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Evidence-based Probation in a Microstate

The British Channel Island of Jersey

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ABSTRACT

Probation services throughout the world have difficulty in assessing the risks and needs presented by offenders, in evaluating the effectiveness of supervision, and in enabling practitioners to assess the impact of their work with individual offenders. This paper describes how these problems are addressed by the comprehensive and relatively successful approach to evidence-based probation that has been developed since 1996 in the small Probation and After-Care Service of the British Channel Island of Jersey. In conclusion, the authors discuss whether such approaches could work in other jurisdictions, and suggest that this depends partly on context. In particular, the example of England and Wales shows how potentially successful approaches can be frustrated by over-centralization, managerialism and the politicization of criminal justice.

KEY WORDS

Evaluation/ Jersey / Probation / Risk Assessment.

Introduction: The demand for evaluation

Probation services throughout the world face a number of challenges in evaluating the impact of their work on the re-offending of the people they supervise. In the early days of probation, a positive impact was assumed, largely because probation avoided the obvious damage to offenders' welfare that was

caused by underdeveloped prisons (for recent histories of British probation, see Vanstone 2004; Whitehead and Statham 2006). More recently it has been expected that positive results should be demonstrated and not simply assumed. This expectation stems partly from the negative research findings about the impact of 'treatment' on offenders, which led to the international 'nothing works' consensus of 30 years ago (Martinson 1974; Brody 1976); partly from the sceptical view of welfare services and social work that characterized right-wing tax-cutting governments in Europe and North America in the 1980s (for an example of the sceptical rhetoric of the times, see Brewer and Lait 1980); and partly from the expectation inherent in modern public service management that publicly funded services should deliver demonstrable results, and not merely intentions. For example, in 1986 the senior civil servant in charge of penal policy in England and Wales pointed out in a speech to chief probation officers that 'it is still difficult to demonstrate ... that an increase in the size of the probation service would provide added value in terms of results, or that a reduction would produce an actual loss' (Faulkner 1986).

This need for evaluation and demonstration has been addressed in two ways, with limited success. One strategy has been for governments to finance specific experiments or evaluations based on quasi-experimental methods, with mixed results. Although these have generated lively debates about evaluation standards and whether random controlled trials should be adopted as the preferred method (Sherman et al. 1998; Harper and Chitty 2004), such studies are normally beyond the scope of individual probation services to carry out, or are too demanding in terms of sample sizes or cost. The other strategy has been to devise measures that can be used to monitor the performance of individual probation services (see, for example, National Probation Service 2005). However, these are basically process measures that count throughput of cases or numbers of procedures, with no known connection and in some cases even no probable connection with desirable outcomes such as reducing re-offending. Meanwhile, international meta-analyses continue to demonstrate the effectiveness of particular methods or approaches (for example, Allen et al. 2001; Lipton et al. 2002; McGuire 2002; Tong and Farrington 2006), although these have proved hard to translate into demonstrably effective routine practice. Some local pilot projects have shown promising results (for example, Raynor and Vanstone 1996, 1997), but attempts to implement effective practices on a large scale have not necessarily been able to reproduce the same effects (Lipsey 1999; Raynor 2004a) and problems of implementation are widespread.

In England and Wales these problems have assumed a particular importance. The attempt made in the 1990s to defend the Probation Service against a threatening political climate through a very public commitment to 'What Works' (Mair 2004) has produced very mixed results (Harper and Chitty 2004; Raynor 2004b) and, partly as a result, the Probation Service is

again threatened with a degree of reorganization that comes close to abolition (Hough et al. 2006).

