

# Probation In Criminal Law

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## Abstract

This research paper shows that probation is an appropriate sentence made for the person to give him a chance to connect with society and rebuild his self-esteem. Facts have shown that criminal justice offers a series of different treatments for offenders to rehabilitate themselves and restore their status in society. Supervision of the offenders plays a vital role in either the rehabilitation of the offenders or their deportation. Facts show that coordination among the criminal justice and probation officers is essential for the effectiveness of the treatment. It is discussed that instead of having many methods of treating the offender, there are some aspects that result in the ineffectiveness of these treatments.

## Introduction

Probation in criminal law is a specified period for any offender under the supervision of a probation officer. Instead of serving time in prison, the court orders probation for any offender. Probation gives a prisoner who is convicted of a crime a chance to stay in the community as an alternative to staying in jail. However, one who is on probation has to follow some specific rules that the court has ordered him/her to follow and should have to remain under the observation of the probation officer. Some of the usual conditions of probation include serving in the community and avoiding meeting specific persons as per order. Holding back from the use of illegal drugs, meeting with the probation officer after a specific period, avoiding going to different places as per order, and appearing in court have been requested. If a violation occurs during this probation period, then it's up to the probation officer to either give you a warning or call you to add the violation hearing.

The supervision of the offender in a society with the sanctions of intermediate level, different treatments, and organizing various educational programs for them and their involvement in the local services have been proven to be very useful in changing their behaviour for a long time. Regardless of probation use, it faces the image problem, particularly since it is considered a soft approach to crime by the perception of the public. Probation agencies need to recognize more effective supervision for these prisoners for a reduction in recidivism. Moreover, the supervision of an offender under probation is considered to be the most uninteresting part of this process "in the background of another programming" (Taxman, 2008).

# History

Probation originated in the Middle Ages in English criminal law. Even for small offences committed by both adults and children, there were harsher punishments. Common sentences at that time were flogging, branding, mutilation, and execution. During the rule of King Henry VIII, nearly 200 crimes were punishable by execution, even though most of them were minor offences. Because of this harshness, there was discontent in certain progressive areas of that English society that were concerned with this evaluation of the Justice system. Then, gradually, a variety of measures were reduced to these harsh punishments. Certain methods were adopted to create a degree of protection for the offenders from these punishments, such as the benefits of the clergy, sanctuary, and abjuration. Ultimately, a practice was done by the court called “binding over for good behaviour” for the offender to take proper measures to lessen his sentence or to secure pardon by his temporary release from jail (Nyc.gov). After that, security for good behaviour and aberrance was made, and the offender paid some fees as good security for the right response, which led to the introduction of probation. John Augustus is also known as the father of Probation due to his sincere efforts as the first real officer of probation. His membership in the society of total abstinence makes his way to the courts of Boston. He attended the police court in 1841 for the bail of a drunkard person, who was the first person on probation. After his return to the court in three weeks, he made himself a sober person due to the efforts of Augustus. His attendance and appearance changed dramatically due to Augustus’s efforts.

## Treatments And Supervision Of Offenders

Treatments for the person on probation differ typically from the treatments given to persons in jail or prison. Though the freedom of the persons on probation is condensed, they have access to alcohol and drugs more than the imprisoned people, so they have a lot of chances to get back to the crimes and relapse themselves. Furthermore, providing and securing the need for food and shelter for these people on probation is often more important. So, individuals are kept under the supervision of probation officers, and the level of probation usually differs according to the individual circumstances. Intensive control includes the unplanned testing of the drugs, frequently meeting the person under probation with the probation officer, and taking part in community services. This type of supervision usually needs more effective monitoring and contacting the person on probation three or more times a week or 5 to 6 times in a month.

Supervision is necessary for the offender to remain under the command of the officer, which helps him restore his great side of life and get rid of evil deeds. Moreover, as compared to traditional supervision, intermediate supervision is usually related to the frequent testing of drugs, more frequent reporting to the criminal justice staff, having short stays in the jail, attending the 12 steps meeting, serving in the community as per requirement, repeat visits to the home, tracking of the individual electronically. There is a certain level of treatment services that are being recommended

for the offenders, and they should be individualized and multidimensionally based, having driven diagnostic assessment and judgment through clinics, as well as the resources available in a given community.

