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Penitentiary Diagnosis of Crime Offenders

Abstract: One of the basic standards of serving the punishment of imprisonment is its individualization, which means varying interactions consisting in adjusting them to the personality of the offender and the purposes of executing the sentence. A properly served psychological diagnosis, especially the penitentiary diagnosis, should describe the studied phenomenon well. The content of the penitentiary diagnosis should include a description of the clinical picture of an imprisoned person and basic social rehabilitation indications. The paper was written on the basis of literature on the subject, legislation and available research results. The aim of this paper is to characterize the diagnosis performed for the needs of justice, which is continuous and should be performed at every stage of imprisonment. The effect of a properly formed psychological and penitentiary decision should be the placement of a prisoner in a suitable type, kind of prison and appropriate system of serving imprisonment, followed by the correct selection of educational measures which may imply the efficiency and effectiveness of the punishment of imprisonment.

Key words: offenders, psychological diagnosis, penitentiary system, prison isolation.

Introduction

Penitentiary diagnosis is the basic and initial step in social rehabilitation work with prisoners, and enables to obtain information on the causes of demoralization (social maladjustment) and any possible susceptibility to social rehabilitation activities. Diagnostic centers at Regional Inspectorates of the Prison Service were created in 2000 under the ordinance of the Minister of Justice (Journal of Laws 00.29.369), and the aim of their activities is primarily to get to know

an imprisoned person. Penitentiary diagnosis is an essential element for social rehabilitation of a prisoner, which is why it is so important at this stage to distinguish individuals who require the use of specialized interactions. This applies mainly to addicts, with non-psychotic disorders or mental disabilities (art. 96 of the Executive Penal Code). Recently, development is being observed in adapting implemented correctional measures to the needs of these people; however, it is not always associated with knowledge and skills of prison officers in terms of dealing with specific groups of prisoners (Braun 2013). However, the subject of the diagnosis is not only pathological behavior, but also behavior that does not deviate from the commonly understood standard, which is why penitentiary diagnosis should include all prisoners, also those who are not suspected of having any types of mental disorders.

Psychological diagnosis and penitentiary diagnosis

The psychological literature we will find many positions on the diagnosis itself, the characteristics of a good diagnostician, skills, techniques supporting and establishing contact, resistance (sources, signals, indicators, techniques of dealing with it), a faulty attitude of a diagnostician towards the subject and learning process, a faulty attitude towards the diagnosed person (Paluchowski 1983, 2007; Stemplewska-Żakowicz 2009).

In a diagnosis it is not enough to state the occurrence of certain activities, mental functions or personality traits, because “the same conciliatory attribute can have different meanings depending on the framework of the larger structure it exists in” (Reykowski 1966, p. 17). Psychological diagnosis is also defined as the final result of activities of a psychologist oriented at identifying and explaining the psychological variables of an individual. This definition of diagnosis is very general (Frączek 1966). According to the conceptual model of psychological diagnosis, Andrzej Lewicki (1978), in analyzing the concept of psychological diagnosis, with particular emphasis on clinical diagnosis properties, states that its purpose is threefold. Firstly, it consists in the description of behavioral disorders occurring in the respondent’s various areas of life (at work, in family life, social life, at the psychologist’s office during examination, during activities carried out in the course of executive proceedings). Secondly – in diagnosing the underlying mental dysfunctions in these disorders (motivational, emotional, cognitive) that affect the functioning of people and solving various life problems. Thirdly – in determining what significance psychological mechanisms had in the etiology of disorders. Lewicki stresses that it is necessary to determine to what extent disorders were shaped by situational factors, and to what extent they were the result of disorders (Lewicki et al. 1978).

Penitentiary diagnosis should take into account a number of specific issues, ranging from personality analysis, through the respondent’s way of conducting

himself, and ending with social rehabilitation indications. Despite the existence of certain specific purposes of penitentiary diagnosis, such as identifying potential opportunities inherent in the prisoner, or determining the impact of imprisonment on the psyche and behavior of the prisoner, a well and reliably performed diagnosis should be carried out in the basic stages. These steps are determined by Władysław Jacek Paluchowski's (2007) diagnosing model, which indicates the following stages of diagnosis: pre-diagnostic stage, covering all issues preceding the actual diagnosis; the diagnostic testing phase, consisting in active communication, sending and receiving information; the explanation stage, in which the diagnostician gives meaning to the information received and the stage of intervention. The actual process of diagnosis should be interactive, which means that the verification of hypotheses should occur cyclically, in the form of feedback. Each of the stages of the diagnosis model includes other detailed guidelines, the compliance with which minimizes the possibility of errors in the diagnostic process (Paluchowski 2007).

