

Optimization of process of execution of punishments on the basis of an assessment of risks and requirements of condemned persons

I.S.Iakovets

Scientific-Research Institute of the Study of Crime named after V. Stashys of the National Academy of Legal Sciences of Ukraine, Kharkiv, Ukraine

Received for publication: 29 May 2013.

Accepted for publication: 01 July 2013.

Abstract

The transformations happening in system of execution of punishments of Ukraine demand change of approaches to work with condemned, their specific features based on the maximum account. It requires development of the generalized universal techniques of an assessment of data on the identity of the condemned. In the following article on the basis of the conducted researches and studying of various references an attempt was made to offer the general scheme of creation of the system of criteria for the assessment of the punishment condemned behavior in the course of execution serving.

Keywords: condemned, execution of punishments, right obedient behavior, an assessment of extent of management, an assessment of risks and requirements.

Introduction

Causes of crime have been one of the most popular topics in criminology for thousands of years. Usually when causes of crime are considered in terms of philosophical theory of causality, the notion of a reason, which causes negative result in the form of a crime, is closely linked to the notion of a prerequisite, which doesn't have a direct effect, but helps the reason to "fulfill their job". A legislator uses terms "cause" and "prerequisite" too.

Usually reasons are defined as processes and events that cause a crime as their direct conse-

quence. As to prerequisites, they do not directly provoke criminal activities, but "open path" for reasons; create possibilities for socially dangerous consequences. Shortcomings of any kind in management and organizational area of various sectors of the economy and state apparatus are the prerequisites. Our preliminary study has shown that this approach to repetition of crimes should be used. A clear understanding of the cause and the prerequisite of a commission of a new crime allows developing effective measures of influence them. This separation makes it possible to identify both external and internal factors influencing human behavior in each case. Considering crime as a social phenomenon we must take into account that this classification is always relative, as in some cases a process or event can be a reason, in other cases, a prerequisite. However, it should be emphasized that a processes or events become a reason only under certain circumstances.

Efficiency of preventive measures depends on the correct identification of the objects by influencing which it is possible to "discharge" criminogenic environment. Having identified events and processes, that can result in repetition of crimes, and analyzed their nature, staff of the State Criminal-Executive Service of Ukraine (hereinafter - SCES) as well as other agencies and institutions must take steps towards influencing these objects and making positive changes in the situation. Strength of this influence is not always sufficient, at least effective, that means that a wrong object of preventive work was identified due to underestimation of

Corresponding author: I.S.Iakovets, Scientific-Research Institute of the Study of Crime named after V. Stashys of the National Academy of Legal Sciences of Ukraine, Kharkiv, Ukraine. E-mail: sektor2@ukr.net.

the theoretical and practical capacity in the field. Every time we are trying to find practical solution to the problem of crime prevention partly or as a whole it is necessary to identify objects of preventive work. Thus, this knowledge is one of the most important things in the context of study of repetition of crimes, because, on the one hand, it is the result of all previous work of studying and analyzing the nature of criminal recidivism, and, on the other hand, on its practical implementation the success of the preventive mechanism depends.

Modern Ukrainian and international criminologists determine repetition of criminal activities as a complex of processes making an individual to commit new offences after release from custody (Petersilia, 1998, Taxman, 2004, Muntingh, 2005, Batyrgareyeva, 2010, Barton-Bellessa, Hanser, 2011). Many of them try to find reasons for the repetition of crime commission. For this purpose, different tools for assessment of risk of committing new crimes by people who served non-custodial sentences and who were released from custody were developed and are quite successfully applied in many countries (Basis of prison reform is normalization, 2011, The structured estimation of risks in drug prophylaxis).

In Ukraine, such tools are not used at national level, although their elements were implemented as an experiment by some agencies of punishment execution. These tools are not used in penitentiary institutions. Taking into account both best international and national practices, within the framework of the project "Support for Prison Reform in Ukraine" (implemented by the Directorate General of Human Rights and Rule of Law jointly with the State Penitentiary Service of Ukraine and financed by the Swedish International Development Cooperation Agency (SIDA) have developed a methodology and tool for assessment of risk of committing a new offence(s) by previously convicted people.

This tool, we call it initially "Questionnaire for risks/ needs assessment" (hereinafter – "Questionnaire"), is supposed to be used not only for risks assessment, but also in order to help staff to determine workload, allocate duties, develop a plan of work with convicted people, aimed at reducing risk indicators and meeting their needs. This kind of work is the basis of efficiency of penitentiary agencies and institutions as well as prevention of repetition of offences.

