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AN EXPLORATION OF THE FACTORS WHICH PROMOTE AND IMPEDE CORRECTIONAL SUPERVISION EFFECTIVENESS WITH REGARD TO JUVENILE OR YOUNG OFFENDERS

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INTRODUCTION

Youth crime is increasing at an alarming rate and imprisonment as the only measure of punishment has become a contentious issue for the South African Correctional Services. The 1992 campaign "Justice for the children: No child should be caged" raised national and international awareness about young people at risk in. In the words of Ruth Morris:

Prisons are not the greatest. They breed bitterness and crime, destroy people who work and live in them and it's not nice to cage your fellow human beings.

Prisons cost more than the best university education, while giving appalling results (1993 (1) SA 476).

The question that needs to be asked is whether imprisonment really does give effect to punitive motives of deterrence, retribution, protecting the community and rehabilitation of the offender.

The introduction of correctional supervision as a sentencing option has ushered in a new phase in our criminal justice system. The South African model of correctional supervision is described as a community-based sentence that is served within the community and the probationer is subject to stringent conditions such as house arrest, community service, monitoring and the attendance of treatment programmes.

The correctional social worker together with the multidisciplinary team has a cardinal role to play in the treatment of the young offender. The various professions with their expertise have a major role to play in the treatment programmes geared to assist the young offender to reintegrate and function positively in the community.

CORRECTIONAL SUPERVISION: AN ALTERNATIVE SENTENCING OPTION FOR YOUNG OFFENDERS IN SOUTH AFRICA

The continuous outcry from the members of the community that the "community deserves protection against criminals" has led to imprisonment as one of the most popular methods employed (Spies, 1994). The infliction of a prison sentence has become a standard practice and is supposed to serve the purposes of deterrence, retribution, protection of the community and rehabilitation (Schmalleger, 1995:367). However, Major-General Erica van Zyl of Correctional Services (as she was then) pointed out when she addressed the legal forum of the Department of Justice in Cape Town that "prisons are overpopulated by 100%, which does not allow proper treatment and care of prisoners, and thwarts rehabilitation programmes" (*Sunday Times*, 13/11/1994:16).

The general direction of sentencing theory development is highlighted in the Inter-Ministerial Document of 1996, which argues that in the light of numerous serious offences committed by youths, more use should be made of sentencing options which do not involve incarceration. Correctional Supervision as a community-based sentence can be regarded as a sentence option for young offenders convicted of serious offences, which is in line with the rehabilitation approach.

DEFINITIONS

"Correctional Supervision is a community-based sentence which is prescribed by the courts and is served in the community under strict supervision and control of correctional officials", says The Honourable Mr Justice Kriegler (in Terblanche 1991 *The Magistrate* 150:151). This means that the sentence is served in the community.

A correctional official is described as a member of the Department of Correctional Services (Neser, 1993:416).

A probationer is described in the Correctional Service Act, Act 8 of 1959, as a person who is subject to correctional supervision.

CATEGORIES OF CORRECTIONAL SUPERVISION:

A correctional supervision sentence can be imposed in terms of the Criminal Procedure Act 51 of 1977 on sentenced and unsentenced offenders in the following cases, according to the White Paper (1991).

- As an alternative to imprisonment;
- As a condition to a postponed sentence;
- As a condition for the suspension of a sentence;
- As a substitute imposed as an alternative to a fine.

Neser (1993:418) states that Section 276 (1)(h) of the Criminal Procedure Act, Act 51 of 1977 allows the court to sentence the offender to a maximum of three years correctional supervision after a professional report from a correctional official is received. Jones (1993:22) further implies that the court can sentence an offender in terms of Section 276 (1)(i) of the Criminal Procedure Act (51 of 1977) to imprisonment and this will allow the offenders' imprisonment sentence to be converted to correctional supervision after the completion of a portion of the imprisonment period (Nexus June 1993).

