.4 Values, rights and minimum standards in prison

Most of the values identified by staff and prisoners in our ‘appreciative inquiry’ exercise find some expression in human rights principles. They are ‘virtues human beings need’, and often agree on. As argued above, the exercises engaged in to discover what prisoners felt most strongly about constituted a form of ‘strong evaluation’. The terms ‘respect’, ‘dignity’ and ‘humanity’ are common to international instruments such as the European Prison Rules or the United Nation Standard Minimum Rules for the Treatment of Prisoners. So perhaps the ‘fit’ between our moral performance work and the language of human rights is not surprising. The ‘language of rights’ provides a form of shorthand for the sorts of moral discriminations a culture makes ... it is a shorthand for ‘strong evaluation’. Concepts like ‘dignity’ and ‘humanity’ are difficult to operationalize and apply, however, especially from a distance. Prisoners are articulate about these terms, and can relatively easily explain the difference between ‘feeling humiliated’ and ‘retaining an identity’.

Whilst this journey was not anticipated when we began our work on what mattered most to prisoners, it seems possible that the more micro-level or phenomenological kind of analysis that developed into MQPL may offer an additional way of deliberating on what the terms ‘inhuman’ or ‘degrading’ or, conversely, humane might mean, and of supporting the principles enshrined in the recently revised ‘Mandela Rules’ (for example, their emphasis on the professionalization of staff and personal development). We hope its use – the data produced, the intellectual efforts involved, and attempts to translate it for use in other, very different, jurisdictions – might contribute to a clearer understanding and articulation of what a ‘lawful and non-violent’ penal system might look like and what limits might be set to the pursuit of order and security in the interests of ‘doing less harm’. There is considerable evidence in this body of work to support the use of more legitimate prisons, and more legitimate prison use, for both moral and instrumental reasons. I hope we have collectively reframed the concept of prison evaluation from the narrow and technical account characteristic of the new penology towards a more moral and political form of evaluation with considerable empirical support underlying it. There is, no doubt, considerably more to do in applying the lessons from this work to the imagining of better prisons in the future.

34 MacIntyre, 1999.
35 see Coyle, 2002, pp. 31-48; Taylor, in Abbey, 2000, p. 129. There is a gap, however, between the existence of strong statements of standards in prison, and practice, or the experience of prisoners. There seem to be three main difficulties: one is related to meaning, the second is a problem of implementation, and the third is recourse. See Liebling, 2015.
36 Liebling, 2011a.
38 see McEvoy, 2001, p. 335; Liebling, 2013.
2.5 Conclusion

It is no accident that the dimensions at the heart of MQPL are human values. What matters, in human experience, is to live free from humiliation, abuse and torture, and to fulfil our ‘emergent personhood’. Extreme instances of inhuman and degrading treatment, the form they take, and the attitudes that support it, resonate with mundane and less overt instances of it in distant places. The brutality shown to prisoners assumed to be terrorists in Abu Ghraib shows some of the characteristics of the brutality shown to a feared Muslim prisoner in a ‘low moral performance’ UK high security prison: furious beatings and degradation of individuals constructed as highly dangerous on highly questionable evidence in the first case and degradation of and violence towards over-sentenced ‘suspect communities’ in the second. Both are supported by the same script. Recognizable ‘abuse scripts’, cultures, and risks to humanity, exist across jurisdictions, and can be found in the most ordinary (and democratic) of places. They breed anger and violence. They are not confined to forms of imprisonment shaped by anxieties about terrorism. Nor are they related only to minority and foreign populations or religions. To understand the meaning of the term ‘inhuman and degrading treatment’, we need to talk to prisoners everywhere.

The ‘ground up’ exploration has been important in attempting to bridge the gap between distant legal terminology and practice, and individual experience. There is much more to do. Several penal scholars (and practitioners) are engaged in this project. That such interest and energy exists is an important social fact. Greater coordination, without (as Goodale argues in his case for a critical anthropology of human rights) ‘supplanting other possibilities’, would strengthen the impact of this kind of work.

There are important lessons in this research journey about the kinds of social science that leads to possibilities for change. Meaningful concepts, carefully operationalized from ‘the ground up’, are more likely to lead to meaningful output (mature quantitative data) than distant theories of prison life and quality of interest mainly to policymakers or politicians. The ‘moral performance’ survey attempts to provide a conceptual and methodological foundation for understanding prison life, based on extensive dialogue with prisoners and staff. Neither the concepts nor the items in the survey were intended to be definitive, and there was no deliberate intention to export the ‘moral performance’ idea abroad. The projects underlying the development and use of the survey represent a series of attempts to reflect with some precision on the social, relational and moral climate of a prison. This places us in a better position to solve the many moral puzzles about the nature, quality, uses and effects of imprisonment in the UK and beyond. It may also help us to hold some of the right aims and values in mind as we imagine smaller, more innovative, and certainly more legitimately used, prisons of the future.

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40 Smith, 2010.
41 ‘He could make an explosive out of a straw’, Guantanamo Bay ex-prisoner testimony, Reunion, BBC Radio 4 16 August 2015; ‘he could make a bomb out of a tea bag’, officers describing a prisoner ‘convicted of an offence against the Terrorism Act’, in Liebling et al., 2011b.


Harding, R. (2014). Rehabilitation and prison social climate: Do ‘What Works’ rehabilitation programs work better in prisons that have a positive social climate? *Australian and New Zealand Journal of Criminology*, 47, 163-175.


Ministry of Justice (2014a). Results from an MQPL Survey at HMP Grendon. Audit and Assurance: NOMS.

Ministry of Justice (2014b). Results from an MQPL Survey at HMP Warren Hill. Audit and Assurance: NOMS.

Ministry of Justice (2014c). Results from an MQPL Survey at HMP Pentonville. Audit and Assurance: NOMS.

Ministry of Justice (2015). Results from an MQPL Survey at HMP Wormwood Scrubs. Audit and Assurance: NOMS.


3 Desistance from crime and prisons of the future
Bas Vogelvang

3.1 Introduction

In this chapter I will present an overview of research regarding desistance from crime, and its implications for prison policy and prison practice. Based on desistance studies, conclusions can be drawn about the way prison and probation services can assist offenders. They can support offenders to start thinking of crime-free living, making appropriate decisions to do so, and making a success of it. From desistance studies, also conclusions can be derived about the kind of prison and probation organizations that are needed and the kind of policies.

3.2 Our clients: persisters and desisters

I invite you to look at the video of Morgan Freeman, acting in ‘the Shawshank Redemption’, who speaks to the parole board.¹

Morgan Freeman is an older prisoner who committed his crime as ‘a young kid’. One of the surest things we know from crime research is that there is an age-crime curve. The figure above, is just one example of such a curve. The figure shows a sharp rise during adolescence and a peak during mid-adolescence and young adulthood. As offenders get older, they commit fewer crimes, and most offenders stop committing crimes. They desist from crime, and we can call them desisters.

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² https://goo.gl/TJtEsE.
Most first offenders and, even second offenders, do not develop a serious criminal career. They end their criminal behavior after being arrested and realizing that this is not the way to proceed. Other offenders, that persist in criminal behavior and develop a criminal career, are called persisters. Persisters may continue their criminal career, until a change or a transition happens. Gradually, they then become desisters.

In 1983, Hirschi and Gottfredson\(^3\) explained persisting in crime in terms of a lack of self-control of the offender. According to them, we all gradually develop self-control in our lives and persisters just need more time to develop self-control. At the time persisters have caught up with the rest of us, they also leave crime behind. The hypothesis was criticized because it does not take into account important life events and different opportunities for crime. Due to these events and opportunities, the process of developing self-control in the course of time can be shaped differently. The process can be influenced by outside developments that interact with the individual development process. The hypothesis of persisting in crime of Hirschi and Gottfredson can be viewed as too general, whereas the explanations of critics are too individual.

Another explanation for persisters in crime can be derived from Moffit.\(^4\) She distinguished different types of criminal careers, taking into account factors in the environment. She started with distinguishing two types of offenders, the Adolescent Limited ones (AL offenders), and the Life Course Persisters (LCP offenders), who have a much longer and much more serious criminal career (see the next figure).

The criminal behavior of AL offenders is explained in terms of a maturity gap. When you reach adolescence, with all kinds of new opportunities and accompanying pressures, you would like to reach mature goals such as power, money, and status, but this is for many reasons not yet possible when you are still young. To bridge this gap, AL offenders start to imitate serious, LCP offenders, to reach their goals in an illegal way. They will leave crime

\(^3\) Hirschi and Gottfredson 1983; 2001.
\(^4\) Moffit, 1993.
when they become mature, although there is also evidence that some AL offenders continue with crime into adulthood.

LCP offenders start at an earlier age with criminal behavior and continue their criminal career much longer. Moffit explains their criminal behavior in terms of neuropsychological deficits in connection with less self-control. Other reasons are related to difficult behavior in childhood, in combination with severe parenting problems. Other researchers distinguish different types of LCP’s. Their research show us that persisting in crime is not limited to individual explanations.

More recently, Uggen & Massoglia explain persisting in crime as a choice, almost as an identity choice, that can be summarized as “I choose not to be part of this society, also because I never got the chance anyway.” Persisting offenders are stuck in immature behavior, such as crime, because they missed the opportunities in transition from youth/adolescence to adulthood. In our cultures, all kinds of transition possibilities and expectations exist, but persisters seem to be unable to catch them and blame the world for this. McNeill confirms that persisters were offered fewer chances to develop themselves into productive citizens. As a result, offenders feel the ‘right to be bad’, and crime is more or less justified to themselves. Their way of life is often reinforced by taking drugs, and being stigmatized in society. Laub adds to this that the criminal lifestyle can be addictive, in terms of kicks and status. Maruna, one of the pioneers in desistance research, characterizes the internal narrative described here as a “condemnation script” of persisters, “escaping the burden of choice” by pointing at the outside world and never to themselves. There is no escape and often only room for pessimism.

Taking into account these interactive explanations, desistance researchers have similar observations. Developing a crime-free lifestyle is a ‘zig-zag process’, with ups and downs, including recidivism along the way. In scientific terms, desistance is not related to age, but a gradual process, overcoming many obstacles in your life, both psychological obstacles and obstacles in your surroundings, through maturation and experiencing and struggling with life-events and life-transitions. Through these obstacles, desistance becomes more and more a possibility.

According to Giordano, desisters are open for hooks for change in the world, they welcome them, and they also act upon them. These hooks are often offered in culturally defined transitions, such as becoming a more independent adolescent, or starting education, a career or starting a family. His statement is supported by Jamieson, who found different reasons to desist from crime at different ages, reflecting the transitions. Desistance among younger adolescents, at the age of 14 to 15, is more likely to be associated with a negative evaluation of crime and justice interventions. For older adolescents, at the age of 18 to 19, increased maturity, often linked to life-course events such as employment or relationships and the transition into adulthood, are more likely to prompt desistance. For young adults, at

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6 King, 2014.
8 Giordano, 2002.
9 Jamieson et al., 1999; McIvor et al., 2000.
the age of 22 to 25, desistance is associated with the assumption of new roles, such as ‘parent’ or ‘breadwinner’.  

In this section, some differences between persisters and desisters have been pointed out, but there are still many questions about the desistance process that need answers. For instance, when, or at what point, can you start calling somebody a desister? And a second question, even more important, is why does this happen? And how does this process of development towards desistance actually takes place, so criminal justice professionals and care professionals can even assist or influence it and help both the offender and society?

3.3 Desistance: When?

How to measure desistance? This is the first question we have to answer. Measuring desistance depends, of course, on how desistence is defined. There are many different definitions. The most basic way of measuring desistence is related to a certain time without crime. For instance:
- two years without reconviction;
- three years without being rearrested; or
- one year without self-reported crime.

The problem with this way of measuring is that desistance contains both a process and a sort of ending point. We actually never know when the end is there. Maruna states there is no fixed “cessation point”, and Fergus McNeill adds: “desistance is not a single event”. Healy points out that many desisters can still commit crimes, but less serious ones than they did before, because they do not want to lose their new “mainstream” achievements, such as their marriage, contact with their children, their house or their work. And King argues that desisters can even fall back into crime after many years.

Instead of a static definition of desistance, we need a dynamic definition, taking into account the ‘zig-zag aspect’ as well as the process of personal change. Some authors advocate a process definition of desistance which contains a stronger reflection of reality, of how it really works and how desistance is unfolded. Desistance is a transitional phase, a period of transition. For prison and probation service, this is an important and meaningful statement. Prisoners and probation clients can be viewed and supported as either persisters who are not yet in a transition phase, or as desisters, who have entered a transition phase. In both cases, their work or journey is not yet finished; they need to open up or stay open for hooks for change, and act upon them.

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14 Healy, 2010.
15 King, 2014.
16 Bushway et al., 2001; King, 2014.
This idea of desistance as a transitional phase led some authors\textsuperscript{17} to propose a distinction between primary and secondary desistance. They define desistance as the movement from the \textit{behavior} of non-offending (primary desistance) to the \textit{role or identity} of a non-offender or crime-free person (secondary desistance). For secondary desistance, identity development is central, as can be derived from the following quote of a Canadian prisoner: “\textit{We resent the walls, bars, uniforms, being told what to do, what programs we must take. None of us arrived here by accident and if we are honest with ourselves, we’ll acknowledge a whole series of destructive behaviors that preceded our committal to a monastery of the damned. But until we come to terms with our individual reality – separate the crime from the man, decide that the “I am” is capable of much more than what the label implies – we’re doomed to failure.}”\textsuperscript{18}

The Canadian prisoner’s quote highlights the start of desistance. It points out that desistance is a form of commitment to a new identity that is both incompatible with crime, and helps you to distance from your old criminal identity.\textsuperscript{19} When the new, crime-free identity is more or less established, ex-offenders start calling themselves a changed person, ‘a new me’. The ‘new me’ is starting to appear, but, further along the road, the struggle is still there as Jimmy Boyle, a former persisters makes clear: “...\textit{I am finding out a great deal about myself. I am making new relationships and living in a world totally unknown to me. I love it yet there are times when I hate it. I am torn between two worlds – alienated from the old one and a stranger in this new one.}”\textsuperscript{20}

According to Maruna,\textsuperscript{21} two changes are visible in the new identity. Desisters speak of themselves as persons who want to leave behind a better world in terms of caring for others, being loved, or being productive. This identity change is called \textit{generativity}. The second identity change is visible in the way desisters talk about their personal power and influence, or \textit{agency}, in general, and also with regard to their commitment to stop with crime in particular. They talk about a personal success or a victory, and others that were helpful and supporting are mentioned as part of their personal success.

The transitional process from primary to secondary desistance is not a serial, one-way process of first being persister, than being primary desister, and gradually becoming secondary desister. Even for desisters, there can still be many obstacles to overcome in life. For instance, a person can stop offending, because he absolutely wants to keep his job, but then his marriage problems and alcohol use can still be obstacles he cannot deal with, like pockets or islands of problems in his life that still could lead to new crimes. Therefore, “intermittent desistance” might be a better reflection of the reality of the transitional process.\textsuperscript{22}

\textsuperscript{17} Maruna, 2001; Farall, 2004.
\textsuperscript{18} J.E. McCormic, Canadian prisoner, 1999.
\textsuperscript{19} Vaughan, 2007.
\textsuperscript{20} Boyle 1985, p. 80.
\textsuperscript{21} Maruna, 2001.
\textsuperscript{22} King, 2014.
The accounts of personal growth, identity change, and commitment as mentioned in this section speak to the heart. They are true stories, but they sound almost romantic, like a kind of a rough heroism, an odyssey full of struggle towards a crime-free life.

The stories give hope. But as prison and probation professionals, we still need more answers. Therefore, a second question should be stated: Why does the development into a new identity start? Why do offenders grab these hooks and how, exactly, do they act upon them, how does the new identity develop? We need to know the triggers or catalysts of transition in order to being able to support desisters during the transition. In other words, we need to know more about the journey, and not only about the new identity as some sort of ending state.

### 3.4 Desistance: Why?

According to Boeck, Fleming & Kemshall, the ‘why’ of desistance is, in general, not the result of a long and deliberate thinking process of the offender. An offender is not an information-processing unit. His surroundings are too dangerous, stressful, and prosocial alternatives are often not available. Therefore, offenders lack the reflective and introspective skills to ‘navigate’ between pro- and antisocial opportunities. Criminal life can be viewed as a gambling process and “… leaving their present high risk and crime lifestyle is in itself a risk, and one they are ill equipped to take.”

The triggers and catalysts of desistance are very much linked to life-transitions in our culture. Whereas persistence can be explained as a result of missing out on life-transitions and becoming a bitter person, desistance research clearly shows that turning points of desistance are clearly linked to marriage, starting a career, disconnection from antisocial friends and connecting to a new network, or moving to another area or even city, and becoming a parent. Also negative, shocking events, such as betrayal, death of a friend, negative results of crime, and also repeated detention, can also force an offender into reflection and then help him into transition.

Desistance studies focus on finding and supporting the life-transitions and their triggers. The triggers and catalysts appear to differ with age and gender. Some of them are culturally defined and often available for a long time, such as starting work, while others can be there for a short while, almost as a flash to act upon and stop avoiding the burden of choice. Also empowering events can start a process of change. For instance, talent coaching seems to work especially good with youngsters from 19 to 23 years old, who suddenly get the opportunity to show and develop their artistic or physical potential. All of them share the same quality: they represent ‘hooks’ for change.

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27 Kooijmans, 2014.


3.5 Desistance: How?

The how of desistance concerns the working mechanisms of hooks for change, i.e., the exact way hooks affect offenders and help them to develop, through their desistance process, a crime-free identity. The how of desistance is related to forced reflection, a form of evaluation, or re-evaluation of your life and your choices. Forced reflection is only one of many possible effects; it seems to be important, but there is more to say about it. Here, we look at the outside effects of these hooks and at the inside effects, the identity development.

Let us start at the outside, at the psychological potentials of these hooks for transition. Marriage, starting a career, disconnection from antisocial friends and connecting to a new network, moving to another area or even city, and becoming a parent do things to you. The psychological effects of these occasions and opportunities can be summarized as that they can structure your time, your activities during the day, and there is simply less opportunity to offend. They will also offer more social control. People watch you and react on your behavior. You can imagine a girlfriend telling an offender: “you need to stop your criminal activities, or I will be leaving.” Meeting more people, and often more prosocial people can also lead to new social opportunities, and moral and practical support. And, of course, desisters can have the experience of learning; learning new skills, work skills, relationship and parenting skills to fulfill the new roles. Hooks for transition can be both physical and symbolic. They are often new opportunities for social inclusion, for belonging, and productivity.

The potential of these new opportunities should be welcomed and acted upon by the offender, as Farall puts it: “... the desistance literature has pointed to a range of factors associated with the ending of active involvement in offending. Most of these factors are related to acquiring ‘something’ (most commonly employment, a life partner or a family) which the desister values in some way and which initiates a re-evaluation of his or her life, and for some sense of who they ‘are.’”

Farall points at a crucial interplay between the psychological potentials and the subjective evaluation of hooks for transition. Farall & Calverley interviewed desisters that led a crime-free life for many years. They make clear that there are more things at work than only forced reflection:

1. Prison, probation and other criminal justice and care organizations usually try to assist the offender with behavioral change, employment, housing, and income. The offender experiences that there is something to get here, and by accepting the offers, he will confirm the social structures and social rules that help him to stay out of trouble. ‘Educated cons have reason to lift their heads. (...) Educated prisoners get respect from everybody inside and outside the prison, and that’s the one thing that can’t be taken away from us at the gate’.

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29 Farall, 2004; Farall & Calverley, 2006.
30 Farall, 2002, p. 11.
31 Farall & Calverley, 2006.
32 Stevens, 2000, p. 93.
This is only the beginning of secondary desistance; Farall & Calverley call it 'work on the surface', as it is performed by a prison worker or probation officer. The offender shifts from a role of 'perpetrator' to more mature roles of 'employee' and 'partner', he might not want to jeopardize.

2. The offender experiences citizenship and social inclusion. Getting a diploma, having a house and a job, taking care of your child, makes you pay rent and taxes, but also experiencing your rights as a citizen. Citizenship supports the offender’s experience of belonging and contributing to society. Maintaining a family and raising children can make the offender realize that he needs to be less egocentric. Farall & Calverley mention here that especially persisters at this point keep their self-centered values.

3. Desistance is difficult, because many ex-offenders consider themselves as victims of society, because they often feel they are stuck in poor homes, bad neighborhoods and tedious work. Of course, the offender knows that, at least, he is partially responsible for this, so he pities himself and blames himself too. Farall & Calverley argue that this emotional struggle contributes to the long duration of the desistance process. It takes time and effort to overcome these feelings of resentment, disappointment, regret and entrapment. Re-offending could be an easy pitfall, as a reaction of 'kicking back' to society and disappointments about themselves.

4. Finally, positive emotions, such as joy, pride, or the feeling of being appreciated, can function as amplifiers for offenders’ values, and the choices they made. Emotions can reinforce the rational choices in a desistance process. Good feelings are a reward for a chosen path. The positive emotions contrast with the confusing, negative and painful emotions the offender experienced when he still committed crimes.

All the four kinds of experiences can lead to more self-control, because the new responsibilities are positively valued, whereas future punishment is perceived as something to stay away from.  

The whole process of the interplay between the outside and inside hooks, becomes a new ‘story’. The overall inside identity shift concerns a change of the offender’s narrative, the story the offenders internally tells about himself.  

Regarding the internalization, the narrative identity or the story we internally tell about ourselves is important. The internal story is our identity and the narrative an offender tells about himself is, in essence, his identity. Choosing for another story (a new character, a different plot), leads to different choices and emotional investments in life. The desistance process is completed through internalization of new skills, alternative behavior and the internalization of the meaning the ex-prisoner attaches to the social support and opportunities he receives or encounters. The story (identity) will reinforce itself more and more, because it is manifested in new skills and new opportunities. De desister re-writes his own history. This is why desisters, such as Morgan Freeman, looking back on their criminal careers, can say: “This was not the ‘real Me.’”

34 Vogelvang, 2009.
According to some researchers, the inner process, toward more self-control, and a new identity, is already going on, which means that there is already a desire for a new life, and that the outside potentials or hooks are then welcomed by the offender, as mediators for change. The question is what comes first, the inner desire or the outside opportunities? This looks like an academic chicken-or-egg question, but it is very important in practice. Should prison and probation workers first start with working on the inside, on desire, motivation, and self-control, and then offer guidance with work, education, housing, or even family life? Or should prison and probation service work the other way around, that is, watch or arrange what comes along in the offender’s life, and then emphasize and reinforce these hooks as choices, and strengthen the changes in motivation, identity and self-control?

To answer this question, researchers have interviewed offenders about their motivation to change their lives. Many offenders said they were motivated to change, but still 60 to 75% reoffended, even if these offenders told the interviewer that they would stop with crime altogether. Of course, this might be an offender in transition, working towards a crime-free life. But it is very clear that motivation, or desire alone, is not enough. Only the ones who were extremely determined, indeed succeeded in desisting, and even much more if also their prison or probation officer had a strong belief in the possible desistance of the offender. It seems that ongoing reflection about their life and motivation to change are often already available as a starting point. There is often also an existing desire to change, something to build upon, except for life course persisters who are not yet in transition. The offenders who do desire another life, are often hesitant. Consequently, the most important question seems to be: how can we help an offender develop his desire into a strong determination, and link this determination with the ‘life transitional hooks’ that he values most?

3.6 Desistance: Summary

Before we go into the practical and policy issues, we like to summarize what we discovered until now. A synthesis of desistance factors has been proposed by Maruna, who mentions maturation, social ties, and a new narrative or new identity, as most important factors. McNeill combined the factors in a well-known desistance triangle (see the next figure).

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The triangle emphasizes the interplay between the three elements, pointing out that obstacles on every point need to be covered for a process towards secondary desistance.

Building upon the desistance triangle, McNeill calls for a desistance paradigm, proposing a set of leading values and mission statements for prison and probation work. The desistance paradigm incorporates the What Works principles in a broader framework that reflects the process or desistance, defined as desistance focused practice. He urges us to look at the different roles of prison and probation service to reinforce the positive and challenging the negative sides in every corner of the triangle. He touches the fundamental functions or purposes of punishment, rehabilitation and restoration, and our responsibility as citizens, at a very basic level.

The right corner of the triangle concerns the core elements, where motivation, desire, and determination reside. These are fueled, or energized by a developing new sense of self. The more a desister tells a story about himself as a crime-free person, as a father, partner or worker instead of a criminal, the more motivation and determination this will generate. The story concerns the things that a desister values most. For some offenders, a new life partner or a new job is not a reason at all to change his lifestyle, whereas for others, it serves as a hook for change.

The desistance elements fit very well with fundamental rights in international and national prison and probation law. Many existing treaties, legislation and rules regarding prison and probation reveals the same three elements: the right to be treated with dignity (that is, a fair trial, a safe prison, a proportionate punishment, a respectful probation officer, amongst other things); the right to continuous development (such as education, but also treatment and leisure); and the right to be of significance to others (such as family, victim, or society as a whole by being productive or caring).

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3.7 Assisted desistance: how can prison and probation services help?

How can prison and probation staff assist the process of desistance, and what kind of policies are needed for assisted desistance? To answer these questions realistically, we have to take into account that in many countries, prison and probation services are under great pressure, in terms of budget cuts, high organizational and implementation demands, and security demands that often are rooted in political choices. Changing the services in new directions to help offenders desist, is not always possible. Nevertheless, I think there are also some important conclusions from desistance research that can very well be implemented in prisons of the ‘near future’. These solutions are not purely based on increasing staff or other ways of putting more money in the services, but focus on a different attitude regarding agency and self-management of prisoners and probation clients, and a different way of working together as criminal justice, welfare and health organizations.

We start with the offenders themselves. What do they experience in prison and supervision, and what do they expect from criminal justice professionals? There are not many studies regarding this theme.

1. Both in probation\textsuperscript{40} and prison\textsuperscript{41} it is clear that offenders want to be invited to actively participate in their prison program or probation guidance. Shared goal formulation and even shared decision making are very important elements that actually promote desistance. This is a matter of dignity, and a sign of being of significance to others. Like all of us, offenders do not want to be treated as files, or cases, waiting at the receiving end what comes out of the risk assessment tool and staff meetings. Instead, they want to be part of the discussion.

2. Offenders expect support in relational issues, such as family and partner conflicts, or parenting issues.\textsuperscript{42} This is one of the most important aspects of prison and probation work, but at the same time it is one of the least developed ones. Farall\textsuperscript{43} found that probation officers find it difficult to become involved in desistance related needs, such as employment and family formation, but if they are involved, the results are quite promising. In our recent research into life stories of desisters and persisters, we found that desisters are eager to solve relational issues and reappear in society as reliable family members. Probation clients who were dissatisfied with their probation worker, mentioned that their probation officer was working on their attitude and behavior, while they mostly wanted practical help to solve social and relational issues.\textsuperscript{44} In addition, studies show that families are very often willing to assist and being available as hooks for transition. Families regard it as their normal duty. Consequently, the desire to change is already present, and the role of probation is to deliver, arrange, and support the hooks for life transitions that are needed to develop a new identity.

The positive effects of the initiatives above, offering practical help to offenders and at the same time stay away from taking over and arranging too much, can also be found in the

\textsuperscript{40} Rex, 1999.
\textsuperscript{41} Liebling, 2008.
\textsuperscript{43} Farall, 2002.
\textsuperscript{44} Van Halderen, De Croes & Vogelvang, 2015; cf. Vogelvang, 2009; Shapland et al., 2012.
Dutch Regional Integration Centers in Dutch prisons. The centers are open offices, run by volunteers, where prisoners can walk in by choice, using the internet to find jobs, housing and arrange other practical matters before reentry in society. Promising effects are agency, self-determination, and upcoming renewed citizenship as hooks for transition.

On a societal level, these initiatives reflect an inclusive, but not intrusive society. Inclusive cultures are possibly helpful for supporting the desistance process because the focus is on mutual cooperation, on solving problems together, listening, and encouraging.45

3. Offenders appreciate a positive working alliance. Prison and probation staff should use their authority with fairness and good listening skills (which is very different from talking skills), engaging in meaningful conversation about the challenges and difficulties to change, and they should assist and applaud with overcoming obstacles.46 The relationships between offenders and prison and probation staff is not always positively valued. One third of the probation clients in Sheffield regarded their supervision contact as vague and useless.47 Almost all 200 offenders who were interviewed on their success in staying away from crime, disagreed that probation played an important part in their desistance process. Interestingly, the probation officers agreed with the offenders. Consequently, many changes and opportunities as reported in the interviews were out of our span of immediate control.48

For this reason, McCulloch conclude that prison and probation service are probably only good for improvements, for working on the surface, but never for resolutions. However, when Farall interviewed desisters later on, for the fifth time and long after their criminal justice contact, desisters were more positive about their earlier supervision contacts. Whereas in the past, they experienced the contact as useless or not productive, later on they perceived it as more helpful. For instance, the ex-offender reminded important words of the probation officer or mentioned that he was right after all, confirming offender’s recent opinions about desisting crime.49

In conclusion, the working relationship of an offender with a probation officer can have an indirect positive effect on the transition from persistence towards desistance and sticking to a crime-free life. As Farall concluded, in some cases, prison and probation “planted a seed”.

3.8 Desistance and prisons of the future

Where do we need to be in about 2025? How can prison and probation practice look like in the future, if we take this knowledge about assisted desistance into account and be realistic at the same time? Prison and probation services are under pressure in terms of funding, organizational issues, political and societal pressure. In many – not all European countries –

45 Healy, 2012.
46 Liebling 2008; Louden et al., 2010.
47 Bottoms & Shapland, 2011.
49 McCulloch, 2005; Farall, 2013.
prison and probation services have also been quite responsive to a blaming culture in politics and society.

For assisted desistance, the most important shift is the one towards a more inclusive justice culture that supports not only primary and secondary, but also tertiary desistance. An example of this culture is the growing application of COSA, Circles of Support and Accountability, in which sex-offenders are being assisted and monitored by both volunteers and professionals after their release.  

Secondly, the idea of evidence-based practice should be the core element for change needs discussions. Many criminal justice services still operate on a What Works or Risk-Needs-Responsivity paradigm that has not been fully implemented. The heart of what works is a very positive and solution-focused approach, but many professionals and policy makers have focused on challenging deficits and individual responsibilities instead. They focus on criminogenic needs instead of desistance factors, on risk of harm and escape instead of combining them with opportunities for change and restoration. We managerialized prison and probation services and used accredited programs as isolated interventions.

In many countries, recent knowledge about desistance has renewed the energy of many workers and managers, and there is a great sense of urgency for change. It is not realistic to expect a substantial increase in time and money to develop working alliances with clients, decrease caseloads and arranging personal assistants for every offender for practical matters, and coaches for reflection at the same time. What we can change without too much effort:

1. Prison and probation services adopt a transition based mission: All clients are perceived as emergent desisters and are granted their rights of individual dignity, the right to develop oneself, and the right to be of significance to others.

