
VISITING EXPERT'S PAPERS

COMMUNITY SENTENCES FOR REHABILITATION OF OFFENDERS AND PREVENTING REOFFENDING

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I. INTRODUCTION AND OVERVIEW

This paper is a supplement to a lecture, provided to UNAFEI, for its 177th International Senior Seminar, in January 2022. I aim to explore the potential of community sentences for rehabilitation, which is a key approach to the broader aim of preventing reoffending. "Rehabilitation" is used to refer to the attempt to change, encourage, and support offenders, with the aim of helping them to avoid further involvement in criminal activity, as well as leading better, healthier and more prosocial lives. This is certainly one approach to preventing reoffending. However, while rehabilitation has remained central within community-based correctional services, there has been a growth of approaches based on control, management, and restrictive measures. I argue that while diverse approaches to preventing reoffending are important, rehabilitation should be seen as the fundamental contribution of community sentences, if they are to maximize their effectiveness. Effective rehabilitation, within community sentences, requires skilled staff, who are able to engage with people who often display challenging behaviours, and motivate them to make positive changes.

In this paper, and within the associated lecture, I examine the emergence of community sentences and consider how they have been used to reduce reoffending. I move on to explore how community sentences have developed and changed. In doing this I emphasize that as well as change, there are continuities in the work of staff and volunteers who have supervised offenders within community sentences. I consider what the research evidence tells us about what makes community sentences effective in reducing reoffending. Finally, I offer some general thoughts about the key challenges and opportunities offered by community sentences, in the prevention of reoffending.

While I draw from experience, research and literature, which is primarily based on community sentences in England and Wales, the issues raised reflect global challenges and developments.

In England and Wales, as in many other countries, the probation service has primary responsibility for the delivery and management of community sentences. The probation service is involved in the supervision of large numbers of offenders. People under the supervision of the probation service include those who are sentenced to a community order at court, and those who are released from prison. In December 2020, there were 223,973 offenders subject to probation supervision in England and Wales (Ministry of Justice, 2021), compared to 80,823 prisoners (Ministry of Justice, 2020). This large number reflects an expansion of community sentences in many countries. However, despite their prevalence, community sentences attract relatively little public or political acknowledgement or attention, when compared to prisons (Robinson and McNeill, 2017). It is on this basis that the community sentences can be understood as relatively invisible forms of punishment.

II. COMMUNITY SENTENCES, REHABILITATION, REDUCING REOFFENDING AND OTHER SENTENCING AIMS

While rehabilitation has been a central feature of community sentences since their inception, its importance has been challenged and has fluctuated, particularly since the 1990s. Community penalties are criminal justice sentences, and as such can be associated with multiple aims, of which rehabilitation is only one. For

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example, while not as intrusive as a prison sentence, community penalties do deprive the offenders of a degree of liberty and there is constant threat of a return to court if requirements are not met (National Offender Management Service, 2006). Therefore, community sentences arguably do involve an element of punishment, albeit not one that is widely acknowledged as being comparable with imprisonment (Canton and Dominey, 2017). Community sentences can also be understood as delivering a degree of deterrence. The court process and the intervention that follows can be demanding. Community sentences are also expected to deliver public protection, particularly in the case of the supervision of violent or dangerous offenders.

III. THE ORIGINS OF COMMUNITY SENTENCES

The origins of the community sentence can be found in the late 19th and early 20th centuries. At this time courts in England and Wales were increasingly attended by voluntary “Police court missionaries”, who drew inspiration from practices that had developed in Boston, US (Robinson and McNeill, 2017). These early probation officers were explicitly Christian and associated with the temperance society, which was concerned with what it perceived as the serious damage caused by alcohol use (Vanstone, 2004). The court could agree not to impose a penalty, but instead refer the offender to a period of supervision with a probation officer. Of interest here is that the first community sentence was therefore not a formal sentence but imposed instead of a sentence.

Inconsistent court practices in the use of probation were consolidated under the landmark 1907 Probation Act. This clarified the role of the probation order, which required the offender’s agreement to be supervised by a probation officer of the court. The probation officer’s role was to “advise, assist and befriend” the offender, in order to help him or her avoid future offending. The key approach for rehabilitation was the relationship that the probation officer was able to establish with the supervisee (Bochel, 1976; Canton 2011). This is worthy of a pause to reflect. While the importance attached to the relationship between supervisee and supervisor has changed over time, it is consistently identified as central within the accounts of those who have successfully completed community penalties (Hughes, 2012). Developing a professional relationship with someone subject to statutory supervision requires skill, training and experience. This is perhaps an area which has been neglected in practitioner training and policy development. I will return to this theme later.