In reality, the routine *outcome-based* evaluation of probation practice is not often attempted. The most obvious outcome measure (reconviction rates of offenders under or after supervision) may not be easily available. When it is, it has a number of disadvantages: it is not an exact measure of re-offending; it may need to be supplemented with information about the nature and seriousness of the reconvictions (as in Raynor and Vanstone 1996), and it means little unless it can be compared with what the reconviction rate would have been if probation had not been used. Such comparisons need to be based either on comparison groups, which is often difficult because services will not have routine access to data concerning offenders whom they are not supervising, or on statistically valid predictions of reconviction that can be compared with the reconviction rates actually achieved. Unfortunately, reliable predictors are not in practice available for some jurisdictions; when they are available, they tend (like the British Offender Group Reconviction Scale; Home Office 1996) to be based on static risk factors such as age, sex and previous criminal history, and do not take into account additional risks arising from dynamic risk factors or criminogenic needs, which may be the reason for people being made subject to probation in the first place. This can lead to underestimates of the reconviction risk in probation populations, leading to evaluations that are biased to the disadvantage of probation (Raynor 2007). Most frustrating of all for managers who need to know whether to continue or terminate particular programmes or projects, outcome data available in over two years' time are not particularly useful for today's decisions. Nor do they help practitioners to judge whether their efforts are helping those currently under their supervision. This requires some way of measuring progress while the supervision is still in place; but, if we assume that the reduction of re-offending is always likely to be a central aim of community-based corrections, whatever measures are used should have a known correlation with reductions in the risk of reconviction. In the remainder of this paper we describe one attempt to address these problems, which is the system of probation service evaluation currently in use in the British Channel Island of Jersey, and discuss why the generally positive results of an evidence-based approach in Jersey have been so different from those obtained in England and Wales.

Probation in Jersey

The Island of Jersey is the largest of the British Channel Islands, having an area of 118 square kilometres (much more when the tide is out) and a population of 87,700, which rises substantially in the tourist season. Located

close to the coast of France, 1000 years ago it was part of the Duchy of Normandy (into which it was incorporated in 933), and Channel Islanders participated in the conquest of England by the Duke of Normandy in the year 1066. In 1204 the islands chose to remain attached to the English Crown when Normandy became part of France. As a result, they have a special constitutional status, and Jersey is in effect a self-governing microstate with its own elected government and legal system, determining its own policies on most matters except defence.

Microstates not only are small, but also tend to have unusual constitutional or political status and to enjoy relative prosperity based on turning these characteristics to advantage (Warrington 1998). In Jersey, English did not become the official language for most purposes until the 1950s, and the laws (including the original laws covering probation) were written in a form of Norman French until 1957. Amendments to legislation originally passed before this date are still in French, as are all property contracts. Traditionally dependent on fishing and agriculture, the Island began to develop a tourist trade in the 20th century, but owes much of its current prosperity to its role as a centre for the financial services industry. In spite of these dramatic changes, the Island retains much of its traditional rural way of life, including a system of public administration based largely on the 12 ancient parishes (Miles 2004). In common with much of mainland Europe but unlike the mainland of Great Britain, the Channel Islands were occupied by the German armed forces from 1940 to 1945, and this very difficult period had a profound impact (Sanders 2005). A long history of independence and self-reliance shapes Jersey's political tradition, creating a preference for local solutions to local problems. The Island's crime rate is low by British standards, with 59.6 reported crimes per 1000 population in 2005 compared with 112.7 for England and Wales (States of Jersey Statistical Service 2006).

The Jersey Probation and After-Care Service is small, comprising only 12 probation officers, including the Chief and Assistant Chief, and 23 other staff, many of them part time. However, it is also a highly professional organization that has kept itself well informed about international developments in probation, and in particular about the evidence of 'what works' in the rehabilitation of offenders, which began to have an impact on British thinking about probation in the early 1990s. This evidence particularly influenced the thinking of the Chief Probation Officer at that time, Dr Debbie King, and her successor and current Chief, Brian Heath.

In 1992, following discussion with all staff, a working party drew up a plan (described in Heath et al. 2002) to redesign the service, based on risk and needs assessment of all offenders on whom reports were provided to the Courts; concentration of resources on medium- and high-risk offenders; implementation of cognitive-behavioural programmes for appropriate offenders

(importantly, these were seen as *supplementing* normal supervision rather than *replacing* it); and measurement of results to feed back into practice. Selecting an appropriate assessment instrument and preparing to deliver programmes took some time, but with the help of the Cognitive Centre Foundation in South Wales and the University of Wales, Swansea, full assessment and a suite of programmes were in place by the summer of 1996.