2. For emerging desistance, four forms of rehabilitation are needed in all services, as formulated by McNeill: psychological rehabilitation, which has received enormous attention from especially the What Works paradigm, moral, social and judicial rehabilitation.
   a. Psychological rehabilitation, that is individual treatment, training, and reflexive coaching on your own process of desistance.
   b. Moral rehabilitation, that is assisting self-directed efforts in the settling of debts between the ‘offender’, the victim, and their community.
   c. Social rehabilitation, that is repairing the relational breach. Prison and probation clients, and their families and network, expect much practical assistance in this domain.
   d. And finally, judicial rehabilitation, that is, closure of justice interventions, such as release from prison or the ending of probation supervision, must be accompanied by restoration of all citizen rights and obligations, and also

E.g., Hoining, Bogaerts & Vogelvang, 2013.


repair the possible harm that prison and probation service has caused in the offender's life.

3. Prison and probation services are based on maximal autonomy of offenders and their networks, family, and other citizens. The concept of self-direction – as a prerequisite for agency - is a guiding principle for every step along the way. The experience of agency is our starting point, and no longer something the offender might encounter somewhere during the process. Offenders and their natural network are asked to take the lead in assessing the situation in terms of risks and safety, take the lead in planning, and take the lead in support and even control, albeit supervised by the expertise and judicial backup of the criminal justice authorities. Prison and probation services no longer define a plan and ask other people to step in, but ask the offender and his network to step in first, ask them to make a plan, then check and maybe adjust the plan with regard to safety issues, supporting all efforts in realizing this plan.

4. Self-direction is limited by the authorities when it leads to new unsafe situations new victims, and new situations in which offenders harm themselves. These limits are translated in supervision conditions, and possibly detention, as a last resort. Self-direction also means: if an offender wants to make the choice to persist, so be it, and he will bear the consequences. Based on the idea of self-direction, supervision conditions need more flexibility. Conditions should be more tailor-made and more open to new occurring situations. We should look for more opportunities to change conditions along the way when the situation changes for better or for worse.

5. Detention and supervision will use strength and solution approaches to support self-directed efforts of offenders. A risk-based, needs-based approach is important for defining proper conditions, but the conditions are means, and not goals in themselves. The focus should be on realizing a desired situation that takes the energy and attention away from only preventing new problems to occur or a breach of conditions.

6. Prison and probation staff are continuously trained, and monitored, in establishing a positive working alliance, including a skillful use of authority and the use of motivational interviewing and other solution-focused communication skills. According to King, the supportive, practical work on social ties can be combined with moments of personal reflection on life goals, opportunities, and moral agency.\(^{54}\) Prison and probation staff should make a shift in attitude, away from professional centeredness, fear of risks and personal responsibility, towards the concept of client self-direction and supporting maximum autonomy (and retreat as soon as possible) and offering support for hooks for transition.

7. Finally, the concepts of self-direction and agency ask for prison and probation organizations to open up and share their efforts. Desistance is both an individual journey and social project, and the social part should be a network effort of professional organizations together. The emphasis on risks will be replaced by rights

\(^{54}\) King, 2014.
and obligations. The offender role is now a citizen role and the need for ‘treatment’ is called ‘support’ where experts have become ‘partners’. Kroeber and Van Dongen\(^{55}\) call for a transformation of welfare organizations away from an institutional and silo paradigm towards a network and support paradigm. Within a support paradigm, prison and probation services are part of networks that design and establish supervision processes. The offender (viewed as citizen) is the central figure in each of these networks, with close lines to family, friends, and directly involved professionals. Prison and probation services share their knowledge, but also their means and their staff. For this transformation, senior management decisions are important. What is needed, is \textit{shared excellence management} and trainings for professional networking skills.

A prison of the near future is achievable. This prison works with offenders who are all viewed as people in early or more advanced stages of transition into full citizenship. Staff treats prisoners accordingly, with their rights to be respected, to develop themselves and to be of importance to others. They offer prisoners hope, and tailor-made, realistic suggestions for improvement. Security measures and protection of (new) victims are presented as temporary conditions to make change possible, and not as goals. Prisons can then be places that help prisoners change their inner story or narrative that they take home and present to their families, friends and the wider society.

\textbf{References}


\(^{55}\)Kroeber and Van Dongen, 2011.


4 Observations and reflections on Electronic Monitoring: The case of Belgium
Eric Maes

4.1 Introduction

Electronic monitoring is expanding worldwide. More and more countries are introducing and developing electronic monitoring as a measure in their criminal justice system. In this chapter, we explore the different forms of electronic monitoring in Belgium as well as the different objectives allocated to this measure by policy makers, practitioners, criminal justice agents, and others.

The chapter starts with a brief introduction on the origin and historical evolution of electronic monitoring in Belgium. Thereafter, we focus on the current situation of electronic monitoring and address some important key elements. Next, the objectives and so-called arguments in favor of electronic monitoring will be discussed: what are the pitfalls and challenges for the future?

4.2 The origin of electronic monitoring in Belgium

Since the nineties of the last century, the Belgian prison population increased substantially. In 1990, Belgium counted 65.8 inmates per 100,000 inhabitants (6,549 on a total population of 10 million), whereas in 2013 the number increased to 104.3 (11,645 on a total population of more than 11 million). Over the past decades, different measures have been introduced with regard to reducing imprisonment and prison overcrowding. For example, in 1990, new legislation was introduced on pre-trial detention and additional alternatives to detention. In 1994, penal mediation emerged as a means to deal with criminal offenses. In 2002, work penalty, as part of community services, has become a new, autonomous sanction. From the nineties onwards, several quasi-automatic early release schemes for short(er) term sentenced prisoners have been applied and extended. One of the most significant reforms within the criminal justice system was the introduction of electronic monitoring (which was firstly introduced as a specific modality of the execution of prison sentences), recently defined by the Council of Europe as: “(...) forms of surveillance with which to monitor the location, movement and specific behaviour of persons in the framework of the criminal justice process.”

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1 Eric Maes PhD. is senior researcher at the National Institute of Criminalistics and Criminology, Federal Public Service Justice in Brussels, Belgium. The information in this chapter has been kept up-to-date till the end of February 2016.
3 Council of Europe, 2014.
4.3 The history of electronic monitoring in Belgium

Electronic monitoring now exists for about twenty years in the Belgian criminal justice system. Its development can be divided into different phases of evolution. The phases are:

- **1998 to 2000**: pilot;
- **2000 to 2002**: national implementation;
- **2002 to 2006**: stabilization;
- **2006 to 2008**: expansion;
- **2008 to 2012**: rehabilitation of the initial model of electronic monitoring;
- **since 2012**: diversification.

In 1998, electronic monitoring was introduced as a modality of the execution of (prison) sentences. A small-scaled pilot was set up in the Brussels’ prison of Saint-Gillis. Electronic monitoring functioned by then as a so-called back-door option and served as a transition period between incarceration in prison and (early) release. Initially, it was only accessible for prison sentences up to 18 months, but its application was rapidly extended to prison sentences up to three years and long term sentences of more than three years.

During the years 2000-2002, electronic monitoring was nationally implemented as a back-door option. Besides a back-door option, electronic monitoring also became used at the front door, for prisoners with sentences of a maximum of three years. From the start of the sentence execution, imprisonment could be avoided by converting prison sentences into electronic monitoring.

During the period of 2002 to 2006, stabilization of the use of electronic monitoring took place. A ‘Belgian’ model of electronic monitoring was developed that balances technological control or surveillance and human control and social assistance, i.e., penological considerations prevailed on systemic dimensions, with a particular focus on individualization and activation. In the following years, the focus steadily shifted away from social assistance towards ‘numbers’ and a rather quantitative approach of electronic monitoring, especially with regard to short term prisoners. Reintegration and social assistance to electronically monitored offenders fade into the background. The original Belgian model was replaced by ‘electronic monitoring light’. At the same time, ‘sentence implementation courts’ were established. They became responsible for granting electronic monitoring to long term sentences of more than three years.

The years 2008 to 2012 are characterized by attempts to reinvent the early ‘Belgian model’. From 2012 onwards, electronic monitoring for sentences up to 3 years has become only an instrument of control and surveillance, with hardly any support and assistance provided to offenders and their families. Nowadays, the application of electronic monitoring is referred to as ‘EM zero’ or ‘EM extra light’. Furthermore, electronic monitoring has been extended to other stages of the criminal justice process. Electronic monitoring is not only used at the level of the execution of (prison) sentences, but its application is also extended to the pre-trial phase as well as sentencing.

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4 See, e.g., Vander Beken, 2013; Devresse, 2014.
4.4 The current situation of electronic monitoring in Belgium

Nowadays, electronic monitoring is applied in three stages of the Belgian criminal justice process. It first serves as a front-door option for executing prison sentences of up to three years. Its content differs, whether it concerns sentences of less than eight months (‘EM zero’) or sentences from more than eight months and up to three years (‘EM extra-light’). For prison sentences of more than three years and offenders placed at the disposal of the sentence implementation court, electronic monitoring is only available as a back-door option.

Since January 2014, electronic monitoring can also be applied at the pre-trial stage as a ‘modality of execution’ or alternative to pre-trial detention. In the near future, electronic monitoring will probably figure as an ‘alternative’ sentence option. Unlike the situation in some other countries, electronic monitoring cannot be imposed as a specific condition attached to another measure (e.g., suspended sentence, conditional release). Electronic monitoring neither can be applied within an open prison, nor is it explicitly part of specific victim protection programs (e.g., by notifying victims when the offender is entering a so-called forbidden zone).

Electronic monitoring as a front-door measure

Electronic monitoring as a front-door measure is currently regulated by a Ministerial Circular of 17 July 2013. In case of a prison sentence of no more than eight months, electronic monitoring can be considered as a (quasi-)automatically granted conversion measure, upon which is decided by the local prison governor. Neither a prior social inquiry report nor consent from adult housemates is required. The execution of the prison sentence will be interrupted till electronic monitoring can start and the technical equipment has been installed. Electronic monitoring will be accompanied by standardized time schedules, such as the number of hours the offender is allowed to leave the assigned place of residence, in order to participate in outdoor activities, such as work, vocational training, and therapy. The offender can leave home for work, varying from 4 hours (not employed), to 8 hours (half-time employed) or 12 hours (full-time employed). At home, the offender is controlled either by voice verification or by radio frequency technology. No socio-psychological assistance is provided by the Probation Service during the total period of electronic monitoring. Early (provisional) release will automatically be granted after a period of a maximum of two months and one month for sentences of four to six months (Ministerial Circular of 15 July 2015).

The system of electronic monitoring for prison sentences of more than eight months but not exceeding three years, is quite similar to the aforementioned model. The main differences are that, in some cases, the decision to grant electronic monitoring is taken by the central prison administration. Home arrest is controlled by radio frequency technology, and there is some assistance by or contact with the probation service, although limited (in principle, once at the start of electronic monitoring). After a fixed number of months, offenders are automatically released.

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6 3 months for sentences of more than 8 months till 1 year or after having served a third of the sentence for sentences of more than 1 year to 3 years; i.e., electronic monitoring will last for a maximum duration of 1 year.
Electronic monitoring as a back-door measure
For prison sentences of more than three years, electronic monitoring can be granted as a back-door measure, six months before the date of conditional release.⁷ A sentence implementation judiciary court will take a motivated decision after a hearing by the court. The decision is based on psycho-social assessments, a social inquiry report at the offenders’ home, advices by the local prison governor and the public prosecution officer, and conditional consent of adult housemates. Electronic monitoring will only be granted if there are no serious counter-indications, i.e., there is no risk of committing new serious crimes or embarrassing victims, and as far as the offender can submit an acceptable ‘social reintegration plan’. The electronic monitoring scheme consists of an individualized program, with time schemes for work, training, therapy, ‘free’ hours, and furlough at regular times. The offenders are monitored at home by means of radio frequency technology. Individual assistance and supervision is provided by the Probation Service.

Electronic monitoring as an autonomous sanction
Nowadays, electronic monitoring⁸ is one of the five main principal sanctions that can be imposed on offenders, besides imprisonment, work penalty, autonomous probation⁹, and fines.¹⁰ If the law comes into force that introduces electronic monitoring as an autonomous penalty,¹¹ it will be possible to impose electronic monitoring in cases that should otherwise be punished with a prison sentence not exceeding one year of imprisonment. Similarly to the work penalty, some types of crimes are explicitly excluded from the field of application. Electronic monitoring can be ordered by a motivated decision by the court. One day of electronic monitoring thereby equates one day of imprisonment. A pre-sentence report is optional as well as consent of adult housemates. Electronic monitoring can only be imposed for a minimum length of one month, with an absolute maximum of one year. During this time, the offender will get assistance and will be supervised by a probation officer. After having spent a third of the sentence under electronic monitoring, the execution of the penalty can be suspended by the public prosecution office. The remaining time, the offender can be subjected to a period of supervision.

Electronic monitoring as an ‘execution modality’ of pre-trial detention
According to Article 16 of the Belgian Pre-Trial Detention Act of 20 July 1990, an arrest warrant can only be issued against a suspect by an investigating judge. The arrest warrant has to be issued within 24 hours after time of police arrest and in cases of serious indications of guilt. There should be an absolute need for public security and the criminal act has to be punishable with a prison sentence of one year or more. In case of a maximum prison sentence of 15 years or less, there should be sufficient grounds to believe that the suspect will recidivate or abscond or there are risks of embezzlement of proof or collusion. Alternative measures to pre-trial detention are a financial bail or the – in 1990 introduced – measure of ‘freedom or release under conditions’.

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⁸ Introduced by Law of 7 February 2014, however not yet into force at the time of writing.
⁹ Introduced by Law of 10 April 2014, however not yet into force at the time of writing.
¹⁰ Note that the first four sanctions cannot be combined.
¹¹ At the time of writing, scheduled for the 1st of May 2016.
Only very recently, electronic monitoring was introduced as a new alternative measure to pre-trial detention. More specifically, electronic monitoring is considered as a ‘modality of execution’ of an arrest warrant, which means that the investigating judge (or investigating courts) will first decide whether an arrest warrant has to be issued (or prolonged) and then, in a second step, will decide where the arrest warrant will be executed: in prison or at the suspect’s home. In this stage of the criminal justice process, suspects are monitored using GPS-technology, without limitation in time. In case of non-compliance, electronic monitoring can be converted into pre-trial detention in prison.

The assimilation of electronic monitoring to pre-trial detention has some important legal consequences. One day of electronic monitoring equals one day of ‘classic’ pre-trial detention. The continuation of electronic monitoring will be reviewed on a regular basis, just as it would have been the case if the suspect was detained in prison. A financial compensation will be provided in case of unjustified, ‘wrongful’ pre-trial detention under electronic monitoring. Furthermore, similar to ‘classic’ pre-trial detention, also the regime of electronic monitoring can be ‘individually modulated’, i.e., a prolonged term of ‘prohibition of free movements’ is possible, in terms of contacts with the outside world by way of correspondence, visits, and telephone contacts.

It is quite remarkable that the electronic monitoring model within the framework of pre-trial detention is a very strict one, and at least more ‘punitive’, compared to that applied to convicted offenders or prisoners. Electronic monitoring in the pre-trial stage rather seems to look like a ‘24-hour home detention’. There are only a limited number of ‘authorized’ movements allowed outside the assigned place of residency, such as medical reasons, in case of force majeure, or in relation to the criminal investigation process (e.g., hearings by judicial authorities and police interrogations).

4.5 A first conclusion

From the historical development and current situation of electronic monitoring in Belgium, it can be derived that electronic monitoring is not a ‘one single measure’. Electronic monitoring: is implemented in different stages of the criminal justice process; is being used in different options (back door and front door); targets different offender populations; is decided upon by different decision makers (administrative or judicial); is monitored by means of different technologies (voice recognition, radio frequency, global positioning system); is regulated by different normative acts (ministerial circulars, formal parliamentary legislation); is subjected to different procedures; and has different ‘contents’.

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12 By Law of 27 December 2012 and in operation since 1st January 2014.
13 And therefore is considered as one day of time served in case of a final conviction to a (prison) sentence, i.e., an equivalent deduction from the duration of the final prison sentence.
15 Some offenders are being explicitly excluded, or subjected to other procedures, e.g., offenders convicted for sexual offenses committed against minors and foreigners without legal residency status, and more recently (Ministerial Circular of 26 November 2015) offenders convicted for terrorist acts.
16 E.g., selective use versus standard/quasi-automatic application, consent of housemates required versus optional, contribution in costs, assessment/social inquiry reports, and appeal.
4.6 Objectives of electronic monitoring

Electronic monitoring has various advantages compared to traditional confinement in the closed environment of a prison. These advantages can be viewed as objectives and can be categorized as follows:

- a systemic objective: combating prison overcrowding;
- an ethical-penological objective: limiting the harms of detention and reducing recidivism;
- a legal objective: subsidiarity, proportionality, and, especially with respect to pre-trial detainees, preserving the presumption of innocence;
- a social objective: retention of the family and professional environment to prevent marginalization;
- an economic objective: saving costs associated with regular detention.

These objectives reflect the most common research questions in evaluative research on electronic monitoring:\(^{18}\)

- Does electronic monitoring reduce the use of imprisonment and problems of prison overcrowding/net-widening?
- Is electronic monitoring more cost-effective compared to imprisonment, and does it therefore lead to cost reduction for the criminal justice system?
- What are legal/ethical considerations to be taken into account?
- Is electronic monitoring (more) effective in terms of crime reduction (enhancing compliance and avoiding recidivism)?
- Has electronic monitoring impact/valuable effects on other domains of the life of the offender (offender’s experiences)?

Reducing prison overcrowding and the use of imprisonment

Electronic monitoring was introduced in the Belgian criminal justice system in an era of a rising prison population. The rising prison population resulted in serious problems of prison overcrowding, i.e., an imbalance between prison capacity and its population. The expansion of electronic monitoring aimed at reducing the overuse of imprisonment (i.e., prison inflation), in terms of committals to prisons and/or the length of prison time.

In order to fulfill this purpose of electronic monitoring, different factors are important. One factor is to whom and how many people electronic monitoring can be applied. Another factor is whether, in practice, electronic monitoring is a real alternative to detention. A third factor is its effectiveness in terms of crime reduction and recidivism compared to regular detention.

Electronic monitoring can also have unintended side effects, such as net-widening or compensation practices. These side-effects are dependent on the phases of application of electronic monitoring: pre-trial detention, sentencing, and execution of prison sentences. During the pre-trial stage, the risk of recidivism seems to be in conflict with the legal principle of ‘presumption of innocence’. The risk of absconding will be assessed differently,

\(^{17}\) E.g., access or not to reintegration-oriented activities – employment, vocational training, therapy –, flexible/individualized versus standardized time schedules, social assistance/support or not by probation officers.

\(^{18}\) See, e.g., Haverkamp, 2013; Renzema, 2013.
due to the still uncertain outcome of the trial. At the pre-trial stage, the risks of collusion and embezzlement of evidence are also prominently present, whereas they are disappeared during the sentencing/executing stage.

For several reasons, expectations about reducing effects of electronic monitoring on the prison population in remand custody can certainly be mitigated, due to:

- The risk of collusion or absconding, which may hinder a large application of electronic monitoring as a detention replacing measure.
- The risk that electronic monitoring will just simply be an ‘additional’ tool of control/supervision to suspects who would not have been incarcerated anyway. It seems quite difficult to avoid a net-widening effect. Usually, electronic monitoring rather replaces (un)conditional release than regular detention.
- The risk of an increase in detected breaches of conditions (‘technical’ violations) due to new technology that becomes available, which possibly in turn may result in return into custody, and in (re-)imprisonments for longer periods of detention.

At the sentencing stage, electronic monitoring has a potential to reduce the prison population, but also at this stage, net-widening effects are probably difficult to avoid. There is a risk of (front-end) net-widening, i.e., electronic monitoring not only replacing currently non-executed short prison sentences, but also non-custodial sentences, such as work penalties or suspended (conditional) sentences, as well as a risk of back-end net-widening (‘technical’ violations).

To overcome net-widening effects, electronic monitoring initially was introduced at the level of the prison sentence execution stage. However, during the first one and a half decade of its application, electronic monitoring seems to have had no clear – at least no equivalent - reducing effect on the prison population: the prison population continued to increase and reached ‘height records’ that have never been seen before. On March 1st, 2014, 11,769 persons were detained in Belgian prisons, and, additionally, about 1,800 offenders who were convicted to prison sentences served their prison term under the regime of electronic monitoring. No strong evidence can be found that increasing (overall) crime rates would be responsible for the substantial growth of the Belgian prison population. A more likely explanation could be that criminal justice decision-makers want to compensate for non-executing short prison sentences and quasi-automatically convert prison sentences into electronic monitoring. Indeed, some existing Belgian criminological research points out a sometimes ‘improper’ use of pre-trial detention, in order to ‘avoid’ the non-execution of short prison terms or the execution of prison sentences via electronic monitoring.

Furthermore, it is assumed that certain sentencing judges impose longer prison sentences, in order to by-pass the non-execution or conversion of prison sentences by the executive/administrative authorities.

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20 See also, a quite considerable number of illegal foreign nationals within the Belgian population in remand custody.
21 Further investigation is needed whether the more recent drop in the Belgian prison population is attributable to the expansion of electronic monitoring.
Reducing costs?
Electronic monitoring can generate net savings. Therefore, costs of incarceration have to be reduced and/or external, ‘societal’ benefits have to be obtained.\(^{24}\) The benefits have to outnumber the total costs of electronic monitoring, in terms of technological equipment and probation resources.

According to Haverkamp\(^{25}\) the cost-effectiveness of electronic monitoring is quite difficult to calculate. The most common and simplest way is to compare the (operational) cost of one day of detention to one day of electronic monitoring.\(^{26}\) In 2009, the average daily cost of imprisonment in Belgium was estimated at € 126.02 per person, as compared to € 38.65 for electronic monitoring (radio frequency).\(^{27}\) However, in terms of direct incarceration costs,\(^{28}\) a large scale application of electronic monitoring will be required to be able to close prison infrastructure and to save infrastructural and personnel costs.

With regard to the context of pre-trial detention, the cost-reducing impact of electronic monitoring can be discussed. The application of electronic monitoring in the pre-trial stage would rather be limited.\(^{29}\) On the 31\(^{\text{st}}\) of December 2014, 105 suspects were electronically monitored\(^{30}\) whereas more than 3,600 suspects were in regular detention on a daily average.\(^{31}\) Moreover, pre-trial detention capacity is dispersed over the whole country. In a best-case scenario, limited savings can be reached in every single remand center, e.g., savings on costs for food, clothes, and remuneration for prison labor. Electronic monitoring demands for an investment in electronic monitoring-technology (GPS) as additional costs to regular supervision in the community.

At the sentencing-execution stage, a wide application of electronic monitoring is possible and could decrease the demand for extension of prison capacity to a certain extent. However, the question arises to what extent this impact might be mitigated or counter-balanced by net-widening effects or compensating practices, through improper use of pre-trial detention and imposition of longer prison sentences. Only radical legislative interventions, e.g., by prohibiting the use of imprisonment for certain types of offenses, could prevent such unintended and undesirable side-effects.

Legal/juridical and ethical considerations
The growing use of electronic monitoring and the unrestrained technological application possibilities also raises many legal and ethical questions.\(^ {32}\) It is for that reason that the Committee of Ministers of the Council of Europe recently adopted a recommendation,

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\(^{24}\) E.g., decreasing crime/recidivism rates, increasing public income via taxes paid by employed offenders which are held in the community.

\(^{25}\) Haverkamp, 2013, pp. 1334-1335.

\(^{26}\) See Haverkamp, 2013, p. 1335. From an international-comparative perspective, different country-specific calculations exist.

\(^{27}\) Daems, 2013, pp. 96-99.

\(^{28}\) I.e., immediate cost-reducing effects of electronic monitoring as a detention-replacement measure.


\(^{30}\) Dienst Justitiehuizen, 2015, p. 96.

\(^{31}\) DGEPI, 2015, p. 50.

\(^{32}\) See also Maes & Mine, 2013, with respect to the application of electronic monitoring in the framework of the pre-trial detention.
specifically with regard to the issue of electronic monitoring. The document pays attention to different legal principles, such as: legality, the need for judicial intervention, and proportionality with respect to the duration and content of electronic monitoring and the type of technology used. Rule number 4 of the Recommendation states that “[t]he type and modalities of execution of electronic monitoring shall be proportionate in terms of duration and intrusiveness to the seriousness of the offence alleged or committed, shall take into account the individual circumstances of the suspect or offender and shall be regularly reviewed.”

With regard to the pre-trial stage, the so-called principle of the ‘presumption of innocence’ is emphasized. The Belgian legislator established a very ‘strict’ electronic monitoring-regime for not definitively convicted offenders. The question arises whether the principle of proportionality is well-respected, because a more severe and onerous regime is applied in comparison to definitively convicted offenders.

Closely linked to this theme is what we might describe as the question of ‘consistency in proportionality’, i.e., the question as to whether differences in sentencing (imposed sentence) are as such also sufficiently reflected in the phase of the sentence execution. Transposing current (Belgian) legal provisions with respect to electronic monitoring (as a sentence option and a modality of prison sentence-execution) into practice, shows that clear differences in sentencing (electronic monitoring vs. prison sentence) would not at all be translated as such in the sentence-execution stage. A sentence of one year of electronic monitoring would in reality result in an execution of at least four months of electronic monitoring, followed by a not electronically monitored supervision period for the remainder of the sentence. A one year unconditional prison sentence means three months of electronic monitoring, followed by a (passive) supervision period until the prescription of the sentence. In other words, the considerable difference in the nature of the imposed sentence disappears at the execution stage. It can be questioned whether electronic monitoring as an autonomous sanction and a front-door execution modality for short term prison sentences can co-exist. Preferably, it should be an ‘either/or’-application.

Crime reduction and valuable effects on other domains of life
One of the major questions in much evaluative research on electronic monitoring is: does it work? The question refers to the effects of electronic monitoring in terms of short term compliance and non-recidivism over a longer period of time (effects during and after...
With respect to the long term effects of electronic monitoring, Renzema\textsuperscript{39} found only little, methodologically satisfying evaluation research (due to problems of group comparability). One of the difficulties is also to isolate the effect of electronic monitoring in se. Given the various applications of electronic monitoring, the question arises as to whether it is the technology as a simple ‘tool’, or something else, such as rehabilitative program components, that (can) work.

In their earlier study, Renzema and Mayo-Wilson\textsuperscript{40} found no overall impact on recidivism. More recent work however,\textsuperscript{41} refers to some studies that report a reducing effect on recidivism.\textsuperscript{42} At least, there seems to be no negative effect of electronic monitoring on recidivism, as compared to regular detention. In our own research, we found that prisoners with sentences from six months to three years, released from electronic monitoring in the years 2003-2005, scored much better than those released from regular detention. Within a 5-year follow-up period, only 23\% of those who completed their term of electronic monitoring successfully (serving their sentence for at least 90 percent under electronic monitoring), were re-incarcerated, compared to 46\% of the prisoners who served their time in prison.\textsuperscript{43}

Why can electronic monitoring work? One possible explanation could be that electronically monitored ‘detainees’ are able to keep their job, housing and social networks, i.e., factors that are associated with reduced recidivism. Furthermore, the idea of being constantly controlled and the fear for detection of breaches of conditions attached to electronic monitoring, with the threat of incarceration, may deter offenders to commit new offenses and make complying them with the (rehabilitative) conditions imposed.

In this respect, offenders’ personal experiences with electronic monitoring are also interesting. Inspired by and in addition to earlier work done by Payne and Gainey,\textsuperscript{44} the question of how electronic monitoring is experienced by offenders and by their co-residents was also investigated in recent Belgian research. Based on in-depth interviews with 104 offenders and co-residents, Vanhaelemeesch\textsuperscript{45} found that, although electronically monitored offenders experience it as a ‘better’ sanction than traditional imprisonment, they nevertheless also consider it as a ‘real punishment’, be it a more constructive one.\textsuperscript{46} Classic ‘pains of imprisonment’, as described by Sykes\textsuperscript{47} and further developed with respect to other and more recent (prison) settings by contemporary scholars,\textsuperscript{48} also apply to electronic monitoring, be it in various degrees. And additional ‘pains’ emerge, appearing to be more specific or exclusive for electronic monitoring. In fact: “a continuum of deprivations [can be found] where the highly secured prison walls and the related classic ‘pains’ gradually fade out and are replaced by rather ‘virtual’ boundaries that are accompanied by ‘new’ and other

\textsuperscript{39} Renzema, 2013.
\textsuperscript{40} Renzema & Mayo-Wilson, 2005, p. 230.
\textsuperscript{41} Cf. Renzema, 2013; Haverkamp, 2013.
\textsuperscript{42} E.g., Di Tella & Schargrodsky, 2009; Marklund & Holmberg, 2009.
\textsuperscript{43} Blokland, Wermink, Robert & Maes, 2015; Robert, Maes, Blokland & Wermink, 2016.
\textsuperscript{44} Payne & Gainey, 1998.
\textsuperscript{45} Vanhaelemeesch, 2015.
\textsuperscript{46} See also, Vanhaelemeesch, Vander Beken & Vandevelde, 2014.
\textsuperscript{47} Sykes, 1958.
\textsuperscript{48} Cf. Crewe, 2011; Shammas, 2014.
– *more invisible – ‘pains’*.\(^{49}\) The new pains include, e.g., the enormous psychological pressure and various tensions that arise due to an absence of important elements of social life. However, pains also depend on the manner in which the ‘penalty’ has been designed, and psycho-social assistance and support seem to be crucial. The particular shape of electronic monitoring thereby not only matters for the subjective experience of offenders and their families, but is also likely to be important with respect to desired effects in terms of social reintegration and crime reduction.

As Haverkamp argues, electronic monitoring should best be understood “as one tool in a multimodal program of supervision, a program that should ideally be individually tailored for each and every offender.”\(^{50}\) Belgian policy and practice nowadays is evolving away from this ideal. Furthermore, in the near future, policy makers and practitioners will increasingly be confronted with new challenges, as technologies develop and methods of control (can) become more and more invasive, such as implantable microchips and immobilization through electric current pulses.\(^{51}\)

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\(^{49}\) Vanhaelemeesch, 2015, p. 296.

\(^{50}\) Haverkamp, 2013, p. 1337; see also the title of DeMichele’s policy essay: ‘It Is a Tool, Not a Silver Bullet’.

\(^{51}\) See, e.g., Haverkamp, 2013, p. 1336.


5 Reflections on Prisons & Politics
Cisca Joldersma

5.1 Introduction

The job of a politician is quite different from the job of a scientist. In his book ‘Fire and Ashes: Success and Failure in politics’, The scientist Michael Ignatieff describes his experiences as an academic professor, who wants to become elected as the leader of the liberal party in Canada. One of his lessons is that in Canada public security is one of the major issues that can make you win or lose elections. He experienced that a politician has a hard job if he does not take a firm position with regard to public security. His experience is in accordance with what has been called ‘penal populism’. Major political parties compete with each other to be ‘tough’ on crime. When a politician’s perspective with regard to public security is experienced as ‘soft’, it makes him vulnerable in relation to his opponents.