Methodology

This report provides general conclusions made on the basis of random study of personal files and survey of 100 convicted persons serving custodial sentences in correctional facilities of different security levels in the Kharkiv region (correctional facilities № 12, 17, 18, 25, 43, 54, 100, 106, 117, the pre-trial detention center). Within the framework of the research a "Questionnaire" form was used for the first time and general conclusions from risk/need assessment were drawn. The "Questionnaire" form takes into account all positive developments and national specificity. It consists of two main blocks:

- static factors (immediate risks) - previous convictions; age at first conviction; repetition, aggregate of offences, recidivism; form of guilt of current conviction; crime category of current conviction; aggravating circumstances of current conviction; the period of time that has elapsed since previous conviction / discharge from custody or criminal responsibility; the period of time respondents spent in total in places of detention;
- dynamic factors (needs) – addictions; housing; living conditions; education; profession (qualifications); family relations; interests, hobbies; positive life experience before conviction; social relations out of prison; physical health; attitude towards crimes; emotional state and mental health; thinking and behavior; perception of themselves and others; social orientation; motivation to change.

Each of these factors is measured by number of indicators and points. There is a summary table of result assessment (separately for risk factors and needs).

The main objectives of the research are:

- to study criminogenic state of persons serving sentences in penitentiary institutions of the Kharkiv region in order to define those who due to low potential risk should not be kept in correctional facilities (convicted for minor offenses);
- to make a survey among persons convicted for minor crimes and serving sentences in penitentiary institutions of the Kharkiv region, to prepare appropriate profiles;
- to ensure profiles review by staff of the criminal executive inspection units in the Kharkiv region in order to discuss possibility to discharge this category of prisoners.

To illustrate the findings it was decided to conduct an additional survey among 30 persons sen-

tenced to non-custodial punishments that are registered in the criminal-executive inspection units of the Kharkiv region. This allowed us to compare the risk of committing repeat offenses and the needs of persons received custodial and non-custodial sentences. Such comparison illustrates the revealed trends.

General description

It should be additionally emphasized that risks/needs assessment cannot predict for sure human behavior, as it can always happen that a person with lower risk level will commit a new crime while a person with much higher risk level will refrain from doing it. However, objective tools like “Questionnaire” allow us to predict behavior more accurately than personal and sometimes biased assessments made by people.

The “Questionnaire” aims at helping personnel of penitentiary agencies and institutions to develop a plan of work with convicted persons. However, it doesn't mean that professional opinions based on experience and skills should be excluded or de-emphasized.

In developing the “Questionnaire” we considered the legitimacy of risk assessment tools as one of the most important principles. That is why the “Questionnaire” is based on numerous studies, conducted in Ukraine, on determinants of recidivism and repetition of crimes as well as main factors affecting human behavior.

Results

Assessment is made using the following criteria:
Social and demographic characteristics:

1. Sex is traditionally a core and most illustrative indicator which is used to describe criminality structure of any kind, since, and this research corroborates it, men are significantly criminally active.

2. Age is an indicator which differentiates stages of moral and psychological imperfection and degeneration of personality, acquiring criminal professionalism and also reflects the intensity of a person's criminal infection.

3. Education. Many experts argue that number of people who have committed a second offense is inversely proportional to the level of their education.

4. Nationality, citizenship and place of residence are personal data usually asked in question-

naires. Of course, we can also use these social and demographic data for characterizing people who are likely to commit new crimes. In addition to informational aspect the data reflect migration processes impact on criminality, national composition of criminal groups and even explain certain features of criminals' behavior.

5. Marital status. In general, marital status reflects personal economic ability and his/ her social status. Indeed, today own family is one of attributes of personal success and, therefore, an indicator of lower probability of committing new crimes.

6. Children. Study of archival criminal cases has shown that those, who committed new crimes, don't have children or have adult children.

7. Attitude to work and level of material wealth. Criminological literature provides an interesting observation: repeat offenders usually start working at a young age. But then this positive fact disappears somewhere from their biographies. Starting working at a young age they very soon finish their career. This category of offenders often has very short employment record with frequent gaps.