The chosen assessment instrument, the Level of Service Inventory – Revised (LSI-R; Andrews and Bonta 1995), had a substantial history of development in Canada (where it was known to be a good reconviction predictor) and an international reputation as an evidence-based instrument (Hollin 2002). It was also being piloted in other probation areas in Great Britain. It proved to be a manageable instrument for probation officers to use, and a reconviction study was started in Jersey both to assess the local validity of the LSI-R as a predictor and to gather the first local data on reconviction outcomes from different sentences.

Another important decision was that risk and needs assessment would be comprehensive, covering everybody reported on or supervised by the service, and that, for those under supervision, it would be repeated at the end of the period of supervision, with an additional interim assessment at the end of the programme for those undertaking structured programmes. One aim was to produce evaluative reports every three years and to disseminate them to relevant staff and sentencers within the Island. Two reports have so far appeared (Raynor and Miles 2001; Miles and Raynor 2004). A study was also carried out to evaluate the performance of the LSI-R and another assessment instrument, ACE (Assessment, Case management and Evaluation; Roberts et al. 1996), in selected areas of England and Wales in the late 1990s (Raynor et al. 2000). A full technical discussion of the results of all these studies of the LSI-R is available elsewhere (Raynor 2007). The focus of this paper is on its contribution to the development of evidence-based probation work in Jersey.

Examples of evidence-based development in Jersey: The outcomes of sentencing

The general relationship between LSI-R scores and reconvictions in Jersey is shown in Table 1 (based on Miles and Raynor 2004). The ‘% correctly predicted’ measure (Copas 1992) is a simple indicator of the efficacy of a predictor derived from treating (in the Jersey case) the highest 24 percent of LSI-R scores as predicting reconviction and the rest as predicting non-reconviction, and comparing these predictions with the outcomes. (A perfect predictor will score 75 percent if half the offenders reconvict; for a fuller discussion,

Table 1 LSI-R scores and reconvictions in Jersey

	<i>N</i>	<i>Mean LSI-R</i>	<i>% reconvicted in one year</i>	<i>% correctly predicted</i>	<i>Correlation (r)</i>	<i>Significance</i>
Men	1170	16.9	26.8	69.4	.285	<0.001
Women	210	15.7	9.0	86.7	.297	<0.001
All	1380	16.7	24.1	71.6	.287	<0.001

see Raynor et al. 2000.) The data for Jersey indicate that LSI-R assessments are predicting slightly better than they have done in England and Wales, and certainly well enough to be broadly confident that they are in fact related to reconviction risk. They also show that, for a given score, reconviction rates in Jersey tend to be lower than in England and Wales, and this is particularly noticeable in relation to female offenders. (A gap between the reconviction rates of men and women with the same LSI-R score has also been measured in England and Wales (Raynor 2007) but the gap in Jersey is larger.)

It was important to establish a general relationship between assessments and reconviction in order to validate the LSI-R for local use. More practical implications flowed from analysis of the relationship between sentence, LSI-R score and reconviction in four risk groups based on the quartiles of the overall score distribution in Jersey: low (1–9); low–medium (10–15); medium–high (16–22); and high (23–44; the scale goes up to 54, but no scores above 44 were recorded). Some of the more striking findings from this exercise were:

1. In the low–medium-risk quartile (which was the lowest group in which probation was used for significant numbers of people), probation orders had a reconviction rate nearly twice as high as those for fines and Community Service (see Table 2). This is broadly consistent with a long-standing finding from England that first offenders on probation had much higher reconviction rates than first offenders who were fined (Walker et al. 1981). In Jersey, guidance to staff now advises caution about proposing probation orders in this risk group, and far fewer are made.
2. In the medium–high-risk quartile, reconviction rates after probation, fines and prison were found to be similar, indicating that the more economical non-custodial option can be used without reducing public protection.
3. In the high-risk quartile, the comparison between probation and custodial sentences shows modest but definite advantages for the community-based options (see Table 3), particularly in the first year of follow-up. Many of the higher-risk probationers undertake a cognitive-behavioural programme, Self Management and Rational Thinking (SMART). This is a version of the Reasoning and Rehabilitation programme (Ross et al. 1986), which has received a number of positive