In this chapter, we further explore penal populism and the role of politicians in policy making. We especially focus on what politicians say (‘espoused theory’) and what they actually do (‘theory-in-use’). Additionally, we reflect upon the relationship between politicians and the national prison & probation services. Whereas politicians usually represent ‘the public voice’, prison & probation services also take into account the experiences of prisoners and other offenders. The hybrid role of prison & probation services is further explored in their relation to prisoners and victims of crimes.

5.2 Tough on crime: espoused theory and/or theory-in-use?

Espoused theory and theory-in-use
With regard to policy and practice, two types of theories can be distinguished: espoused theory and theory-in-use. Espoused theory refers to the theory a person or a politician ‘claims to follow.’ People are very well aware of their espoused theory, which can be expressed in rhetoric language. Theories-in-use are those theories that can be inferred from action; they are consistent with what people do. People are not always aware of their theory-in-actions; they can be based on tacit knowledge or behavior people have not reflected upon. The theory-in-use relates to cognitive mental maps by which people design actions and reflect upon their actions. Espoused theories are not always grounded in practice. Therefore, the espoused theory of a person can differ from his theory-in-use. The concepts of espoused theory and theory-in-use can be used at an individual level, but also on a common level. The concepts are very helpful with regard to prison policy and prison

1 Cisca Joldersma was senior strategic adviser at the Institutional Custodial Agency. Previously, she was an associated professor policy & organization science at Tilburg University and Member of the Dutch parliament. Some of the Dutch examples on politics & prisons in this chapter are derived from her experiences as a politician.
2 Ignatieff, 2013.
4 Argyris & Schön, 1974.
and probation practice. For example, prison systems... “usually espouse the value rehabilitation yet it is clear that the priority of the system in its daily routines is to maintain security and order. This priority is based upon the premise that prisoners will get up to no good if left to their own devices and that a coercive approach will give them pause for thought.” Politicians’ espoused theory with regard to prison and probation policy can differ from what happens in prison and probation practice, i.e., the theory-in-use.

A punitive turn

Many authors have noticed a punitive turn or even a ‘punitive drift’ in many countries. The punitive turn can be visible in an expansion of the prison population. In addition to the increased level of incarceration, the increasing controlling or restrictive aspects of prison and probation practice come to the fore. Net-widening effects can occur, which means that different sanctions are not used as alternatives to imprisonment, but as complementary and mutually reinforcing options. As a consequence, more people are under the control of the criminal justice system. In other words, the ‘depth’ of imprisonment and supervision increases and a ‘control society’ emerges. The focus on control can be accompanied by risk management and less toleration of breaches and violations. Prisoners are depicted as the more ‘dangerous’ people.

The punitive drift is assumed to be closely linked to an instrumental way of thinking about punishment and criminal justice. Prison is reinvented as a first resort for punishment. Punishment can be accompanied by particular styles of management, such as new public managerialism. Part of the punitive turn is also ‘penal populism’, a process of competing political parties being ‘tough on crime’. Politicians, trying to meet the demands of the public, give rise to harder policies. They want to punish the offender due to a growing identification with victims of crime. Also protection of the public is emphasized. Consequently, the punitive turn can be accompanied by a penal policy which has become highly politicized.

Exploring the punitive turn at a societal level

It has been assumed that the punitive turn is a widespread phenomenon throughout many countries. The punitive turn has been analyzed as a cultural shift from ‘penal welfarism’, based on rehabilitation, to a culture of control, based on retributive punishments. From a penal welfarism viewpoint, the prison is viewed as problematic and should be used as a last resort. Other authors doubt whether the punitive turn can emerge in all kind of countries. In particular, a Scandinavian exceptionalism has been depicted. Some authors relate the punitive turn to the political economy of a country. Different political economies can be distinguished, such as conservative corporatist political economies, oriental corporatist political economies, social democratic corporatist political economies and neo-liberalist political economies. Countries with a neoliberalist political economy are assumed to be more vulnerable to a punitive turn.

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8 E.g., Garland, 1991; Matthew, 2003; Pfeiffer et al., 2005; Pratt, 2007; Warner, 2009; Ryan, 2010.
10 E.g., Garland, 2001; Tonry, 2005; Ekunwe & Jones, 2012. Oberwritter (2005) explores how social exclusion can affect people on different levels, following Bronfenbrenner’s ecological approach to child development.
Another explanatory factor of the punitive turn of a country relates to the model of political decision making. It is assumed, that a consensus model of political decision making appears to be less susceptible to populist policy making than conflict models of policy making. A consensus model can be accompanied by decision making by a small, inner circle of experts. Conflict models are related to pluralist policy making where parties have something to win or to lose. Besides the inner circle, an outer circle of opinions of the larger public are at stake.\textsuperscript{11} A punitive turn can be related to penal populism, that “moved away from consensus politics ... to a politics that is more divisive...but which is also more in tune with the ideas and expectations of the public at large.” Such a punitive turn, resulting from pluralist policy making, can be accompanied with a distrust in political elites and the right to be treated as a rational, responsible citizen.\textsuperscript{12}

Pluralist policy making can result in polarization. Polarization can, for instance, be recognized with regard to the wide range of options applied in prison and probation practice. The continuum of options is broadened, with at one hand “more austere prisons and intensive forms of custody”, and, at the other “proliferation of community based sanctions and softer non-custodial options.” Both an expansion of reintegration as well as risk analysis can be taken into account. Consequently, blurring of the boundaries between prison and community-based sanctions can occur. Also new intermediate sanctions may emerge, that “are concerned with monitoring, surveillance and the regulation of behavior.”\textsuperscript{13}

\textit{Polarization explored at the level of political issues}

Polarization not only occurs at the societal level, but also at the level of particular policy issues. Despite a political culture of consensus, particular policy issues can become more or less politicized. For example, notorious incidents can trigger moral panic with regard to crime issues. Sensationalist reporting by the media can influence the public in such a way that an increase in crime is perceived, which is not the case in reality. The incidents and the media reporting of crime can induce rhetorical reactions of politicians. If politicians like to be quoted in the media, a ‘flat and indifferent reaction’ to incidents that touches public emotions is not sufficient. They have to react on ‘public waves’ of emotions in order to guide them. They focus on “to calm the waters” instead on focusing on what is “good for society”.\textsuperscript{14} Consequently, due to public emotions, politicians can feel the pressure to increase punishments and tighten the rules. This can be illustrated by a famous Dutch parliamentary debate on a mentally ill offender, who committed a murder when he escaped during release from a forensic psychiatric hospital.\textsuperscript{15}

\textit{All politicians, including the ones from the left-wing parties as well as the one from the right-wing parties, agreed on the firm solution that due to the recidivism of the sole mentally ill offender, the releases of all offenders in the forensic psychiatric hospital should be suspended. The political decision had an huge impact on mentally ill offenders who were behaving quite well and already reintegrating in society. Some of the forensic patients were}

\textsuperscript{11} Tonry, 2005; Ryan, 2010.
\textsuperscript{12} Pratt, 2007.
\textsuperscript{13} Pratt, 2007; Matthew, 2003.
\textsuperscript{14} Cf. Preiffer et al., 2005; Warner, 2009, p. 31.
\textsuperscript{15} Cf. Joldersma, 2015.
treated for many years and achieved, step-by-step, their current state of release. Patients and staff experienced the political interference as unfair and incorrect. However, at that moment, it seemed to be a political rational decision and the only possible and acceptable solution for all the politicians involved. During the emotional parliamentary debate, some politicians also proposed to suspend all releases of all mentally ill offenders in the whole country. At that moment, the secretary of safety and justice reacted firmly and defended the basic values behind his policy. He argued that the underlying policy assumption is that people with mental illness who commit a crime should have a second chance for reintegrating in society by means of treatment and rehabilitation.

The Dutch parliamentary debate with regard to the recidivism of the mentally ill offender was highly politicized. With regard to policy issues, Rein & Schön distinguish policy disagreements and policy controversies. Disputes about crime and public security usually are - in potential - more controversial, i.e., they are ‘intractable, enduring, and invulnerable to evidence’, and seldom finally resolved. Whereas disagreements can be resolved by examining the facts of the situation, controversies are immune to resolution by appeal to the facts. In a politicized situation, parties struggle together over the naming and framing of a policy situation. Consequently, policy controversies are dependent on political power relations, “resulting in stalemate policy or a pendulum swing from one extreme position to another.”

What politicians say and what they do

In the Dutch case presented in this section, the political rational decision deeply influenced prison and probation practice. Politicians wanted to give action to their firm words. Usually, there is an ‘inconsistency’ between what politicians say and what they do. For example, a politician can have the image of being ‘tough’ on crime, but in practice offers possibilities for rehabilitation, whereas another politician can have the image of being in favor of reentry in society, but in practice has been unable to remove obstacles to reintegration. The inconsistency between words and action can be viewed as an inherent difference between politicians’ espoused theory, i.e., what they say, and their theory-in-use, i.e., what they really do.

The espoused theory of politicians and their rhetorical way of communicating is related to politicians’ ‘management by speech’. A large part of the job of a politician is to communicate. In order to influence the public, politicians learnt to dramatize an issue. Positively formulated, politicians ‘share’ the worries of their public; they can say what their audiences like to hear. Consequently, what politicians say, can be dependent on the context and the audiences they are talking to. Politicians’ behavior can be driven by instrumental rationality, i.e., politicians chose their means in terms of words, position, action, and ploys, that best suits their interests. They influence the public by making their arguments acceptable, believable and truthful. In their way of arguing, convincing can be closely connected to manipulation. Their extreme position on the issue can be accompanied by knowing that they are not able to realize it and/or that it is even better not to put their ideas

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17 Matthew, 2003, p. 4.
18 The terms ‘espoused’ theory and ‘theory-in-use’ are derived from Argyris & Schön, 1974; see also Collin, 1999; Matthew, 2003.
in practice.\textsuperscript{19} With regard to issues of crime and penal policy, politicians can express rhetoric slogans on punishments, in order to show the public and the media that they are in control and want to protect the public. Rhetoric slogans can have impact of their own; their message “can travel alone”.\textsuperscript{20}

Politicians with the image of being ‘tough’ on crime not always do what they say. In some way, it can even be an advantage that politicians do not always translate their words in action. When politicians do what they are saying, they do not always feel comfortable with it, as can be recognized in the famous Dutch parliamentary debate we already referred to:

\textit{After the debate and even during the debate, the politicians discussed with each other that they did not feel comfortable with this kind of debate and the urgent need for tough measures. They agreed that this kind of political decision making should not happen again. Their reflection in-action-on-action marked a new start of the Dutch parliament with regard to the political issue of mentally ill offenders. Politicians together decided upon a parliamentary research on mentally ill offenders.}\textsuperscript{21}

\textbf{5.3 The role of politicians in policy making}

Policy making can be viewed as an evolutionary process in which many actors are involved. It is a “partly cooperative, partly antagonistic interplay of institutional actors in the policy arena.” One of the institutional actors is the politician. The policy content evolves dialectically through the unfolding of a ‘policy drama’.\textsuperscript{22}

\textit{Role of politicians in relation to civil servants and staff}

In the tradition of Max Weber, it is assumed that politicians make policy, whereas civil servant should implement policy in an independent and politically neutral way. In the course of time, different types of relationships between politicians and civil servants have emerged. For example, in the Netherlands, it was found that in one period of time, politicians are responsible for weighing different interests, whereas civil servants are responsible for fact-finding. Another type of relationship that was found, is that politicians are providing energy and passion, whereas civil servants are considering different aspects of the issues at stake and deliver advice to politicians. Nowadays, it is assumed that with regard to some Dutch issues, policy is the result of politicians and civil servants complementing each other; together they are responsible for policy making. In this complementary relationship, civil servants may act as a kind of ‘shadow-politicians’. They try to anticipate on the reaction of politicians. Consequently, the powerbase and influence of politicians increase. The shared responsibility of politicians and civil servants with regard to policy making can be accompanied by an overreaction on incidents. A politicization of issues can occur, in which facts are less important than values, or in other words, ‘fact free politics’\textsuperscript{23} can occur.

\begin{footnotesize}
\begin{enumerate}
\item Elster, 1991; Collin, 1999; Snel, 2011.
\item Pratt, 2007.
\item Joldersma, 2015.
\item Rein & Schön, 1994.
\item Nieuwenhuis, 2013.
\end{enumerate}
\end{footnotesize}
A complementary relationship between politicians and civil servants can also have impact on policy implementation. When issues are politicized, implementation of policy becomes part of politics. Politicization of issues influences the interaction between front-line workers or ‘street-level bureaucrats’ and offenders.\(^{24}\) Prison and probation staff has to deal with conflicting values and expectations. In one way they feel professionally responsible for their public service mission, and in the other way they feel acquainted to help their client.\(^{25}\) Politicization can imply that staff is inhibited from doing their jobs ‘professionally’ and making use of their discretionary power.\(^{26}\) In order to deal with the political pressure, staff can develop mechanisms to reduce threats.\(^{27}\) They develop defensive reactions, such as “those are the rules” or avoidance strategies in order to withdraw responsibility for their clients’ failures. The reactions and strategies of staff will influence their interaction with clients.\(^{28}\)

**Policy inquiry bridging the interests of experts and politicians**

In general, and with regard to disagreements in particular, knowledge and science can contribute to resolving issues. For example, in Finland scientists were able to influence policy makers by a growing body of research that raised serious questions about the efficacy of hard penal policies. In the Finnish context, experts are enabled to play a dominant role in policy making. Reforms have been prepared and conducted by a relatively small group of experts. Their impact was reinforced by close contacts with senior politicians and academic research.\(^{29}\)

When issues are politicized, it depends on the party’s frame what counts as a fact and what arguments are relevant. That influences the contribution of scientists to resolve these issues. The demand for academic knowledge can decrease and academics are less consulted. Public opinion can be given more weight than expert opinion and expert reports are replaced by public opinion polls.\(^{30}\) Even if scientists are involved in a politicized issue, it demands a particular way of involvement to influence the debate. When policy controversies: “are abstracted from the situation in which they arise, as in academic discourse, they are removed from the place and pressure of the policy arena and exist in a kind of vacuum where it is hard to imagine how they might ever be solved.”\(^{31}\) Therefore, Rein & Schön recommend to resolve these policy controversies by policy inquiry. Policy inquiry concerns the intertwining of thought and action in the policy-making process. Policy inquiry implies reflection on the different frames that are at stake. Politicians, practitioners as well as academics can collaborate in frame-reflective inquiries.

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24 Lipsky, 1969.
30 Pfeiffer et al., 2005; Tonry, 2005.
5.4 Pains of imprisonment and pains of criminality

Politicians give voice, in one way or the other, to the public. In what way are politicians attentive to experiences of prisoners and victims?

The voice of prisoners and pains of imprisonment
A punitive turn can be accompanied by more depth of imprisonment and supervision. Depth relates to the level of restrictions and control, visible in obvious penetration of security measures, such as the ‘objective hard ware’ of safety, e.g., walls, cameras, fences, and ankle tapes.

A lot of research has been done on how imprisonment influences experiences of prisoners. Pains of imprisonment are formulated that make visible the voice of the prisoners. Besides depth, pains of imprisonments relate to the weight or the psychological burden of being incarcerated. Weight refers to dimensions as fairness, humanity, personal development, relationships, and legitimacy, as perceived by the prisoner. Additionally, Crewe also distinguishes the pain of ‘tightness’. Tightness is related to prisoners experience with uncertainty and indeterminacy. It relates specifically to ‘light’ and ambiguous forms of deprivations of liberty and privileges. To the prisoner, it can be unclear whether certain behavior is permitted or not. Regular contact with the world outside gives prisoners a ‘taste of freedom’, but at the same time, offenders are not sure being able to grasp the freedoms. They can be confused over roles, get anxious on dealing with society, and feel the ambiguity of access to the world beyond the prison.\textsuperscript{32} With regard to these uncertainties, they are dependent on ‘soft power’ and judgments of staff members.

Based on positive experiences of prisoners and staff, Liebling and her colleagues developed dimensions for the ‘moral quality of life in prisons’. They found that moral quality of life in prisons is generally related to relationships, personal development, and order & organization.\textsuperscript{33}

Pains of alternatives to imprisonment
Not only pains can be ascribed to imprisonment; also alternatives to imprisonment such as community services or electronic monitoring can induce pains. However, the pains can differ, because non-custodial sentences like community service, mediation, suspended/probationary sentences, fines and financial compensation do no exclude the offender from society in the same way as a custodial sentence.\textsuperscript{34} Depth, weight, and tightness can also be applied to these non-custodial sentences. Especially, tightness can be relevant in assessing ‘lighter’ sentences, such as community service, supervision, and restriction orders that are accompanied by more levels of freedom.\textsuperscript{35}

Additionally, electronic monitoring not only has impact on the offender, but also on his direct environment and family. Consequently, in order to assess different sanctions, not only

\textsuperscript{32} Crewe, 2011; Shammas, 2014.
\textsuperscript{33} Liebling, 2014.
\textsuperscript{34} Wepsäläinen, & Wikström, 2014.
\textsuperscript{35} Vanhaelemeesch et al., 2014.
the experiences of the offender have to be taken into account, but also the experiences of the offender’s family (e.g., secondary prisonization).

**Pains of criminality**

A punitive turn can be visible in a focus on victims and their suffering from crime.\(^{36}\) Victims of crime can profoundly be shocked in their feelings of security due to painful life events. However, the victim label seems to preclude any hope of recovery at all.\(^ {37}\) It seems to deny potential strengths of victims and is based primarily on a victim construct of passive suffering and helplessness. Consequently, victims can feel ‘locked in’ and secondary victimization can occur. According to the criminologist and victimologist Jan van Dijk, the authentic voices of victim should be heard and, therefore, it is needed to ‘free the victim’. Part of the authentic victims’ voice, is victim’s feelings of anger towards the offender. The authentic voice of victims can be derived from International Crime Victims Survey and narrative analyses. From the empirical research, it can be learned that crime victims are not more punitive than the public at large. It can be assumed that victims’ experience of sanctions differ from prisoners’ experiences. However, victims do not primarily seek revenge in criminal justice measures, but they seek, in particular, satisfaction with regard to their sense of justice.\(^{38}\)

### 5.5 Reconciliation the voice of prisoners and victims

In this chapter we reflected upon the role of politicians with regard to prison and probation practice. We assumed that what politicians say, can differ from what they really do. With regard to prison & probation services, we expect that their espoused theory is preferably consistent with their ‘theory-in-use’.\(^ {39}\)

National prison & probation services have to reconcile different values and objectives. In one way, they have to deal with politicians and policy-making bodies that govern their professional services. The governing body represents the public voice. Usually, prison and probation services have a hierarchical relationship with the governing body and are dependent on it. They execute a public task and for that reason, they can be called a ‘task organization’.\(^{40}\)

In the other way, prison and probation services have to deal with the clients to whom they provide professional services. In general, public services and public and private non-profit organization have a horizontal, mutual relationship with their clients. In offering services to clients, they can be viewed as a ‘market’ organization, taking account of the wishes and needs of their clients. With regard to prison and probation services, offenders can be viewed as clients.

Executive organizations that have to implement public policy as well as to offer public services to their clients, can be called ‘hybrid organizations’. Hybrid organizations combine characteristics of a task organization responsible to the governing body, with characteristics

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\(^{37}\) Van Dijk, 2009.

\(^{38}\) Van Dijk, 2009.


\(^{40}\) Joldersma & Winter, 2002.
of a public service or market organization that is responsible to customer. Hybridity implies mixing elements of different logics. National prison & probation services have to combine and reconcile the prisoners’ voices as well as the victims’ voice. In one way, they have to take into account experiences of prisoners with regard to pains of imprisonment. In the other way, they have to take into account the experiences of victims with regard to pains of criminality.

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42 Emery & Giauque, 2014.


The Offender Health Research Network (2010). The pathway of prisoners with mental health problems through prison health services and the effect of the prison environment on the mental health of prisoners. A report to the National Institute of Health Research. UK.


6 The future of the prison
Ioan Durnescu¹

6.1 A few words of caution

Attempting to predict the future of the prison is difficult, because of the range of different scenarios that have to be taken into account. Some outcomes might be more achievable than others in the light of existing trends but even then there will be abnormal events that cannot be expected or foreseen. For example, Swan’s tend to be white so how do you account for the rare occurrence of a black Swan.² Nobody was able to predict the events surrounding the 7/11 terrorist attacks, yet they happened and have had a profound impact on world events since. Another challenge any prediction faces, is the chaotic and sometimes paradoxical nature of social processes. Social change seldom takes a linear and completely rational path. In most cases, social change takes a more hesitant and fragmented route where different actors push and pull towards different directions. This complexity is usually very difficult to capture in the exercise of social forecasting.

All these arguments call for a modest approach in relation to anticipating the future. In the end, we have to accept that predictions, especially those in the social area, are highly risky and ultimately inexact. Indeed, as Nadin³ observes, humans continue to make new discoveries that allow us to experience different perceptions of time and space. All these changes will surely have impact on our way of living, on our mutual interactions, and, eventually, on the way of administrating justice in ways that it is difficult to predict. In essence, attempting to predict the future can be little more than an ‘educated guess’ and acknowledging this provided the starting point for this project to consider the future of the prison. In the final conference, the project brought together around 80 participants from 25 different countries to consider current trends observed in the prison industry in Western democracies. Based on these observations, the position of this author in relation to the future of the prison is one of moderate optimism. From the methodological viewpoint, this paper takes the ‘history of the present’ approach developed by Foucault.⁴ Briefly, this approach involves a careful analysis of the processes that shape present institutions and phenomenon. It connects the erratic and discontinuous processes by which the past become present and opens up different ways to the future.⁵

This chapter is structured in five main parts: the introduction, the prison as a concept, prison as a design, prison treatment, and some concluding remarks.

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³ Nadin, 2016.
⁴ Foucault, 1991.
⁵ Garland, 2014.
6.2 Prisons: A New Vision?

Foucault\(^6\) described twentieth century prisons as ‘vestiges of the past’, mainly because they were not only meant to maintain the social system, but also to contain disobedient bodies. Although many of the features of the modern prison remain the same, some important changes should be noted. One of the most visible changes in the recent past has been prison downsizing. Indeed, in the context of the unprecedented fiscal pressure and the actions of the Supreme Court in the United States, the number of prisoners started to decrease in the United States. In particular, the US Supreme Court decision\(^7\) that ordered the state of California to reduce the number of prisoners by 25% (from approximately 162,000 to 109,805 prisoners) within two years, played an important role. Based on this decision, Governor Jerry Brown signed the Public Safety Realignment provisions which transferred authority from the state level to the county level. By developing more ‘front-door’ community sanctions (including split sentences), diverting technical violations of parole from prison, shortening prison sentences and so on, it is expected that the prison population in California and other US states will decrease significantly. Although it is still too early to evaluate the success or otherwise of these measures, it seems that the main stakeholders in the criminal justice sector view them optimistically.\(^8\) The same trend towards community sanction diversification is noted also in Europe. For instance, a short prison sentence in countries like Sweden or Belgium does not involve prison anymore. In these cases, the prison sentence can be served under home detention with electronic monitoring.

Prison downsizing can also be observed throughout Europe to a greater or lesser extent. Based on the SPACE I for 2014,\(^9\) the European prison population rate decreased by 7% from 2013 to 2014 (from 134 inmates per 100,000 inhabitants in 2013 to 124 inmates per 100,000 inhabitants in 2014). Of course, it is too early to consider this a longer term European trend since the European prison population rate increased between 2012 and 2013, from 127 inmates per 100,000 inhabitants to 134 inmates per 100,000 inhabitants. Moreover, this phenomenon is not present in all the European countries (see for instance, Belgium, Switzerland, and Slovenia). Corresponding with prison downsizing, an increase of those subject to probation supervision can be noted at the European level. However, as Aebi et al.\(^10\) argue, these two phenomena are not necessarily related, as in many countries community sanctions seem to have had a net-widening effect and failed to provide robust alternatives to imprisonment. However, it seems that a bifurcation approach is becoming more and more evident in sentencing practices across Europe. In other words, prison populations are becoming characterized by a more high risk and marginalized population while those on probation tend to be categorized as low to medium risk, many of them being sentenced for traffic or property offences. According to Morton et al.,\(^11\) the prison population in Denmark and other Western European countries is less educated, have more prior convictions, are involved more in psychiatric treatment or hospitalization, and are more ethnically diverse.

\(^6\) Foucault, 1975.
\(^7\) Brown v. Plata, 2009.
\(^8\) see Petersilia, 2014.
\(^9\) Aebi et al., 2014.
\(^10\) Aebi et al., 2015.
\(^11\) Morton et al., 2016.
As a result of all these changes, it can be anticipated that prison will continue to play an important role within the criminal justice system by selecting and isolating the most ‘dangerous’ (multi-recidivists, violent offenders, sex offenders), drawn mainly from the most deprived social groupings. In this sense, prisons are likely to play an important role as diagnostic centers where offenders will be assessed and allocated to different pathways. This movement seems to be supported by other transformations in the criminal justice sector such as split sentences (sentences that are partly served in prison and partly in community), the proliferation of electronic monitoring or the judiciarization of prisons. By prison judiciarization, we mean the deeper and deeper involvement of the judiciary in the execution of the penal sentence. More and more, we are witnessing jurisdictions where judges take up roles inside prisons to ensure that human rights obligations are maintained, or to decide on prison modalities or different forms of early release. The presence of decision makers inside prisons could lead to more individualized pathways between those serving prison sentences inside and outside the prison establishment. We will come back to this aspect in the section dedicated to prison treatment.

To summarize our vision for the future of the prisons, we can speculate that the use of imprisonment is likely to become less and reserved for only the ‘most dangerous’ populations (whatever they will be defined). Apart from isolating this group, prison will continue to play an important assessment role in categorizing prisoners in order to allocate them to different regimes, be it closed or open conditions.

6.3 Prisons: The Social Design

Different conceptions regarding the role of society have inspired certain visions about social discipline. The same applies to prison design. When prisons were conceptualized as sites of punishment, control, and surveillance, they tended to be based on Bentham’s notion of the ‘panopticon’, characterized by a central tower and radial wings. When prisons were designed for confinement purposes, they were built in such a way as to reduce the free movement of the prisoners inside the prison establishment. Fences, solid doors and heavy keys were common to these prisons of the eighteenth and nineteenth century. In the twentieth century, more and more prison spaces were designed according to different ideologies of punishment. One of the most prominent is that of learning and rehabilitation. Based on the idea that recidivism and crime rates could be reduced through education and other correctional activities, some prison architects imagined a new architecture of incarceration whereby ‘the places of real terror’ were replaced with ‘invisible pedagogy’. Within the learning philosophy, prisoners belong to accountable groups, close to the external space and are surrounded by gardens. The new design is meant to produce ‘hope-infused environments’ where prisoners can flourish.

15 Jewkes, 2016. For more information on past and present prison designs, see Jewkes and Johnson, 2007.
The same trend towards buildings oriented outwards and green views, can be noted in some new architectural plans (see the figures below).

Combining design principles from colleges and hospitals, KMD and HMC, two architecture firms built a women's jail in San Diego that aims at ‘reducing assault, vandalism, and, eventually, recidivism’.¹⁶

Other architectural designs are based on the so-called ‘social design’, which suggests that prisons are embedded in the community and that contact between prisoners and the members of the community is as open as possible. One such design was created recently by Glen Santayana¹⁷, a student at Harvard’s Graduate School of Design. This project entitled PriSchool is so-called, because it is both a school of criminology and also embedded in the local community. The design has four blocks: one school of criminology, the prison itself, a pre-release centre, and a community centre. As it can be seen in the pictures below, the buildings are connected to show how the functions are intertwined.

¹⁶ Available at: http://www.popularmechanics.com/technology/design/a16980/how-to-build-a-better-jail/
¹⁷ For more about this project, visit: http://www.archdaily.com/464371/a-radical-new-approach-to-prison-design
Prisoners and students take criminology lessons together, students getting the chance to learn about real situations that can lead to crime, and prisoners receiving intellectual stimulation and opportunities to understand better the etiology of their own behavior. In the next section, another project along these lines is presented to highlight this interest in mixing criminal with non-criminal groups in rehabilitative interventions.

Based on these current developments, we could speculate that prison design will continue to receive more and more attention in the future. Under the influence of a ‘normalization’ approach, prison spaces are likely to become more humane, furniture to be more attractive and functional, walls to be painted in many colors, and above all a lot of green views. Functionally speaking, prisons of the future are likely to allow in-group interactions but also intense cooperation with the outside community. This cooperation could take the form of volunteers from the outside to come and undertake activities inside the prison while prisoners, especially those approaching release, will have the opportunity to go outside to undertake education or jobs. Security and technology are likely to play an important role within prisons, given that those offenders sentenced to such sanctions will be likely to be those presenting a higher risk. As far as the application of technology is concerned, it is likely that electronic monitoring and the use of the Internet will become part of the normal routines of many prisons. Despite a traditional resistance to progress and change, there are already prisons that have utilized access to the Internet in prisoner’s cells (for example, Norway, Australia among others). ICT already plays a very important role in many jurisdictions, not only as a means of communication but also for delivering workshops, e-learning and so on. The project PrisonCloud in Penitentiaire Inrichting Beveren/Belgium is a good example of how ICT could be integrated into the management of the prison and its architecture.

6.4 Prisons: Treatment

Changes to the concept of detention are perhaps more visible in the treatment field within prisons than anywhere else. Most of these changes seem to be politically promoted, or at least supported, on grounds of cost-efficiency but also by European initiatives such as the

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18 For more, see: [http://www.prisonreformtrust.org.uk/Portals/0/Documents/Through%20the%20gateway.pdf](http://www.prisonreformtrust.org.uk/Portals/0/Documents/Through%20the%20gateway.pdf)
Council of Europe Recommendation R (2006)2 on the European Prison Rules. One of the consequences of recent economic crises, is that governments have become more cautious about how to deal with public money and are more interested in cost-effectiveness. As prisons and prisoners are usually very expensive for the State, the rational conclusion is that they should be maintained only for those who need to be isolated from the wider community. Without overplaying the importance of the Council of Europe recommendations, the penitentiary systems of the European countries seem to be more and more dominated by those concepts promoted in these documents such as, normalization, human rights, respect, reintegration as the final aim of custody, responsibilization and so on.

Another set of European initiatives that have shaped the treatment of prisoners, has been the European Charter of Fundamental Rights, European Court of Human Rights (so-called Strasbourg Court) and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). These three mechanisms together work in a dynamic way to ensure that the prisoner’s basic rights are acknowledged and protected. They have established minimum standards of detention (e.g., minimum 4 square meters per prisoner) in those countries governed by the Council of Europe. One could expect that in the future, prisoner’s human rights will be further consolidated in the jurisprudence of the European Court of Justice (so-called Luxembourg Court) and also in the regulations emanated by the European Commission. The same trend is supported in some of the European countries by involving the judiciary more and more in the prison life. This phenomenon of judiciarization of the prison is more prevalent in those countries belonging to the Roman law tradition. Currently, we have juge d’application de peine in France, tribunale de sorveglianza in Italy, juez de vigilancia penitenciaria in Spain and so on, who are responsible for overseeing the custodial decisions and the prisoner’s rights.