The Department of Correctional Services has broken new ground with the inclusion of unsentenced youths within the framework of correctional supervision. To keep a young offender out of the negative environment of imprisonment, Section 50(4) of the Criminal Procedure Act (51 of 1977) forces the South African Police to report the detention of the young offender to the probation officer or correctional official. Furthermore, Section 62(f) and 71 makes provision for young offenders to be placed under correctional supervision as a condition of bail (Gerber, 1995:129).

THE APPLICATION OF CORRECTIONAL SUPERVISION

The application of correctional supervision is vested in the following principles:

- Imprisonment as sanction should be applied only as the last resort;

- The interest, involvement and expectations of the community must be taken into consideration;
- Meaningful social work should be provided (Bruyn, 1993:280).

CONDITIONS OF CORRECTIONAL SUPERVISION

In terms of Article 84 and 84(e) of the Correctional Service Act, (51/1977) an offender can be subjected to correctional supervision under the following conditions: house arrest, monitoring, community services, victim compensation and restriction to the magisterial district. This Act further defines a person who is subjected to correctional supervision as a probationer.

Ndebele (1995:18) emphasises that the supervision conditions are primarily aimed at exercising control over the probationer, protecting the community, the upliftment and rehabilitation of the probationer. These supervision conditions give content to the sentence of correctional supervisions and are also referred to as "restrictive conditions" (SV Omar, 1993:15).

ADVANTAGES OF CORRECTIONAL SUPERVISION

In the case of *S v R* (1993(1) SACR 4), the Judge highlighted the following advantages of correctional supervision:

- That the appellant is able to undergo treatment to correct his deviancy;
- That he would remain economically productive;
- That the appellant is given the opportunity to increase his belief in himself by doing something positive in a community service-type order.

The element of physical and psychological degrading is eliminated, as the individual is not exposed to the negative influences of the prison subculture and hardened criminals. Problems are also addressed within the social context in which they manifest themselves and this implies that greater interaction between the perpetrator and the community (Spies, 1994:38).

Neser (1993:432) discusses the benefits of the correctional supervision sentence and suggests that its greatest benefit is that it is cost effective, i.e. correctional supervision is cheaper than imprisonment. It costs the State and thus the taxpayer less money. The fact that the probationer is able to maintain family and social bonds is an important psycho-social benefit.

The Correctional Service Act, Act 8 of 1959, outlines the advantages of correctional supervision; it states that keeping a young offender out of prison, as this has an isolating and labelling effect, is to be avoided. It mentions further that problems that are usually the result of imprisonment are eliminated, including problems such as family disintegration, deterioration of mental health, deprivation of the individual's responsibility to control his own life and the possibility that the young person may become dependent upon the institution.

DISADVANTAGES OF CORRECTIONAL SUPERVISION

Certain factors in the application of correctional supervision can be disadvantageous and create problems, for example, the increasing rate of unemployment in South Africa that may have a negative effect on the placement of individuals who are under correctional supervision (Spies, 1994:39).

It has been said that correctional supervision is an excellent sentencing option, but problems have been experienced with the fact that one of the preconditions is that the offender must reside in a stable community; for example, shacks in the informal settlements have no formal addresses to enable intensive monitoring to be effective (Graser, 1992).

Lastly, it is necessary that the people who are involved in the application of correctional supervision must be well trained so that they have the skills and training to deal with the complex task of supervising offenders (Gerber, 1995).

CORRECTIONAL SUPERVISION AND YOUNG OFFENDERS

Correctional supervision as a community-based sentence can be regarded as a sentencing option for young offenders convicted of serious offences who do not pose a risk to society. To promote the effectiveness of correctional supervision for the young offender, it is important that the infrastructure, correct manpower and resources in the community as well as a stable community are in place.

It is important to be aware of the contributory and multi-theoretical factors that contribute to crime when dealing with a young offender who is subjected to a correctional supervision sentence. Hence, by looking at the psycho-social factors such as the family, school, leisure time, peer group and gangsterism, one can clearly assess whether these factors will promote or impede the young offender's functioning under correctional supervision. Therefore the correctional social worker must be fully conversant with the culture, sub-culture and values of an offender (Van der Merwe, 1975).