The emergence of probation services was ostensibly driven by humanitarian agendas which sought to recognize that those who committed offences had often experienced hardships and difficulties, and required guidance, practical support and understanding, if they were to live better lives. However, more cynically, some commentators have emphasised that probation involved an extension of social control, where increasing numbers of people were placed under the supervision of government agencies (Garland, 1997; Foucault, 1977). This tension between help and control has remained within probation practice throughout its history, and is something with which probation officers, or those charged with the rehabilitation of offenders, have to struggle.

IV. THE DEVELOPMENT OF A “PROFESSIONAL” SERVICE

While initially probation officers were volunteers, the second half of the 20th century saw the growth of a service which claimed specialist expertise, informed by scientifically generated knowledge about the causes of criminality, and how best to address it (McWilliams, 1986; Bottoms, 1980). By the 1960s, probation officers needed to have professional qualifications, made assessments of the needs of offenders, and devised treatment plans according to needs identified. Practitioners were able to exercise professional judgment in how to go about their work and how to rehabilitate those under their supervision, leading to a diversity of assessment styles and approaches to supervision. In reality, the rehabilitative strategies adopted reflected the preferences of the probation officer, as much as the needs of the offender, or the evidence base about what was effective (Canton and Dominey, 2018). For example, many probation officers were influenced by Freudian ideas, which highlight the role of development issues and internalized conflict. In these instances, probation officers would logically deliver interventions to resolve embedded psychological difficulties. Others were more interested in group work as a method of developing non-offending lifestyles. For others, including

my father, who was a probation officer in the 1970s and 1980s, what was needed was a good outdoor camping trip, where offenders could connect with nature. My father believed that the rehabilitative qualities of this experience would be enhanced if the probation officer brought his children along.

An interesting childhood memory of mine involves sitting around a camp-fire with my father and several probationers (some of whom I later found out had been convicted of serious offences), singing "happy birthday" to my older brother, who had just turned 12. The contrast between this and the very firm boundaries of the service I later worked for were dramatic. While this anecdote from my past does indicate that there may have been a need for greater accountability and consideration of risk, it also suggests that some positive aspects of earlier probation practice, such as creativity and close relationships, have been lost. Another strategy associated with this period worthy of mention is that of "radical non-intervention". This approach was premised on labelling theory, which suggests that every contact that an offender has with the criminal justice system could reinforce his or her offending identity, and therefore undermine their attempts to lead law abiding lifestyles. The logic followed was that the best approach was therefore to have as little contact as possible with those under supervision. This was a popular strategy for some probation officers!

Practice was therefore diverse, inconsistent, and arguably lacking in a clear or consistent evidence base. However, it was often creative, theoretically informed, and engaging.

V. THE COLLAPSE OF THE REHABILITATIVE IDEAL

The approaches described above appeared within a period of optimism and confidence about the potential of rehabilitation, and the ability of experts to make judgments about what to do to prevent reoffending. As noted, there was considerable creativity, diversity and inconsistency in the experiences of people who were placed on community sentences. Significantly, there was a lack of evaluation about the impact of these diverse interventions on reoffending. This made it easier for critics to challenge rehabilitative ideals. In the 1970s and 1980s some governments attacked probation and community sentences on the basis that they were soft options, which, they argued, undermined personal responsibility. Criminal justice policy in the US and UK reflected an agenda described as "popular punitiveness", involving rhetoric of being "tough on crime", and calls for harsher punishments. These challenges to probation and community sentences were intensified by the publication of an influential article by Martinson (1974), which provided an assessment of the impact of rehabilitation programmes. Martinson is often quoted as suggesting that "nothing works". He was in fact far more tentative than this. Rather than "nothing works", he argued that there was no clear evidence available indicating the effectiveness of any specific rehabilitative programme. Nevertheless, the impact of this evaluation was substantial, and created a general pessimism about the potential of rehabilitation within community sentences. In the UK, this led to an emphasis on community sentences as "punishments in the community", in which the priority given to rehabilitation decreased significantly. Symbolically, the 1991 Criminal Justice Act made the Probation Order a sentence of the court, rather than something which was imposed instead of a sentence. This made little practical difference to the day-to-day delivery of community sentences, but set a new tone, establishing them as primarily punishments, which needed to be delivered as intended, and enforced in the event of non-compliance. The same act introduced the combination order, which combined probation supervision with community service (involving unpaid work in the community), as a further reflection of an attempt to establish community penalties as legitimate and serious punishments. Notably, as someone who joined the probation service within the later period of this era, I remember being advised by my new manager that I must refer to the service users as "offenders", rather than "clients". The "clients", as in the people who probation staff delivered a service to, were now the courts and the public. The people placed under the supervision of the probation service were no longer seen as recipients of a service, but instead people who had committed offences, and were required to be held to account, and complete penalties as directed by the court. This cultural shift has continued to dominate probation practice in England and Wales, and arguably sits uncomfortably within a service which has its origins in the humane treatment of people experiencing difficulties.