It has been argued that these treatment developments, based on the principles of normalization, responsibilization, and reintegration, have turned prisoners from being passive recipients of the interventions into real ‘entrepreneurs of the self’.19 If they want to enjoy more benefits or to be released earlier, prisoners are now expected to be actively involved in their own reform and demonstrate progress. Prison systems are now equipped with complex rewards schemes that encourage prisoners to progress from basic regimes to more advanced ones, with more freedom and more responsibilities. These have been supported by complex standardized tools such as risk-needs assessment, case management and so on. Decisions regarding the appropriate prison regime, application for home leave and work opportunities outside of the prison, are currently based on this type of standardized assessment. On one hand, these standardized forms result in more predictable and accountable practice, but on the other hand, they can promote a ‘one size fits all’ approach and lead to staff de-professionalization. One way or another, these assessment and management forms appear likely to survive such criticisms and will probably be maintained in the future. Standardized, manual-based programs also seem to fit well with this dominant discourse and programs aimed at addressing anger management, offending behavior, drink driving and so on, which are nowadays routine in European prisons. Risk protocols, case management, standardized programs and so on could be seen to be part of a growing emphasis on evidence-based prison practice. Practices that have been evaluated

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19 Crewe, 2009, p. 137.
and found effective in reducing reoffending or prison incidents, are nowadays more likely to spread across Europe.\textsuperscript{20}

Related to this concern with evidence-based practice, but also to the victim movement, more and more countries have introduced victim-offender mediation schemes. In some cases, these schemes also function ‘back door’, meaning that prisoners can also be involved in mediation cases. It is to be expected that these schemes will be developed and promoted widely as victims increasingly become more central to European criminal justice systems. Based on the EU Directive 29/2012, that established minimum standards on the rights, support and protection of victims of crime, it can be expected that victims will also play a more active role in the decision-making process, perhaps even when it comes to conditional release or a prisoner’s transfer between EU member states.

Evidence-based interventions seem to travel from one country to another via increased cooperation between the member states of the EU. This cooperation is facilitated by organizations such as EuroPris or CEP. The European Commission has itself established expert groupings that bring together specialists in different areas of custody. Conferences, seminars, workshops and so on are also important opportunities to increase cooperation between prisons systems in Europe. This cooperation is also facilitated by other contemporary social trends. Freedom of movement between the EU countries and the desire for a better life has led to significant migration from Eastern Europe to Western Europe. Besides economical benefits, this movement has also increased the level of crimes committed by non-nationals in some European jurisdictions. As a result of legal and cultural conditions, these non-nationals often end up in prisons geographically far removed from their own countries. This has contributed to prison overcrowding in some countries and, most significantly, exclusion from mainstream prison culture, due to language difficulties and the lack of socially supportive networks.\textsuperscript{21} As a result, the European Commission and the EU member states are now exploring ways to address the difficulties faced by foreign national prisoners. Three promising initiatives are the introduction of the framework decisions on the transfer of supervision order, on prisoner’s transfer\textsuperscript{22} and on probationer’s transfer.\textsuperscript{23} These initiatives are expected to lead to fewer foreign national offenders in European prisons. However, this decrease may be soon replaced by an increase of foreign prisoners originating from outside the European Union, mostly from those conflict zones of the middle east.

As well as requiring increased cooperation, the presence of foreign national prisoners in prisons requires that prison staff become more culturally attentive and open to accommodating difference. Concepts such as ‘normalization’ and ‘responsibilization’ also

\begin{itemize}
\item \textsuperscript{20} see Seiter and Kadela, 2003 for an on-going review of what works in prisoner reentry.
\item \textsuperscript{21} see also van Kalmthout et al., 2007; Bosworth, 2011; Bhui, 2007; Barnoux & Wood, 2013.
\item \textsuperscript{22} Council Framework Decision 2009/829/JHA on the application of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention.
\item \textsuperscript{23} Council Framework Decision 2008/909/JHA on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union.
\item \textsuperscript{24} Council Framework Decision 2008/947/JHA on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions.
\end{itemize}
place added pressure on staff to become more involved with prisoners in what has been
termed a ‘dynamic security’ approach. There are many definitions of what dynamic security
means in practice, but what is important is that, within this approach, staff are expected to
develop positive relationships with prisoners. Staff are also expected to be aware of what is
going on in the prison and provide fair treatment towards inmates. At the same time,
prisoners should be involved in constructive and purposeful activities that contribute to their
reintegration. It seems that this concept is becoming more and more popular in Europe and
fits well with the other transformations in the penal field.

The potential benefits of education and employment in reducing reoffending has also
received considerable attention in recent years. One reason for this might be that both work
and education seem to correlate strongly with the absence of recidivism. However, it is
important to highlight here that provision of both could require fundamental changes in
order to become relevant in the reintegration process. As mentioned by the experts involved
in the project Prison of the future but also in different TEDD Talks, education needs to
change from being school-like enterprise into being an activity that prepares prisoners for
life after prison. Therefore, education is not only about academic achievement but also
about life skills. Educational opportunities are now expected to help prisoners both better
understand the world and themselves. An interesting example of this kind, that is also
supported by the new social design of prisons, is the projects Learning Together (UK) or
Inside Out (USA) where students from universities study criminology together with students
from different prisons. This way of working together helps prisoners understand their own
potential, and working alongside university students reduces a sense of ‘otherness’ in order
to promote a more inclusive and tolerant society.

At the same time, employment should not be a means of generating income for the prison
administration, but should be viewed as a way to bring prisoners closer to the labor market.
Work is increasingly configured, together with vocational training, apprenticeship and other
forms of employment interventions, that aim at increasing prisoner’s employability after
release. Another significant feature of current education and work initiatives, is that they
increasingly tend to be organized in partnership with the agencies from outside the prison
sector. Universities, schools, NGOs, and private enterprises are becoming increasingly
involved in delivering education programs in prisons. Prisoners are given the opportunity to
engage with education programs outside the prison perimeter. Increasingly, employers are
recruiting their staff from within the prison population. This closeness between prison and
community makes the prison boundaries less rigid and more permeable. Agencies from the
community have greater access to prison and prisoners, while prisoners are more able to
spend more time outside of the prison environment in order to find jobs, education or
accommodation. Prison regimes have been adapted in a way to facilitate this dynamic. Semi-
open or open regimes for example were created exactly to this aim; to enable prisoners to
gradually return to freedom.

A good example of these blurred prison boundaries is the White Building near to the
Veenhuizen Prison in The Netherlands, which is designed as a rehabilitation centre for

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25 See, for instance, Davis et al., 2013.
26 For more, visit: https://medium.com/re-form/the-white-building-7356ed78cc58#.4neprov7s
prisoners with less than six months to release. This building is located outside the main prison perimeter and brings together prisoners and creative professionals to release the creative potential of the inmates and in doing so prepare prisoners for release in a more optimistic and innovative way. Perhaps the most important aspect of this initiative is that the White Building is conceived as a meeting point for people with different life experiences on the creativity ground where all people are equal.

An increasingly important role in the prisoner’s transition to freedom is played by the probation services. In almost all European countries, probation services enter the prisons to contribute to pre-release programs and, after release, they ensure the post-release supervision.

6.5 Conclusions: The Prison and Probation Complex

As already noted, the evolution of prison has to be contextualized within larger societal transformations. Although the prison system retains a high degree of autonomy in most jurisdictions, public sensibilities, economic pressures, and the evidence-based practice agenda are all shaping the way prison is conceptualized, designed, and experienced. Although we might still call them prisons or penitentiary institutions, the meaning of these institutions is completely different than two centuries ago. At least at the ideological level, prison is no longer only a place of isolation, but a place where prisoners can learn and grow through education, work, and other purposeful activities. Prisons are not hidden behind high walls, but can be increasingly accessed by the judiciary, professionals, and the public at large. Depending on their level of risk, prisoners are moved around the prison system and beyond. Both the ‘front door’ and the ‘back door’ of the prison appear less rigid than one hundred years ago. In some countries, a prisoner within six months or one year prior to their release can be moved to a half-way house or other types of transition facilities or even be incarcerated in their own homes. Probation services operate around and inside prisons. Prison boundaries are becoming more flexible and allow more dynamic interactions. In some cases, the judiciary has moved from the court into prisons in order to individualize both the punishment and the way it is implemented. This flexibility together with the presence of the decision makers (the judges), may facilitate a more individualized pathway of implementing penal sanctions. Custodial and non-custodial sanctions could be placed on a continuum of punishment regimes, conditions, and obligations that could be designed like menus that can be used for the sentences in a creative way. New sanctions, such as free-form sanctions or split sentences, could be developed further in order to allow implementation judges (surveillance judges, penitentiary judges, problem solving judges and so on) to respond swiftly to changes in the offender’s life or circumstances and also to individualize the sentence at the micro level.

In this context, prison of the future could become a hybrid prison and a diagnostic center and will work closely with probation services in a sort of prison-probation complex. As their role will be to protect the public and support desistance, this complex could be rebranded as ‘Desistance Centers’. The same penal sentence could involve detention, semi-detention, half-way houses, electronic monitoring, back to detention, freedom, rehabilitation program and so on, depending on the individual features and the progress of the case. These penal
transformations seem to be anticipated by the recent changes in the prison concept, design, and the treatment areas. Of course, as history teaches us, the future will still surprise us no matter how ambitious we are in our predictions. Not least, public pressure or issues such as the radicalization of prisoners could moderate or even reshape these trends in directions that we do not even want to think of.

**References**


7 Penal Practice and Major Trends in The Danish Prison and Probation Service
Hans Monrad Granbøl, Louise Faltum Morton, and Susanne Kollerup

7.1 Introduction

This chapter addresses major developments in the Danish Prison and Probation Service over the last decade. It highlights the increased use of alternatives to imprisonment and the introduction of the Risk-Needs-Responsivity (RNR)-principles.

7.2 Alternatives to imprisonment in Denmark

The Probation Service encompasses a wide range of assignments. Most offenders in the Prison and Probation Service are not imprisoned, but attached to Probation. Denmark, unlike other countries, has maintained approximately the same number of prisoners for 30 years.

The prison population in Denmark is 61 per 100,000 inhabitants (2015), which is quite low compared to other countries. Denmark has a long tradition of employing alternatives to custody; the possibility of passing suspended sentences on the condition of supervision was introduced as far back as 1933.

The probation population shows a steady increase in Denmark over the last decades. Since the mid 1990’s, the probation population has, on average, almost doubled in size; from 5,000 to more than 9,300 clients per day. The number of probation clients has continually increased over recent years, partly since alternatives to imprisonment - especially community service and electronic monitoring – have become more prominent (see Figure 7.1).

Generally, the different forms of offender supervision, which are handled by Probation, can be divided into the following categories:

- suspended sentences and offenders released on parole;
- suspended sentences with special conditions, such as treatment;
- electronic monitoring;
- community service;
- psychiatric treatment measures.

In the next sections, we focus on electronic monitoring and community service.

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1 Hans Monrad Graunbøl is Head of Research; Louise Faltum Morton Head of Client Management; and Susanne Kollerup Head of Isefjorden, Department Roskilde; Danish Prison and Probation Service.
2 Sections 68 and 69 of the Danish Criminal Code.
7.3 Electronic monitoring

The electronic monitoring order implies serving a prison sentence outside the prison environment. Having a residence, a daytime occupation (e.g., a job, treatment, attending school or other rehabilitating activities) and consent from any cohabitants are minimum requirements for all participants serving electronic monitoring. The order includes a prohibition not to leave one’s residence except at specified times and for specified reasons, for example, to go to work or to buy necessities. Use of alcohol or drugs is also prohibited while serving the order. Electronic equipment is used to check whether there is a breach of restrictions.

Denmark introduced electronic monitoring on 1st July 2005 for individuals sentenced to prison for a maximum of three months. The target group for the Danish order consisted, initially, of drink drivers and individuals caught driving without a valid license. Since spring 2006, the order has included sentenced people under the age of 25 years, with a prison sentence of up to three months. In 2008, the condition that the participant must be under the age of 25 was repealed. Since 2010, the order has included sentenced individuals with a prison sentence of up to five months. This was increased to six months in 2013.

Figure 7.2 shows the average number of clients per day serving with electronic monitoring.
Community service is intended to replace a prison sentence. The offender performs unpaid work for a fixed number of hours. The work is usually done for a non-profit organization. The offender needs to consent. In Denmark, community service is a condition attached to a suspended sentence or to an early release. In both cases, the offender is under supervision by the probation service.

Over the last decade, several studies on the effect of community service as an alternative to imprisonment have shown significant results in lowering recidivism.

Community service was introduced in 1982 and was added to the list of sanctions available in the Danish Penal Code in 1992. The increase of community service as alternative to imprisonment is a major focal point for the Danish Probation Service. Several initiatives to widen the target group of community service were implemented during the above period. Also, since spring 2015, it has been made possible for offenders to attend treatment, education activities, and other rehabilitative programmes as a part (up to one third) of the community service order. The number of offenders serving a suspended sentence, including community service, is, as a consequence of the recent changes, expected to increase over the coming years (see Figure 7.3).
7.5 Implementation of the RNR-principles

As a part of the current political multiannual agreement (2013-2016), the Prison and Probation Service implements the risk, need and responsivity (RNR) principles in probation and prison practice.

The implementation of RNR principles aims to contribute to a more efficient client intervention approach with regard to the optimum use of resources and a reduction in the recidivism rate. The essence is to:

- match the level of intervention and rehabilitation efforts to the risk/needs levels: the higher the risk/needs, the higher the level of intervention (*Risk principle*);
- target rehabilitating efforts to criminogenic needs (dynamic risk factors), such as, for example, antisocial attitudes and peer associations, lack of self-control and self-management skills, and substance dependencies (*Needs principle*);
- employ strategies and methods that have proved effective in regard to reducing recidivism. Research suggests that rehabilitative interventions should generally take the form of cognitive behavioral treatment and be tailored to the learning style, motivation, abilities, and strengths of the client (*Responsivity principle*).

*Implementation of the RNR-principles in the Probation Service*

As a first step in the implementation of the RNR-principles, the Canadian risk/needs assessment tool LS/RNR™ (*Level of Service/Risk Need Responsivity*) has been implemented into probation work.

The overall aim of introducing the LS/RNR is to conduct screening and classification processes to generate reliable, objective and individualized assessments of each client’s risks and needs. The assessment is needed in order to provide the correct level of service.
other words, the LS/RNR adds structure and consistency to the assessment and assists the subsequent planning and decision making regarding which interventions to employ.

All of approximately 300 probation officers in Denmark are now trained to use the risk/needs assessment tool. In the Probation Service, the risk/needs assessment interview is carried out during the second supervision meeting. After carrying out the assessment, feedback on the specific risk/needs profile is always offered to the client. A supervision plan is drawn up and interventions are planned according to the risk/needs assessment: the higher the risk (and needs), the higher the level of intervention.

Inspired by the Canadian STICS (Strategic Training Initiative in Community Supervision), the Department of Prisons and Probation has developed a Danish supervision model, which is currently being implemented in probation work. The Danish supervision model adheres to the RNR-principles. The intervention gives a structure to each supervision meeting and to the supervision period. It also gives a focus on probation officer skills and client interventions, applying cognitive behavioral techniques to help clients overcome pro-criminal attitudes.

The Danish supervision model has been named ‘MOSAIK’. It is an acronym for ‘Motivational Intervention in Prison and Probation Service’. Furthermore, the name ‘MOSAIC’ depicts the probation officer skills and client interventions as ‘pieces’ which are put together to create a mosaic. MOSAIK targets clients with a medium, high or very high risk/needs profile. By the summer of 2016, all of the 300 probation officers have completed the initial five-days training in the MOSAIK method.

Two research studies relating to the RNR project will be carried out: the first documenting the effects on recidivism, the second evaluating the implementation process and the integration of the methods into the work of Probation Officers. The research will provide valuable information regarding the planning of future interventions. Furthermore, it will help with the continuing adjustment and development of the Danish approach to Probation.

**Implementation of the RNR-principles in prisons**

The LS/RNR has also been brought into use in prisons. In prisons, the risk/needs assessment has been implemented as part of the initiative ‘Improved Intake Assessment Processes’. The LS/RNR is carried out at the beginning of the prison sentence. Based on the LS/RNR assessment, an individual sentence plan is drawn up within seven working days. Criminogenic needs are identified, described and prioritized, and plans for interventions during the serving of the sentence are drawn up.

All social workers in all of the prisons in Denmark are trained in the LS/RNR and have implemented the assessment tool into their everyday work with offenders.

Also, a group-based intervention program called ‘MOVE; my goals – my future’ has been developed. MOVE has the same theoretical foundation as MOSAIK and is designed to specifically target the criminogenic needs identified in the LS/RNR. MOVE will be tested as a

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3 STICS is developed by James Bonta, Guy Bourgon et al.
pilot project in one prison in 2016. In the case of a positive outcome, further studies will be carried out in order to assess whether it should be implemented in more Danish prisons.

As part of the Improved Intake Assessment Process, the implementation of the LS/RNR and MOVE will be evaluated through a research study in order to investigate if and how the new processes work and under which conditions.

7.6 Reflection on current options

As a whole, it appears that the trend we have seen over the past 30-35 years continues: the prison population is stable – or even decreasing – and the probation population is increasing. Particularly, the increased use of alternative sanctions such as community service and electronic monitoring, appear to be the main reason for the increase in community supervision clientele.

The prison population is generally decreasing due to the general drop in crime and the increased use of alternatives to imprisonment. Over the last decades, we have seen changes in the type of clientele in prisons. On average, inmates today have more complex social problems, substance misuse and mental health issues. Also, due to a change in migration patterns and cross-border crime, the prison population in Danish prisons is increasingly ethnically diverse.

At the same time, the crime prevention work has been professionalized. The RNR-principles are being implemented introducing a risk/needs assessment tool and a strengthened focus on effective crime prevention interventions. Also, during the offender intake assessment processes and release, the focus on interagency cooperation has been strengthened, to create the best possible conditions in order to include the client into the community upon release.

7.7 Innovative options for the future

The changes in the Danish Prison and Probation practice in recent years have generally been in line with fundamental principles such as ‘normalization’, ‘least possible intervention’ and so on.

However, in the future the political focus might be shifted from alternative sanctions and resocialization to a greater focus on public protection and being ‘tough on crime’. Also, general budget cuts and demands of increased efficiency continue to steer the focus and direction of prison and probation work; introducing higher caseloads in probation, lower staff-client ratio in prisons, Lean and new public management, controlling, and so on. However, some of these demands can walk, hand in hand, with an increased use of alternative sanctions, which, at the same time, cost less and are more effective with regard to crime prevention outcomes.
On a general level and in a short-term perspective, future developments of the Danish Prison and Probation Service can be ordered along the following headlines:

- Greater cooperation with local communities, volunteers and so on (mentorship, cooperation with private employers, sport clubs and so on).
- Professional staff development in understanding and dealing with cultural, ethnic and linguistic diversity, and handling radicalization issues (liaison with police and intelligence services, development of support programs).
- A more victim-based approach in the execution of sentences (the introduction of mediation, Restorative Justice and so on).
- Technological developments (increased use of monitoring and/or making use of new technologies in order to enhance rehabilitation opportunities).
- The strengthening of a more evidence-based rehabilitation effort (further development in the supervision approach, e.g., MOSAIK, RNR-interventions).
8 Prison and probation practice in Sweden
Gustav Tallving, Fia Lundbäck and Ulf Jonson

8.1 Introduction

Modern policy making in the Nordic countries has differed substantially from other western democracies. In the area of penal policy two things can be highlighted as significant to these countries: a) levels of imprisonment and b) prison conditions. Nordic countries are regarded as low imprisonment societies and the prison populations are allocated in a large number of small prisons. In Sweden, the staff/inmate ratio is high (on average around 1 to 1) and this contributes to prison conditions that are relatively humane and rehabilitative. It is argued that these exceptional characteristics of Nordic prisons emerge from the cultures of equality that existed in these countries during the 20th century, cultures which were then embedded in the social fabrics through the universalism of the welfare state. Australian criminologist John Pratt confirm this picture by using the term *Scandinavian exceptionalism*. His conclusion is that the egalitarian culture in these countries reduces the need for spectacular punishments. Instead, the enforcement of the sentence must be organized so that the sentence is only loss of liberty and so that the negative consequences of incarceration are minimized.

Is this image of Nordic penal policy correct? To some extent it is, there is still strong support for general social welfare and egalitarian values among citizens. But the Nordic countries may no longer be that consistent or homogenous as it is sometimes described. As most countries, we are affected by global development and these countries were perhaps more alike 50 years ago. The EU-membership of Finland and Sweden has affected the countries both culturally and legally. Drinking patterns and regulation of alcohol consumption is one example of this development.

In the aftermath of the open street murders of Prime Minister Olof Palme in 1986 and minister of foreign affairs Anna Lindh in 2003, Anders Bering Breiviks acts in Oslo in 2011, and several school shootings in Finland, the view on public safety has changed. The increased threat of terrorism adds to this development. Concurrently, due to global integration and a changing political landscape with swift changes in political majorities, Scandinavian societies may be more diverse and less predictable, also when it comes to penal policy.

Still, these changes work in both directions. Internationally, the interest for sustainable welfare state solutions is increasing. Nordic countries are used as good examples and foreign visits are common, with interests ranging from child care, parental leave, care for elderly, social security, and prison management. Regarding the issue of losing its exceptional status, Nordic correctional services is still in the frontline creating humane and rehabilitative environments for offenders, both in prison and in probation.

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1 Gustav Tallving, expert; Fia Lundbäck, regional manager; Ulf Jonson, senior advisor, Kriminalvarden Sweden.
In this chapter, the Swedish Prison and Probation Service will be described in a brief retrospect, followed by a description of the service of today. The chapter ends with reflections on innovation and options for the future.

8.2 Legislative changes

Since the end of the 1980’s, the Swedish penal system has been based on a model of proportionality. This means that the perceived gravity of the offence, or the ‘penal value’, is the most important factor in the decision of an appropriate sanction for the crime. This does not, however, imply that there is a heavy reliance on the use of imprisonment as a sanction for crimes. Quite the contrary. The Penal Code prescribes that in all cases the court “is required to give notice to any circumstance or circumstances suggesting the imposition of a sentence less intrusive than imprisonment”. If the penal value is under one year in prison, the presumption is alternative sanctions, unless it is a relapse in crime or a type crime (sv ‘artbrott’; criminal acts that have a special position presuming prison sentence). The development of penal law has aimed at reducing the use of shorter prison sentences. Much work has therefore been carried out to find alternatives that do not entail deprivation of a person’s liberty. Thus, community supervision, community service, contract treatment, suspended sentences, and electronic monitoring are the preferred methods of punishment.

The most important legislative changes since 1980 are:

- 1988 contract treatment;
- 1989 new principles for calculation of penal values and choice of sanction;
- 1990 community service, pilot projects;
- 1994 front-door electronic monitoring is introduced;
- 1997 front-door electronic monitoring, full implementation;
- 1999 re-introduction of 2/3-release;
- 1999 community service, full implementation;
- 2001 back-door electronic monitoring is introduced;
- 2010 Act on Imprisonment.

8.3 Major events since the year 2000

Security and drug prevention

Entering the new millennium, the Swedish Prison and Probation Service (SPPS) was developing new capabilities in both in-house treatment and alternative sanctions. In 1999, a serious incident happened where one high profile offender committed a double police murder during leave from prison. This was considered a scandal, but did not really change the course of development. Security issues were not really in focus at that time, partly because few major incidents had occurred since a major riot in a high security prison in 1994. The 1999 incident was therefore considered as exceptional.

But in 2004, things changed when three violent escapes and extractions took place. The director general was displaced. A senior ranked police officer got the mission to straighten out the insufficient security measures in Swedish correctional facilities. The mandate was
strong and budgetary constraints seemed to be second priority. During the years 2004-2011, SPPS entered a new paradigm, with a radically changed view of security and safety. Among the new measures were:

- reinforced perimeter protection on most medium and high security prisons;
- improved technical security including ‘airport security’ entrances on all medium and high security facilities;
- drug detection dog units;
- construction of three new ultra high security units, within the perimeter of existing high security prisons;
- extended staff education and training;
- revised regulations, routines and working methods;
- implementation of SPPS’ intelligence service.

During the years of reinforced security, the Swedish government also committed resources into drug prevention. In combination with the new security measures, this has resulted in almost drug free facilities. This figure is based on annual national drug screenings where only 1% of the inmates in prison screen positive.

**Consolidation of the agency**

In 2006, the SPPS turned from 37 locally governed agencies to one centralized agency with regional sub-divisions. This was an important change and provided capabilities for both strategic alignment and strategic development. In the unified organization, the head office got increased resources and new functions for research and development were created. The development towards evidence-based practice was deepened and a special effort was made to evaluate all existing treatment programs. These evaluations have later been the basis for phasing out programs as well as developing new ones. Strategic development of education for inmates, vocational training, and staff training have also been initiated.

To further increase the strategic capabilities as well as cost and performance control, SPPS is now going through a comprehensive reorganization. From being sub-divided geographically in regions, operations are now divided into three operative divisions:

- prison/remand prison (sv: ‘anstalt och häkte’);
- probation (sv: ‘frivård’);
- security (sv: ‘säkerhet’).

These divisions are managed from the head office departments. Regional management are still important for running operations, but they are no longer part of the National Management Team.

**Declining prison and probation population**

Somewhat surprising, one of the main challenges in later years has been declining populations in all three SPPS branches. Since a few years back, there is a formalized collaboration between the judicial system agencies. The collaboration is supposed to produce a common view on the volumes in the different parts of the system. The prognosis for 2019 shows a continuing decrease in SPPS volumes (see Table 8.1).
Table 8.1 Populations in SPSS branches

<table>
<thead>
<tr>
<th></th>
<th>2010</th>
<th>2014</th>
<th>2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prison</td>
<td>4832</td>
<td>3997</td>
<td>3570</td>
</tr>
<tr>
<td>Remand prison</td>
<td>1596</td>
<td>1568</td>
<td>1570</td>
</tr>
<tr>
<td>Probation</td>
<td>14216</td>
<td>12119</td>
<td>10990</td>
</tr>
</tbody>
</table>

The SPPS annual budget is around 8 billion SEK (800 million Euros). Expenditures for 2015 are distributed as follows (in Euro, see Table 8.2):

Table 8.2 SPSS Annual budgets

<table>
<thead>
<tr>
<th></th>
<th>Remand prison</th>
<th>Prison</th>
<th>Probation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total expenditure</td>
<td>2,1</td>
<td>4,6</td>
<td>1,1</td>
</tr>
<tr>
<td>(Billion SEK)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Of which staff costs</td>
<td>1,3</td>
<td>2,7</td>
<td>0,7</td>
</tr>
<tr>
<td>Number of staff</td>
<td>2115</td>
<td>4861</td>
<td>1110</td>
</tr>
<tr>
<td>Daily average</td>
<td>1702</td>
<td>4355</td>
<td>11434</td>
</tr>
<tr>
<td>number of offenders</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Average cost per day</td>
<td>3554</td>
<td>3270</td>
<td>268</td>
</tr>
<tr>
<td>and offender (SEK)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The economic space created by declining populations is invested in modernization of facilities as well as rehabilitative and preventive measures.

8.4 Prison today

Incarceration rate

According to World Prison Population List, the estimate of worldwide incarceration is 10.200,000 people, counting for both pre- and post-trial detention. The global average incarceration rate in 2013 was 144 inmates per 100,000 inhabitants. The United States had the highest rate of 713 per 100,000 citizens. Sweden is found way further down the list with 67 inmates per 100,000 inhabitants.

All prison sentences in Sweden, except from life sentences, are for a fixed term depending on the gravity of the offence. The minimum prison sentence is fourteen days. Most prison sentences are actually relatively short. Eight out of ten prisoners serve a sentence shorter than 12 months.

Prison philosophy

Even if sentencing is now based on a model of proportionality, rehabilitation is also an explicit goal of correction. According to the Prison Treatment Act (PTA) of 1974, the primary goal of the prison sentence is to promote the inmate’s adjustment to the community as well as to counteract the negative effects of imprisonment. Already in the Prison Treatment Acts of 1945, the view was expressed that the deprivation of freedom itself should be regarded as the penal element of a prison sentence and not the actual prison experience itself. Thus, the PTA of 1974 states explicitly that an inmate shall be treated with respect for his or her human dignity. The PTA of 1974 is based on four principles:
1. imprisonment as a last resort, that is, the usual punishment should be a fine or a community sentence, since imprisonment normally has detrimental effects;
2. normalization, that is, the same rules concerning social and medical care and other forms of public service should apply to prisoners just as they apply to ordinary citizens;
3. vicinity, that is, the prisoner should be placed in prison as close as possible to his or her home town;
4. cooperation, meaning that all parts of the correctional system (probation service, remand prisons, and prisons) should work closely together in individual cases as well as in general.

Since 2010, the PTA has been replaced by the Act on Imprisonment. Regarding the four principles above, number three is now of less importance.

The aim of the prison system can be described as follows: The correctional operations will be characterized by a humane attitude, good care of and active influence upon the prisoner. Operations will be directed towards measures, which influence the prisoner not to commit further crimes. The objective should be to promote and maintain the humane treatment of offenders without jeopardizing security.

**Juvenile prisoners**

In Sweden, the age of criminal responsibility is fifteen years. Between the age of fifteen and 21, the age of the offender is taken into special consideration for sentencing purposes. Particular consideration will be given to the youth of the offender if an offence has been committed before the age of 21. No person under the age of 21 will be given a sentence of life imprisonment. In general, the social authorities are responsible for dealing with offenders aging 15 to 17. The most frequent consequences for juvenile offenders are youth community service, fines, waivers of prosecution, and transfer to the social authorities.

**Release measures**

Before release, special actions are taken to reduce the risk of the inmate’s reoffending and to facilitate the reintegration into society. Since 2007, the following special release measures are effected:
- Activity release: the prisoner is allowed to spend time outside the prison during the day; to work, to participate in educational or vocational programmes, or to participate in organized activities.
- Stay in care: the prisoner is allowed to spend time at a family care home or a care and treatment centre for the purpose of participating in various treatments.
- Half-way house: the prisoner has the possibility to interact with an environment that is more exposed than an open prison; at the same time as support and assistance is provided by the Prison and Probation Service and other authorities.
- Extended activity release: the prisoner is allowed to serve the sentence at home under controlled circumstances (e.g., intensive supervision with electronic monitoring). The prisoner will work, attend educational or vocational programmes, and can receive treatments or participate in organized activities.
Conditional release

Conditional release is the last component of measures to facilitate reintegration in society. Inmates, who are serving a time-limited sentence of more than one month, are, as a rule, conditionally released when two thirds of the sentence has been served. An overall assessment of the prisoner’s conduct can lead to postponement of the conditional release. The length of the test period, upon conditional release, is usually commensurate with the length of the original sentence, but at least one year. During the test period, the conditionally released person can be placed under supervision.