Social work has a long association with the legal field and thus the social work profession is paying more attention to rendering services in this field. The valuable role the social worker plays in the correctional setting (namely correctional supervision) is obvious. It is evident that the social worker plays a variety of roles in the rehabilitation process of the young offender.

RESEARCH METHODOLOGY

The study aimed to:

- Identify the variables that appear to be operating in determining the success and/or lack of success of correctional supervision sentences for young offenders (the terms effective and successful are used interchangeably);
- Contribute towards a better understanding of the task of working with young offenders in the community and to make positive recommendations concerning their rehabilitation;
- Gain a better understanding of the facts and events that have a bearing on the young person's social functioning during the correctional supervision sentence.

The design applied in this study was the exploratory-descriptive design. It was exploratory since the field of correctional supervision at this stage is not well developed, and it is descriptive because the researcher described features of this phenomenon. This was combined with an empirical investigation that explored

- The young offender's experience of correctional supervision;
- How the parents or significant other as well as the supervision committee perceived the respondent's adjustments to correctional supervision;

- The effectiveness of the sentence in terms of preventing a repeat offence, treating personal problems, factors that were helpful, factors that were obstructive, factors that were most beneficial during correctional supervision;
- Factors that improved the respondent's social functioning;
- The role of the social worker; and
- The programmes to which respondents are subjected.

A pilot interview schedule was derived from the information gathered when speaking to the Correctional Supervision Committee, whose task is to evaluate the young offender under correctional supervision on a quarterly basis. The samples were chosen using the purposive sampling procedure and the sampling size was based on 15 young offenders who had been sentenced to correctional supervision at the East London Correctional Supervision Office. A structured interview schedule (consisting of an appropriate mix of closed and open questions) and an assessment schedule, which explored the said sample of the youths' experience of correctional supervision and the target area of the study in particular, were administered.

MAJOR FINDINGS

The findings of the empirical investigation clearly showed that, although the respondents found house arrest extremely difficult to comply with, their overall functioning and adjustment in the community was positive. Factors that emerged from the study which can promote a successful correctional supervision sentence included positive support systems that can instil discipline, no involvement in gangsterism, and no family pathologies such as alcoholism, family violence and financial problems. Factors such as the negative attitudes of staff members, familial problems, stringent house arrest conditions and financial problems impeded the youths' functioning under correctional supervision.

It should be noted that the total number of respondents (namely 15) is not representative of all the young offenders under the system of correctional supervision. Therefore the results cannot be generalised. However, the results do show a tendency regarding the variables that promote and impede a successful correctional supervision sentence.

All respondents are young offenders who, according to their court records, were first offenders. Four (26,7%) of the respondents come from single-parent families, 2 (13,3%) are from a family where the parents are divorced and 60% are from nuclear families. The majority of the respondents have positive support systems in the community, although 33% are from families who were finding it difficult to cope financially. None of the respondents committed new offences while serving their sentence in the community.

To demonstrate how the respondents rated the sentence in terms of its effectiveness, 11 (75%) said that it was "very effective" and "effective". Reasons cited were being allowed to remain at home, continuing with schooling, liberty being restricted, the sentence being "tough", respondents not being able to do anything without permission and the sentence promoting responsibility. These factors correspond with the advantages of correctional supervision that Spies (1994) highlighted when he pointed out the problems associated with imprisonment that are eliminated, such as family disintegration, deprivation of individual's responsibility and institutionalisation. Simultaneously, all the advantages of a community based sentence are accessed. This promotes effectiveness.

Thirteen percent of the respondents remained neutral and 13% of the respondents found it completely ineffective; their comments indicated that "they found it very difficult because it was tough and strenuous". It is not clear that this shows that the sentence is "ineffective", but rather suggests that the deterrent and retributive elements of the sentence, such as house arrest, monitoring and the limitation on liberty, impinge heavily on the consciousness of some respondents. This comment is in line with what Labuschagne (1994) noted in the report case of *S v Kotze* that "community service is not a soft option".