It is difficult to refer to the model of psychological diagnosis without taking into account the situational context, as these psychological variables are also important in connecting the person with his surroundings. The importance of the situational context is also emphasized by Lewicki (1978). Tadeusz Tomaszewski's concept (1976) states that a person always acts in a given situation, which is determined by factors associated with him, his characteristics and properties, as well as external factors. The "person in a situation" model emphasizes the importance of co-acting, the dynamic relationship between a person and the environment, and explains the facts and phenomena related to the person's activity by taking into account situational and personality factors. In describing the situation, which is a system of mutual relations components of the environment, we must take into account the aspect for incentives (stimulus) and task because every human situation is determined by the elements composing it for her. The concept of situation can also be considered in terms of participation of human consciousness in how he shapes the situation, and can take two forms: identifying the situation with his perception or detaching the situation from perception. In the stimuli structure of a situation, specific interactions can be distinguished, which are particular elements of the situation and trigger specific reactions of the organism and non-specific interactions that regulate a person's level of activity. The task structure is characterized by values that determine the course of action and possibilities, i.e. the state which determines whether a value has been reached. They can have a positive, negative, subjective or objective character. Human situations constitute relatively closed systems, in some way limited, and crossing the border of a situation can cause that the situation of an individual changes dramatically. In this context, one can speak about normal, optimal and difficult situations. Multiple occurrences of a given situation provide an individual the possibility of internal stabilization and adaptation. Such a situation is referred to as normal.

It also happens that the course of behavioral data and the consequent results are at the best possible level; in this case we are dealing with an optimal situation. A difficult situation occurs when the inner balance of the system and the system is disturbed, causing the entire course of basic activity and the likelihood of performing a task at an optimal level to be disturbed, and if they last for long periods of time, they can cause permanent distortion, even of a pathological character (Tomaszewski 1976). Describing a person in a situation conditioned by subjective and situational factors is crucial on the grounds of committing crimes, but also functioning in conditions of imprisonment. A person is analyzed as a subject of a situation, and therefore, the aim of psychological analysis, which is also the objective of penitentiary diagnosis. The result of diagnostic procedures in prison conditions should allow one to answer the question concerning the potential capabilities in an individual, on the basis of which one can shape socially desirable behaviors, and question on the impact of isolation on the psyche and behavior of the prisoner.

The proposition of bimodal psychological diagnosis for the needs of the court was put forth by Stanisław Nieciński (Ciosek 2001), who distinguished two diagnostic planes: external-objective reference and internal reference. The first plane relates to the functioning of a person in interaction with the environment, while the second reflects the subjective aspect of human personality. Social rehabilitation pedagogy specifies the subject matter and object of diagnosis taking into account the specifics of penitentiary diagnosis (Machel 1994; Pytka 2005; Wysocka 2009). For practitioners of social rehabilitation education, the most important should be understanding the diagnosis as identifying the interesting state of affairs, introducing certain intervention and correctional interactions and determining the effectiveness of actions taken. During first contact with an imprisoned person, the main task is to determine anti-social attitudes, to identify factors affecting the functioning of the individual, to indicate the factors that could potentially hinder the process of social rehabilitation (diagnosis establishing facts) and subsequently to determine the design of educational interactions during social rehabilitation (designing diagnosis) (Pytka 2005). Iwona Niewiadomska (2007) stresses the importance of the description of behavior of a prisoner in different circumstances and situations, explaining the psychological mechanisms of the occurrence of liabilities and assets in the functioning of a person and the etiology of observed behavioral disorders, as constituent elements of the penitentiary diagnosis. Evaluation of the course and effectiveness of educational interactions is also very important, because it enables one to find and describe the factors that are crucial for successful social rehabilitation (Pytka 2005).

Recent studies abroad focused on checking the suitability of the five-factor model of personality in the diagnosis of prisoners (Ireland J.L., Ireland C.A. 2011). Others relate to methods of treatment and social rehabilitation interaction omitting the stage of diagnosis at the early phase of imprisonment (Sacks et al. 2008).