## Residential Treatment

There are several approaches for those who are being supervised in the community, including supportive living for those who are receiving the treatment. The therapeutic community is a well-known residential model that provides a 24-hour, well-controlled, structured treatment environment. A group-centered approach is being used in most residential treatment programs to create an environment that is identical to the family perspective and that makes the client comfortable with their peers. In this treatment, the persons involved in the laundry, chores, and the preparation of the meals aim to participate in problem-solving and improve cooperation and communication skills. Residential treatment is being followed by continued care. Texas created a residential treatment program for probationers to avoid overcrowding in the jail, and those who participated in this residential program had even lower arrest rates (Knight and Heller, 2004).

## Outpatient Treatment

Outpatient treatment services provide treatment by professionals in repeated sessions that are scheduled in the individual or group setting to give treatment for several hours per week. Due to the regularly scheduled meetings of this treatment, there is a chance that offenders may receive more tough therapy in this session than during their period of incarceration. In the intensive outpatient treatment, the client may engage in the day or evening program for community services while living in the exclusive residence or at home. As the individual starts to meet the treatment goals, the intensity of the treatment begins to decrease. The outpatient services in the community aid the person in developing social skills and working in group processes.

## Halfway Houses

In the halfway houses, the client is involved in the work, training, and other activities run by the criminal justice system, as transitional facilities do not include any treatment regarding drug abuse. Halfway houses are great treatment practices for the clients that help them to stabilize themselves and to recover from getting into society. This treatment program mostly facilitates individual counselling along with family, group, and couples therapy. Offenders have the advantage of leaving the facility for work, work, or treatment, but they have to attach to the community and other correctional institutions, where they can share their responsibilities and where rules should be followed. These types of treatments are beneficial for the individual to try to build a good standard in society by avoiding evil deeds.

# Problem-Related To The Effectiveness Of Treatments

Despite different probation treatments, most people under probation cannot meet their basic needs. So, these basic needs should be met before the probation starts. Not having a resident to live during the probation period and community correction supervision is a bigger problem in many jurisdictions. The houses that are provided are often unreasonable for jobs, for the transportation of the public routes, for the social servicing of the community, and it may include the drug-involved family members or friends. Residential arrangements for clients are a critical factor in the planning of correction supervision. Mostly, the offender's home environment has a negative impact on the adherence to the treatment given. So, continuous surveillance should be necessary to keep the offender secure from committing any other offence. Moreover, almost 65% of the offenders are being rearrested due to the undertaking of an offence like robbery, rape, homicide, aggravated assault, or weapon offences.

Though a problem can be created by the essential to an offender's recovery, employment, and vocational training when it is assigned by the agency of the community supervision before the engagement of the person under probation towards the treatment, there is an increased risk of the usage of the money that the person under probation earned on drugs and alcohol before the client's treatment starts. Moreover, there is a risk of losing the job of the offender due to his/her behaviour related to substance abuse because they were not even been given treatment so far. So, there is a need for vocational training of the offender also before permitting the offender to retain his job or get a better job. Vocational training should be started before the treatment is undertaken rather than introducing this professional training at the end (Wexler, 2001). There is a challenge in integrating vocational assessment, training, placement, and counselling, and it requires a unique collaboration of the agencies from inside and outside as well.

It is crucial when an offender commits a relapse to gauge the solemnity of that slip to the identification of certain possible and reasonable interventions. The recommencement of drug use can lead to the reopening of certain criminal activities. So, it is necessary to include graduate sanctions for certain relapses in the treatment programs. Continuous declines can be able to trigger certain dangers for society and in the treatment of the offender's progress. The relapse rate is mostly high among many offenders as they were introduced to the community and have a particular type of freedom. As the relapse occurs, an individual should be helped by letting him know that it is part of the recovery plan, which may lead to his increased motivation towards the recovery. Possible sanctions that can be placed on the person committing relapse may include house arrest, day treatment, short stays in jail, more frequent testing of the drugs, assigning the individual to the halfway house, and electric monitoring.