The research study also indicated that, although the respondents found house arrest extremely difficult, their overall social functioning and adjustment under the system was positive. The respondents' gave reasons such as "I am more responsible; my behaviour has improved; they have gained knowledge and are in control of their behaviour". The respondents also felt that the factors that helped with their social functioning was their family support systems, stringent conditions of house arrest and the attendance of programmes. It is here that one can clearly see that stable family support systems and discipline (Rutter & Giller, 1983) enhance a correctional supervision sentence. This factor also goes hand in hand with the criteria stipulated in the Correctional Service Act, 8 of 1959, for placing an offender on the system of correctional supervision, i.e. that the offender has to have a positive support system. Two of the respondents' sentences were revoked when their family support system disintegrated. The findings also highlight that familial problems played an important role in impeding correctional supervision.

The respondents also felt that by being sentenced to correctional supervision, they benefited mostly "by being allowed to remain at home" and kept away from the negative influences of imprisonment; they gained knowledge and became more disciplined; they were able to continue their schooling and remained productive.

It is clearly identified in this research study that the social worker plays an important role in the rehabilitation process of the young offender. Most of the respondents liked the involvement in programmes as they felt that they were able to develop and learn skills to equip them with problem solving, conflict management, assertiveness and positive decision-making. It is clear from the answers given on involvement in programmes that social work services have an important role to play in the facilitation of correctional supervision. All the respondents indicated the willingness to attend rehabilitation programmes.

The problem areas the respondents experienced as factors that could impede their functioning on correctional supervision were highlighted: house arrest, financial problems and the attitude of the staff. Reasons given for their problems were "they were being threatened by the staff, officials were not flexible in terms of their needs, financial problems and that the community service was provided far from their home, not having enough money to phone or have transport to report on a weekly basis at the office". All parents interviewed felt that correctional supervision is an ideal sentence, because it had a positive impact on their children. They also felt that the house arrest conditions, community services and the fact that they were being monitored served as a deterrent.

SUMMARY

From the results one can conclude that a sentence of correctional supervision can be implemented to alleviate the problem of young offenders – who do not pose a risk and who have a stable support system – being sent to prison or any other custodial institution. Pappala (1992:362) stressed that adolescence is a "period of great storm and stress as well as having an immense physical, mental and emotional potential." The research study proved that correctional supervision is a highly beneficial sentence for young offenders, because they are not exposed to hardened

criminals and the negative influences of imprisonment (Adler, 1991). The findings have shown that most of the problems experienced by the young offenders have to do with their social circumstances, such as living in a poor environment, familial problems, financial problems, peer pressure and unemployment.

Therefore important factors and issues need to be addressed to alleviate problems that can hamper the successful implementation of a correctional supervision sentence; there are also distinct factors such as positive support systems, no involvement in gangsterism, no family pathologies (e.g. alcoholism, family violence) and financial problems that can promote a successful correctional supervision sentence.

The correctional social worker must at all times be aware of the roles she plays in the rehabilitation process so that success is reached in ensuring that the young offender is able to function positively in the community.

RECOMMENDATIONS

In the light of the findings of the research study and the purpose of identifying the variables that appear to be operating in determining the successful or unsuccessful correctional supervision sentence for young offenders, the following recommendations are made which can be useful when working with the young offender:

1. In order for the young offender to adjust successfully to 24-hour house arrest and to alleviate the high rate of house arrest violations, the correctional officials should actively provide recreational and cultural activities. It is important to make an effective contribution to see that the young offender utilises house arrest time constructively. This is already occurring but on a comparatively small scale. The social worker in the community correctional setting will be able to guide, advise and liaise with the community to assist in providing the above resources. The continuous violation of house arrest can impede adjustment under correctional supervision.
2. A sentence of correctional supervision can alleviate the problem of young offenders being referred to prison, as the "imprisonment would lead to a breakdown of family ties, it would decrease the offender's personal sense of value and furthermore allow the offender's dysfunction problems to flourish in an environment conducive to such a dysfunction..." (SvR 1993 (1) SA 476:3). Correctional supervision allows the offender to remain economically productive and gives him the opportunity to increase his belief in himself by doing something positive in a community service-type order. Positive community involvement in this regard is of cardinal importance for the probationers to successfully integrate, rehabilitate and avoid recidivism.