Just recently, the Swedish government has decided to initiate an inquiry on conditional release. The primary objective of this inquiry is to investigate the possibilities to postpone release with regard to risk of recidivism.

8.5 Probation today

As for all prison inmates, probation clients also apply to the principle of normalization. The measures taken in probation service are designed to specifically address the task of reducing recidivism, but still maintaining a certain level of control. This is often done in collaboration with other agencies who provide services to the clients.

Community supervision

The probation service make pre sentence reports at the request of the court and they are intended to assist the court in its choice of an appropriate sanction. The probation service investigates the person’s social situation, the risk of reoffending and whether a non-custodial sentence is appropriate in the event of a conviction. The probation service considers whether the person is capable of performing community service and whether the circumstances warrant contract treatment.

The usual duration of a probation order is one year. When the probation service gets information from court on a sentence to probation, a probation officer is designated having the role of case manager. A sentence to probation always implies arranging for control and support. The probationer is required to meet the designated probation officer (and the lay supervisor if there is one) within one month in order to present a sentence plan.

To further improve the effect of community supervision, the Canadian STICS-concept is now being implemented. STICS stands for Strategic Training Initiative in Community Supervision and is a technique to make probation more consistent with the principles of Risk, Need and Responsivity. Basically, it consist of structured assessments and cognitive behavioral interventions. The Swedish version, KRIMSTICS, provide probation officers with new tools for good and evidence-based practice.

On the basis of the information provided by Risk, Need and Responsivity (RNR-)assessment tools, and other information relevant to the case, the probation work officer can undertake motivation work, decide on contact frequency, and the program to be followed, and arrange for the appointment of a lay supervisor. The probation officer documents these decisions.
and measures in a case file. The probation service also organizes the contact with any necessary social welfare body that can satisfy further treatment needs.

The contact with the probationer is a personal meeting. Contact frequency is determined by risk and need factors and the other activities planned, and will not be less than once each third week. During the first four months, contact is more frequent and can vary between two to four meetings per month. If it is considered necessary, home visits can be undertaken by the probation service.

When the court has decided to order supervision, probationers at medium or high risk normally participate in treatment programs designed to reduce the risk for crime or drug misuse. The court may issue an order on such a program or, alternatively, the probation service may make a decision on participation in such a program or other form of treatment.

Conditionally released prisoners have already been the subjects of post-release activity planning, undertaken in collaboration between the prison and the probation service. Following release, a revision of the plan may be necessary. If treatment measures are no longer necessary or if the released person is not motivated to take part in them, contact with the probation service becomes essentially a control measure. The main difference between probationers and conditionally released prisoners is that the latter are presumed to have participated in some form of treatment program during detention and the probation service needs only to follow up and supplement such activity after release.

An offender who fails to keep the agreed contact frequency, abuse drugs or do not follow the sentence plan in other ways, is considered to be in breach of conditions. If the breach is not serious, it can be dealt with by reminding the offender of the supervision requirements. More serious or repeated breaches are reported to the supervision board. The board then decides on the appropriate measure, a warning or a transfer of the case to court for reviewing.

**Layman probation supervisor**

Approximately 40 per cent of those on probation have a layman supervisor. The layman complements the work of the probation officer, who always has the formal responsibility for the client. If no layman is appointed, the officer of the probation service is also assumed to provide the whole role of supervising. A layman is a voluntary private individual, who devotes part of his or her spare time to supporting, guiding and encouraging the client so as to promote prosocial activities and help to prevent a recurrence of the offence or abuse. No specialist knowledge is required, but an interest in people and social issues is important. An assessment of the suitability of each individual volunteer is undertaken.

**Contract treatment**

The only time an offender sentenced to probation is deprived of liberty, is when there is a condition of institutional care. Contract treatment may correspond to up to two years imprisonment. The alternative prison term is always stated in the sentence. The offender is required to maintain contact with the probation service during treatment and ensure that the treatment is followed, according to the contract that has been agreed by the court, the offender, and the institution. When the treatment is concluded, the probation service
continues supervision until the end of the supervision period. The supervision period with contract treatment can be longer than the customary twelve months, in order to provide a sufficient follow-up and support offenders to adjust to their home environment. If the client breaks the contract, the sentence is normally commuted to imprisonment.

**Community service**
Community service is an arrangement that may be determined by the court in combination with supervision or a conditional sentence. The sentence consists of an order to perform unpaid work within non-profit organizations. The court sets the number of hours, which vary between 40 and 240. Community service may be an alternative for those who would otherwise have been sentenced to shorter prison terms of up to one year. The alternative prison term is always stated in the sentence and serious breach of the conditions can lead to the sentence being commuted to imprisonment. The work is primarily carried out for charitable institutions or other non-profit making organizations. Sometimes, community service may be in public-sector activities or in work teams organized by the social services.

**Electronic monitoring**
An offender sentenced to a maximum of six months of imprisonment, can apply for intensive supervision with electronic monitoring. Intensive supervision means that a person who has been sentenced to a maximum of six months’ imprisonment, may serve the sentence at home, fitted with an electronic tag. The probation service is responsible for managing the whole process with application, investigation, decision, and execution of the sentence. The convicted person him or herself, must apply to serve the sentence in this way, and consent from family members is required.

Electronic monitoring is a condition of intensive supervision that the person follows a daily schedule and has some form of employment. This may consist of work, education, or treatment and the convicted person is entitled to leave home for this activity, in accordance with a schedule agreed with the probation service. The person must remain drug-free during the period of the sentence. The probation service is entitled to visit the person’s home at any time, to check his and hers presence and perform drug controls with the aid of a breath and/or urine test. A breach of the conditions normally means that the remainder of the sentence must be served in prison.

**8.6 Reflections and innovative options for the future**

**8.6.1 New perspectives on innovation**
The SPPS aims to improve the innovative capacity and culture in the organization. Core values and long term goals of the organisation are defined and the mission is now to stimulate a dialogue with management and staff on various levels of the agency. The aim is to create conditions for innovative thinking as well as confidence to move from idea to action. To facilitate this process, there is a need for:

1. Increased focus on systems, value creation, and needs for change.
2. Infrastructure for managing ideas and knowledge.
3. Improved capacity of our administration to implement innovation and create change.
The capacity to carry out innovation is about motivation and skills of individuals, and the organization’s ability to move from idea to implementation, to create additional value through changes in behavior.

The system approach
Interactions between people in and outside the agency take place in many different settings and contexts. They are all parts of complex systems which in turn are connected with each other and other systems. By gaining a better understanding of these structures and systems, and thinking about them in new ways, we believe that we can considerably improve the prospects for future development. A system approach provides new perspectives to issues that are difficult to solve.

Infrastructure to promote ideas and knowledge
It is important to have leaders who are willing to take risks and to have committed staff. There is also a need for high levels of trust between politicians and officials, between managers and staff, and also between agencies.

The impact of an innovative and collaborating administration is, to a large extent, affected by the attitude and skills of those managing it. Developing and managing learning organizations and promoting innovations and new thinking require a certain competency. This issue has a high priority to the SPPS.

Another factor in making the organization more innovative, is to see every staff member as a potential innovator and implementer of change. Staff has a great deal of knowledge and ideas that, with better support, could be used and channelled. One method that could be useful, is development through ‘idea management systems’ supported by ICT-solutions.

In addition to the system approach and the processes for internal innovation, the SPPS now increases the capacity for business intelligence. The objective is to both stimulate innovation and cross-industrial thinking, as well as increase risk management capability. All these measures can be seen as parts of a platform for promoting innovation.

Analyzing options for the future
Innovation can be used to enhance system performance. But innovation can also be used to compensate for budget cuts and reductions in effective, but costly activities. If the case is the latter, innovation capability is not optimized but rather devaluated.

A discussion about future options can be divided into two main categories:
1. Development of existing concepts
2. New innovations

It might also be useful further downstream it, discussing which innovations need new legislation and which ones can be developed independently by the prison and probation administration. This gives a simple 2x2 matrix, clarifying the challenges in a specific country (see Figure 8.1):
Existing concepts | New innovations
---|---
A | B
Low hanging fruit | Start from scratch
C | D
Political decisions, specific measures | Political decisions, system reform

**Figure 8.1** Analyzing options for the future

From the agency point of view, the matrix can be used to analyze the strategic complexity of a certain measure. By doing this, an agency can increase its capacity for action. Though, this is not the place for such a thorough analysis, in this chapter we will reflect on existing measures and try to describe a few potential innovations reaching over all four dimensions of the matrix.

The policy on crime in Sweden includes prisons, so does the strategy of the Prison and Probation Service. Prisons will be a vital part of the systems in the years to come. But at the same time, there is an awareness of the negative consequences (human as well as financial) of incarceration. Therefore, the use of prison is supposed to be used to a minimum. Some argue that there are still mechanisms within the Swedish penal system that creates an unnecessarily large prison population. The frequent use of short term prison sentences are one main issue in this discussion.

**8.6.2 The system of penal sanctions - outlines to a reform**

The original legislations for the present alternatives were introduced in the 1960’s and 1970’s (supervision and conditional sentence) and new options have been added over time within the same basic legal structure (see section 8.2). The aim has been to create humane and effective alternatives in order to reduce the use of imprisonment, facilitate reintegration and reduce reoffending. The result is that a continuously higher proportion of the offenders have served their sentence wholly or partly outside prison. In recent years, this process has stalled. The alternatives are regarded as cost-effective and humane, but there seem to be doubts about their effectiveness in reducing reoffending. Critical arguments are that the system of criminal sanctions in Sweden is complex, difficult to understand, and cannot meet important basic legal principles.

The analysis and proposals made by the Criminal Sanctions Inquiry\(^2\) provides an important contribution to discussions and decisions about the future design of the criminal sanction system in Sweden. For now being, the proposals of the inquiry are not going to be realized.

In Sweden, both the sanctions of a conditional sentence and different probation measures, may be chosen as an alternative to imprisonment. The choice between them is not based primarily on the seriousness of the crime, but on prognostic criteria linked to the sentenced person as an individual and the risk of her or him relapsing into crime.

There are limited opportunities to gauge the punishments of a conditional sentence and probation. This means that these sanctions are not always perceived as proportionate in

relation to the seriousness of the criminality. A crime with a low penal value may result in a sanction that is more severe than a crime with a high penal value.

What the term of the sentence would have been, if imprisonment had been chosen as a sanction, is normally not specified when a conditional sentence or probation is imposed. The risk that the offender faces in the event of non-compliance with the sanction is not clear.

The content of sanctions that do not entail a deprivation of liberty, is sometimes unclear and insubstantial. It may therefore be questioned whether they are always sufficiently severe for the crimes for which they are used.

According to the Criminal Sanctions Inquiry, a reform of the system of criminal sanctions for adult offenders should be based on the following principles:

- Criminalization assumes sanctions that express the seriousness of the breach of the rules.
- Based on requirement for humanity, sanctions may not be chosen that are more severe than necessary to achieve the objectives of the penal system.
- Alternatives to imprisonment that do not entail the deprivation of liberty, should have a clear and predictable content.
- There should be good preconditions for choosing a criminal sanction that does not entail a deprivation of liberty.
- The choice of criminal sanction in each individual case, should reduce the risk of reoffending as far as possible.
- The ranking and regulation of different sanctions must be clear and must meet stringent requirements for legal certainty.
- The system of criminal sanctions must be flexible and provide scope for changes that are justified through criminal policy, without changes having to be made to the structure itself.

According to the conclusions of the Criminal Sanctions Inquiry, the presented general principles are best satisfied if conditional imprisonment is introduced into the system of criminal sanctions.

Conditional sentences and probation measures will be replaced by conditional imprisonment. This proposal means that the system of criminal sanctions for adult offenders will comprise two sanctions – fines and imprisonment – where a decision may be made in certain conditions that the prison sentence is to be conditional.

A decision that a prison sentence should be conditional, means that the sentenced person will not need to serve the sentence at a penal institution provided he or she satisfies certain conditions. These conditions will comprise the person sentenced, first, refraining from continued criminality for a probationary period, and, second, fulfilling the supplementary sanction with which the conditional prison sentence is combined. The probationary period will be two years. The supplementary sanctions could possibly comprise, for instance, an obligation for the person sentenced to pay day fines, perform community service or undergo care or treatment.
There will be a presumption that a prison sentence of less than one year should be imposed conditionally. It should also be possible to conditionally impose a prison sentence amounting to one year or more provided it can be combined with contract treatment that is sufficiently severe and with a proportionate level of control and length of time.

8.6.3 The potential in existing alternative sanctions
Apart from reviewing the whole system of penal sanctions, there are plenty of possibilities for innovation within the existing system. Though, such changes would probably benefit from a reform rather than be counterproductive.

An overarching goal of the probations service is increasing the public and political trust for the alternative sanctions. Increased trust in alternative sanctions is a prerequisite for new innovation. Lack of trust will prevent innovative suggestions to be taken seriously. Evidence-based practice, structured interventions such as KRIMSTICS, transparency, and clear reactions to breaches of regulation, are all part of strengthening the trust for alternative sanctions.

Community supervision
- Flexible time frames in supervision
  Today, a sentence to community supervision means one year with the probation service. In accordance to demands for cost effective measures as well as individualized trajectories, time in supervision should be variable. Both penal value and offender needs might require longer time frames than one year. Shorter time frames can also be an issue, but maybe a minimum should be stated to maintain public trust.

- Flexible intensity of supervision
  When it comes to intensity in control, the variety of the existing system is relatively small. Probation needs to increase the range of control both regarding frequency and techniques, based on the principles of risk, need, and responsivity. Offenders may be imposed to visit probation with a certain frequency. For high risk offenders, personal coaching might be an option. Coaching can fill needs of both control and support. Digital coaching through a smart phone application is a support function that is already being developed by the probation service. A smart phone application for drug control (both legal and illegal drugs) is a possible addition to the probation application.

- Mandatory residency
  Sometimes, an offender is better of moving to another city or leaving an area where he or she has a criminal history. Mandatory residency can be a solution for some clients. This may also be supervised electronically.

- Preventive time out
  During community supervision or parole, one risk management measure that could be useful is to deprive liberty of the offender during a short time period. Especially drug related offences could be prevented, because offenders with addiction disorder tend to ‘race to the bottom’ in the case of relapse.
- Layman probation supervisor
  Voluntary work has a long history in Swedish probation service. Laymen has been used as complementary supervisors to the probation officer. Around 40 percent of all probation clients have laymen supervisors and they make an important contribution to support and assist the offender. These volunteers have a potential to engage even more in intensified supervision, for example in measures like Circles of support and accountability (COSA) for sexual offenders.

- Contract treatment
  Since 1988, contract treatment has been an important alternative to prison sentences up to two years. Some municipalities hesitate to engage in these contracts, because of the financial risk (if the final sentence turns out to be short, the municipality has to pay for most of the treatment costs). A treatment guarantee, regulated by law would make it mandatory for public care providers to offer services, regardless of the length of the sentence. In addition, there are more cost effective solutions in non-institutional care. If normal housing is ensured, a coordinated plan of treatment and control measures could be sufficient to rehabilitate the offender.

**Electronic monitoring**

The full range of possibilities of electronic monitoring is not in use today. Maybe that is not desirable for reasons of integrity, but that is a political discussion. However, it is clear that electronic monitoring technology develops rapidly. The GPS function has been tested for a few years in Sweden and will soon be operational. Future innovation includes sensors for drug control, pulse and so on.

Today, Sweden only uses electronic monitoring as an alternative form of serving prison time. It is not a sanction in itself. There are possibilities to extend the use of electronic monitoring, for example, during community supervision but also by creating a stand alone sanction based on electronic monitoring. The technology could be used for part-time arrest to control specific environments during the week, for example, by keeping a notorious cocaine user from bars and clubs on weekends. This kind of weekend arrest would be less intrusive and especially useful for younger offenders.

Extended timeframes for electronic monitoring is another area of possibilities. Today, electronic monitoring is offered to those who are sentenced to serve six months or less in prison, or as a pre-release measure for those who serve longer prison sentences.

**Community service**

Community service is a well established alternative sanction in Sweden. There are challenges with finding employers that can take on these clients, but the probation service keeps on recruiting to have a broad spectrum of employers available. One way to strengthen the sustainability of this measure, would be to make it mandatory for municipalities to provide community service activities.

Community service is used as a stand alone sanction or in combination with supervision. The latter can contain treatment or other measures. One way of increasing the interest in
treatment programs is to make treatment part of the community service, i.e., time in treatment equals time at community service work.

Drug control is a measure that is not available today for community service clients. It is sometimes hard for employers to decide if the client is under influence of drugs or not. Mandatory drug screenings as in prison might be an effective complementary measure to treatment and work.

8.6.4 Prison system development

The SPPS has 45 prisons in operation with a total of 4287 available places.\textsuperscript{3} Facilities are divided into three security classes: 1=high security, 2=medium security, 3=low security (open regime prisons) (see Table 8.3).

<table>
<thead>
<tr>
<th>Security Level</th>
<th>Number of Prisons</th>
<th>Total number of places</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>7</td>
<td>1339</td>
</tr>
<tr>
<td>2</td>
<td>27</td>
<td>2157</td>
</tr>
<tr>
<td>3</td>
<td>15</td>
<td>791</td>
</tr>
</tbody>
</table>

The prisons in Sweden are, in general, small units and only twelve of them have a capacity of more than a 100 inmates. In December 2015, the occupancy rate was 87%. (555 empty seats.) The rate was 91% in high security prisons and 71% in low security ones.

An important starting point for the design of the prison system, is the regulation of institutional placement in the Act of Imprisonment (2010):\textsuperscript{4}

\textit{A prisoner may not be placed so that he or she is subjected to a more intrusive supervision and control than which is necessary to maintain good order or security. The prisoner’s need of occupation, care and appropriate release planning shall be taken into account to the extent possible when deciding on placement.}

The SPPS has the mandate to decide on the geographical location of facilities and the number of places at each prison. However, the distribution of security class 1 and 3 prisons is not satisfactory, because the facilities are not distributed to where the majority of the population lives. Class 3 prisons are cost effective and are particularly important to prepare inmates for release. Appropriate pre-release programs require cooperation with local partners. Therefore, there are good reasons to revise the geographical distribution of these facilities. There are advantages if more clients can be placed in and released from prisons in the lowest security class. Such a development must be weighed against the risk of escapes and other security problems. The trend, however, is the opposite. It has become increasingly difficult to fill the low security places even though several facilities have been closed down in recent years. It is a complex challenge to adjust the supply of places to the demand, and, at the same time, take into consideration the long term forecasts as well as strategic priorities. In collaboration with the other agencies in the penal system, the SPPS make annual prognosis over client development. These forecasts have been valuable for strategic

\textsuperscript{3} December 2015.

\textsuperscript{4} Act of Imprisonment, 2010.
development, but also for a better understanding of processes within the agencies and changes in environment. The SPPS still needs to develop strategies to respond more quickly to changes in client numbers. An important step is to create flexible conditions, based on the need to adjust the number of places in the various security classes. A relatively large proportion of all places are specialized places, created to meet different client groups in need of care, treatment, employment and/or security. This arrangement reduces the opportunities for a flexible use of space and it is desirable to develop a system that can meet the needs of most kinds of inmates. At the same time, there is an increasing need to differentiate high-risk clients, who have committed serious offenses (including organized crime).

Today, the SPPS lacks an overall strategy and management of the vocational education offered to the inmates. Prison production is based partly on the needs of the inmates and partly on the needs of the customers. To increase cost-efficiency and to offer the inmates education and training that meet their needs, vocational education needs to be revised from a national perspective. Based on a strategy vocational education could then be set as part of the yearly mission to each prison.

The Director General decided in December 2015 on four general principles that apply to infrastructure at prisons and remand prisons. Subsequently, a strategic plan for prison infrastructure is about to be launched during 2016.

1. Sustainable infrastructure - Good management of resources will characterize the development of prison infrastructure, including flexible usability and long-term management. Investments in infrastructure should be balanced in relation to the ongoing operation and management costs in the long term. Class 3 prisons will be used to create a flexible and cost effective provision of rehabilitative services. The SPPS plans for flexible facilities that can be separated into smaller units of housing, rehabilitation, and leisure.

2. Accessible locations - clients' access to local reintegration measures and the opportunities to attract good staffing are the two basic characteristics of good locations. The geographical distribution of facilities shall be proportional to the clients' demographic residence, in order to provide the opportunity to maintain contacts with family and community. In the development of the prison system infrastructure, SPPS needs to consider the possibilities to attract and retain the right staff.

3. Coordinated operations – local missions are built upon SPPS’s overarching objectives. Specialized prison places need to be based on fewer, more clearly defined, categories. Places that require additional resources shall be concentrated on relatively few units. Vocational training/production must be planned on the basis of client needs and the current labor force requirements in society as a whole.

4. Coordinated processes - external collaboration and internal coordination are prerequisites to decisions on investment in infrastructure. SPPS shall always initiate dialogue with relevant authorities about their long-term
planning. Internal coordination of infrastructure development must be ensured in a common process.

8.6.5 Prisons as a possibility for digital time out
Digitalization change the way we live our lives. In Sweden, most people aging 10 years or older have a smart phone and/or are connected to the internet. Criminality is supposedly growing on the Internet because it is now intertwined in everyday life. In addition, Internet also offers anonymity, which permits new forms of criminality. Sexual offenses and violence, child pornography, fraud, threats, harassment, and illegal gambling are already identified as common acts online. Some offenders’ behavior on the Internet can be described as addictive. A time out from the digital world could then be necessary to deal with these problems. In the future, prisons might be the only disconnected place in the world and this may make them suitable for treatment of these problems.

8.6.6 Case management
Both case management and collaboration with other agencies and NGO’s are areas of potential innovation. Common for both areas are the challenges of coordination and mutual understanding. Case management is a vital concern for the SPPS. As all offenders apply to the principle of normalization, case management includes not only the coordination of services within the SPPS, but also of all external partners that might serve the objectives of rehabilitation and security.

In Sweden, a new case management model is now introduced. It is designed to meet the following three requirements:
1. National standard to achieve transparency and fairness.
2. Evidence-based tool for assessment and sentence planning.
3. ICT-system for effective case management which also provides feedback reports based on solid data.

The new system for case management is not only an ICT-solution, it includes extensive training of staff, a new configuration of roles in operations, and a reviewed process for assessment and planning.

Based on the experience that ICT-systems are just part of the solution, future innovation in the area of case management must emanate from a holistic perspective. A systems approach include, for example, overarching objectives, evidence-based tools, already existing concepts, and human resource issues. In that regard, SPPS internal collaboration is an area for improvement and innovation.

One possible way forward is to increase the mandate for the probation service to include assessment, planning, and monitoring in prison. Probation officers would then work permanently in/with prisons to coordinate assessment and pre-release measures. A possible backside of such a reform would be a reduction of prison staff accountability regarding the rehabilitative aspects of SPPS’ operations.

An alternative strategy may be to do the opposite, to reinforce case management capabilities in prison and improve the collaboration between prison and probation services
in general. Following that path, you could also consider the possibilities to more fully exploit
the often extensive client knowledge attained in prison. By letting prison staff be part of
post-release supervision, you may take advantage of this (relational) knowledge. It could
have several good effects. Prison staff would get feedback on the short term outcomes of
pre-release measures and planning as well as shared knowledge between prison and
probation. Practically, this could be made possible through regular video conferences.

8.6.7 Inter-agency collaboration
Improved case management can probably increase SPPS’ performance. By vertical strategic
alignment and horizontal integration, processes can be trimmed and objectives can be
achieved. Although, one of the main limitations within the correctional setting for reaching
the objective of reducing recidivism is that the factors that drive criminality are often life-
long and complex. The time frame to assess, plan, and execute activities is fairly short, both
in prison and probation. This makes time short for optimal assessment, treatment and other
measures. In short, the SPPS cannot provide a quick fix. Clients enter with lifelong
personality traits, addictions, and other severe problems and the possibility to fix this in six
to twelve months is limited. Therefore, the SPPS is highly dependent on external partners
and agencies to fulfill the rehabilitative mission. Enhancing the capabilities of social services
and other external parties are of the same importance as further enhancing SPPS’
performance.

Evidence strongly suggests that addressing certain risk/needs factors reduce the risk of
reoffending. But if the resettlement measures depend on resources outside the SPPS, all the
investments in providing qualified treatment programmes are at stake. Therefore,
collaboration should be seen as part of SPPS business logic, not just on the client level, but
also through framing this issue on political and organizational levels. This observation is now
turned into action. A national function for collaboration and alliances is being set up in the
Head Office. The idea is to create structures for collaboration, but also to support daily
operations when problems occur in the relation to external partners.

As in case management, the innovation potential in this area is on the systems level. Several
local concepts of integrated collaborative concepts have been tested over the years. Some
have been successful and are still operative. These good examples can bring knowledge on
what works in this area and how these concepts may be duplicated over the country.

One important challenge is the huge differences in resources in Sweden’s 290 municipalities.
This calls for an inventory of all municipalities regarding resources in drug treatment,
psychiatric care, housing, work, rehabilitation and so on. Such an inventory can be
performed in cooperation with SPPS’ six regional offices.

With better knowledge about the possibilities in different municipalities, national, regional,
and local agreements can be formulated. This will contribute to a shared analysis and game
plan for offender management. The Swedish police agency has already settled agreements
with municipalities in a similar way.

Another area for innovation and development, is the existing legislation on the coordination
of social and medical services in individual planning. This is called coordinated individual plan
(sv: ‘samordnad individuell plan’) and is offered all clients that need services from both social services and health care institutions. If this concept is successful, there may be a possibility for the SPPS to get involved.

In the area of system development innovation is seldom about creating something entirely new, but rather about creating additional value out of already existing concepts and structures.
9 Overview of the Finnish penal practice since 2000
Raino Lavikkala, Sasu Tyni and Panu-Petteri Kokkonen

9.1 Introduction

At the end of 2014, there were in total 26 prisons and 15 community sanctions offices in Finland. The prison capacity is divided so that 70 per cent are in closed prisons and 30 per cent in open prisons or open prison wards. The future aim is that 35% of the prisoners will be placed in open prisons and 65% in closed prisons.

Community sanctions comprise different options. Front-door options are community service and monitoring sentence. Back-door options include supervised probationary freedom and the supervision of parole. Community sanctions for young offenders consist of the supervision of conditionally sentenced young offenders and juvenile punishment. Generally, community sanctions are enforced by community sanctions offices, but supervised probationary freedom is enforced by prisons.

Figure 9.1 shows the proportions of remand prisoners, prisoners in closed and prisoners in open prisons and those sentenced to different community sanctions, whereas Figure 9.2 shows the cross-section of prisoners. The prison terms are on average short. A third of all prisoners serve less than a month in prison.

Figure 9.1 Averages and proportions of prisoners and enforced community sanctions from 2005 to 2014

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1 Raino Lavikkala was senior specialist; Sasu Tyni is senior researcher; and Panu-Petteri Kokkonen is senior criminal sanctions official, Criminal Sanctions Agency Finland.
In 2010, the criminal sanctions field was reorganized in Finland. The Prison Service and the Probation Service were united into a single authority, called the Criminal Sanctions Agency (CSA). The basic units of the Criminal Sanctions Agency are community sanctions offices and open and closed prisons. The Criminal Sanctions Agency aims to enforce sanctions so that it increases sentenced offenders’ abilities to live without crime. The focus has gradually changed from enforcement in closed prisons towards more open enforcement and gradual release. As a general rule, Finnish penal legislation reflects the Council of Europe guidelines of putting prisoners in as open conditions as possible, based on the prisoners’ risks and needs. Non-custodial measures are the goal for low risk offenders deemed likely to comply with the rules and regulations of less restrictive measures.

9.2 The principles of prison & probation practice in Finland since 2000

At the turn of the millennium, the prison population of Finland had been decreasing for several decades. The decrease was mainly a result of consistent changes in the legislation and legal praxis. This trend was expected to continue (see Figure 9.3). The trends characterize the policy at the beginning of the century.

According to Lappi-Seppälä, several reasons explain the decrease in prison population. There was political will and consensus to bring down the prisoner rate. The reasonable role of the media helped to maintain this precondition. The judges and prosecutors were cooperative with this regard and showed attitudinal readiness for liberal criminal policies. One more factor was the Nordic cooperation in legal matters. Additionally, the penal reform in Finland was part of a larger social policy movement.

The prospect of continuing to decrease the prison population rate in the Finnish landscape of criminal policy was supported by the international message of reducing recidivism by
using cognitive-behavioral interventions. The What Works initiative aroused interest in developing the effectiveness of probation and prison practice.

Community service had become a success story in the 1990’s. It replaced 35 to 40 per cent of short term (max. 8 months) prison sentences and proved that it is possible to develop alternatives to shorten imprisonments. Alongside the emerging application of community service, the dominating criminal political ideology, humane neo-classicism and its principles of proportionality and predictability, gave room to more individualized sentencing. The idea of personalized sentencing matched with the new ideas of effectiveness (i.e., What Works).

From the year 2000 on, the basic principles and policy directions for the following decade were outlined in two committee reports and in the strategy for 2003-2012 of the Ministry of Justice. With regard to the policy documents, reducing recidivism was defined to be the central aim of the Criminal Sanctions Agency. The basic principles were:

- Applying gradual release, i.e., a policy of allocating prisoners to a setting with as open conditions as possible, even outside prisons, for work, studies, or rehabilitation. Options with regard to gradual release can be viewed as back-door options.
- Developing cheaper and more effective community sanctions, especially for offenders who for their substance abuse problems are not suitable for the primary alternative, community service. These alternatives can be viewed as front-door options.
- Developing alternatives to the use of conversion sentence for unpaid fines.
- Launching the idea of using electronic monitoring.

These basic principles and policy directions have survived since then. Unlike in some countries, criminal policy has not been a remarkable political issue or a central issue for any of the Finnish political parties. Consequently, there have not been perceivable policy turns or persistent attempts to change the basic policy directions. The Parliament has been
somewhat unanimous in legislative decisions. The current criminal justice policy still aims at shifting the emphasis further from prison sentences to community sanctions and from closed prisons to open prisons and early release. In accordance with recent planning documents, this means the enhancement of support measures at the stage of reentry, and legislation amendments to enable a wider use of community sanctions. Additionally, evidence-based practice or developing the contents and effectiveness should be a central theme in the enforcement. Electronic monitoring will be increasingly used.

However, there is no complete political consensus or a complete consistent policy of reducing the use of imprisonment. At the same time, with the efforts to decrease prison population, some separate legislative changes have had an opposite impact (e.g., tougher minimum penalties for aggravated assaults and some sexual offences).