Table 2 Comparisons of selected sentences: Low–medium-risk quartile

<i>Sentence</i>	<i>N</i>	<i>Mean LSI-R</i>	<i>% reconvicted in one year</i>	<i>% reconvicted in two years</i>
Community Service	67	11.8	10	21
Fine	69	12.3	13	20
Probation	92	12.6	24	39

Table 3 Comparisons of selected sentences: High-risk quartile

<i>Sentence</i>	<i>N</i>	<i>Mean LSI-R</i>	<i>% reconvicted in one year</i>	<i>% reconvicted in two years</i>
Probation	100	29.1	43	62
Probation plus SMART	41	30.4	39	71
Young Offender Institution	20	32.3	70	85
Prison	52	29.3	52	69

Note: The reconviction follow-up for custodial sentences is from the date of release, and for community sentences from the date of sentence.

evaluations in the international literature (Ross et al. 1988; Raynor and Vanstone 1996; Allen et al. 2001; Tong and Farrington 2006). The numbers so far available for some of these sentences are small and data will be needed over a longer period to establish whether differences are significant, but the trend is encouraging. SMART is the most intensive programme available in the community in Jersey, and is reserved for high-risk high-need probationers who would be unlikely to receive a community sentence in the absence of such a programme.

Making data of this kind available to managers and practitioners has already informed a number of decisions. For example, a plan to develop an ‘offending behaviour’ programme for women was discontinued when most women under supervision were found to have a low risk of reconviction; instead, supervision is directed towards helping them in relation to assessed needs. At the other end of the risk scale, community sentences have been actively promoted in suitable cases as a more effective alternative to the short prison sentence, with the result that by 2005 prisoners serving sentences of

under six months had almost disappeared from the Island's prison (Heath and Miles 2005).

The impact of supervision

In addition to its use as a risk and needs assessment, the LSI-R is designed to be used in the reassessment of offenders during or after a period of supervision to ascertain if needs have been reduced. Such reassessments can also indicate changes in the risk of reconviction if assessment instruments have what is known as 'dynamic predictive validity', in other words, if changes in risk/needs scores are known to be significantly related to differences in reconviction rates.

Strong evidence for this relationship was collected in England and Wales in a Home Office study (Raynor et al. 2000), and broadly similar figures have been collected in Jersey (see Table 4), which suggest that, if risk/needs scores are reduced during supervision, actual reconviction rates are also, on average, being reduced. Figures for before-and-after assessment of probationers attending Jersey's three largest programmes are given in Table 5 (these assessments are made by case managers, not by the programme staff themselves), and they indicate a useful amount of constructive change. Further reassessments indicate that these positive changes tend to be maintained during subsequent supervision (Miles and Raynor 2004).

In addition, analysis of the individual items in the LSI-R scale has been undertaken to compare the needs profiles of those successfully completing and failing to complete programmes, and to examine what particular changes are likely to occur among successful completers. For example, those who successfully complete the SMART programme tend to show reductions in all

Table 4 Repeat assessments: Reconviction rates for initial below-average and above-average risk groups, comparing those who increased their scores with those who reduced them

<i>Group</i>	<i>N</i>	<i>Mean LSI-R score on first assessment</i>	<i>% reconvicted in 12 months</i>	<i>Significance</i>
Low initial risk: reducing	69	15.0	29	
Low initial risk: increasing	29	14.8	59	.006
High initial risk: reducing	84	28.3	54	
High initial risk: increasing	21	27.4	76	.06

Note: Significance is based on a chi-square test of the difference in reconvictions between increasers and reducers.

Table 5 Changes in risk assessments during frequently used programmes

Group	N	Mean first LSI-R	Mean second LSI-R	% of group showing decrease	Mean change	Significance of change (t-test)
ACT	36	20.3	18.4	68	-1.9	$p < .05$
SMART	66	29.1	24.5	77	-4.6	$p < .001$
ASG	115	17.7	16.1	61	-1.6	$p < .001$

Notes: ACT = aggression control training; ASG = alcohol study group.

areas of assessed needs, but the largest decrease (a 31 percent reduction) is found in attitudes that support offending.