PSYCHOLOGICAL-PENITENTIARY JUDGEMENTS REGARDING METHODOLOGICAL AND WORKSHOP RECOMMENDATIONS

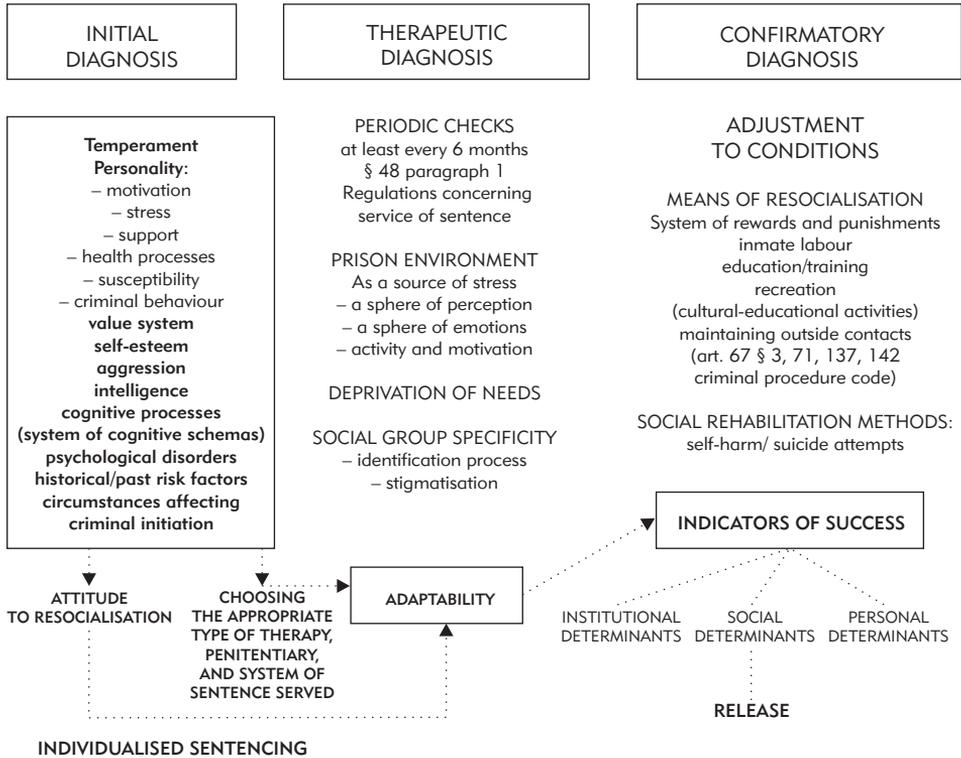


Diagram 1. A simplified diagram of stages of penitentiary diagnosis
Source: own development.

The majority of Polish studies describing the issue of penitentiary diagnostics dates back several decades, therefore, the need for further studies can be seen, as the passage of time and changing conditions in the prison environment have a substantial impact on the functioning of prisoners. Literature also lacks a diagnosis model, which would closely present the diagnostic procedure, thus eliminating errors e.g. in directing prisoners to a specific type, kind of penitentiary institution or system of imprisonment, and would allow to develop diagnostic standards in the penitentiary system, and develop an adequate correctional and social rehabilitation model for the prisoner, as well as determine the factors responsible for the effectiveness of imprisonment (Niewiadomska 2007; Pytka 2005).

Psychological-penitentiary decisions in light of the law

A person punishable by imprisonment resides in a specific prison environment for a long time, which in many respects differs from the standards of living in a normal society (Ciosek 1993; Ciosek, Kmiecik 1987). The law clearly defines the purpose of a prison sentence, which is to be performed only in a situation when other measures are not sufficient. According to art. 67 § 1 of the Executive Penal Code, the primary objective of the enforcement of imprisonment is to “trigger in the prisoner the will to cooperate in developing his socially desirable attitudes, and in particular, a sense of responsibility and need to respect legal order, and thus to refrain from returning to crime”. Today, imprisonment is a deliberate action of a state, which in addition to individual prevention, takes into account justice, overall preventive, particular preventive and compensatory objectives (Niewiadomska 2007). Imprisonment interferes mostly in the individuality of a person, and it is a punishment that is the most onerous (Szczepaniak 2003). Therefore, key recommendations can be found in the law: the basic law (mainly in the Executive Penal Code), but also in executive legislation (ordinances). The Ordinance of the Minister of Justice on the terms and conditions of conducting psychological and psychiatric studies in diagnostic centers at the Regional Inspectorates of the Prison Service (Journal of Laws 00.29.369) sets the rules of the organization and conditions for conducting psychological and psychiatric studies, but the psychological criteria for diagnosis have not yet been thoroughly defined. Also, the Ordinance of the Minister of Justice on the regulations of carrying out the sentence of imprisonment (Journal of Laws 89.31.166) introduces a number of interactions in terms of a separate treatment of prisoners in need of therapy. This act places the main emphasis on even greater individualization and liberalization of carrying out the sentence of imprisonment. Persons who are deprived of their freedom constitute a very diverse group of people, which also include people with disabilities, towards whom particularly individualized penitentiary interactions should be applied (Braun 2013).