There has also been inconsistency about the policy concerning fine defaulters. The Ministry of Justice promoted shortening the imprisonment of fine defaulters, because it concerns mostly people in poor social situation. Consequently, imprisonment tends to increase social exclusion and societal costs. Based on this, the legislation was amended in 2008. Consequently, the number of daily prisoners decreased with 140 prisoners. The costs lowered and a follow-up research showed that the amendment did not increase, e.g., shoplifting committed by poor people. Nevertheless, the government proposed the conversion of fines to imprisonment to be restored. The proposal was endorsed by the representatives of the shopkeepers. The proposal was, however, withdrawn for its anticipated costs.

To implement the established policy of the Ministry of Justice in its own practice, the Criminal Sanctions Agency formulated a strategy for the years 2011-2020. Its main goals were:
- path to a life without crime with the help of an active network cooperation;
- safely towards more open and influential enforcement;
- meaningful work, motivated and healthy staff.

The strategy is based on the values of respect for human dignity, justice, belief in an individual’s potential to change and grow, as well as safety.

9.3 Changes in prison & probation practice since 2000

During the first decade, two remarkable changes had an impact on the prison and probation practice. The long trend of reducing prison population levelled off at the beginning of 2000’s. During the following years, the prison population rate started to grow and fluctuate. Such fluctuations proved to be a problem in a country with relatively low prison population and narrow budget margins. Even relatively small changes make it difficult to allocate resources in line with long-term planning. The need for enhanced control and anticipation of the changes in the prison population was noted.

Additionally, the public economy challenged the course of development of the prison and probation practice. Due to the precondition of public economy demands, staff and costs in
The societal change of the economic situation was accompanied by the deterioration of the availability of municipal services. It also became more difficult to arrange collaboration and continuity for treatment and support measures with municipalities. Consequently, due to the impact of public economy, offenders’ alcohol, drug and other social problems increased. The role of non-governmental organizations (NGO’s) has increased, to complement the deficits of public services.

After 2000, a new Imprisonment Act was introduced and the Prison and Probation Services were reorganized. Both reforms were seen as a prerequisite for being able to proceed with the planned policy. Planning and implementing these two reforms were a major project that took almost the whole decade. Between 2001 and 2010, the Prison and Probation Services were stepwise united into a single authority. The objective was to establish an organization that should be able to carry out the tasks set in the Imprisonment Act (2006).

The new law aimed at a more effective, planned and predictable imprisonment process. The imprisonment should support an individual and controlled change to a non-offending lifestyle, during and after the sentence. For the first time, the objective of imprisonment was defined in terms of reducing the risk of recidivism by promoting the prisoners’ abilities to live without crime. Therefore, the main tool for attaining the reduction of risks is an individual enforcement plan, which is based on the assessment of the prisoner. The term of imprisonment, including the parole phase, should be carried out more systematically. Prisoners’ participation in activities such as work, studies, offending behavior programs, and rehabilitation should be increased. The prisoners’ motivation and engagement in their plans should be enhanced by incentives, such as earlier prison leaves, placement in an open prison, and the possibility of supervised probationary freedom.

In the case of long term prisoners, the individual plan must be developed together with the prisoners. In other cases, the plan can be drawn up based on a form, filled in by an executory authority and available data received from registers. During the preparation of a sentence plan, attention is paid to the length of the sentence and the number of prior sentences. Other relevant information concerns working and functioning capacity, as well as the offences and conditions of the offender. The plans should be followed and updated regularly.

Naturally, safety is emphasized in the enforcement of sentences. Penal practice should be safe for society, the prison staff, and the prisoners themselves. The basic rule is the so-called principle of normalization, according to which prisoners are entitled to the same services in prison as they would be as civilians in society. Simultaneously, the aim is to minimize the negative influence caused by imprisonment. Prisoners should, among other things, be able to maintain contact with the outside world. The new legislation pays particular attention to young offenders. Matters related to their age and development should always be taken into consideration in the enforcement of their sentences.

In conclusion, in order to improve the control of the prison population rate and respond to the economic challenges, the following aims have been emphasized:

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2 e.g., health care, work, and education.
• increasing the use of a new form of gradual release, i.e., supervised probationary freedom;
• improving the availability of normal services for the clients, to reduce reoffending and prison sentences;
• increasing the use of community service by improving collaboration with the municipal services, especially to address alcohol and drug abuse of those with difficulties of complying with the conditions;
• preparing for a new front-door option, monitoring sentence;
• increasing the use of electronic monitoring.

It has to be underlined that achieving these aims requires collaboration, common goal setting, and joint policies from several public authorities. This has proven to be difficult in practice.

9.4 Gradual release & back-door options

The principle of gradual release implies increasing the use of open prisons, the placements outside the prisons, and the use of supervised probationary freedom. In closed prisons, the principle means that the prisoners, who follow their sentence plan and/or have shown progress, can become eligible for less confined units. The prospect of proceeding to less supervised conditions acts as an incentive to follow the sentence plan. Before the placement in a more open unit, the prison authorities assess the security conditions. A prisoner must be deemed suitable for activities and the compliance with the rules of the units has to be deemed likely enough.

9.4.1 Open prisons

Since 2007, increasing the proportion of prisoners in open prisons has been one of the annual targets of the Criminal Sanctions Agency. The policy of using open prisons requires both more placements directly in open facilities and individual plans which enable transfers from closed to open prisons before release. Direct placements in open prisons may increase after the organizational change in 2015: short term prisoners are as a rule assessed in advance in the community sanctions offices and the eligibility for an open prison is a part of the assessment.

Finland, just as other Scandinavian countries, has a long history of open prisons. The factual daily proportion of prisoners in open prisons is now almost 40%. More than 60% of the prisoners are still released from closed prisons. The capacity of open prisons is underused. Several factors make the change difficult. One of them is the regional imbalance between the types of prisons and the number of eligible prisoners. Another factor is connected with the changes in the prison population and the nature of open prisons. Open prisons have traditionally offered paid work to prisoners who are suitable for it and comply with the rules. This has become more difficult with the increasing social and health problems, especially substance abuse problems. At the same time, the number of potential prisoners has decreased, due to the use of community sanctions instead of imprisonment. Open prisons must differ from prisons that provide only work and also offer rehabilitative activities to prisoners who do not qualify for conventional work.
Also the practice of returning prisoners to closed prisons for all kinds of breaches needs reconsideration. Relapses occur during the rehabilitation process and some of them could be handled without transfers. This is a challenge for learning new working methods as well.

We intent to develop so-called activity packages for the vast majority of prisoners, who serve only a few months of their sentence in prison. According to the preliminary model, the activity packages for short sentences would concentrate on motivation, release planning, and practical support. Prison terms lasting from one month to one year would include more varied programs and activities, such as work and education. Though the activity package scheme is particularly important for developing activities for short term prisoners in open prisons, the intention is to apply it also in closed prisons, where almost 30% of the prisoners do not participate in activities.

Such a new kind of model requires a competent assessment of the prisoners. Prisoners who just entered the system must not be placed in open prisons. Incorrect placement may worsen the safety and climate in the prisons. They also cause redundant transfers and administrative work.

9.4.2 Electronically monitored supervised probationary freedom

In 2006, Finland introduced electronically monitored supervised probationary freedom. It enabled the offender to serve the final part of the prison sentence outside the prison and live at his or her own home. Supervised probationary freedom can be started a maximum of six months prior to normal conditional release.3

Supervised probationary freedom was initially designed especially for long term prisoners, who need more support and more intensive programs. Nowadays, both prisoners serving a fixed term prison sentence and prisoners serving a long term prison sentence (e.g., life sentence) can be placed in supervised probationary freedom. The placement requires that it promotes the implementation of the sentence plan and that the prisoner undertakes to fully abstain from using intoxicating substances and to comply with the duty to maintain contact as well as other conditions imposed. The abstinence from intoxicating substances is controlled with the help of urine and saliva samples and breath tests. It also requires that the accommodation of the sentenced offender is suitable for the enforcement of the sentence and that the people living in the same place give their consent to it.

The prisoner receives an enforcement plan and a weekly time schedule for the duration of the supervised probationary freedom. It can contain, for example, work, education, military service, rehabilitation, or other activities. The enforcement plan also includes regulations on the duty to maintain contact, moving outside the home, accommodation and livelihood, as well as the means of supervision. In addition to that, the Criminal Sanctions Agency draws up a weekly schedule, which has to be followed. The supervision of the sentence is based on GPS technology.

3 In Finland, first offenders are released routinely after having served half of their sentence and the reoffenders after having served two thirds.
Supervised probationary freedom has become a major part of the criminal justice system and, in general, people have been satisfied with it. About 85% of the prisoners complete supervised probationary freedom without breaches. According to the first evaluation research in 2010, it was lauded as adding another step to the gradual release system. It also provided a controlled framework for practicing everyday life outside the prison without intoxicating substances and crime.

The daily number of prisoners placed in supervised probationary freedom has almost doubled in five years and is now over 200, i.e., about 7%. At the outset, the staff had different views on the expedient target group: should supervised probationary freedom be targeted at those who actually need supported and controlled release, or also at those who do not have major problems? The practices have become more uniform since, though there still are unnecessary differences between prisons in the use of supervised probationary freedom.

### 9.5 New community sanctions & front-door options

Unlike in many other countries, there has not been political opposition to community sanctions so far in Finland. Community service has a good reputation. The Legal Affairs Committee commented on the community sanctions bill in 2015, and encouraged to profounder consideration of the use of community sanctions.

At the beginning of the century, the use of community service was at a satisfying level. It was shown to really replace unconditional imprisonment, unlike in some countries with indications of net-widening. However, it was still an issue how to deal with offenders whose substance abuse prevents the use of community service. Inequality appeared between those who served their sentence in prison because of their substance abuse problems, compared with those whose sanctions were commuted to community service.

There was a plan to solve the issue by a new community sanction, contract treatment. Contract treatment would have been used when the offender’s substance abuse increased the risk of recidivism and prevented the possibility of community service and when the offender gave his or her consent to comply with the treatment. Contract treatment would have consisted of inpatient or outpatient treatment for substance abuse and regular contact with a community sanctions office. However, the draft law was dropped for several reasons, including the economic situation.

Another new community sanction, monitoring sentence, was introduced in 2011. It is placed between community service and unconditional imprisonment in severity. It may include substance abuse services and, thus, could respond to the need for a contract treatment type of sanction. It is used instead of unconditional prison sentences of at most six months and can be imposed if there is an obstacle to sentencing to community service.

Monitoring sentence means a kind of electronically monitored home curfew. The offender sentenced to a monitoring sentence lives at home. Therefore, the monitoring sentence
requires that the accommodation of the offender is suitable for the enforcement of the sentence and that the people living in the same place give their consent to it. The sentenced offender receives an enforcement plan, which includes an obligation to participate in activities and a daily program. The obligation to participate in activities can consist of work, education, or other activities improving the abilities of the offender and can last 10 to 50 hours a week.

An offender serving a monitoring sentence, gets an ankle transmitter, which is connected to a monitoring device placed at the home of the supervised offender. The transmitter monitors if the offender stays at home and follows the schedule determined in the daily program. The monitoring device is connected to a control centre and the supervision patrols working in the field via a telephone or mobile telephone network.

A continuous or serious breach of the conditions of the monitoring sentence, such as neglecting to follow the schedules defined in the daily program or being under the influence of intoxicating substances, usually leads to the sentence being converted into unconditional imprisonment.

In 2015, 270 offenders started monitoring sentence. In 48% of the cases, the main offence was drunken driving. The average length of the sentences was 98 days. Three in four offenders had previous community sanctions, half of them also prison sentences.

The use of community sanctions instead of short prison sentences has not proceeded as planned (see Figure 9.4).

![Graph](image)

*Figure 9.4 Use of community service*

One reason for the decline in the use of community service has been the decreased number of potential cases since 2006. The number of short prison sentences has diminished due to a
steady drop in drunken driving. Another reason is the restriction that prior community service sentences may prevent from sentencing to community service again. There is a large group of short term prisoners who have completed two or more community services but whose latest sentence has not been commuted to community service.

A potential group for community service is formed by the recidivists with a severe substance abuse problem, who are not assessed capable of complying with the rules of community service. A controversy between the government and the municipalities concerning the costs has hindered the development of rehabilitative measures in such cases. The new Community Sanctions Act strongly emphasizes the importance of this collaboration and defines the subsequent procedures for the probation service, e.g., drawing up the sentence plans. However, creating such collaboration depends on the ongoing reforms of social and health care and municipal administration.

9.6 Reflections on current trends

9.6.1 Number of prisoners
In Finland, approximately 6,000 people arrive in prison yearly. The daily average number of prisoners is 3,000, which in international comparison is low. The daily number is mostly influenced by the share of long term prisoners and the long prison sentences for serious sexual and violent offences have increased over the past few years. Simultaneously, the number of such crimes has not increased. However, the majority of the arriving prisoners have short prison terms. A third of the prisoners serve less than one month in prison. The use of front-door community sanctions instead of short prison sentences has not progressed during the last ten years. The total number of prisoners also comprises remand prisoners. The number of remand prisoners is moderate, though the average length is long. The number will probably go down with the use of electronically monitored supervision instead of remand imprisonment.

9.6.2 Allocating prisoners to as open conditions as possible
The strategic goal of more open enforcement has progressed though not without problems. The use of supervised probationary freedom has increased steadily, but the proportion of prisoners in open prisons has not grown as expected. There are no criminal political or other obstacles to this, outside the Criminal Sanctions Agency. On the contrary, the Future Review of the Ministry of Justice (2014) considers gradual release from prisons and work for improving the readiness of prisoners to non-offending life important in the light of safety in society. The use of supervised probationary freedom and partly electronically monitored sanctions outside the prison could be extended presuming that sufficient support measures are applied.

However, several internal factors are connected with such a change. It presupposes other changes in the working and supervision practices and in the obligations and activities included in the sanctions. The assessment of eligibility for more open conditions and the skills of the staff need further development. Discussion between the differing views regarding safety and risks is needed. Better collaboration with municipalities is necessary to address the social and health problems of more marginalized clients.
9.6.3 Prison concept
The prison concept work was started in 2014 by the Criminal Sanctions Agency and Senate Properties, which is in charge of government facilities, and it focused on working premises in order to address the problem that the existing prisons were not in line with the strategy of the Criminal Sanctions Agency. The prison concept categorizes prisons into four different types, each having its own conceptual model. The models guide, for instance, the placement of prisoners, physical and dynamic security arrangements as well as required spaces, activities, and human resources. The aim is to reduce re-offending by programmes and other measures. The preparation for release has a key role. Additionally, the project aims to increase the well-being of the staff.

Safety is self-evidently taken into account in the prison concept. Recent planning documents introduce a new term ‘dynamic safety’. Dynamic safety refers to the quality of individual assessment and interaction between prisoners and the staff. However, the traditional suspense between the interests of safety and rehabilitation still exists. In elaborating the new prison concept, it cannot be limited to the solutions of prison buildings and premises, but it needs to take into account human resources and the updated evidence-based prison and probation practice. The aim of new technology is to increase the interaction time between the staff and the prisoners and expand the possibilities of the prisoners to participate in activities and learning.

9.6.4 Community sanctions as front-door options
Replacing short prison sentences with community sanctions is a widely accepted principle in Finnish criminal policy. When the Parliament enacted the Act on the enforcement of community sanctions in 2015, it stated that the reform was cautious, but is a good base for a profounder reform. The Future Review of the Ministry of Justice argues for the use of community sanctions based on their superiority with regard to reintegration, recidivism, safety, and costs. More prison sentences could be replaced by community sanctions if the offenders were supported to comply with their obligations and the cooperation with substance abuse services was improved.

The Act on the enforcement of community sanctions strongly underlines the cooperation with municipalities. More offenders could be sentenced to community service or monitoring sentence if the enforcement and the municipal services were better coordinated. So far, the requirement of cooperation does not legally bind municipalities and the attitudes in municipalities vary partly because of their economic pressures.

More short prison sentences could also be converted by waiving the maximum number of community service sentences and monitoring sentences. The old argument for this limit is their nature as a warning of imprisonment. Today, it is possible to express reproach and retribution in community sanctions without the threat of imprisonment. More retributive community service might comprise, for example, restrictions of movement or obligations to participate in substance abuse treatment or offending behavior programs besides the basic obligation of regular unpaid work for the benefit of society.

The most common offence type, resulting in short prison sentences, is drunken driving.
People, including decision makers, understand the connection between drunken driving and substance abuse problems. The treatment of such problems is appreciated and its results probably considered more important than the choice between prison and community sanctions.

9.6.5 Planned enforcement of sentences
According to the Finnish Imprisonment Act, an individual sentence plan is drawn up for every sentenced prisoner. The plan is either based on a large risk and need assessment or other interview, or merely on documents. In 2014, 52% of the sentence plans were drawn up before arrival in prison. The proportion of plans based on interview and discussion should be increased. The situation is improving, as since 2015 most of the plans for short term prisoners have been drawn up in advance in the probation offices. The sentence plans that are prepared in the prisons are mostly based on personal interviews. However, the plans are too often made without sufficient cooperation and engagement of the prisoners. The quality of the plans varies greatly. Sentence plans made hastily without a real participation of the prisoners have little meaning in practice.

Improving planned enforcement is a task that depends only on the Criminal Sanctions Agency itself. In practice, it means organizing clearly defined responsibilities and training. A key issue is the relation between the separate assessment staff and the staff working in the prisons. The assessment should be a continuing process, it should be done together with the prisoner and it should be reflected in the plan. The assessment staff is in practice responsible for the initial assessment based on which the placement in a specific institution is decided and the individual goals for the prison term are set. The senior criminal sanctions officials in the prisons are in charge of the implementation of the plans. The broadened tasks of those officials, who earlier were only in charge of the supervision, has resulted in changes in the practices that help the future development of making the sentence plans tools of planned enforcement.

9.6.6 Professionalism
The strategy of the Criminal Sanctions Agency emphasizes the knowledge, skills, and abilities of the staff that enable a motivating approach to work and interaction with the clients and prisoners. This has been taken into account in the training of the staff. There are plans to change the vocational training of prison officers to polytechnic education. That would improve the possibilities to job rotation between prison and probation work, which would be a useful form of on-the-job learning.

In order to implement training in practice, the job descriptions of the prison officers should be changed too. In fact, there is an ongoing project where the interactive situations in the work of prison officers are reviewed with the staff in order to improve practices. Broadening the job descriptions and including more interaction are expected to improve the prison atmosphere and safety as well as the effectiveness of supporting desistance. Interactive skills improve the knowledge base needed in the assessment process and the preparation of the sentence plans. As a result, the prisoners experience that they are treated humanely and fairly, which helps in maintaining safety and activates the prisoners. The new security policies of the Criminal Sanctions Agency (2015) emphasize that dynamic security means the significance of interaction between people, professionalism, and a client-oriented approach,
as well as a cross-sectoral cooperation in all activities.

Changing the work of the prison officers also entails considering the cooperation between them and other staff. It involves remarkable changes in the work culture and practices and highlights existing tensions within the organization. Differing views and tensions regarding traditional working shifts, salaries and so on were illustrated, for instance, in the research on the quality factors of imprisonment in Finland.

9.6.7 Digitalization
Digitalization means the use of digital technologies in the enforcement of prison sentences and community sanctions. On the one hand, it helps in the supervision of offenders and, on the other hand, it improves the possibilities of the prisoners to maintain contact with their family and to use e-services and information.

Besides monitoring sentence and supervised probationary freedom, electronic monitoring is utilized in the supervision of study permits, civilian work permits, placements in outside institutions, and permissions of leave. In addition, there are pilot facilities (open prisons) where all prisoners carry monitoring devices. In those prisons, a major part of the activities take place outside the prison premises. The policy guidelines have emphasized that electronic monitoring must not replace human interaction. Preparations are under way to introduce electronic monitoring as an alternative to remand imprisonment.

Another current digitalization issue concerns the prisoners’ possibilities to use e-services and communication. It is based on the principle of normalization and the openness of enforcement. The aim of the changes is to facilitate contacts that may support desistance and to activate the prisoners to take responsibility of their own affairs, such as studying. Recent legislative reforms allow controlled extension of the use of e-mail and the Internet. The prison concept defines the implementation of the reform in prisons with different safety levels.

9.6.8 General considerations
One of the main factors that, according to Lappi-Seppälä, explained the decrease in the prison population rate in Finland, until the first decade of the 2000’s, was the political will and consensus to bring down the prison population rate. There is no longer such a broad consensus though, so far, there is no prominent opposition in criminal policy either.

The Future Review of the Ministry of Justice from 2014 underlines that the development of the penal system must be based on research regarding especially their impact on recidivism and their costs-effectiveness. The expensive criminal justice system should be applied only to serious cases where its use is necessary.

In 2015, the previous parliament declared readiness to promote the wider use of community sanctions. The economic situation may underpin such political readiness. The weight of the costs in the decision-making was clear when the government decided to withdraw its proposal for restoring the possibility to convert unpaid fines into imprisonment for the costs in 2015. In addition, it is possible to adjust community sanctions to possible retributive demands, by setting conditions to participate in offending behavior programs or substance
abuse treatment or by applying electronic monitoring. However, it is possible that, simultaneously, there will be law amendments that lengthen the longer sentences of certain crime types and, thus, increase the daily number of prisoners.

The political level is affected more by the increased sense of insecurity in society, due to economic, unemployment, environmental, and immigration issues. The attitudinal readiness for liberal criminal policies has new kinds of strong challenges.

A growing source of uncertainty is the role of the media, which has been moderate in Finland and has helped to avoid populism. In international comparison, the situation is still good. However, the rise of the social media, with its well-known negative features, is changing the scene. Political campaigns can be easily instigated with unchecked information. This is a new situation in Finland, where the reforms and legislative amendments have been thoroughly prepared based on expert opinions. The expertise of the prison and probation services and the ability to present facts are therefore valuable.

One of the factors behind the penal reform at the end of the 20th century was, that it was part of a larger social policy movement. The momentum of developing social policy has slowed down as the problems concerning public economy have questioned the options. On the other hand, there may emerge possibilities of collaborating and networking with social welfare authorities that will be better valued under economic pressure. The legislation of prison and probation services emphasizes cooperation. A large reform of the social and welfare organization is underway and the following years will show if the cooperation in this field is taken into account.

The uncertainties regarding the development of larger social, political, and economic systems make it difficult to draw up scenarios. However, there is certain consistency in the professional operation in the prison and probation services that will probably continue, regardless of the changes of the environment. The principles expressed in the strategy of the Criminal Sanctions Agency are valid in all circumstances, for example, in the development of the conditions and skills of interaction between the prisoners and the staff, and the development of planned enforcement.

9.7 Innovative options for the future

Over several decades, Finland has managed to reduce its prison population rate to an internationally good level. In that light, the same kind of incremental development is likely to continue in the future.

Two thirds of the daily prison population have prison terms longer than one year, which means that their offences are relatively serious and it is consequently more difficult to justify alternatives to imprisonment. In the near future, it is rather a question of promoting the strategy of the Criminal Sanctions Agency to enforce sentences in as open conditions as possible. The possibility to get, for instance, prison leaves and attend to personal affairs outside the prison, will probably increase and cut the factual time spent in prison.
The experience of supervised probationary freedom is an argument for widening its use. That requires improving collaboration with the municipal social and welfare services, and improving the quality of the plans and practices of the work of the Criminal Sanctions Agency. The growing number of opportunities to serve a sentence in more open conditions, is an incentive for compliance and may also relieve tensions and make the atmosphere in the prisons safer.

The majority of arriving prisoners have very short prison terms. Replacing such prison sentences with community sanctions is justified in the light of the goals of rehabilitation, reintegration, safety, and economy. Progress in this seems possible though better collaboration with municipal social services and sufficient resources to addressing substance abuse problems are needed. Research concerning the dynamics between desistance from crime and the recovery from substance abuse would help to develop the best practices of such collaboration.

The retributive aspect must be taken into account, when planning to replace prison sentences with community sanctions. There are probably even more ways to implement it in the future, for instance, by using electronically supervised and individually defined restrictions of movement and adding obligations to participate in treatment or useful activities. In Finland, the stance on additional orders or combinations of criminal sanctions has been cautious, because they make it difficult to maintain the proportionality, predictability, and clarity of the criminal sanctions system.

A large part of short prison sentences are for drunk driving. The number of those offences will drop in the future for the changes in the vehicle technology. The decrease will, however, be seen mainly in the share of better-off recidivists, while the socially more excluded recidivists remain.

It is possible to increase enforcement in open prisons by changing the activities and practices in the prisons to match the target group, by following and evaluating the quality of prisoner assessments and sentence plans, and by using new technical supervision methods to supplement the human resources in order to ensure safe conditions.

The policy in closed prisons is based on encouraging and motivating the prisoners to take part in activities outside their cells as much as possible. According to the principle of normalization, the prisoners are promoted to take care of their personal affairs, keep contact with their families, study and so on.

Electronic monitoring will presumably be used more in the enforcement of community sanctions and prison sentences, including remand imprisonment. The economic pressures may increase the pressure to cut staff costs and, thus, human interaction, which is considered vital. Knowing the deficits of social skills of this clientele, more research and discussion is needed about their ability to learn such skills with the help of virtual aid in their cells compared to normal interaction. As the electronic communication with other people and the availability of information are more and more ubiquitous, it may also lead to quite opposite ideas with regard to the principles of normalization and openness. A very short
detention without any technical devices would combine a high penal value with a short and cheap sanction.
10 Evolutions in Prisons Policy in Belgium
Pierre Wilderiane, Bart De Lepeleire and Marie De Pauw

10.1 Introduction

One of the main problems within the penitentiary context in Belgium in this millennium, is overcrowding, with a significant impact on the well-being of prisoners and staff, the compliance of basic needs, the possibilities of organizing activities, and the quality of the infrastructure of building. Therefore, the problem of overcrowding needed to be tackled.

In order to deal with this problem, there have been important initiatives on two main axes: maximizing the application of electronic monitoring and a master plan on one hand, and intrinsic initiatives to increase the quality of prison life on the other. These initiatives have led to an enforcement outside and inside prison, whereby the Act on the Principles of Prison Administration was a pivoting point for the treatment of prisoners.

The evolution towards applying more technology on all levels, have shown the need for formation and support, but also led to a shift in responsibilities for the parties involved. Nevertheless, we think that the future lies in a further development of new technologies and innovative initiatives within the framework of a steady coordinated and evaluated masterplanning.

10.2 Enforcement outside Prisons

Belgium has always been a pioneer in the field of alternative sanctions. It is worth noting that the law concerning the release on parole dates back to 1888. Probation recently celebrated its 50 years anniversary, and was introduced in the Belgian penal system in June 1964. More recently, in 1994, two flagship measures were introduced: penal mediation and community service.

Those measures were well received by the magistrates. Since then, more than 6,000 files concerning penal mediation are opened and nearly 10,000 new community service orders are imposed in Belgium every year. Community service was initially not introduced in the penal system as a specific measure, but as a condition for probation. It is an autonomous sentence since 2002.

The developments of the alternative measures did, however, not have a positive effect on the prison population. The developments coincided with a steady increase of the penitentiary population, increasing from about 10,500 in 2010 to nearly 12,000 in 2013.

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Due to these circumstances, i.e., constant and increasing penitentiary overpopulation, alternative measures were well received, but had little effect on the penitentiary population. Therefore, electronic monitoring has been introduced and, recently, has developed considerably.

Electronic monitoring has indeed been tested in Belgium since the beginning of the years 2000. However, it was only in 2007, that it was clearly and steadily introduced as an alternative form of enforcement of custodial sentences. Promoted by Stefan De Clerck, the minister of Justice at that time, its use was enhanced even further by Annemie Turtelboom, who took over from De Clerck.

In Belgium, electronic monitoring will henceforth be used at three different levels: sentences less than three years, sentences over three years, and alternatives in pre-trial detention. These levels will be further explained below.

10.2.1 Alternatives for sentences less than three years
With regard to sentences less than three years, electronic monitoring will henceforth be used very intensively. The circular of 2013, concerning electronic monitoring as an alternative for sentences less than three years, considers two possible situations:

- the sentence to be served does not exceed one year: the enforcement of the sentence via electronic monitoring is the norm. In reality, this means that, as soon as the administrative verifications have been executed, the condemned persons return to their domicile pending the installation of the material. As soon as the bracelet has been activated (for 50% of the files, that will occur within a few weeks), the execution of the sentence via electronic monitoring starts;

- the sentence to be served exceeds one year, or, the condemned person committed minor sexual offences involving minors: in this situation a measure of electronic monitoring is possible, but requires the execution of a social inquiry, the consent of the prison's director, and a ratification of that decision by the service Detention Management.

The same circular introduces a new management method based on standardized timetables. For example, when the condemned persons are not employed, they have four hours of free time per day, between 8 and 12 AM, specifically for activities aimed at their reintegration. When the condemned person is employed, the timetable for authorized time spent outside the residence is extended to twelve hours. A system of possible reactions was introduced for cases of non-compliance with the conditions for electronic monitoring. In that system, revocation is the ultimate response. Other penalties, such as the restriction of free time or a possible extension of the duration of the execution of the sentence, are preferred. Through the new method of execution, combined with the extension of the regulatory framework, the number of condemned persons who are electronically monitored each day (all categories considered, about 2,000 since September 2014) and the number of files

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2 There are certain exceptions provided for in the circular, e.g., people condemned of minor sexual offences involving minors, and illegal aliens.

3 For instance, previously, the social inquiry was a requirement for all files.
opened every year (from 3,500 files opened in 2012 to 6,000 files opened in 2014) have considerably increased.

10.2.2 Modalities of serving for sentences over three years
The law of 17 May 2006, concerning the ‘external status’ of the condemned person, leaves an important role to electronic monitoring. The part of that law related to the execution of sentences of less than three years has not yet become a reality; however, the part related to the sentences of more than three years did enter into force. In concrete terms, this means that when the time requirements are met, the modality is generally granted on direct application for the condemned person. It is accompanied by conditions, monitored by the houses of justice. The measure is granted for a period of six months and, in principle, can be renewed once for a period of six months.

In practice, however, it can be noticed that this measure is currently requested very often and/or granted as a ‘doorway’ to a release on parole. For example, on 15 July 2014, 28% of the 1,936 active files fell within that framework.

10.2.3 Alternative to pre-trial detention
By law of 27 December 2012, a modality of pre-trial detention was introduced, and effectively implemented in 2014. The purpose of the modality is to offer the magistrates and investigating judges a new alternative vis-à-vis the defendant, mainly limiting the risk of reoffending or absconding, whilst avoiding a further stay of the latter in the remand centre. The goal was to efficiently act on a population that represents approximately 36% of the general penitentiary population.

The modality implies that the persons in question are monitored via GPS and have to remain in their place of residence at all times. They are only allowed to leave their residence for administrative obligations within the procedure or to go to the court when asked.

The diminution of overcrowding of the pre-trial population is still too small to be certain of a real effect of the measure. However, the current minister of Justice clearly envisages\(^4\) to increase the use of electronic monitoring for the future:

"The total duration of the pre-trial detention will be limited in time. If the facts may result in a custodial sentence of one to three years, the pre-trial detention can only be effected via electronic monitoring."