VI. THE “WHAT WORKS” INITIATIVE AND THE RETURN OF REHABILITATION

The early part of the 21st century saw the re-emergence of optimism about the potential for rehabilitation within community sentences, within what is often referred to as the “what works”, or “effective practice initiative” (Bottoms, Gelsthorpe and Rex, 2001; McGuire, 1995). This was inspired by meta-analytical studies, largely from Canada, which examined evaluations of a large number of studies, and attempted to identify the key ingredients of effectiveness (Maguire and Priestly, 1995; Raynor and Vanstone, 2002). These studies concluded that interventions could have a discernible impact on reoffending if they included specific features (Underdown, 1998; McGuire, 2005), such as the following:

- *Being underpinned by cognitive behavioural psychology.*
This framework understands behaviour as learned and supported by distorted thinking patterns and beliefs, as well as by negative emotional responses to situations. Effective programmes were therefore understood as those which targeted the thought processes and beliefs associated with offending behaviour.
- *Focus on factors which are evidentially linked to offending behaviour.*
This was as opposed to factors which offenders themselves think are priorities. For example, service users may express priorities related to increased income, or improved accommodation, but the research evidence suggested only a loose association between these factors and reoffending.
- *Delivered by staff who are trained in prosocial modelling (Trotter, 1999).*
This involves a set of skills, which for many are intuitive, including demonstrating respectful behaviour, and giving praise for positive achievements.
- *Effective programmes were determined as having “integrity” built in.*
This meant developing methods to ensure that programmes were delivered in accordance with their design and instructions, and that staff did not deviate according to their preferences or the priorities of offenders.
- *Are delivered within the community, rather than in custodial settings.*
The model which emerged was a set of specific programmes of intervention, with a precise number of sessions, being delivered as part of a community sentence, usually to groups of offenders. Notably, a probation officer would have oversight of the community sentence in its entirety, but within the period of supervision, the service user would be referred to other staff who would deliver the programme itself. These staff were not typically qualified probation officers, and not deemed to need the same level of professional training. This was, and is, surprising given the challenges involved in group work and the high level of skill required.

In England and Wales, accreditation panels were established to assess whether or not programmes of intervention met the criteria that research suggested were key in reducing reoffending (Raynor and Rex, 2007). Initial programmes, such as “think first”, targeted general offending behaviour and aimed to improve the thinking skills and problem-solving abilities of people who had been convicted of offences, thus enabling them to recognize the consequences of their decision-making and improve their awareness of triggers and risks. More programmes followed, which targeted specific categories of offending, including drink driving, domestic abuse, aggression and sexual offending. One of the programmes (IDAP, or the Integrated Domestic Abuse Programme) designed for domestic abusers, is of note, because it drew on feminist ideas, as well as cognitive behavioural theory (Bullock et al 2000; Hughes 2017). There continued to be a degree of uncertainty about this programme’s legitimacy as an accredited programme because of its diverse theoretical basis, perhaps illustrating the restrictive view of the “what works” agenda that dominated at the time. It is worth noting that this programme gave explicit attention to the importance of “gender” and some forms of masculinity in understanding and challenging offending. These considerations remain significantly under explored in attempts to develop effective interventions.