Criminal and legal characteristics:

1. Number of convictions. Studies have shown that the proportion of people, who previously had two convictions, is the lion's share among those who have committed a new crime. Almost twice less there is a proportion of those who previously had three convictions and more. The number of repeatedly convicted has been decreasing, on the one hand, due to increasing length of punishment for committing new crimes and, on the other, a long stay in penitentiary institutions, of course, reduces the intensity of criminal activity.

2. Type of convictions. Among criminal and legal characteristics type of convictions is very important indicator as (a) allows finding connection between previous crime types; (b) helps better understanding of an offender's inclinations and his/ her main moral and psychological features.

3. Period of time between conviction for previous crime and committing a new crime. Practice shows that the highest level of crime repetition is observed during the first six months after conviction. Then this level begins to decline.

4. Aggravating circumstances which, according to court sentences, increased penalty. This information can reveal serious personal problems or tensions.

5. Offender's moral and psychological features. These features show the inner world of a person

committed a crime covering a wide range of inner "I" manifestations – need-motivation and intellectual features, world view, values and social attitudes, emotional and volitional characteristics etc. Besides, examination of psychological features of an offender allows taking better, more complex and objective decision on accusation, preventive measures, offence qualification, and punishment and, that is the most important, tracking changes in psychological processes of a person who is a subject of criminal procedural activities.

6. Needs. Needs are the source of mental and behavioral activities. Need is a request for everything objectively necessary for life maintenance and development of organism, personality, society, internal motivation to act. If we consider needs in terms of biological and social nature, human needs primarily have biological nature: food, clothing, sleep, sexual satisfaction etc. Accused people like others have demand in these things. The difference is only in the way of their satisfaction.

7. Interests. Needs cause respective interests. In terms of psychology, needs perceived by an individual form the interest which is able to satisfy them. Specific human manifestations concerning emotions and actions are associated with interest. They cover all human mental processes - perception, memory, thinking, attention etc. In one case an interest draws involuntary attention, in the other - is the direct motivation to act.

8. Mental capacity. Intelligence is the ability to acquire skills and knowledge about outer world. Level of intellectual development provides us a picture of psychological and moral qualities of an individual.

9. Values and normative description of consciousness. Intellectual development, knowledge, breadth and diversity of interests determine opinions, beliefs, moral qualities, attitude to social and moral values. This aspect is covered by the value-normative sphere of consciousness which reflects underlying characteristics of an individual, associated with the most significant and valuable for him/her objects, which help to keep internal consistency of human behavior. Studies of criminological aspect of moral values play a significant role as one of crime causes is a distortion of cultural values, moral ideals, principles, ethical rules and canons.

10. Character. Significant in the moral and psychological portrait of a convicted person is information about his/ her character features meaning the individual psychological structure shown in

specific behavior and attitudes (mindsets) to outer world. Those personal qualities and features should be studied and evaluated in the first place which refer to committed crime and explain repetition of crimes, because defects in psychology of legal consciousness and morality, reinforced by other psychological features, are the socio-psychological basis for specific forms of illegal behavior.

11. Emotional and volitional characteristics of convicted persons have been clearly shown by their attitude to the fact that they committed crimes and therefore are prosecuted by law enforcement agencies. People, who are inclined to commit new crimes, usually do not have strong feelings about breach of the law, inner imbalance between the desire to commit a crime and moral and legal feelings. They admit that the greatest emotional distress, although over a period of time they increase their ability to handle stress, they feel due to (a) the fact that after committing a crime they are prosecuted by law enforcement agencies; (b) necessity to be under control.

12. Psychological features. Studies and relevant examinations have shown that more than half of persons committed repeated crimes have mental disorders, although were found capable. The results of expert studies show that mental and behavior disorders caused by use of psychoactive substances, namely alcohol and drugs, are at the first place among repeat offenders.

It should be emphasized that abovementioned criteria do not cover all manifestations of an individual inclined to commit new crimes. But they, in generally, correspond to the criteria of risk assessment suggested by international experts. For example, the latter include: 1) number of previous convictions (1-3, 3-7, more than 8); 2) age at first conviction; 3) the period of time that has elapsed since previous conviction; 4) the most serious previous punishment; 4) penalties for current crime(s) and 4) seriousness of social or personal problems.

Many experts also suggest in work with convicted persons to take into account such potentially important factors as problems with housing; family and personal relationships; education, training, employment; place of residence; lifestyle, substance abuse; physical and mental health, emotional state; perception of themselves and others; thinking and behavior; attitude towards crimes; motivation to change.