There are certain obstacles in making the transition between the offenders and the community, like the shame and stigma of being arrested. So, self-esteem is the practical approach to encouraging the

offender to become a part of society by volunteering in activities related to community services. Giving the individual the chance to contribute to the organization may help build self-regard and reduce feelings of alienation. The success of this treatment plan depends mostly upon the approach of the treatment, staff quality, and the motivation of the offender. However, this self-esteem program is not often used as a treatment for the offender because the feeling of the stigma is sometimes missing, and shame encounters the persons, mostly those who have traits of antisocial and psychopathy. Targeting this self-esteem of the offender without giving a sense of responsibility and understanding to society may result in the offender committing more offensive criminal activity.

Mostly, the persons under probation may have many financial responsibilities like supporting the family, having child support, reimbursement, the requirement of jobs, and then that treatment schedule, so these multiple responsibilities may hinder the success of the treatment programs. The offender having these multiple responsibilities can be a burden for himself, resulting in giving up the will to recover by saying that he just couldn't handle it. So it's up to the criminal justice department to make some specific arrangements to meet these multiple responsibilities of the person under probation.

Persons under probation may have fear in their minds because of the limited freedom given to them, and also, they have an aversion to re-incarceration of the offenders if they make a mistake. There are certain barriers that can hinder the success of this treatment program, including the sense of hopelessness that anything can change their life and make it different and also that the treatment is for weak people. They may also have a perception of this treatment plan that it is often more like punishment than a cure. So, it depends upon the treatment plans to address these fears of the offenders and change their perception of them. Persons under probation should understand the consequences if they fail to maintain the specific supervision requirements that are being made for them.

In 2003, almost one million women were under probation, and one hundred thousand were under parole (Glaze & Palla, 2004). Nearly 85% per cent of the women in the criminal justice system were under the supervision of working in community services in 1998. Among them, almost 45% of the women whose probation ended in 1996 were back in prison after committing any other offence or had absconded. The incarceration of the mothers results in the loss of custody of their children, which often is very difficult for them to admit, which often leads to the impending grief and sorrow of these mothers. A client should be deliberate about giving back to her child after performing well during the treatment process.

Persons under probation often face some supplementary challenges, which can be the cause of their absence from work due to the ailment. There are no special arrangements presented for these persons, which may cause them not to be able to perform well in the treatment process and might become the cause of their re-incarceration in prison. Additional facilities should be provided to these offenders, including medical, prevention education, support in social services, and other services like psychological services. Services offered should also include the risk assessment of disease and their

therapeutic interventions.

## Conclusion

The trend of setting offenders on probation due to overcrowding of the prisoners in jail has increased in recent years. No matter which treatment is being applied to the offenders under probation, there remains a risk of committing the offence again, which may result in the re-incarceration of these offenders in jail. Lack of effective supervision can be significant for the offender to go back to the evil world and commit the offence again. The criminal justice department should establish a well-planned treatment and supervision so these offenders may not be able to engage in the crime again.

## Recommendation

A probationer person under the supervision of the community should need more services from multiple systems. Facilities should be given for practical outcomes and natural evolution. There should be the proper combination of the treatment process and the possible surveillance of the offender to ensure the low costs of that treatment, regardless of being in jail at higher prices. There should be adequate training for the probation officers, counsellors of substance abuse and case managers to ensure synchronized services. During the period of community supervision, there should be an effective reassessment. For the treatment of substance abuse, there should be a proper vocational training program that can lead to sufficient success in this treatment. Continuous care should be implemented for all residential treatment persons. The probation officer should have proper access to the client's house and employment place under community supervision for effective monitoring of the offender. There should be a revision in the community treatment program, and staff from the community supervision should be inducted into the planning of the treatment program and its revision. There should be a proper setup for the education of the offenders under probation to come to know about the realities of incarceration and its harsh impact on the life of the offender.

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