Alongside standardized programmes of intervention, standardized forms of assessment were established. These aimed to promote more consistent assessment practice, as well as inhibiting staff bias. The “Offender

Assessment System”, or OASys, was introduced as a detailed and structured assessment tool. This directs the practitioner to consider changeable, or dynamic factors (such as those relating to life circumstances, like employment or accommodation), as well as static factors which cannot be changed (such as age, sex and previous convictions) (Canton and Dominey, 2018). OASys requires practitioners to focus their assessment on factors that research suggests are associated with reoffending, such as past convictions, attitudes, relationship history, and substance use. It integrates statistical assessment methods as well as those requiring a degree of practitioner judgment. Arguably, this assessment tool has dominated the time of practitioners, and reduced their ability to engage in developing relationships with service users. Particularly interesting observations are made by the Norwegian scholar Aas (2004), who emphasises that tools like OASys can create a fragmented and depersonalized assessment of the person being assessed, which does not accommodate their individualized understandings and circumstances.

While the “what works” initiative prompted a revival of rehabilitative aspirations within community sentences, this did not equate to the probation service returning to its previous incarnation. The probation service and the community sentences it delivered had undergone profound cultural shifts during the 1990s and early 2000s, which continue to impact on how attempts to reduce reoffending are delivered. The rehabilitative strategy was now focussed on addressing perceived deficits among offenders, rather than addressing broader social or welfare factors. In addition, the primary commitments of community sentences, and probation staff who delivered them, were now to the public and the courts. In this context public protection and the delivery of punishment in the community, were firmly established as priorities for the probation service. Additionally, probation staff experienced a significant reduction in their ability to make professional or individualized judgments.

A. Non-rehabilitative Strategies for Reducing Reoffending

Non-rehabilitative approaches to reducing offending have remained central within community sentences in England and Wales. These have included approaches based on the management and monitoring of offenders (often through electronically enforced curfews), an increasing use of conditions which prevent access to specified spaces, and increased liaison with other criminal justice agencies. Rehabilitative and public protection objectives are often in conflict with each other. Many public protection initiatives are orientated towards social exclusion. Rehabilitation is fundamentally orientated towards social integration. Balancing these tensions is a key challenge for probation staff who are trying to engage people in a process of change, while providing public protection.

B. Flexible Community Sentences

Reflecting the diverse aims of community sentences at the start of the 21st century, the 2003 Criminal Justice Act established a single community order, which could have multiple requirements attached. This reflects what Tony Bottoms et al. (2004) referred to as the diversification of community sentences. Requirements can be orientated towards punishment, rehabilitation and public protection. They can include restrictions which prevent entry into certain spaces or contact with specified people. They can also include conditions to attend rehabilitative group-based programmes or comply with mental health or substance misuse treatments. The 2003 Act also created a new suspended sentence, where a period of imprisonment could be suspended, for a period of time, on condition that requirements were met. This aimed to discourage courts from imposing immediate terms of imprisonment, but as with other attempts to achieve reductions in the use of prison, it is not clear that these sentences were imposed instead of imprisonment, or instead of community sentences.

C. Splits in Provision

The early 21st century saw an emerging emphasis given to the charity and private sectors for the delivery of some aspects of community sentences. This ultimately led to a split between the National Probation Service, which remained in the public sector, and community rehabilitation companies, which were placed in the private sector. The National Probation Service retained responsibility for those designated as posing a high risk of harm, while community rehabilitation companies supervised those assessed as low or medium risk of harm (Ministry of Justice, 2015). There is widespread agreement that this experiment was unsuccessful, leading to the reunification of the Probation Service in 2021.

VII. THE DESISTANCE FRAMEWORK AND CRITICISMS OF THE “WHAT WORKS” AGENDA

Further developments in understanding effective practice have explored why interventions, developed within the “what works” era did not deliver the impact that was at one stage hoped (Mair, 2004). It has been argued that one of the major limitations of “what works” programmes was that they failed to “engage” service users in their own rehabilitation, and as a result of the growth of standardization, they failed to respond to individual needs. Frank Porporino (2010), who had been one of the key advocates of the “what works” initiative, commented specifically on the high drop-out rates that occurred on accredited programmes, pointing out they often failed to reflect what offenders themselves identified as their most important goals and priorities. Programmes of intervention were critically seen as being delivered “to” rather than “with” service users, and were often experienced as insensitive and impersonal. Criticisms also pointed to the fairly dismissive approach which the “what works” agenda had towards professional relationships between staff and service users, as well as the over reliance on cognitive behaviour approaches, at the expense of other methods, which have value in some instances (Hughes, 2012).