The study confirmed the general trends in causes and circumstances of committing new

crimes and needs of offenders described earlier in the criminology, while showing new issues in crime prevention and work with convicted persons.

The largest share is convicted persons of the age of 25 – 35 years old. All respondents who serve sentences both in penitentiary institutions and the Criminal-Executive Inspection (hereinafter - CEI) are Ukrainian and have citizenship of Ukraine. Most of them are town residents: 50 persons in penitentiary institutions and 30 persons (100 %) in the CEI. 11 people who now are in penitentiary institutions earlier lived in settlements of urban type and 39 prisoners – in villages.

Thus, the general data of persons who have committed crimes and are serving custodial and non-custodial sentences correspond to the general trends: the vast majority of convicted are young people who earlier lived in towns and have the citizenship of Ukraine.

Static factors

Thus, most of people, who are registered in the CEI, have no previous convictions. At the same time proportion of persons with minimum risk rate, which ranges from 4 to 6 out of maximum 10 points, is quite big.

Survey results have shown that points for the indicator “age of crime commission” were defined correctly because portion of those who started the “criminal career” in the most criminogenic and dangerous age (14 - 18 years old) is bigger among persons who are serving custodial sentence. However, this may mean that there are no other means to influence behavior of these children and support them taking into account the fact that it is much harder for them to avoid criminal behavior.

Ukrainian criminal legislation distinguishes between repetition of crimes, aggregate of offences and recidivism. Repetition of crimes, aggregate of offences and recidivism are taken into account when qualifying crimes, sentencing, taking decision on discharge from custody or criminal responsibility in cases defined by the Criminal Code of Ukraine.

The repetition of crimes is recognized to be the least dangerous form of criminal activities followed by aggregate of offences and recidivism.

The repetition of crimes means commission of two or more offenses under the same article or part of an article of the Special Part of Criminal Code of Ukraine. It should be mentioned that there is no repetition in the commission of a continuous crime

which consists of two or more identical acts united by one criminal intent. Commission of two or more offenses under different articles of the Criminal Code of Ukraine can be considered as repetition of crimes only in cases defined by the Special Part of the Criminal Code of Ukraine. There is no repetition of crimes when a person was discharged from criminal responsibility for the offence on the grounds specified by law or the conviction was expunged or removed from official records.

Aggregate of offences means commission of two or more offenses under different articles or different parts of one article of the Special Part of the Criminal Code of Ukraine on condition that a person was sentenced for none of them. Crimes are not taken into account if person was earlier discharged from criminal responsibility for them on the grounds specified by law. Each of aggregate crimes is qualified according to relevant article or part of an article of the Special Part of the Criminal Code of Ukraine.

Recidivism is a commission of a new intentional crime by a person earlier convicted for an intentional crime.

These types of multiple offenses are taken into account in the following cases: 1) crime qualification; 2) sentencing; and 3) taking decision on discharge from criminal responsibility or custody in cases specified by the Criminal Code of Ukraine. Repetition of crimes, aggregate of offences and recidivism do not allow discharging person from criminal responsibility according to several articles of the Criminal Code of Ukraine. Recidivism in combination with custodial sentence results in increasing the minimum period of punishment, the convicted person has to serve in order to request conditional release, up to two-thirds of the imposed by court sentence period as well as increasing the minimum period of punishment, the convicted person has to serve in order to request milder punishment, up to half of the imposed by court sentence period.

As the chart above shows, repetition of crimes is common for people serving custodial sentences in penitentiary institutions (that means certain “specialization of criminal activities”), while for people serving non-custodial sentences and registered in the CEI aggregate of offences is more usual.

However, it should be mentioned that portion of persons serving sentences in penitentiary institutions that have neither repetition nor aggregate of crimes, nor recidivism is quite big (27%). Only

7% of respondents have the most dangerous form of criminal activities - recidivism.