Graser (1994:288) contends that the problems of the offender lie in the community and that is the best place for them to be dealt with. The community can be involved, for example, as Volunteers, i.e. the officials can create an infrastructure from community members to assist with the monitoring and presentation of treatment programmes.
3. The correctional officials must adopt an assertive approach to creating community involvement through education and training. It is therefore recommended that the educational staff be fully utilised to train and educate the young offender under correctional supervision to further their studies and also to equip them with training skills. Gendreau and Ross (1984) found that skills training for young offenders was an effective intervention, especially training them to negotiate and handle criticism (Ferrara, 1992:3).

4. A broad conceptualisation of the client system will enable the community corrections social worker to take a proactive approach to problem solving. It is therefore recommended that the young offender should be involved in a multi-disciplinary team approach to improve overall social functioning in the community. Family-related problems must be identified and immediately addressed to prevent family disintegration that can lead to problems on correctional supervision.
5. In order for community services to make an effective contribution to correctional supervision for the young offender, it is recommended that the community services should meet the needs of the young offender, i.e. they must be educational and should take place within their social context (neighbourhood). This factor should alleviate the problems highlighted in the findings that some parents experienced financial problems and were not able to give their children money to go to their community placements.
6. All correctional officials working with the young offender should be fully skilled and trained in the behavioural sciences so that they have a complete understanding of the dynamics of the young offenders' development. The correctional officials must also develop interpersonal skills, because they become the link between the Department and the community. Problems such as "negative attitude of staff", which were highlighted in the findings, will be alleviated if members are highly skilled to work with young offenders.
7. For the community correctional social worker to address issues at a macro level, participation on interdisciplinary teams and services should be offered on a consultative basis. In order to participate in these teams the community correctional social worker should foster a social marketing focus, educating the community and liaising with the external welfare organisations.
8. The community correctional social worker should work closely with the monitoring officials, because they gather vital information about the young offender's family circumstances as well as their adjustment to the system.
9. The community correctional social worker should give focused attention to individual problems and involve the young offender in treatment programmes throughout the sentence period to enable the young offender to improve his social functioning. A comprehensive assessment analysis must be done immediately after admission to enable the young offender to be placed in a therapeutic programme.
10. It is imperative that all the community correctional social workers must receive training with regard to court proceedings, writing of court reports and giving evidence as expert witnesses. Howes (1990:6) notes that in order to function within the legal setting, the social worker requires knowledge of the different professional roles in the court as well as of the court proceedings.
11. The judicial officials should be trained in the terms of the correctional supervision sentencing option as they lack the knowledge of how correctional supervision is implemented. It is imperative that the judicial officials realise that the punishment and retributive aspects of sentencing in relation to corrective supervision would lie in the totality and cumulative effect of the elements of the sentence such as house arrest, community service, the carrying out of specific tasks, the subjection to psychological aid and group therapy.
12. Correctional supervision as a community-based sentence is here to stay and it is recommended that the community be educated in all aspects relating to correctional

supervision sentences as the courts are sentencing offenders not only for the crime that is committed but in terms of their personal circumstances.

CONCLUSION

Both the literature and the empirical study indicated and encouraged the use of community-based treatment to eliminate the need to remove a young offender from the family.

Correctional supervision as a community-based sentence option has become reality in South Africa. It is a useful sentence for young offenders as it allows them to continue their studies and remain with their families, whilst at the same time it places strong restrictions on the liberty and leisure time of the young offender.

Although the sample population of the study was small and the findings could not be generalised, the importance of these findings can not be overlooked nor disregarded. As an exploratory research project, the study has highlighted certain factors that require further research, such as the involvement of volunteers, community awareness, judicial awareness and the recidivism of the young offender who has completed correctional supervision.

It seems, in conclusion, that there are factors that can promote and impede successful correctional supervision sentences which should be addressed by the correctional officials when dealing with a young offender.

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