Partly in response to the perceived limitations of the “what works” initiative, many scholars have given attention to the process of how people stop or desist from offending. This contrasts with approaches which have attempted to identify causes of criminality and suggests that the reasons why people stop offending often have little connection with the reasons why they start. Irrespective of the triggers and background that have led to an offending lifestyle, most people stop offending at some stage. There has been interesting discussion of what supports this process of desistance. Examinations of desistance have pointed out that change is not a straightforward process. It takes place over time, often involving slip ups and lapses into the problem behaviours in question (Matza, 1964). Effectiveness in community penalties is dependent on acknowledging this complexity, as well as developing active involvement among people subject to probation supervision. Following on from this, research within the desistance framework has highlighted the importance of “relationships” between probation staff on the one hand, and service users on the other, where trust and individualized mutual goals can be established. This reflects a long-standing awareness among most professional staff, and certainly the experiences of service users, who consistently refer to the relationships they have with staff as key in enabling them to complete their community sentences and move towards a lifestyle free of offending. In particular, service users tend to refer to the importance of consistency, fairness, empathy, personal commitment and a lack of judgment as important qualities in the staff who work with them. Interestingly, once a relationship is established, there is some evidence that service users appreciate and welcome frank challenges, provided that these are made within a framework based on respect (Hughes, 2012; 2017)

Desistance narratives also highlight other factors such as enabling and encouraging the development of social capital and the development of a non-offending identity, where the individual sees themselves as a person of value, in whose life criminal behaviour does not have a role (Maruna, 2001; McNeill, 2006; Burnett, Baker and Roberts, 2007). Related to this, work on desistance challenges the perception of offenders as having anti-social values, or aspirations which are in conflict with those who supervise them. The vast majority of offenders do not want to reoffend or cause harm to others. They will also have strengths and qualities which are evident in their personal relationships and work histories, which can be built on. Giving attention to the strengths, resilience and individual aspirations of service users can foster motivation. This is in contrast to the original “what works” programmes, which tended to be dismissive towards the personal goals of service users. Fundamentally, the desistance paradigm recognizes that the service users themselves are the most important people in determining effectiveness.

There have been some efforts to incorporate evidence from research regarding desistance into practice. An “Offender Engagement Programme” was rolled out (Rex, 2012), which encouraged practitioners to recognize the importance of developing professional relationships with people under their supervision, as well as actively seeking their engagement in sentence planning (Hughes, 2012). There were also efforts to develop accredited programmes and make them more responsive and individualized (Travers, 2012). However, attempts to develop individualized interventions and increase professional judgment have taken place against a backdrop of the on-going organizational priorities of public protection, risk management and standardized targets, which continue to dominate practice, within a context where staff feel anxious about

following procedure, particularly given the increasing tendency for staff to feel accountable for the behaviours of those whom they supervise.

VIII. SOME CLOSING THEMES

This paper and the associated lecture have outlined some considerations of how community penalties might be effective in reducing reoffending. Community sentences have often faced a challenge in being recognised as legitimate responses to crime. They are liable to be seen as soft options, which cannot provide a level of punishment that is equivalent to imprisonment. Attempts to justify community penalties, primarily on the basis of the punishment they provide are therefore likely to be unsuccessful (Canton and Dominey, 2018). That said, community sentences can be extremely challenging for those who are subject to them. There is likely to be an on-going fear among those sentenced to community orders, of failing to meet the requirements and being returned to court. Perhaps more importantly, people on probation refer to the challenges of being constantly reminded of the harms they have caused. This often leads to a profound sense of shame, which may not be demonstrated explicitly (Hughes, 2017; May and Wood, 2010; Durnescu, 2011; Hayes, 2015). While part of a community sentence will quite rightly involve the monitoring of service users, with the aim of providing a degree of public protection, the essential fact that they are living within the community, means there are limitations in achieving this. It is therefore argued that the most important contribution of community sentences is rehabilitation. This aim is very far from straightforward. Reoffending is inevitably very heavily influenced by broad social factors, personal relationships and the motivation of the offender. However, there is evidence that community sentences can have a substantial positive effect in helping people to move towards a point in their lives where offending does not have a place. Committed staff who are able to challenge negative behaviour, while providing encouragement and support, appear as ongoing themes and arguably are more important than the type of intervention delivered.

Moving forward, the ongoing collection of data, with the involvement of practitioners and those under supervision is essential, along with an awareness of the importance of giving attention to the way in which individual, cultural and regional differences impact on effectiveness and what constitutes best practice. Globally, gender has been significantly overlooked in attempts to understand offending and there is scope to explore the implications of this.

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