Guilt is another important component of criminal activities. The general concept of guilt was developed by science of criminal law and outlined by the Criminal Code of Ukraine. According to Article 23 of the Criminal Code, guilt is a mental attitude of a person towards an act or omission committed by him/her and its consequences in the form of intent or negligence. Guilt as an integral part of the subjective crime components is closely linked to crime objective characteristics. Guilt content reflects the objective crime components describing crime object, subject and objective part. The ascertainment of guilt, its form and type is a necessary condition for the correct crime qualification. It should be also mentioned that Ukrainian criminal law adheres to a principle of subjective attitude towards guilt. Absence of guilt concerning committing a particular socially dangerous act excludes the subjective part and therefore crime components and grounds for criminal responsibility. Guilt content, its forms and types significantly influence measure of punishment for crimes.

Legal literature traditionally claims that negligence is considered by legislators as less socially dangerous offence than intentional one. To prove the statement usually sanctions of the article of the Criminal Code of Ukraine for an intentional homicide without aggravating circumstances (part 1 of Article 115 of the Criminal Code of Ukraine) and reckless homicide (Article 119 of the Criminal Code of Ukraine) are compared. The first article provides twice heavier punishment than the second one. In other words, the legislator complies with rules of imposing milder punishments for definitely socially harmful consequences of negligence in comparison with intentional crimes, ensuring in this way an axiological consistency in the assessment of social values taking into account social danger of criminal acts and offenders. To be qualified as recidivism (Article 34 of the Criminal Code of Ukraine) only convictions which were not expunged or removed from official records have legal effect. The survey has shown that almost all convicted people both in correctional facilities and the CEI committed intentional offences.

Thus, by form of guilt there is no difference between convicted people in correctional facilities and the CEI.

The situation with crime categories is the same; however, in some cases persons serving non-custodial sentences committed more dangerous offences.

Thus, the predominant part of respondents both

in correctional facilities and the CEI is convicted for acquisitive crimes (85 % and 76% respectively). At the same time, among persons registered in the CEI are those who committed violence (13%) and acquisitive crimes with use of violence (7%) which danger degree is much higher. That means that type of offense is not always a decisive reason for choosing the measure of punishment.

It seems that certain mismatch of crime characteristics and type of punishment can be explained by significant formalization of the Ukrainian criminal laws and formal approaches to assessment of accused people used by judiciary institutions.

According to national legislation aggravating circumstances play an important role in assessment how dangerous an offender is. These various factors, related to an offender and committed crime, increase public danger of both crime and offender, and hence the degree of responsibility. Aggravating circumstances also play an important role in choosing measures of punishment. Aggravating circumstances provide grounds for judges: a) to impose a punishment equal to the maximum sanctions specified by articles of the Criminal Code of Ukraine or close to this maximum; b) when there are alternative sanctions to choose the strictest punishment, and c) exclude application of the Article 69 of the Criminal Code of Ukraine (impose punishment which is milder than it is specified by law).

Aggravating circumstances are listed in the Article 67 of the Criminal Code of Ukraine: 1) repetition of crimes and recidivism; 2) commission of a crime by group of persons by previous concert; 3) commission of a crime on the basis of racial, ethnic or religious enmity or discord; 4) commission of a crime is related to a victim's performance of official or public duties; 5) an offence caused severe consequences; 6) an offence against a juvenile, elderly or helpless person; 7) a crime against a pregnant woman when it is proved that offender knew about her state; 8) a crime against a person who was in material dependence, subordination or other dependence on offender; 9) commission of a crime with involvement of a juvenile or a person with mental disorders or disabilities; 10) commission of a crime with particular cruelty; 11) commission of a crime during the war or emergency state and other emergencies; 12) commission of a crime in a dangerous for other people way; 13) commission of a crime under the influence of alcohol, drugs or any other intoxicating substances. According to the Part 3 of the Article 67 of the Criminal Code of Ukraine, when choosing

measures of punishment judges can not qualify circumstances as aggravating one if they are not listed in the Part 1 of this article. The list of these circumstances is exhaustive and can not be expanded under any conditions. However, there are attempts to qualify a refusal to admit guilt, a refusal to testify, absence of sincere repentance etc. as aggravating circumstances.

The survey among respondents serving sentences both in correctional facilities and the CEI has shown the most common aggravating circumstances are repetition of crimes and commission of a crime under the influence of alcohol, drugs or any other intoxicating substances.

95 respondents in penitentiary institutions and 11 respondents in the CEI had previous convictions. Most of them (40% in penitentiary institutions and 16,7% in the CEI) committed repeated offences within the period of 1-3 years from the date of their previous conviction or release from penitentiary institutions. According to the suggested scheme of risk assessment such persons demonstrate medium risk level. The survey has shown that people committed crimes in this period because there were no effective means of their resocialization.