The law of 7 February 2014 has not yet entered into force. The minister of Justice indicates that "the law, after correction, will enter into force on 1 December 2015.\(^5\) In accordance with the definite perspective, the implementation of electronic monitoring can be considered as an autonomous sanction. Moreover, "limited detention or electronic monitoring can be granted to the condemned person as early as twelve months before the date of admissibility to release."\(^6\) Consequently, electronic monitoring can both be seen within the framework of a ‘front-door’ strategy as within the framework of a ‘back-door’ strategy; this is well established in Belgium and will continue to be so.

\(^6\) ‘Plan of Justice, March 2015, point 123. Currently, this is only possible six months before that date.
The considerable development and increase of electronic monitoring has not been at the expense of the other alternative measures. In 2013, 6,978 new probation files in 2013 were registered, i.e., an increase of 12% in comparison with 2012. Also, 9,902 community service files were registered in 2013, or an increase of 4% in comparison with 2012. Moreover, this trend was even further amplified in 2014. Especially, the penitentiary population is lower than the forecasts that were made before the increased application of electronic monitoring.

10.3 Act on the Principles of Prison Administration

In January 2005, the Act on the Principles of Prison Administration passed parliament. It affords real legal status to prison inmates. Prior to this, prisoners were managed on an ad hoc basis through various internal guidelines and memoranda. From 2005 on, this whole domain has been enshrined in law, which affords better protection to prisoners. The legal framework guarantees inmates rights and is now central to all decision making. This is particularly important as prison sentences touch upon basic human rights and require a solid legal foundation. The Act applies to internees, until the enactment of a specific law concerning them.

The main concepts behind the Act are standardization, rehabilitation/reintegration and restorative justice. These three principles form the basis on which all the requirements of the Act are established. The government required a clear legal framework for determining the nature and length of prison sentences. The principle of standardization is also important, because it should limit the adverse effects of detention. Living conditions, such as health, work and so on should be similar to those of the general society outside. This allows inmates to take greater responsibility for their detention. Evidently, detention cannot be managed effectively without taking into account order and security, which must be guaranteed at all times. Maintaining order and security for inmates improves the human and social climate of a prison, and ensures the protection of all those inside the prison, prisoners included. Legality, humanity and security are principles which together should undergird all prison management.

The Act is being implemented in phases. Some of the phases still not have been enforced for various reasons, mainly because of the cost or because of inadapted infrastructure. The goal is to establish internal prison rules in order to ensure some consistency in the management of detention in all the prisons. Certain general aspects apply to all prisons, whereas some are specific to local situations. Prisons can be very different one from another, whether by their capacity, by their infrastructure, but also by the type of detention plan offered. The target of the detention plan is the individualization of detention. The focus is on reintegration (training, work, family ties ...), but also on accountability. The plan is developed by the inmate in collaboration with the prison staff. This has not yet been implemented, but is at present a management priority.
10.4  Enforcement in Prison

10.4.1  Restorative Justice
A restorative prison is aimed at repairing the consequences (the harm) of the crime for the three parties involved: the victim(s), the offender(s), and society. In Belgium, there is a strong focus on this triangularity. The aim is to make restoration possible by a large and permanent supply of restorative initiatives in prison. On one hand, there are restorative activities such as victim-offender mediation, payment of damages to the victim, or voluntary work as part of the restorative justice fund initiative. On the other, there is a supply of services that aims at informing, motivating, and raising awareness among inmates, such as support and information, information sessions on victim-offender mediation and civil claim, workshops on the consequences of victimization, intensive training ‘Victim in Focus’, discussion groups on restoration and responsibility, creative workshops, art projects and so on.

The change towards restorative detention are guided by the staff of governors, who cooperate with several internal and external services in order to attain this end. In other words, the goal of restoration is a structural task.

10.4.2  Service for Penitentiary Labor
The Service of penitentiary work (SPL) is a federal public service, depending on the Department of Justice, with its own management. Its core business is the employment of prisoners in all Belgian prisons. The SPL is responsible for the contracts with constructors or entrepreneurs and watches over the correct application of the work procedures as well as over the delivered results, in narrow collaboration with the local prison governors. The SPL facilitates the organization of workplaces (both for work and for vocational training), buying the goods and services necessary for their operation. Its management is entrusted to a management committee, chaired by our Director-General. It has a central service and local services (workplaces in all the prisons).

The main objective of prison work can be viewed, within the social context, as the rehabilitation of detainees in society. With the money they earn, detainees can pay compensation to their victims, and buy sundry items in prison. Prison work contributes also to maintaining peace and good order within the penitentiary institution. Because of overcrowding within prison walls, the employment of detainees is of high social importance. Beside work possibilities, vocational training is offered in most prisons. The aim here is to prepare detainees for the labor market. Given that a large proportion of detainees have had little or no formal education, a combination of continuing education (general subjects such as French and Dutch, and math) and vocational training is offered in order to prepare them for rehabilitation.

Before 2011, the organization of labor was managed locally at each individual prison. Consequently, a lack of structure and competences occurred, as well as fragmentation of policy, difficulties in attracting contractors, and little continuity. In 2011, it was decided to organize penitentiary labor within a new structure. The most important innovation concerns responsibilities: a meso team has been set up to act as an intermediary between the central and the local levels. This meso level will be tasked with marketing, administration,
production planning and follow-up. There will be six meso teams in total, each responsible for 5 or 6 prisons in Belgium. In this way, a balance will be maintained between deconcentration and centralization. Various processes have been worked out, namely production and quality control, sales, logistics, Human Resources, and budget.

The main objectives of the renewed organizational structure are: to increase the number of employed inmates; to improve the service provided to contractors; to strengthen the organizational structure of the SPL; and to increase the financial profitability of the workshops. One of the main objectives is also to contribute to the social role of the Department of Justice, responsible for the prisons, by returning the profit gained by penitentiary labor to the well-being of the inmates.

In 2013, an evaluation took place of the renewed structure. There were different positive results, such as an increase of commercial activities by multiplying the number of contractors, and, as a consequence, there are more inmates at work. Another main positive result was the reorganization of the working places, which resulted in: an increase of productivity; a better follow up and problem solving; more flexibility; more harmonization; and a better financial rentability.

Due to the evaluation, several points of interest became clear. Good collaboration between intermediaries and local teams is a key factor for success. Additionally, there are too much one shot contractors, which implies fluctuation in working possibilities. Subsequently, the qualification of inmates became an issue, which resulted in a conflictual balance between skills and competences versus waiting lists. Finally, the importance of a harmonization of remuneration became clear, to avoid a misplaced concurrence between different types of work.

10.4.3 Master plan
The Belgian government had to provide, on different occasions, an answer for the problem of overcrowding. They also want to improve safe and human living conditions/environment in prisons. A program was developed and improved with the following points of action: a program of renovation for the recuperation of lost cell capacity; creating extra capacity on existing sites; and replacing old prisons by new prisons. The program of building new institutions includes four new classical prisons (project 4G) and two specialized forensic psychiatric institutions.

In fact, the program to deal with the encountered problems as well as with the challenges of the future, is clustered in a masterplanning. This plan aims to guide the necessary changes through a multi-profile stable team under the guidance of one project leader in order to guarantee sharing and collaboration, but also flexibility and creativity. In the different master plans 1, 2 and 3, the shifted balance from analog to digital is taken into account as well as an enforced focus on the accountability and responsibility of the prisoners. Within the masterplanning, new technologies are an important factor in order to give the staff more time to work with the prisoners.

The project on the four new prisons aims a wide range of objectives on different levels: a secure prison with a centralized organization; a modern institution with new technics; a new view of detention trajectories of inmates; an attention for care and guidance; an attention
for ecology and technology; a qualitative architecture and design; and an attention for environmental implantation and design. The new prisons are equipped with facilities for inmates which allow a new approach on how to treat inmates and how to organize a life in a penitentiary context, such as shower on cell, phone on cell, PrisonCloud, focus on work, formation and activities, and visiting possibilities. Some of the new prisons have possibilities for judicial activities.

The federal government made the choice of building the new prisons within a public-private partnership, consolidated in a DBFM-contract. Within this public-private cooperation, the private partner is responsible for the design, the building process, the funding, and the maintenance. Once the prison building is realized and operational, the private partner runs the kitchen (i.e., catering processes), the laundry, the maintenance, and the gardening with employment of inmates. The building agency of the government and the department of justice pay the prison building during 25 years. After 25 years, the prison becomes the property of the government without extra costs and in its original state.

The public-private partnership requires a different approach than the one in old prisons. For example, is it important that the procedures and processes are geared to one another. The main task of the (limited) technical service is shifted towards the follow up and control of the maintenance and repairmen by the private partner. Attention has to be given to the formation of employees of the private partner and the creation of a common code of conduct for the personnel of the department of justice and the private partner.

The concept of a DBFM-project has brought new challenges, such as change management and a different approach from the guardians, due to the fact that formations are not adapted, the development of more/different contacts with inmates (i.e., dynamic security); the friction between the level of security versus the open living conditions; and the immediate/instant lifestyle and expectations that are inherent to the new technologies such as PrisonCloud.

10.4.4 PrisonCloud
Society in general and justice in particular, are confronted with huge technological changes. In fact, technology becomes more and more important in such a way that we speak nowadays about the digital natives. This is translated in Belgium in a growing technological support of our daily work in prison through PrisonCloud, SidisSuite, and Justix. These technological evolutions and the development of the (software) applications correlate with a need of integrated processes that are safe, efficient, cost effective, and future oriented. The resulting technological tools contribute also to an administrative simplification.

One of the aims of justice is that detention leads to a successful reintegration in society. This means that inmates have to stay connected with society in order to make that reintegration possible. That is one of the reasons that PrisonCloud is developed.

PrisonCloud is a strongly secured and flexible platform of services for inmates, accessible in cell, but also in other common classes. It is especially developed for the department of justice and is easy to use for everyone involved; inmates, personnel, and staff. The staff can monitor and individualize services as well as draw reports.
PrisonCloud contains the following hardware: thin client, monitor, keyboard, mouse, headset, remote control, and legitimation stick. The legitimation stick is linked not only to a specific inmate, but also to a specific location so that fraudulent use is detected immediately.

The different services which are or will be provided through PrisonCloud are:

- A homepage, that gives access to the standard and paid services. Announcements are shown through newflashes of pop-ups.
- ‘My regime’: every possible information about the rules in prison, the rights of inmates, and the procedures for early release.
- ‘Phone’: phone calls can be done.
- ‘Canteen’: a sort of webshop for inmates organized by prison services.
- ‘Film’: where movies can be rent.
- ‘Secure internet’: with access to a limited list of secured websites.
- ‘E-learning’: to follow a distance course or to have access to summaries and exercises of given courses in the prison.
- ‘My files’: with access to prisoner’s personal judicial files.
- ‘My PC’: a virtual desktop can be rent.
- ‘My wallet’: direct consult of the inmate’s financial account in prison.
- ‘Calendar’: through which he can organize his life in prison (visit reservation, activities and so on).
- ‘Requests’: questions can be asked electronically to different services in prison.
- ‘Television’: to watch different TV channels.
- ‘Gaming’: some basic games are offered, such as chess.

To these different services are added some specific modules or apps, such as mindfulness and an alarm.

PrisonCloud has different advantages for different people. For the inmates, it offers changes, prepares for a return in society, enlarges the ability to cope, and it offers a better service. For staff, PrisonCloud contributes to a more professional work organization; it offers more secured processes and it has an added value. For external persons, PrisonCloud assures secured connections and efficient processes; it supports professionalization. Belgium takes a leading position on technological level in prison facilities.

10.5 Reflection on current options

The masterplanning, with the introduction of new technologies (both for the staff and for the inmates), opens a new range of possibilities on how to reflect on prison regime. The shift from analog to digital, from pen and paper to computer technology and applications, creates a new context in which prison life and the relation between staff and inmates can explore new horizons.

The prisoner can take more aspects of their life in prison into their own hands by using the new technology and the possibilities that are offered by the (re)new(ed) infrastructure.
These investigations are accompanied with necessary intrinsic initiatives to increase the quality of prison life, as stated in the Act on the principles of prison administration. This Act focuses on principles such as normalization, standardization, restorative justice, rehabilitation and reintegration, by offering, among others, a wide range of visiting possibilities, daily phone access, a developed medical care and psychological guidance, vocational training and other formations, working facilities, and access to sport and other leisure activities such as film, theatre, library, concerts, but also by offering different restorative activities such as mediation, payment of damages, voluntary work, art projects, workshops, and discussion groups.

All of these offers together with the introduction of PrisonCloud means that the prisoner not only has the right and the possibilities to organize more aspects of his life, he also has the duty to do so. You could say that the prisoner becomes responsible for his life and the maximization of his successful reintegration in society and that the prison (staff) becomes responsible of the responsibility of the prisoner. In other words, the prison (staff) should create the environment as well as the conditions and contacts in which the prisoner can take account of his life by offering the opportunities as well as the support in order that the prisoner can take responsibility, but it is, at last, the prisoner that has to step forward and make use of what is offered.

Because this shift in the levels of responsibility in combination with the introduction of the new digital world of PrisonCloud and the comfort of a new infrastructure, the staff has more time and opportunities to install another kind of interaction with the prisoners in order to support them to take their (future) life into their own hands. The reverse of this opportunity is the risk of losing contact with the prisoner. The prisoner does not necessarily have to establish contacts with the staff to organize their life, and the staff has lost some possibilities to get in touch with the prisoners through daily tasks that no longer exist. Therefore, the staff has the duty to invest in another kind of contact with the prisoner. In order to do so, it will be crucial that the staff is trained in dealing with this shift in contact.

New technologies and their expanding applications, both inside prison (digital workflow, SidisSuite and PrisonCloud) as outside prison (electronic monitoring), not only show that this evolution facilitates (prison) life and (prison) work, but also show that the humane contact is challenged. The increasing use of new technologies has an impact on the interpersonal relations. The (possible effects of the) impact asks for reflection and investigation in order to detect and define the pitfalls, and to be able to produce answers to minimize the negative effects and maximize the positive effects.

10.6 Innovative options for the future

There is still a lot to do. For example:

- All the recent evolutions in wearables technologies brings plenty of opportunities in domains, such as healthcare (constantly monitoring blood pressure for example), health (support the activity and training by remembering the inmates to move and make sport), and preventing suicidal tendencies by monitoring heart rate.
• All the recent innovations on facial recognition and artificial intelligence (making possible, for example, the possibility to follow specific paths for the inmates and automatically signaling inmates that are not in the correct path).

• Belgium is on his way to bring access to technology in cell to every inmates with ‘classic’ thin clients, which leads to a lot of new opportunities (for example, in the eLearning system). But there is still a lot of new possibilities that can come with technologies such as tablets, smart watches and so on.

• All the recent evolutions in big data and their impact on criminal studies are also a great challenge, because it brings new need in prison programs to respond at these new demands.

To summarize: it is time to be creative and to bring even more new possibilities to help prisons to be the driver of a most efficient reintegration after a meaningful but productive prison sentence.
11 Prison Practice in The Netherlands
Annelies Jorna, Marianne Vink, and Andre Aarntzen

11.1 Introduction

The Prison Service is one out of four divisions of the Custodial Institutions Agency in the Netherlands. The Prison Service concerns adult detainees, both men and women, including criminal foreign nationals. The other three divisions are:
- Correctional institutions for juvenile offenders
- Forensic care/psychiatry
- Facilities for detention and removal of foreign nationals and illegal foreigners.

This chapter focuses on the prison service. Figure 11.1 shows the developments of the required capacity in the four divisions. The prison service is by far the largest division within the Dutch penal system. Since 2005, capacity of all divisions is decreasing.

![Figure 11.1](image-url) Required capacity of the Dutch Custodial Agency

In this chapter, we firstly present some facts and figures about the Dutch penal system. Subsequently, the most important developments in sanction policy during the last decade are described as well as some measures that have been taken by the Prison Service. Finally, recent developments will be discussed.

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11.2 Some facts and figures

In 2014, the prison rate of The Netherlands was 62 prisoners on 100,000 inhabitants. With Denmark, Norway, Finland and Sweden, The Netherlands had the lowest prison rate in Europe. The capacity of the prison service, including forensic units, decreased from 13,600 in 2009 to 12,071 in 2014. The number of prisoners that entered the prison system decreased slightly, from 40,300 in 2009 to 39,600 in 2013. In 2014, 9,900 prisoners per day stayed in the Dutch prisons, which is 16% less than in 2010. Almost 85% of the prisoners stayed for less than six months. The number of short time prisoners is still increasing. On the whole, the average length of stay is 93 days.

Over the last decade, prison population decreased, whereas community service and conditional sentences increased. Nowadays, more than a quarter of all sanctions concerns community services. Also, the recidivism rates of prisoners decreased, from 65% in 2002 to 47,5% in 2009. For a two-year period, the overall recidivism among adult offenders, including community service, decreased from 29% in 2002, to 22% in 2009.

With regard to forensic care, the Dutch law has a particular measure for offenders who can not be held fully accountable for their committed serious crime, due to a mental illness. They can get a particular forensic care hospital order (TBS), which means that after two thirds of their prison time, they stay in a high secure forensic hospital. TBS can be extended by the court. In 2013, 84 Dutch offenders were given such a forensic hospital order (TBS). In 2008, the number of TBS-convictions was 129. In the course of time, there has been a steady decline in TBS-patients. One of the reasons is that the length of the TBS-measure increased substantially due to many extensions and no fixed end date.

Youth offenders, from 12 years old up to 21 years, can get juvenile detention. Detention usually includes treatment and having access to reintegration activities. The youth detention capacity declined, from 2,200 places in 2008 to 800 in 2013. The number of juveniles that entered youth prisons decreased from 2,440 in 2008 to 1,470 in 2013. The decline can partly be explained by changes in law. Young people who need protection and/or treatment in a secured environment, and are under civil law and not convicted by criminal justice law, are now under the auspices of the Ministry of Health, staying in separate buildings. The number of juvenile offenders in youth prisons also decreased, due to the increased use of alternative sanctions, such as community service.

As part of the Dutch immigration policy, some foreigners stay in detention centers. In 2013, 1,690 places were available, which is almost a quarter less in comparison to 2009. The number of foreigners entering a detention center decreased from 7,800 in 2009 to 3,600 in 2013.

In the nineties of the last century, the Dutch government needed additional prison capacity, and, in a decade, the prison capacity increased with 50%. One of the reasons for the needed

\[\text{All numbers on cell capacity in this section are without reserve.}\]
extra detention capacity was the Dutch policy decision to intensify criminal law enforcement in general. More specifically, more capacity was needed in relation to the enormous increase of drug related offences. As a consequence, many new penitentiary institutions were built in the period 1992-1996. However, the increased capacity could not match the demand for capacity, and, consequently, some offenders were sent home without punishment. At that moment, it was assumed that no other measure was available to tackle the problem of overcrowding. Later on, in 2004, it was decided to introduce multi-persons cells. Additionally, electronic detention was introduced, as an alternative to imprisonment. Electronic detention was assumed to replace short time detention, that is, detention for less than three months. One of the conditions for electronic detention was a stable home situation. Consequently, due to the issue of overcrowding, the number of community service increased, as an alternative to short time prison sentences.

In 2004/2005, the prison capacity increased till about 15,000. From that moment on, an opposite trend can be observed; the need for prison capacity dropped dramatically. In 2013, the detention capacity was reduced to 10,000. This can be explained by different causes, such as a decrease of crime rates by almost 30%, an increase of the use of alternative sanctions and more focus on recosialization.

### 11.3 Major developments in correctional policy during the last decade

The main objectives of sanctioning are retribution, prevention and resocialization. In order to reduce recidivism, the focus in the Netherlands has shifted from retribution towards resocialization. A recidivism rate of 70% (within a period of 7 years) was not acceptable to the Dutch government. Therefore, action plans were provided to curtail recidivism by 10% in the year 2012. Within two years (i.e., the year 2019), it will be clear whether or not this goal has been achieved. So far, the recidivism rate has been decreased by 8.3%. In a recent study, the offender-oriented policy in the period 2002 to 2010 and its effect on recidivism was examined. It turns out that it could be plausible that this offender-oriented policy has contributed to reducing recidivism. Other possible influences at reducing recidivism appeared to be the increased social cohesion and better cooperation in the chain of police and justice.

In the current century, the successive governments focused on similar basic principles of the sanction policy: public safety, self-reliance, humanity, proportionality, normalization, and re-integration. The focus appeared to be independent of the type of government, being it a right wing coalition or a coalition in which the social democratic party was involved. The fact that in the Netherlands government always consists of a coalition of two of more political parties, makes that policy changes are less extreme than in countries with one party governments, like the United Kingdom and the USA.

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3 This concerns the general recidivism: new convictions as a result of any crime, irrespective of the nature and seriousness of the offence.
As in many other countries, the ‘What Works’ approach has influenced prison and probation practice in the Netherlands as well. It can, in particular, be recognized in the choice for a personalized approach during offenders’ criminal justice process.

A main part of the personalized approach is a good screening and assessment of offenders, as early as possible in the process. Much effort has been put in developing risk-assessment instruments. As a result, courts and public prosecutors are enabled to choose the best sanction, given the type of offence, the criminal record, and the characteristics of the offender. Subsequently, more conditional sentences were imposed in order to try to influence offenders’ behaviors and to avoid (harm of) incarceration. In the Netherlands, several evidence-based behavioral programs have been developed and a growing number of offenders are forced to follow these programs as part of the conditional sentence. Additionally, due to screening and assessment of offenders, the number of community sentences increases. A quarter of all sentences consists of community sentences.

**Personalized approach in prison practice**

During the first two weeks of imprisonment, every Dutch prisoner is screened and examined on reintegration issues, such as housing, debts, being in need of care, and income. After two weeks, a Detention and Reintegration plan is made. Staff from different disciplines within the prison are involved in plan development. The most important issues with regard to the Detention and Reintegration plan are: the level of security, the care that has to be provided, daily activities and activities concerning reintegration. The aim is the development of a tailor-made trajectory. Of course, the prisoner himself is also involved in developing the plan; he is the one to be motivated to undertake necessary actions to work on reintegration and behavioral changes.

In order to take the first steps of change, prisoners can also participate in a particular training on motivation and behavior. The training focuses on various aspects of life and the prison program provides various activities and courses to support the efforts for change. For example, prisoners can improve or train their social skills and can be involved in educational courses. Especially, for long term prisoners, treatment and care can be part of the individual program. Dutch prisoners are encouraged to show appropriate behavior in order to attain some privileges. Usually, prisoners start with a basic program of activities during 42,5 hours a week. Prisoners showing proper behavior, get more reintegration possibilities to their disposal. Well-behaving prisoners are promoted to a so-called ‘plus-program’, with more time for activities outside the cell, during 48 hours a week. They are also free to move within the safety ring for another 11 hours a week. The other hours, the prisoners have to stay in theirs cells. Short term prisoners, who have a sentence of less than two month, are placed in a particular penitentiary institution with less (labor) facilities and a basic program of only 28 hours a week.

The promotion program is introduced in April 2014, and needs to be evaluated soon. One major question for evaluation is what the effects of the promotion program are on vulnerable prisoners, with a high risk profile and who are mostly in need of support and treatment, but who lack motivation and/or are unable to show appropriate behavior.
High recidivism offenders

A vast majority of the Dutch offenders suffer from drug addiction and/or a mental illness. The last years, the costs of forensic care have risen substantially. A particular measure has been introduced for the so-called ‘revolving door’ offenders.

With regard to revolving door offenders, it was observed, that short term custodial sentences were not effective, in terms of reducing recidivism. Those sentences are too short in order to being able to desist from criminal behavior. Therefore, a new statutory measure has been implemented: the placement in institutions for revolving door offenders (ISD). The measure lasts for two years. All offenders involved suffered from drug addiction, and almost two thirds had a mental illness whereas a quarter are mentally retarded. During the two years, offenders are provided with treatment on drugs/alcohol addiction and trainings focusing on motivating to desist from criminal behavior. The main part of the measure is executed in a secured intramural setting; if the offender is motivated to change and reacts well to treatment, he will be placed in an open care facility. Today, the ISD-measure has been imposed to 2,500 offenders. The daily costs of the ISD-measure is just a little bit more (€ 33) than the costs for regular imprisonment.

Approximately 72% of the revolving door offenders, who were imposed with an ISD-measure, re-offended within two years after leaving the institution. However, the high rate of recidivism proved to be 12 – 16% lower than the recidivism rate in the control groups of offenders with regular imprisonment.

Psychiatric Penitentiary Centers

Due to the increased prison population with severe psychiatric problems, five Psychiatric Penitentiary Centers were established in Dutch prisons. Since 2009, the centers offer necessary care and make it possible to transfer forensic patients to forensic care institutions. The medical staff consists of psychologists and psychiatrists. For each patient, a treatment plan is developed in close cooperation between the prison staff and the medical staff. The Dutch penal law offers also the possibility that governors of prisons can decide, after medical advice, to transfer prisoners, with specific psychiatric problems and who have difficulties staying in prison, to mental health institutions. For this purpose, forensic care capacity is reserved in mental health institutions.

11.4 Developments in the near future

Due to the structural decrease in demand as well as budget cuts, many Dutch prisons have to be closed. About 2,500 employees will lose their job in prison service. The budget cuts will partly be realized by reducing costs, due to the use of multi-persons cells and the increased use of electronic monitoring. Initially, the government proposed to replace part of the detention capacity by electronic monitoring. Electronic monitoring would have been applied as a back-door option for prisoners who can fulfill conditions of having meaningful daily activities and participating in training programs. The proposal was meant to replace the current detention phases, from gradually staying in a high secure prison to staying in a low secure prison. However, the proposal was rejected by parliament.
Nevertheless, the basic principle of individualized trajectories is still existing. Individual Detention and Reintegration plans can be accompanied by different levels of security and care (e.g., low, medium, and high). New plans for electronic monitoring should match with this frame of reference.

For the last few years, the closing of prisons and debates on electronic monitoring had an huge impact on the employees of the Dutch Prison Service and has been dominating to a high extent the Dutch debate on the execution of prison sentences. For staff, it is not easy to keep the motivation for a new approach and secure the quality of detention.

Luckily, the impact of cutting budget and closing prisons could be mitigated by offering prison capacity to other countries. A treaty with Belgium has been established about the provision of a Dutch prison to Belgian prisoners. In the Dutch prison, Belgian prisoners serve their sentences according to Belgian law. It is a unique example of cooperation in the correctional field. In 2014, negotiations have been started with the Norwegian authorities on the provision of a Dutch prison for Norwegian prisoners. Meanwhile, an agreement between the two countries has been signed and Norwegian prisoners are staying in a Dutch prison since the Autumn of 2015.

11.5 Reflection and challenges for the future

The declining prison population stimulated the Dutch prison and probation service to develop new ideas regarding detention concepts.

One of the ideas, is a new time out facility for youngsters in pre-trial detention. A pilot project is developed in cooperation with the city of Amsterdam. Instead of the regular ‘one size fits all’ approach in current juvenile institutions, it is based on a personalized approach for youngsters, with different levels of security and care. A small facility will be created with room for eight boys. About half of them will leave within a month and the maximum length of stay is 70 days. In the new facility, daily education at school and support of professionals will continue, whereas contact with friends and parents will change as well as their streetlife and leisure time habits. In a safe and secure situation, the youngsters are encouraged to rethink their position, work at future plans, and invest in the efforts that will be needed to attain their goals, including the help from others. A supervisor of the juvenile probation service is responsible for the development of a personal coaching program. A personal coach from a societal organization is involved for carrying out this program; not only during the period in the new facility, but also after the pre-trial detention.

As discussed earlier in this chapter, personal coaching programs are also developed for adult prisoners. Until recently, all prisoners were dependent on staff to arrange practical things. Until now, the emphasis in prison and probation practice is on self-reliance and self-sufficiency. Several pilots have been started, such as a pilot in which prisoners get the opportunity to live in a more self-sufficient unit. There is less supervision of staff and prisoners are enabled to do their own shopping and cooking. In 19 other prisons, many
inmates are involved in daily activities, such as working in the kitchen, the stockroom, offering technical service, or assist in the maintenance of the building. The results until now indicate that prisoners remain more active due to the responsibilities they get. It is assumed that the more prisoners are involved in daily activities, the less hospitalization will occur and the more staff-prisoner relationships will improve. In general, the well-being of prisoners can increase, due to their satisfaction with regard to their daily activities, as well as job satisfaction of staff.

For short time prisoners, that is, a prison sentence up to 4 months, a pilot has taken place in cooperation with local municipalities and care providers. Usually, involvement of care providers and social work organizations ends when the client/individual enters prison and is not automatically continued when they leave the prison gate. The objective of the pilot was to connect detention and reintegration, so that starting imprisonment implies also starting reintegration. Together with network partners, such as police, mental health care, social work, probation officers, homeless care, and in consultation with the prisoner, a detention and reintegration plan is drawn up. During detention, a case manager from inside the prison, together with a case manager from one of the network partners, assist the prisoner in carrying out his plan. They can consult other specialists when needed. Network partners together are responsible for the progress of the plan, with no one officially being in charge. For the Dutch prisons, it is quite innovative to invite network partners to do their work inside the prison. Prison services are not used to an import model where other providers are responsible for offering services in prison. The experiences of the pilot are positive and will be extended to other Dutch regions.

For long term prisoners, a pilot was performed in a ward of one of the Dutch prisons. In the unit of 12 cells, prisoners had access to a garden and two Skype sets were available for contact with the outside world. The unit aimed at normalization, which means that normal daily life is simulated. In the pilot, the prisoners were facilitated to wake up by themselves by setting an alarm, making their own breakfast, preparing lunch and take their self-made lunch to work. All things that are usually taken care of in prisons. The prisoners had to work four full days (instead of the usual 20 hours). The rewards for working were twice as high than they are used to, and a part of the money earned has to be paid to victims of crimes. The fifth day is reserved for sports, restorative justice, and family visits. During the rest of the week, inmates are allowed to get in touch with their family and friends by Skype. Inmates cooked their own mails and were responsible for the cleaning of the unit. Both prisoners and staff were enthusiastic about the pilot. There have been no incidents during the pilot and hardly any conflicts emerged. The personal contacts and trust between prisoners and between prisoners and staff improved and the environment was experienced as safe and secure. The extra facilities with regard to working, skyping, and access to the garden were valued positively. About the ability to Skype one of the prisoners said: “I regained energy after a virtual tour through my house. It has been years...” Another prisoner reacted on being able to visit the garden: “The courtyard has always been a place where I felt I should be tough. Because of our new garden, I can grab some air when I feel the need. It creates peace of mind.” The pilot encouraged prisoners’ self-management.
In summary, in future prison, the living environment is very important, and we must keep trying to improve it and organize imprisonment as open as possible. It is hard to think of prisons of the future without viewing prisons as buildings. Instead of prison sentences, it can be worthwhile to think of free-form sentences, which can be carried out in different ways, taking into account risks and needs of the offender. When the execution of the sentence is not fixed in advance and does not necessarily include detention, than personal coaching programs can be developed, taking into account dynamic risks and needs of offenders and accompanying opportunities for downscaling and scaling up.
12 Comparative analysis

12.1 Introduction

In the preceding chapters, developments in prison and probation practice in five different European countries have been described. The developments show many differences and similarities. They have to be further analyzed in order to understand their implications for prisons of the future.

