Decision-making, Compliance & Enforcement in the sentencing and release phase

Working Group on decision-making
Athens, 17th April 2015
Gaps according to OSE book chapter

- Research located in only a few countries: England & Wales, Scotland, Spain, Belgium, the Netherlands,
- Very little research on the decision-making process itself
- Breach/revocation are under-researched topic
Two pathways

• Intensify research on the national level, in particular in countries where empirical information is lacking at the moment
  – Transfer of successful research strategies/designs to different countries

• Designing real comparative research designs and projects
Pilot project on breach-processes

Aim: to design a methodology that makes it possible to compare breach processes in different jurisdictions and assess causes and consequences of the differences.
Terminology

Breach:

• non compliance of the offender?

• The interpretation of non-compliance of the offender by the probation officer?

• The decision following non compliance?

  • Enforcement?

  • Revocation?
Research topic

The decision-making process following the (perceived) non-compliance of the offender that can result in terminating, altering or keeping the order.
Main Question: How do differences in legal procedure and culture influence decision-making following non-compliance.
Research Questions

– what are the legal criteria?
– what parties are involved?
– how do parties interact?
– what factors influence the dm (offender, decision-makers, organisational)?
– how much leeway for discretion?
– what is the role of public opinion?
Method

• Vignettes (small case descriptions) we used as a basis for our conversations with direct supervisors, probation officers and judges

• Two vignettes (sentencing and release)
• Three violations
• Three parties involved in the dm-process
John is 22 years old unemployed man who has been convicted of Assault (mid-level) of another man outside a nightclub at 2 am in the morning. The victim was taken to hospital but was discharged a few hours later. John has three previous convictions but has never been sentenced to prison. John was sentenced to a community service of 120 hours (half of the maximum hours appropriate in the country of research).
Violation 1

John is one quarter the way through his order when he fails to show up one day.
(Some) Questions

• What is a credible/acceptable excuse?
• What options are open?
• What options are suitable for the defendant here?
• Would you decide to apply for/recommend a breach for John?
• If yes, what factors would influence your decision?
Violation 3

John turns up for work but he doesn’t do the work as instructed. He spends more time talking, laughing and smoking and generally being disruptive than engaging in the task.
(Some) Questions

• What options are open?
• What options are suitable for the defendant here?
• Would you decide to apply for/recommend a breach for John?
• If yes, what factors would influence your decision?