Findings such as these help to support evidence-based decisions about the use of programmes and are also of interest to sentencers.

Such a comprehensive deployment of risk/needs assessment methods requires some safeguards. For example, Jersey uses the principle of 'professional over-ride', which allows practitioners to depart from the course of action indicated by the assessment if they can produce good reasons in a particular case. In addition, we are aware of the concerns of critical criminologists about the risk/needs paradigm. In particular, it has been argued that risk/needs assessments record socially imposed disadvantages as if they are characteristics of individuals, thus transferring to individual offenders the apparent responsibility for social problems that are not of their making (Hannah-Moffat 1999). Others have argued as if all risk assessments tend to produce 'actuarial justice' in which risks are 'managed' by subjecting offenders to graduated degrees of coercive control on the basis of assessments of what they might do rather than as a response to what they have done (Feeley and Simon 1992).

Clearly, risk/needs assessment does involve some hazards. However, these are probably fewer than the hazards created by unstructured and subjective practitioner judgement. In particular, risk/needs assessments, when compared with other forms of risk assessment that do not assess needs, have the advantage that they mainly direct practitioners' attention not to risk management through coercive control but to ways of reducing risk by meeting needs, which is more likely to be beneficial to the offender. In general, there seem to be good safeguards against the identified hazards if these assessment techniques are used to support rehabilitative practice informed by social work values such as a commitment to social inclusion and respect for service users. In addition, the danger of 'actuarial justice' resulting in

over-control on the basis of likely future actions is arguably reduced in a sentencing system that is broadly guided by proportionality in relation to the seriousness of the offence. In Jersey, the use of risk/needs assessment methods appears more likely to be associated with less coercive sentences and with reductions in reconviction rather than with the more adverse consequences that some criminologists suggest.

Conclusion and discussion

The findings reviewed above show how the Jersey Probation and After-Care Service is able to use risk/needs assessment to make some evidence-based judgements about how likely people are to be reconvicted, who is likely to benefit from probation, who actually does benefit, and what changes occur when people undertake programmes. Although the findings so far are limited, they will grow over time. They have already supported informed decisions about the use of community sentences and evidence-based inputs into discussions of penal policy. This may seem like the sort of information that every probation service should have, but in reality very few have it. The significant progress that has been made in the routine evaluation of probation services in Jersey, using simple methods and very limited resources, inevitably provokes the question: why, when most probation services have access to far greater resources, is this type of routine evaluation not more often undertaken? Are there particular features of Jersey that make it easy to do such things there, but difficult elsewhere?

Some possibly relevant factors have already been mentioned. For example, the small size of the service reduces the physical and organizational distance between managers and staff, making communication easier. The underpinning legislation for the Probation Service's activities allows a good deal of discretion and allows the service to develop and operate its own enforcement and compliance policies in consultation with the courts. And the service is constitutionally part of the Island's judicial system, accountable to a Probation Board composed of Jurats (judges), in other words to the judiciary rather than the executive. This gives it some protection from day-to-day political pressures. (The Probation Service for England and Wales has been exposed to increased political pressures since 2001, when it ceased to be run by local committees of magistrates and came instead under the direct control of the highly politicized Home Office.)

Some other features of the Jersey system that may be relevant include the tradition of community-based problem-solving approaches to crime, which is represented by the ancient system of elected voluntary parish police and by the use of Parish Hall Enquiries to deal consensually with minor offending

without recourse to the courts (Miles 2004; Raynor and Miles 2005). The absence of party politics in the Island's political system (see Le Herissier 1998) may also limit the impact of populist policy proposals; these are not absent, but they do not dominate discussion as they do in some other countries. There is also no assumption that what happens on the mainland of Great Britain is necessarily better or appropriate for local imitation. In addition, probation staff are quite well paid, are well supervised, tend to remain in post and are on the whole enthusiastic about their work; a recent inspection highly commended the service's overall performance (Her Majesty's Inspectorate of Probation 2005).