In this chapter, we start with comparing the developments, as presented in the preceding chapters in Part Two. From the analysis, we derive the sanctions and options that are currently used in practice. Furthermore, we try to reconstruct the patterns and principles behind the current alternatives and options. Therefore, we also rely on the conceptual chapters in Part One. We end with ordering challenges for the future along the levels of a socio-ecological model.

12.2 Current sanctions

With regard to prison population, different developments can be found in the five countries, portrayed in this report. Whereas in Denmark prison population remains stable over time, the number of prisoners decreased in Finland, Sweden, and The Netherlands. However, the Belgian prison population gradually increased. Overcrowding is still a problem to be solved by the Belgian government. In Denmark, it was observed that the prison population has become more complex and is more in need of support and treatment. A similar development can be found in The Netherlands. Many prisoners are vulnerable, due to suffering from addiction and mental disorders. According to Durnescu (Chapter 6), prison plays an important role in the most ‘dangerous’ offenders, drawn mainly from the most deprived social groupings. In The Netherlands, a particular forensic care measure consists for the high risk offenders with mental illness who cannot be held fully accountable for their crimes.

One of the obvious reasons for a more complex prison population is that offenders of light offences are enabled more and more to stay out of prison due to alternative measures. However, in countries like Finland and The Netherlands, still a large part of the prison population consists of short term prisoners.

Changes in prison population have to be viewed in relation to the population of probation service. Different trends can be found with regard to the number of clients of probation service in the five illustrated countries. In Sweden, both the prison population and the probation population are declining. However, the general trend in European countries seems to be that the number of clients of probation service is still increasing. The expansion of probation service can be related, to a certain extent, to the increased use of alternatives to imprisonment. Nowadays, the most favorite alternatives to imprisonment are community service and electronic monitoring. These alternatives are accompanied by probationary
supervision. Consequently, in comparison to ‘real imprisonment’, probationary supervision can be viewed as a ‘virtual prison’ concerning offenders’ control in society.¹

In practice, community service – in combination with supervision - is often viewed as an appropriate alternative to short term prison sentence. In Finland, for example, till the year 2000, community services increased and short time prison sentences decreased at the same time. After the year 2000, however, the number of community services and short time prison sentences fluctuated.

Each country seems to focus on particular alternatives. For example, in Denmark, community services and electronic monitoring are preferred alternatives. In Finland, the alternatives to imprisonment are gathered as ‘community sanctions’, with an emphasis on community services. In Finland, it was unsuccessfully tried to introduce contract treatment. In Sweden, contract treatment, community service, and electronic monitoring are common sanctions. In Belgium, the focus has been, amongst others, on electronic monitoring. Electronic monitoring is also used as an alternative to prison sentence for more serious offences, due to reasons of efficiency and overcrowding. Whereas the prison population has increased in the last years, they now expect the prison population to decline, due to electronic monitoring. In The Netherlands, it was intended to increasingly use electronic monitoring instead of imprisonment, but the proposed measure was withdrawn, due to lack of political support.

In conclusion, the range of alternatives to imprisonment is quite small. The same kind of alternatives to imprisonment can be found in different countries. In the course of time, some alternatives are more preferred than others, such as community services and electronic monitoring. Since the year 2000, the following sanctions can be commonly found in prison and probation practice in European countries:

- Imprisonment;
- Electronic Monitoring;
- Community Service;
- Forensic (contract) Care/treatment;
- Fines;
- Waiving/suspension;
- Probationary supervision.

In general, the same type of sanctions are expected to be elaborated upon for the near future. It can be observed that alternatives to imprisonment are imposed more and more. However, many authors in this report, designate net-widening effects, which means that the increased use of alternatives to imprisonment is not accompanied by a similar decrease in prison population. As a result, more people are under the influence of the criminal justice system.

As we can learn from above, as well as from the preceding chapters, the alternatives to imprisonment are not always mutually exclusive; i.e., they can be used in combination with each other. For example, a conditional sentence can only be applied when the offender has

¹ Contribution of CEP to working sessions of Prisons of the Future, based on a small survey amongst its members.
agreed to comply the conditions. Conditional sentences can concern different alternatives, such as fines, community services, and contract treatment. A breach of conditions can imply that prison still functions as a last resort. A conditional sentence is usually accompanied by supervision by a probation officer in order to control whether the offender complies to the conditions.

Additionally, alternatives are not always applied as autonomous sanctions. They can complement imprisonment. Besides as an autonomous alternative, the same sanctions can be applied as options within a prison sentence. For example, Maes (Chapter 4) explains that electronic monitoring is not ‘one single measure’, but can be implemented in different stages of the criminal justice process, such as in the pre-trial phase, as well as in the phase of sentencing. Depending on the phase of implementation, electronic monitoring can be differently applied, such as ‘electronic monitoring according to the Belgian model’, ‘electronic monitoring light’, ‘electronic monitoring extra light’, and ‘electronic monitoring zero’.

12.3 Current front-door options and back-door options

In this section, we further explore sanctions that complement a prison sentence. Because the sanctions are not implemented autonomously, they are called options. A prison sentence can be accompanied by options, applied before the trial, during the execution of the sentence, and/or before or after release from prison. Generally, the options will contribute to shortening prison time. A distinction can be made between pre-trial options, front-door options, back-door or pre-release options, and options after release.

A pre-trial option concerns an alternative measure to remand custody, i.e., the period between the offender has been catched by police and before he has been convicted by court. A frequently used pre-trial option is suspension (which means that the suspect can stay at home without or with probationary supervision). As mentioned before, in Belgium, electronic monitoring is also used as a pre-trial option.

A front-door option is an option that is applied after the trial in order to avoid incarceration. In Finland, for example, community services and monitoring sentences are used as front-door options. Again in Belgium, electronic monitoring is used as a front-door measure. It can be considered as a (quasi-) automatically granted conversion measure, upon which can be decided by the local prison governor. In the Netherlands, treatment in a forensic care hospital can also be applied as a front-door option. The offender starts with imprisonment, but due to a decision of the prison governor, the prisoner with a mental illness can be transferred to a (high) secure forensic hospital.

A back-door option refers to possibilities for early release or pre-release from prison, due to appropriate behavior and/or reasons for reintegration. Electronic monitoring is frequently used as a back-door option in many countries. In Finland, supervised probationary freedom has been introduced as a form of gradual release in which case the offender is supervised by prison staff outside the prison. In Sweden, special release measures are effected, in particular to juvenile prisoners and with supervision of layman. In the Netherlands,
revolving door measure is used for drug-addicted offenders which includes a type of conditional release for residential or extramural care.

Finally, after release from prison, aftercare options or post-release options can be applied, in order to facilitate reintegration and to improve cooperation with local municipalities and care providers. Examples of aftercare options are sheltered housing or (lifelong) supervision.

In conclusion, different options can complement a prison sentence. The options merely overlap the alternatives to imprisonment, but are applied in a different manner. Usually, they take into account particular characteristics and circumstances of the offenders. The applied options are not always part of courts’ decisions, but can also result from decisions of local prison governors and case managers. Consequently, in the course of time, the continuum of different measures, partly replacing or complementing a prison sentence, are broadened and enriched. Subsequently, as explained in Chapters 5 and 6, the continuum of measures can be accompanied by intermediate sanctions and a blurring of the boundaries between prison and community based-sanctions. This trend can also be recognized in the Finnish basic principle of allocating prisoners to a setting with as open conditions as possible, even outside prisons.

12.4 Activities inside and outside prison

In addition to alternatives to imprisonment and options to shorten prison time, also differences can be found with regard to the activities offered inside and outside the prison. In general, it can be expected that in open prisons more activities for reintegration are provided as in closed prisons. However, countries like Finland have not already succeeded in achieving the aimed proportion of offenders in open prisons. In many countries, prison & probation services are trying to connect their activities to those of local municipalities.

Some activities, as in, for example, Belgian prisons, are related to restorative justice and penal mediation. In Denmark, a more victim-based approach in the execution of sentences is expected. In all countries involved, particular attention is given to penitentiary labor or possibilities for work outside prison. Prisoners are motivated or even obliged to participate in daily labor activities.

In a new Belgian prison, PrisonCloud has been introduced. PrisonCloud facilitates prisoners to maintain contacts with the outside world and offer them learning possibilities via Internet and e-learning. By PrisonCloud, they can also get access to their own judicial files.² Belgium wants to make more use of the opportunities of technology, such as in the field of healthcare. It will enable prisoners to take more activities in own hands which may improve quality of prison life.

One of the activities which is getting common in more European prisons, is to enable prisoners to cook together. Additionally, more efforts are put in contacts between offenders and their families. In a prison in Wales, a family approach is implemented in the prison which positively influence reduction of recidivism. Also in The Netherlands, a Dutch prison will start

² See Chapter 10.
a pilot to develop a family approach in their prison. In Chapter 3, Bas Vogelvang emphasized the importance of offering practical help to offenders to solve social and relational issues.

The activities inside and outside the prison can take form in accordance with a particular prison concept. For example, Finland’s new prison concept distinguishes four types of prisons, based on the type of prisoners, spaces, activities, and human resources. In Dutch prisons, activities outside cells that are available to prisoners, are dependent on promotion programs. Additionally, Dutch prisons are experimenting with importing activities of network partners into prisons. Also, in Belgium, working alliances are created to provide penitentiary labor.

Prison concepts concern the institutional prison setting. In his book on asylums, Erving Goffman illustrates thoroughly total institutions, such as traditional prisons or psychiatric hospitals, that arrange all areas of life for their inmates. Inmates lose their social identity, because all areas of life are unfolding within the boundaries of the total institution. Whereas traditional prisons focused on isolating their inmates from society, current prisons seem to look for activities reconnecting their inmates to society. Whereas still the same areas of life are taken into account, other decisions are made with regard to prison’s and prisoners’ responsibilities to these activities. More and more, prison service does not take all the responsibilities by themselves, but there are more left overs, to be divided between the prisoner, his family and other network partners. Prison facilitate contacts with the outside world instead of self arranging areas of life.

As can be learned from Chapter 2, what really matters, is how these activities inside and outside prisons are experienced by prisoners and staff themselves. Liebling and her colleagues measure essential features of a more quality of prison life. They found that possibilities of personal development do matter. According to Bas Vogelvang’s contribution in Chapter 3, the activities inside and outside prisons should match with a desistance focused paradigm, and a transition based mission which promote psychological, moral, social, and juridical rehabilitation. According to Durnesco’s contribution (see Chapter 6), the new prison concept should be rebranded as desistance centers, where prison services and probation services work closely together.

12.5 Personalized trajectories

In the countries, presented in the earlier chapters, prisoners have personal enforcement plans or ‘detention and reintegration plans’. Each prisoner has his own personal plan with activities during the day and preparations for reentry in society. These plans are quite common and preferably developed with involvement of prisoners themselves. The plan will be in accordance with the severity of the offence and the risks and needs of the offender. The plans can also take into account personal circumstances and hooks for change of the offender.

More and more, evidence-based interventions are used in prisoner and probation services. Denmark and Sweden make use of need-risk analyses and measures, based on the RNR-

3 Contribution of 4GS to the third working session of Prisons of the Future.
principles which are translated to their national contexts. The treatment and rehabilitative interventions are tailored to the learning style and characteristics of the client. Already in the phase of conviction, risk-need analysis can be used to give room to individualized sentencing, as in Finland and The Netherlands. According to Vogelvang (Chapter 3), the RNR-paradigm has not yet been fully implemented. Until now, the focus has been on criminogenic needs and risks instead of desistance factors and opportunities for change and restoration. According to Vogelvang, offenders and their natural network should take the lead in personalized trajectories based on the concept of self-direction.

Individualized sentencing and personalized trajectories can be accompanied by different detention-reintegration pathways for particular target groups. In Finland, activity packages are defined for the majority of prisoners. In Belgium, new paths will be developed with regard to new opportunities of technology. Electronic monitoring can be viewed as a tool in a program of supervision, that ideally should be individually tailored for every offender. According to Durnescu (Chapter 6), prisons will play more and more a role as a diagnostic center where offenders will be assessed and allocated to different, individualized pathways, being executed inside or outside the prison establishment.

12.6 Organizational and professional developments

In Finland and Sweden, the prison and probation service has been reorganized. In many countries, reorganizations of prison and probation services have taken place. In all the countries involved in this report, the need for cooperation and (inter-agency) collaboration with municipalities and network partners, such as non-profit organizations, is emphasized. Also, involvement of volunteers, such as a layman probation supervisor, and the social network of the offender has been mentioned. Sweden calls for a systems approach in order to promote innovation. One of the innovations, in Sweden and the Netherlands, is to improve case management. The Belgian government aimed at a master plan to guide the necessary changes in the prison landscape. Part of the new innovations in Belgium concerns public-private cooperation with regard to the building process of new prisons. According to Durnescu, prison designs will receive more and more attention in the near future. The prison design should be based upon a prison concept.

Professional staff development of prison and probation service gets attention in all countries. Professionalism relates to staff and management skills with regard to particular innovations and interventions, such as evidence-based interventions, educational opportunities within prisons, case management, and inter-agency collaboration. Also, more general skills are needed in Denmark, such as ‘understanding and dealing with cultural, ethnic, and linguistic diversity as well as handling radicalization issues’. According to Vogelvang (Chapter 3), prison and probation staff need continuously be trained and monitored in establishing a positive working alliance, including a skillful use of authority and the use of motivational interviewing and other solution-focused communication skills.

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4 Contribution of CEP to the working sessions of Prisons of the Future, based on a small survey amongst their members.
5 Compare the contribution of Yvonne Jewkes to the final working conference of Prison of the Future, as well as the ‘assessment’ of the Dutch prison Zaanstad during the third working session.
12.7 Political and societal context

The evolution of prison practice has to be contextualized within larger societal transformations (see Chapter 6). The Swedish team (Chapter 8) reflects on the assumed Scandinavian exceptionalism with regard to penal policy. It is argued that the Nordic countries may no longer be that consistent or homogenous as it is sometimes described. Due to global integration and a changing political landscape with swift changes in political majorities, Scandinavian societies may be more diverse and less predictable, also when it comes to penal policy.

With regard to the Swedish Prison and Probation Service, at first, a serious incident did not change the course of development. However, thereafter, more incidents took place and years of reinforced security emerged, in which three new ultra high security units were established.

Around the turn of the century, the political will and consensus in Finland and the reasonable role of media enabled to decrease the prison population. Currently, a kind of political ‘indifference’ is observed in which there is neither a political will and consensus, but also no opposition against, for example, community services. In Finnish penal policy, some minor inconsistencies have been observed.

In Denmark, it is expected that in the near future, the political focus might shift from alternative sanctions and resocialization to a greater focus on public protection. Politicians can become more ‘tough on crime’ and the increased need of efficiency may influence focus and direction of prison and probations work.

In Belgium and The Netherlands, new measures in prison and probation practice have been introduced, that, on one hand have been inspired by public security, and, on the other hand, encourage prisoners’ reintegration. For example, in both countries prisoners’ personal responsibilities are strongly emphasized. Concurrently, prisoners’ reintegration activities and contacts with the outside world are extended. These different measure are in accordance with broadening a continuum with on one hand ‘more austere prisons and intensive forms of custody’ and community based sanctions and softer non-custodial options’ on the other hand (see Chapter 5).

The expectations in the chapters of the different countries in Part Two can be interpreted in the light of the underlying principles of the penal policy. They all expect that the basic principles in the future will be similar to current ones. However, the way of balancing of different principles can slightly differ. They expect that the increasing political focus on efficiency can be accompanied by an increased application of alternatives to detention, because alternatives are probably more cost-effective. Evidence-based research can also accomplish increased use of alternatives to detention.

12.8 Challenges for the future

In all chapters of this report, the authors hesitate to predict the future. They expect that some trends from the recent past will be continued in the near future. For example,
Denmark expects to go on with evidence-based RNR as well as new technology. Also Belgium focuses on new opportunities of new technology. Sweden likes to continue with contract treatment, case management and inter-agency collaboration. With regard to the existing alternative sanctions, they view more possibilities for flexibility in time frames and intensity of supervision, mandatory residency, and preventive – as well as digital – time out. Finland expects to continue with maximizing the number of community services and monitoring sentences. With regard to sanctions and options, evolutionary and incremental changes are expected. The Netherlands raises the possibility of a new, free-form sentence, which, as personalized sentencing, can be shaped and changed in accordance with the offender’s development.

From the authors of Part 1, two major challenges for the future can be derived. The first one concerns practical-oriented research. According to Alison Liebling (Chapter 2), ground up explorations, as they did in their research journey until now, is important to bridge the gap between theory and practice. Additionally, greater coordination is needed of penal scholars and practitioners, in order to focus interest and energy. The second challenge concerns a closer connection between prison and society. In Chapter 6, Durnescu is rather optimistic about the movement of prison in the direction of society; prison boundaries are becoming less rigid and more permeable to society. Vogelvang (Chapter 3) emphasizes an inclusive culture and the role of the offender as a citizen. In such an inclusive culture, security measures and protection of new victims are presented as temporary conditions to make change possible.6

12.9 Frame of reference for comparative analysis

In this chapter, similarities and differences between countries with regard to the future landscape of prisons have been analyzed. The findings concern different layers of analysis of prison and probation practice.

A first layer of prison and probation practice concerns the offender. With regard to the offenders, different characteristics can be attributed to the offender, such as risks and needs, and offenders’ experiences of measures (e.g., prison’s moral quality of life; electronic monitoring). More and more, attention is given to the self-direction and motivation and possibilities for change of the offender.

A second layer of prison and probation practice concerns the offender’s social network. Offender’s contact with family and friends can be enabled or discouraged or even forbidden. At this second layer also contacts with informal networks, such as laymen and volunteers can be positioned.

A third layer of prison and probation practice concerns the kind of sanction or measure that has been applied to the offender, being it forensic care/treatment, electronic monitoring, detention, fines, suspension, probationary supervision or community service.

A fourth layer of prison and probation practice concerns the (national) prison and probation service. As explained in this chapter, the service can focus on professional development of

6 Compare the contribution of Rob Canton to the final working conference of Prison of the Future, in which he also calls for ‘inclusion of prisoners in society’, but also stated that a prison is still a prison.
skills and tools as well as organizational developments, such as (re)organization, cooperation and inter-agency collaboration.

A fifth layer of prison and probation practice concerns changes in criminal justice law and regulations with regard to related systems, such as (mental) health care and civic law. Changes in law influence the other layers, such as the kind of alternative sanctions and options that can be applied.

A sixth layer of prison and probation practice concerns political and societal developments.

The different layers of prison and probation practice can be ordered along the multi-layered socio-ecological model of Bronfenbrenner. Bronfenbrenner’s model was originally developed to understand the child’s development in relation to different contexts. The model is also helpful in understanding possibilities for change. At all layers and contexts, changes can be initiated which will influence the other contexts and layers. The layers are mutually influencing each other.

The socio-ecological model makes a distinction between the context of: the child, its microsystem (i.e., daily environment); the mesosystem (i.e., the combination of daily environments), the exosystem, and the macrosystem. Applied to offenders, the following contexts can be distinguished: the offender; his social network; the institutional context of applied sanctions, such as prison or community service; the professional context of the national prison & probation service; the criminal justice law and other regulations; and the political/societal context (see Figure 12.1).

Figure 12.1 shows different layers, and the first layer concerns the person. Each next layer is more comprehensive than the previous one. Between the layers, forward and backward influences occur. Some deprivations of liberty of the offender and possibilities to self-efficacy are set by court as a result of the criminal law system. The criminal justice law is embedded in the country’s political and societal context. For instance, in some countries there is hardly debate on crime issues, whereas in other countries polarization and politicization of crime issues can take place. The national prison and probation services offers a professional context for applying imprisonment and probationary supervision in practice. The professional context can imply, for example, training of prison and probation staff, cooperating with other service providers, and reorganizing the services. The national prison and probation service has a hybrid position between offering service to clients/offenders as well as implementing penal and probation policy. They have to reconcile needs of offenders as well as needs of victims (see Chapter 5). Prison and probation services can use their discretionary power in a more conservative or a more innovative way.

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12.10 Theory-in use of prison and probation practice

In the Introductory chapter as well as in Chapter 5, we introduced the term ‘theory-in-use’. Theory-in-use refers to the underlying assumptions of policy and/or organizations that are put in practice. Usually, these assumption are tacit and remain implicitly. They are, for example, related to the underlying prison concept. The theory-in-use has to be reconstructed and refers to underlying patterns and basic principles in prison and probation practice. Insights into the underlying pattern and principles is needed, because an alternative sanction or option as such is not ‘one single measure’. As Eric Maes points out in Chapter 4, electronic monitoring can be implemented in ‘different phases, as different options, targeting different populations, has different contents, subjected by different procedures, and can be applied for different reasons’. The underlying assumption or the ‘theory-in-use’ makes clear what works for whom under what conditions. It relates to the question ‘how to apply in practice and for what reason’ and is part of a so-called ‘realist’ evaluation as introduced by Pawson & Tilly.\(^8\) In addition to the ‘what works’ question, Pawson & Tilley argue that it is important to get insight into the working mechanism, which

\(^8\) Pawson & Tilley, 2004.
is very much related to contexts and personal circumstances. In detecting these theories-in-use and working mechanisms, we are able to open the ‘black box’ of a prison and other institutions. For example, electronic monitoring as such is not a working mechanism. The working mechanism relates to the function of electronic monitoring or how it is applied in practice and for what reason.

With regard to prison and probation practice, all countries refer to similar general values. These values are normalization, reintegration, restorative justice, proportionality, and humane treatment. Also, public safety, retribution and punishment are mentioned regularly. In practice, normalization can be applied quite differently in different countries. Moreover, normalization can be weighted differently in relation to other values. Therefore, we need to know how the general values are balanced and applied in practice. During the project Prison of the Future, we summarized the balanced values in the following basic principles (see also Chapter 2 and 3):

1. Human dignity
   Human dignity is related to respect and being of value. The prisoner or offender feels recognized as a person.

2. The avoidance of further damage or harm
   The prison and alternatives to detention are a punishment in itself. They should not provide additional punishments or harms.

3. The right to develop the self
   Persons should have the possibility to learn, be active and productive. They should be enabled to use their strengths. They should be treated as having personal autonomy, that is, being enabled to make own decisions.

4. The right to be important to other people
   Persons should not be isolated, but should be able to contact their social network. They should be enabled to be recognized by others and to belong to a functioning society, including opportunities for work, restoration, and repair.

5. A stable and professional organization
   A stable organization implies a stable and professional staff group, which strives continually for ‘whole system integrity’ and ‘professional development’ (through research, evaluation, and reflexivity). Prison & probation service should be open-minded to new knowledge and taking risks. The organization is able to react flexible and acts in a turbulent environment without convulsion. The professionals communicate transparently to society and citizens.

These basic principles can be recognized in all chapters of this report and can be viewed as the assumed working mechanism behind application all kind of different measures at different levels of prison and probation practice. Together they form the ‘theory-in-use’ of prisons of the near future.

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References


13 Summary and Conclusions

13.1 Introduction

Two years ago, we started our journey of looking at ‘prisons of the future’. Analyzing current developments in prison and probation practice, we searched for underlying patterns and principles of the theory-in-use in prison and probation practice. In the project proposal, we formulated some assumptions with regard to the outcome of our journey. We expected to be able to produce a list of alternatives to imprisonment and realistic options for the future, preferably be presented as a toolbox. In short, we assumed that we could present tangible outcomes and a list of instructions of ‘what to do’.

During our journey, we learned that it is not so easy to look forward to a future we do not know. It is hard to imagine the unimaginable. Looking back at the recent past, we mostly found evolutionary and incremental changes in our prison and probation practice. We discussed about what to take into account and what really matters. We realized that, sometimes, we even are not aware of our own tacit and implicit underlying assumptions. What is common in our own country, can be different in another country. We encountered obstacles in finding a ‘common language’ to discuss our prison and probation practice with people from different countries with different backgrounds, focusing on different levels of abstractions. Additionally, the theme ‘prisons of the future’ includes so many aspects and elements, that it is easy to loose the overview and being able to focus on what really matters.

Nevertheless, in the complexity of the project, we found common ground. Some basic elements and reflections came across again and again. The basic thoughts and reflections can be recognized in the chapters in this report and the analysis in the former chapter. In this final chapter, we use these ingredients to answer the central research questions of our project with regard to:

- Current developments in prison and probation practice
- Patterns and principles in prison and probation practice
- Challenges for the future

We end with some considerations on how to proceed conversations on prison of the future.

13.2 Current developments in prison and probation practice

In Part Two of this report, the developments in prison and probation practice in five countries have been described: Denmark, Sweden, Finland, Belgium, and The Netherlands. The chapters give insight into developments in prison population and the number of probation clients in relation to changes in crimes rates. They also portray the country’s landscape with regard to alternatives to imprisonment and options that complement and influence prison sentences. Part One gives conceptual guidelines for reflecting on these developments.
In due course of time, only a few alternatives to imprisonment come to the fore in prison and probation practice in different countries. Traditionally, community services emerge as a sanction for light offences in particular. Fines are in charge as a sanction for particular offences, but not viewed as a general alternative to imprisonment. Nowadays, probationary supervision as well as electronic monitoring are frequently used as alternative, autonomous stand alone sanctions or in combination with other sanctions. Forensic care and treatment are one of the alternative sanctions, that are used in different countries more or less intensively.

Wheel of sanctions
We are used to define the sanctions above as alternatives to imprisonment. Usually, imprisonment is introduced as ‘the ultimate sanction’ whereas the others are viewed as ‘alternatives to detention’. In one way or the other, other sanctions are always valued in relation to imprisonment. In practice, the different sanctions can be viewed as autonomous sanctions. The wheel of sanctions in Figure 13.1 shows that the sanctions are equivalent to each other. In practice, they are not mutually exclusive and are used in combination with each other.

Figure 13.1 Wheel of sanctions

Options for shortening prison time
The wheel of sanctions is also helpful to detect options for shortening prison time. Besides imprisonment, the same kind of sanctions can also be applied as a pre-trial option, front-door option, back-door option as well as a pre-release and/or post-release option in relation to a prison sentence.
Consequently, the list of alternatives to detention and options to short prison time is quite small. They refer to what can work in prison and probation practice.

13.3 Patterns and principles in prison and probation practice

In addition to the question ‘what works’, we asked questions as: what works in practice for whom, when, in what contexts, and why? We have called this the ‘working mechanism’ which elaborates on the ‘what works’ approach and refers to realist evaluations. It takes into account different layers or contexts of prison and probation practice. The working mechanism relates to the underlying assumptions of the theory-in-use and to the question of ‘how to apply, for what reason’. In the preceding chapters, we found different ‘clues’ for patterns and principles.

A first clue refers to personal characteristics of the offender. More and more, personalized sentencing can be found in different phases of the criminal justice process. Not only in the phase of conviction by court, but also in the phase of execution, sentences are tailored to characteristics of the offender, such as risks, needs, personal experiences, and hooks for change. Personalized sentencing can be recognized in personal enforcement or detention & reintegration plans. Especially, desistance features are important to take into account. Personalized trajectories need an active involvement of the offender. Depending on target groups of offenders, different pathways can be developed for different groups.

A second clue refers to connecting prisons as much as possible to society. Prisons can be as open as possible and/or activities for prisoners can be oriented to activities outside the prison. Within the prison, more opportunities can be created to get (virtually) access to the outside world, by PrisonCloud, such as e-learning, skype, or e-health. Additionally, more attention can be paid to family contact and relational issues of offenders. Also, volunteers can be more and more involved in support and control of offenders. Providers of services in society can also provide services inside prisons. Consequently, the difference between sanctions as imprisonment, implying exclusion from society, and community sanctions, implying inclusion in society, will disappear more and more. Subsequently, the demarcated tasks of prison and probation service in relation to municipalities and local authorities and (forensic) care providers can blur. During sentencing, offenders do not have to lose their societal responsibilities and social identities. Prisons and society become intertwined.

A third clue concerns balancing different values with regard to prison and probation practice at the same time. In one way of the other, in all prison and probation practice, the following values can be recognized to a certain extent (see Figure 13.2):
How to balance these different values in prison & probation practice? We agreed on five basic principles that always have to be taken into account when applying all kind of sanctions and options:

- **Human dignity;** the offender feels recognized as a person.
- **The avoidance of further damage or harm:** sanctions should not provide additional punishments.
- **The right to develop the self:** persons have personal autonomy and are enabled to use their strengths.
- **The right to be important to other people:** persons are part of society and can contact their social network.
- **A stable and professional organization:** prison & probation service is open-minded and focuses on professional development.

### 13.4 Challenges for the future

With regard to the near future, the authors of the preceding chapters formulated some challenges they have to face or challenges they want to establish. The challenges can be summarized as follows:

- **Elaborate on current alternatives and options.**
  With regard to the near future, additional value can be derived from existing underlying concepts. Prison and probation practices show more incremental and evolutionary changes than revolutionary changes. Current alternatives and options, as presented in section 13.2, can be elaborated upon in the near future. Particular attention can be given to:
    - Improvement of prison conditions, taking into account the patterns and principles formulated in section 13.3;
    - Possibilities of new technology, taking into account the face-to-face relationships between prison and probation staff and offenders as well as options for dynamic security;
    - Consequences of breaching conditions, and, in particular, the implications for using prisons as a last resort with regard to addicted and mentally ill offenders.
- Professionalizing prison and probation service.
  In the near future, current evidence-based research with regard to RNR-principles and lessons from desistance theories can be elaborated upon. Prison & probation service can have a diagnostic role as well as contribute to applying evidence-based treatments. Consequently, prison and probation staff have to be trained in applying those skills. Particular attention can be given to:
  - The risk of becoming too instrumental with regard to applying instruments and techniques;
  - Reconciliation of the experiences and needs of offenders as well as the needs and experiences of victims.

- Ongoing conversation between scientists, policy makers and expert-practitioners.
  In the project Prisons of the Future we together were involved in a participatory policy analysis. We started to share our concepts and experiences, from different backgrounds and different countries. Together, we were able to enrich our own cognitive maps and to develop common ground. This is not an easy process, especially at the European level, but it is very worthwhile to proceed further, based on what we achieved at our journey.
Contributing partners

Dienst Justitiële Inrichtingen
Ministerie van Veiligheid en Justitie

Kriminal Forsorgen
Danish Prison & Probation Service

Federale Overheidsdienst Justitie
Service public fédéral Justice

RISE Criminal Sanctions Agency

Kriminalvården

CEP
Confederation of European Probation

EUROPRIS