These people are at crossroads. So work with them will allow minimizing negative influences which can result in repetition of offenses. Moreover, repeated imprisonment is unlikely to solve existing problems and eliminate recidivism.

Out of total number of respondents 4 persons registered in the CEI and 67 persons in penitentiary institutions have earlier served custodial sentences.

Summary of risk assessment for static factors is as follows:

- low risk (0 -25 points) – 0 persons in penitentiary institutions and 10 (33,3%) persons in the CEI
- medium (26 -50 points) – 40 persons (40%) in penitentiary institutions and 20 (66,7%) persons in the CEI
- high (51 - 75 points) – 40 persons (40%) in penitentiary institutions and 0 persons in the CEI
- extremely high (76 -100 points) – 20 persons (20%) in penitentiary institutions and 0 persons in the CEI

Conclusion: people registered in the CEI and those held in penitentiary institutions differ slightly according to predominant number of risk indicators. The most significant difference is in figures concerning the age of first conviction, crime qualification and number of previous convictions.

Thus, evaluation of the static factors block has

shown that to most people serving sentences in penitentiary institutions non-custodial measures of punishment can be applied.

In our opinion, imposition of more severe punishment is caused entirely by formal approach to the assessment of an offender's personality which outlined in national legislation and does not give courts possibility to differentiate responsibility not according to nominally defined parameters but on their own discretion. Thus, the determining reason for a negative assessment of personality is simply the fact of custody and previous convictions the past. Possibilities to influence behavior of offenders with help of appropriate services and programs are not taken into account.

Dynamic factors

It was already mentioned that one of the factors affecting the criminal behavior is abuse of alcohol, drugs or other intoxicating substances. The survey has shown that in most cases (59% of respondents in penitentiary institutions) abuse caused commission of new crimes and imprisonment.

Half of those who are registered in the CEI don't abuse alcohol, drugs or other intoxicating substances.

A big proportion of convicted persons (27% in penitentiary institutions and 20% in the CEI) wants to get rid of abuse; 2% of people in penitentiary institutions and 3% at the CEI have already got rid of addiction by themselves.

And only a small part of respondents in correctional facilities (3%) doesn't see any problem in abuse of alcohol, drugs or other intoxicating substances.

People serving sentences in correctional facilities have better housing situation - only 3% are homeless and sleep in different places, while among persons who are registered in the CEI - 10%.

15 % of respondents who are serving custodial sentences and 30% of respondents, who are serving non-custodial sentences, rent a room / apartment, live at friends' place. 60 % of persons in the CEI and 23% of persons in penitentiary institutions have own housing.

Thus, we can draw a conclusion that housing is not crucial for imposing of measure of punishment.

Convicted people differently estimate their living conditions: almost half of respondents serving sentences in correctional facilities (47%) believe they have minimum living conditions (only 20% of registered in the CEI). 70 % of registered in the CEI

and 49% of respondents from penitentiary institution indicated their living conditions as normal. Only 4% of respondents from correctional facilities and 3 % of registered in the CEI acknowledged that they have unsatisfactory living conditions.

56% of respondents serving sentences in correctional facilities have secondary education versus 20% of respondents registered in the CEI. Picture is different concerning secondary special education, which gives an opportunity to work according to their qualifications: 60 % in the CEI and only 17% in penitentiary institutions. There is much bigger portion of persons with higher education in the CEI - 10 % while in correctional facilities only 1 %.

The survey has provided the same picture concerning profession or qualifications (skills). Most people registered in the CEI (60%) have qualifications or profession which is in demand while among people serving sentences in correctional facilities only 10 % have qualifications or profession which is in demand. At the same time big portion of respondents in penitentiary institutions complained that their profession or qualifications are not in demand in labour market (20 %) versus 7 % in the CEI. Most respondents in penitentiary institutions would like to get profession or qualifications (66%), while in the CEI only 10% of respondents. Only 13% of respondents in penitentiary institutions and 10% of respondents of the CEI don't have profession (qualifications) and don't want to get them.

The survey has shown the interesting finding that people serving custodial sentences have more stable relations with family and more often get help from them. So 68% of respondents in penitentiary institutions and 20 % in the CEI have ongoing support from relatives. 20 % of respondents in penitentiary institutions have bad relations with family, the portion of such persons in the CEI is much bigger - 40%. 8% of people serving custodial sentences provide help to their families, there are no people supporting their relatives among those who are registered in the CEI.