Psychological literature has not yet developed a diagnosis model specific for the prison environment, however, the issue of the widely understood penitentiary system was dealt with by Mieczysław Ciosek (2001), who in his works characterized imprisonment as a difficult situation, showed the diversity of the community of prisoners through typologies and classifications of prisoners, described a human being's adaptation to the prison environment, and also pointed to the psychological consequences of isolation (e.g. emotional disorders, mental illness, neurosis, sexual dysfunction). Prisoners exhibit a variety of behaviors that reduce the pain of imprisonment, and their attitude is affected both by the informal prison system and formal organizations. There are different types of

interactions that may have a favorable effect on the functioning of offenders in a prison environment: handling legal instruments (orders, regulations) that would encourage an individual to behave in the desired way and shaping appropriate personality traits and social attitudes, as a result of which the individual would act in accordance with expectations (Ciosek 1993; Ciosek, Kmiecik 1987). Danuta Rode (1989) developed the basic socio-technical and psycho-correctional recommendations, which should focus on preventing the deprivation of needs, eliminating the unpleasant symptoms of imprisonment, maximizing opportunities for the natural satisfaction of needs, making all possible efforts in the scope of correct internal classification of prisoners (Rode 1989).

The following categories of prisoners are currently directed for diagnostic (psychological) tests (Korwin-Szymanowski 2011):

- juvenile offenders who have at least six months left to acquire the right to apply for parole or adolescents causing educational difficulties (art. 84 § 3 of the Executive Penal Code);
- directed as a result of a previous diagnosis prisoners with non-psychotic disorders and prisoners, who committed an act in relation to the disorder of sexual preference (art. 96 § 1 of the Executive Penal Code);
- prisoners with valid judgments for the punishment of 25 years of imprisonment or life imprisonment (§ 11 of the Ordinance of the Minister of Justice of 14 August 2003 on methods of conducting penitentiary interactions in prisons and detention centers; Journal of Laws 13.0.1067);
- prisoners, who are suspected of applying interactions in specialist conditions (§ 11 of the Ordinance of the Minister of Justice of 14 August 2003 on methods of conducting penitentiary interactions in prisons and detention centers; Journal of Laws 13.0.1067);
- prisoners causing educational difficulties, highly demoralized, not being able to adapt to the conditions of imprisonment (§ 11 of the Ordinance of the Minister of Justice of 14 August 2003 on methods of conducting penitentiary interactions in prisons and detention centers; Journal of Laws 13.0.1067).

Therefore, it is very important to develop standards of penitentiary-psychological judgments that will allow proper placement of a convicted person in the right:

1. type of prison:
 - closed,
 - open,
 - semi-open;
2. kind of prison:
 - for juveniles,
 - for those serving a sentence for the first time,
 - for penitentiary recidivists,
 - for those serving the punishment of military custody;

3. in the appropriate system of serving imprisonment:
 - programme interaction,
 - therapeutic,
 - ordinary.

In accordance with art. 82 § 1 of the Executive Penal Code, the classification of convicts serve their proper placement, and thus, individualization of serving imprisonment. Therefore, a number of criteria are taken into account, both of a subjective and objective character, which affect the relevance of the division made. Among others, these criteria include: sex, age, prior serving a sentence of imprisonment, intent/recklessness of the offense, the time remaining to serve a sentence, health conditions (physical, mental), level of addition to substances, scope of demoralization, scope of social threat, and the nature of the offense (Niewiadomska 2007). Under current law, the decision to classify convicts is made by the court judging imprisonment (in jurisdiction proceedings regulated by the provisions of the code of criminal procedure and the criminal code), the penitentiary court and penitentiary commission (already in the course of executive proceedings) (Niewiadomska 2007). In classification, personal background data is used, collected in the earlier stages, e.g. in the preparatory and jurisdiction proceeding. Particular importance is attached to the therapeutic system of carrying out imprisonment, which is intended for prisoners with various types of interferences in mental activities. Classifying a convict to this system of serving punishment is primarily to prevent the deepening of pathological personality traits. Particular emphasis is placed on restoring mental balance and preparing the convict for social coexistence in conditions of freedom (Paprzycki 2011).