However, the essential elements of the Jersey probation evaluation process (namely, the use of a validated risk/needs assessment instrument, the use of a research consultant, the generation of high-quality local data, the use of data to answer evaluative questions, the discussion of results with staff, and evidence-based decision-making) do not depend on local peculiarities and should in theory be within the scope of any reasonably well-resourced probation service. Why has this not happened, for example, in the very large and well-resourced Probation Service for England and Wales, with its large headquarters staff and its advertised commitment to evidence-based practice?

A full answer to this question is beyond the scope of this paper, although some of the contributing factors are not hard to identify. For example, the service in England and Wales has been involved in two major reorganizations during its attempted transformation towards 'What Works'. First, the National Probation Service was created in 2001 (National Probation Service 2001) and then there was the protracted and difficult process of creating a National Offender Management Service following publication of the outcome of a government review at the end of 2003 (Carter 2003). In addition, there has been frequent new legislation affecting the work of the service, with the result that the staff and managers have had to respond to a series of imposed changes, often politically motivated, rather than working on an internally generated agenda for improvement as in Jersey. The style of management generated in England and Wales by these changes has been centralized, directive and managerialist, with a focus on targets, 'weighted scorecards' and league tables, but little actual outcome measurement as yet. The 'What Works' agenda itself has suffered from very uneven implementation, against very short timescales and, initially, quite unrealistic targets for programme completions. In addition, programmes have suffered from very high rates of attrition, often exceeding half of those sentenced to the programmes, pointing to problems in case management and selection. These are made worse by a politically driven commitment to rigorous enforcement that leads to many probationers receiving custodial sentences for breaches of probation and prevents them from completing their programmes (Raynor 2004b). It is not surprising that the morale of some staff

is widely described as low, or that the results of programme evaluations have been very mixed (Harper and Chitty 2004).

An important technical factor has been the slow development and lack of user-friendliness of the British risk/needs assessment instrument, the Offender Assessment System (OASys) (OASys Development Team 2001). The opportunity existed to adopt internationally validated and proven instruments in the 1990s, but instead a decision was taken in 1999 to develop a new instrument, which took many years of work. Consequently, the targets set for the 'What Works' initiative were not informed by large-scale assessment of risks and needs, and still today many offenders are not being assessed by OASys. Although an evaluation of its predictive validity has now been published (Howard et al. 2006), no evidence is yet available about its inter-rater reliability or its ability to measure change. Measuring change requires repeated assessments, and few of these seem to be being done: 'cloned' assessments are common (where the original assessment is simply re-dated instead of a new assessment being done) and some research suggests that the complexity and time-consuming nature of the instrument discourage reassessments (Lewis et al. 2003). It is difficult to avoid the conclusion that the slow development of OASys has significantly impeded the evidence-based approach in England and Wales. Scotland and the Republic of Ireland have decided not to use it, preferring LSI-R.

These are, however, particular local features rather than reasons *in principle* why an evidence-based outcome-led culture cannot be developed. Several commentators have pointed to the recent emergence of more punitive criminal justice policies in western countries and to the social and cultural developments associated with this (Garland 2001; Downes and Morgan 2002). However, such broader influences on criminal justice also need to be understood in relation to the detailed development of policies and practices (Farrall 2006), and these show local and national differences in approach. These differences allow comparisons and sometimes help to counteract the pessimism suggested by some of the broader social commentaries.

Different jurisdictions show different problems. For example, a Canadian study of case management by probation officers in Manitoba (Bonta et al. 2004) showed that they carried out risk assessments as required by their managers, but that their supervision plans tended not to take the risk assessments into account. This suggests that practitioners did not feel that they owned the assessment process, or did not believe that it added value to their practice. In Jersey, by contrast, the aim has been to introduce measurement without managerialism, and further research is planned to explore the use and impact of practitioner skills and 'core correctional practices' (Dowden and Andrews 2004). If Jersey's approach to evidence-based practice continues to produce benefits, larger probation services could usefully consider whether they can learn anything from it.

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