The survey has shown that in custody people have more positive attitude towards development of their interests and hobbies. Unlike most people in the CEI (80%), only 11% of respondents in penitentiary institutions are interested in developing and useful activities, but have no possibilities. 64% of respondents serving custodial sentences claim they are able to organize positive leisure by themselves, participate in useful activities, have positive hobbies. There are no such people among those who are registered in the CEI.

5% of respondents in penitentiary institutions and 10% in the CEI admitted that they have no interests and hobbies and 9% people in custody complained that they are not able to organize positive leisure by themselves.

While many respondents registered in the CEI (60%) said that they had no positive life experience before conviction at all, 61% of respondents in penitentiary institutions said that they had short positive life experience before conviction and 38% - long positive life experience before conviction (in the CEI 0% and 40% respectively). Only 1% of respondents serving custodial sentences had no positive life experience before conviction at all. Perhaps, these figures can be explained this way: convicted people serving custodial services compare their life experience before conviction with worse living conditions in custody. However, these results show some unsystematic approach in criminal proceedings to assessment of risks of committing new crimes and necessity to impose custodial sentences.

The survey has provided the same picture of own social relations assessment by respondents. Thus, the proportion of those, whose most friends, family members, colleagues are in conflict with law, is bigger among respondents in the CEI - 30% versus 13% of respondents in correctional facilities. 16% of respondents in penitentiary institutions and 10% of respondents in the CEI have no relations with people who are in conflict with law, while 71 % of respondents in penitentiary institutions and 60 % of respondents in the CEI have some friends, family members, colleagues who are in conflict with law.

Physical health of respondents in the CEI is better: 30% of respondents have diseases that do not affect functioning in daily life and 70% have no problems with health (versus 16% and 63% respectively in correctional facilities). Although 21% of respondents in custody claimed they had diseases that affected functioning in daily life, big portion of those who have no problems with health and don't need medical care should be highlighted. Besides, among respondents there are no people who had traumatic brain injuries and other injuries during lifetime.

People serving custodial sentences are more inclined to take responsibility for committed offence(s): 60 % of respondents in correctional facilities take responsibility for the committed offence(s), understand the negative impact of their behavior, and claim that they are not going to commit offences in the future (50 % of respondents in the CEI). 14 % of respondents in correctional fa-

cilities and 10 % of respondents in the CEI refuse to admit guilt, 21% and 20% respectively have no understanding of the impact of their behavior on other people, while 27% and 40% respectively consider themselves “victims” of imperfect law enforcement system and life circumstances, justify their own negative behavior by objective factors.

Respondents registered in the CEI have shown stronger ability to cope with problems and failures than respondents in penitentiary institutions: 50% of people in the CEI versus 22 % of people in custody; while 10% and 34% respectively are not able to do it by themselves. Mental health is satisfactory in both groups - 49% respondents in correctional facilities and 40% of the respondents in the CEI have no officially confirmed mental illnesses or disorders (however, 11% of respondents in custody have officially confirmed mental illnesses or disorders). The interesting finding is that the portion of those who express fears about the future is bigger among respondents registered in the CEI – 30 % versus 22% of respondents in custody. Besides, imprisonment makes 16% of respondents feel alienated from social environment.

Mostly people who are registered in the CEI can be characterized as impulsive - 60% of respondents versus 38% of respondents in correctional facilities; level of over-rated or unstable self-esteem is almost the same in the CEI and penitentiary institutions - 10% and 11% respectively as well as intolerance of failures (10% and 10 % respectively) and absence of guilt (3% and 5% respectively). Such emotional characteristics as physical aggression, emotional (verbal) aggression, outbursts of uncontrolled anger are found in a rather small number of respondents both in custody and the CEI.

The survey has provided the same picture concerning social orientation of respondents. Thus, 20% of respondents serving non-custodial sentences are unwilling to seek help (12 % of respondents in penitentiary institutions); 10% respondents in the CEI and only 2% in correctional facilities actively reject help. However, other negative indicators are specific only to persons in custody: 8% of respondents in correctional facilities have clear anti-social (criminal) mindsets, 3% are not able to compassion, empathy, care and 12% do not acknowledge universal social values.