According to the art. 82 § 3 of the Executive Penal Code, the basis for classification of convicts to the appropriate prison are personal background data tests, and the psychological and penitentiary ruling, in accordance with the Ordinance of the Minister of Justice (Journal of Laws 00.29.369) should include, among others, personal data of the convict, an attempt to explain the process of derailment, the characteristics of the mental state, arrangements concerning the needs of the convicted person in relation to specialist interactions, determining the scope of the recommended classification, education, employment, and indication of psychological methods used. Principles and rules of conducting a diagnostic procedure for the purposes of justice should be especially rigorous, because the specificity of this kind of diagnosis is associated with the character of an independent, decisive, mandatory ruling.

An important element of psychological and penitentiary case law is also a therapeutic diagnosis, which is significant for the convicted person's adaptation to the conditions of prison isolation by applying to him (as a result of conducting diagnosis establishing facts and carrying out a psychological and penitentiary ruling) relevant and personalized broadly defined educational and social rehabilitation measures. The tasks of a psychologist in the penitentiary system amount to several

areas of work: penitentiary diagnosis, social rehabilitation, therapy and integration of penitentiary and post-penitentiary interactions. A psychiatrist or psychologist are involved in the process of expressing an opinion on the possibility of imposing a disciplinary sanction on the convicted person, due to his health condition, or the possibility of applying disciplinary punishment by placing the convict in solitary confinement. Therefore, taking into account the medical, psychological and social rehabilitation recommendations, it is necessary not only at the stage of classification, but also in verification (Paprzycki 2011).

This is of major importance, since the verification of the initial diagnostic image will complement the preliminary assessment, constituting the main object of diagnosis within the meaning of the structural model (Wysocka 2008). The diagnosis here is a process that precedes placing the individual in the appropriate penitentiary institution, which is connected to the stigmatizing character of this type of diagnosis and the development of certain attitudes, which in conditions of prison isolation may be toughening, thereby hindering the process of approach to the imprisoned individual in an individualized way, because the main goal of institutional social rehabilitation is the correctional effect without the component of allowing to understand the specificity of an individual.

The structure of the diagnostic process is continuous diagnosis, and additionally, this process is verified at various stages, primarily due to the adequacy of the initially proposed method of interaction, but also the accuracy of diagnosis, and thus the most appropriate classification of the convicted person in order to create conditions that are most favorable to individual proceeding (art. 82 § 1 of the Executive Penal Code). This also involves situations of placing the convict in the wrong penitentiary institution, which does not meet his needs and does not contribute to improvement and possible successful future of readaptation in society.

The last stage – verifying diagnosis – is to determine the effectiveness of the educational, social rehabilitative measures undertaken, and thus evaluate the effectiveness of the punishment of imprisonment. “The concept of effectiveness should be understood as such carrying out punishment which aims to achieve the fundamental objectives by appropriate measures of interaction, consistent with the principles and provisions of penal law” (Niewiadomska 2007, p. 233), taking into account the conditions attributable to the convicted person and related to his traits, as well as institutional and social conditions. An indicator of effectiveness is undoubtedly not committing another act contrary to the law (minimum objective), but also moral improvement (maximum objective) (Niewiadomska 2007). Numerous studies indicate low levels of effectiveness of imprisonment or even the lack thereof (Niewiadomska 2007; Pytka 2005). Diagnostic studies of a scientific character have not been conducted in Polish prisons for several years, and the classification of convicts in practice is based primarily on socio-demographic data (Niewiadomska 2007). In Polish penitentiary practice, relevant criminological and

psychological analyses have also not been conducted in recent times, the aim of which would be to reach subjective variables, determining the effectiveness of imprisonment (Niewiadomska 2007). Western European countries and Canada use routine projections based on psychometric scales, facilitating the execution of socio-criminological projections, and thus they facilitate the evaluation of the effectiveness and efficiency of imprisonment (Gałecki et al. 2013; Hołyst 2013).

Summary

It should be noted that diagnosis (psychological and penitentiary judgments) for the needs of the justice system is continuous, and at every stage of imprisonment of the convict, can be subjected to psychological tests where necessary, as a result of which the decision on the adequate classification of the convict will be revised and conditions of individual interaction on the convict will be determined (art. 83 Executive Penal Code). The result of a correctly conducted diagnosis should be placing a prisoner in an appropriate type, kind of penitentiary institution, and in the appropriate system of carrying out the punishment of imprisonment. This is indicated by one of the main functions of social rehabilitation diagnosis – the selective function, which enables to use social rehabilitation measures and choose a specific type of facility, in accordance with the principle of individualization of carrying out the punishment of imprisonment.

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