The picture of motivation to change is the same. Most people serving custodial sentences have no clear understanding of own behavior issues – 31 % of respondents (versus 10 % of respondents in the

CEI); 42% of respondents in custody can not give clear argumentation or motivation to avoid committing crimes in the future (versus 10 % of respondents in the CEI); 23% of respondents do not understand the consequences of committing crimes in the future (versus 0 % of respondents in the CEI); and 21% of respondents are not trying (not willing) to compensate the damage and eliminate consequences of offence(s) (versus 0 % of respondents in the CEI). Thus, taking into account the abovementioned figures we can assume that this category of convicted persons without an appropriate help is very likely to return to criminal life and commit new crimes.

At the same time the fact, that 70% of respondents serving non-custodial sentences have no concrete plans for the future (versus only 43% of respondents in custody) and 10% have no motivation to change (versus 0 % of respondents in custody), should be emphasized

In the end, respondents serving sentences in penitentiary institutions showed more positive level of motivation to change.

Summary of risk assessment for dynamic factors is as follows:

- low risk (0 -25 points) – 86 (86 %) persons in penitentiary institutions and 30 (100%) persons in the CEI
- medium (26 -50 points) – 4 persons (4%) in penitentiary institutions and 0 (0%) persons in the CEI
- high (51 - 75 points) – 0 persons in penitentiary institutions and 0 persons in the CEI
- extremely high (76 -100 points) – 0 persons in penitentiary institutions and 0 persons in the CEI

People registered in the CEI and those held in penitentiary institutions differ slightly according to the predominant number of risk indicators. The most significant difference is in figures concerning education, profession (qualifications), health. By some indicators (housing, positive relations and family support, willingness to get profession or qualification (skills), evaluation of living conditions, social relations with persons who are in conflict with law) people serving custodial sentences have shown more positive results than people registered in the CEI. The indicators of high risk revealed during the survey can be mitigated by preventive work with this category of convicted persons.

Thus, evaluation of the dynamic factors block has shown that to most people serving sentences in penitentiary institutions non-custodial measures of punishment can be applied.

Conclusions

At least 80% of persons serving custodial sentences, who were covered by this survey, have not shown very high risk of committing new crimes, but have shown low, medium or high risk level. Therefore, their stay in custody can not be fully justified. In case of consistent work with this category of prisoners, provision them with necessary services and involvement in programs of resocialization and harm reduction, correction of their behavior can be achieved without isolation in penitentiary institutions.

In work with this category of convicted peoples the following three generally acknowledged principles should be observed:

Risk principle: the higher risk of committing of repeated offence(s), the higher should be the intensity of provided services (number of types of services, their duration, frequency, control level etc.). In cases of high level risks intensive help is necessary to ensure higher efficiency while for cases of low level risks minimal intervention ensures better results.

Need principle: specific types of help must meet criminogenic needs of an offender. As such needs we understood personal features of an offender, his/her social relations and external circumstances. Positive changes in the needs can decrease likelihood of committing new crimes.

Opportunity principle: types and means of help, specific services should be brought in line with available resources for rehabilitation and a particular offender. In other words, they should provide the

type of help that meet both criminogenic needs and the offender's features and capabilities (biological, psychological, social and religious/ spiritual) for which exactly this kind of help might be the most useful.

The Questionnaire helps to identify both risks and needs of every offender.

References

- Barton-Bellessa S.M., Hanser R.D., 2011. *Community-based corrections: A Text/Reader*. California, SAGE. 656 p.
- Basis of prison reform is normalization, 2011. PRI, Russia.
- Batyrgareyeva V.S., 2010. *The criminological bases of prevention of recidive criminality in Ukraine*. Kharkiv, Ukraine.
- Muntingh L., 2005. *Offender rehabilitation and reintegration: taking the White Paper on Corrections forward*. Research paper Nr. 10 – NICRO and the Community Law Centre, Cape Town.
- Petersilia J., 1998. *Community Corrections: Probation, Parole, and Intermediate Sanctions*. Oxford University Press, Oxford. 240 p.
- Taxman F., 2004. *Brick walls facing reentering offenders*. Paper presented at the Reentry Roundtable, Prisoner Reentry and Community Policing: Strategies for Enhancing Public Safety. - Washington, DC, May 12-13, P. 2.
- The structured estimation of risks in drug prophylaxis (method is "Estimation of risks and possibilities"), 2010. Moscow, Russia.