

Making Rehabilitation Work
American Experience of Rehabilitating Prisoners
By Iain Murray
Director of Research, Statistical Assessment Service, Washington DC
Visiting Fellow, Civitas

Introduction

Does the criminal justice system have a duty to rehabilitate prisoners? To a Briton the answer is “Of course it does!” To an American, the answer is often less clear cut. For a variety of reasons we will examine, the American federal sentencing guidelines state that a prison’s purpose is to provide retribution, to educate, to deter and to incapacitate. Except in so far as education promotes rehabilitation, the concept is noticeably absent.

Nevertheless, rehabilitative programs abound all over the States. Some have been instituted for noble reasons such as altruism, others have been almost forced on states in order to help keep down the rising costs associated with a rising prison population. And, in America, where there are programs there are hordes of academics evaluating these programs. We thus have a substantial body of literature to draw on in deciding whether or not these programs have been worthwhile.

For the British policy-maker hoping to find a magic bullet in this mass of research, there is little comfort. One of the lessons researchers have for policy-makers is that there is no one best way to rehabilitate. That, indeed, is one of the reasons why Americans are so skeptical about the idea. Nevertheless, the research can supply one of those features of modern life, a conceptual framework or model that will help those who frame and implement policy understand what it is that really helps offenders turn away from their lives of crime.

In so doing, I hope that the message that will come through is that helping offenders is not about big ideas or over-arching theories, but about working with individuals, with people who have made decisions and who will make decisions again that will affect their lives and the lives of others for better or worse. While we may look at statistics that show that 70 percent of offenders re-offend and take pride in a new set that shows that only 50 percent of offenders re-offend after participating in one program or another, we must still remember that these figures represent real people. In one group of 100, 70 have chosen to harm their fellows, but 30 have chosen not to do so. In the other, 20 fewer have chosen the wrong path. Nevertheless, there are still 50 or more other individuals (probably far more) whose lives will be blighted by the decisions taken by the recalcitrant.

Offending is, at base, an individual choice. The choice can be made easier, however, by addressing individual needs. This is not about alleviating an abstract such as “poverty,” but about helping someone who does not understand or care about the consequences of their actions. Truly effective rehabilitative action, the research tells us, must be taken at the individual level. Moreover, it is only a certain type of individual action that suffices. Helping someone to feel better about themselves does not help prevent crime. Helping them to make better choices does. Whether that aid comes from teaching the offender to read, from helping them to understand how others feel, or from helping them to give up substance abuse, the effect is the same. People who can make better choices are less likely to re-offend.

Criminal offending and re-offending is a tangled web woven from a complex set of

circumstances and choices, but each of those webs is different for each offender. The best rehabilitation programs recognize this problem, and seek to untangle the web appropriately. This is a difficult task, and it is the reason why there is no magical program that will cure all of Britain's crime ills with a wave of its charter.

Nevertheless, America can teach us a great deal. With two million prisoners in custody, it has an unrivalled experience in dealing with offenders and their motivation. Over a million of those offenders are likely to offend again, but we can learn something from the several hundred thousand who will not re-offend.

Perhaps above all, we can learn that America's dreadful experience with crime over the past twenty years has taught it to understand more than any other nation what helps prevent crime. If rehabilitation is a small part of that, it is nevertheless an important part, and one that may become more and more important in the American people's mind as those two million prisoners begin to seep back onto the streets.

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Section 1: "Nothing Works"

In June 2002 I published an article on the popular American web site Techcentralstation.com on the subject of recidivism by released prisoners. Two-thirds of those released from jail, a study had found, were arrested again within three years, and a quarter had returned to jail. I voiced the opinion that, in avoiding the appearance of being "soft on crime," American authorities were ignoring their duty to attempt to rehabilitate prisoners. Instead, they presided over a system where, in the worst cases, prisons were run by the most violent prisoners and where male rape was so common that, according to some experts, there were more incidences of it in the United States than of rape of women. Because of this, released prisoners were likely to re-offend, and therefore the authorities could be thought of as doing nothing to prevent further crime.

I received the following piece of feedback on the site from someone calling himself "Griff":

Mr. Murray, your article is both unfairly inaccurate and hopelessly sophomoric. Your wobbly-liberal notion of the functioning of the prisons bears no resemblance to the reality in the state of Arizona system in which I recently served as a Correctional Officer. You are further not accurately portraying the federal system or the military.

Moving on, since when does the system, whatever that is, have a "duty" to rehabilitate? The terms rehabilitation and corrections are widely recognized as nothing but euphemisms believed in by no one with any sense. The value of the prisons is that they keep bad people locked away from the good people. Let them out and, surprise, they are still bad people. Those who want to change do so. Most never will.

My primary job as a correctional officer was to keep their hands from around your throat and the throats of your and my loved ones. There are plenty of things that

need doing. Wasting time bleeding your heart over bad apples doesn't make the cut.

Apart from the vituperation in the first paragraph (some of which I found especially odd as I had not even mentioned the US military), I thought this a useful contribution to the debate, because it succinctly sets out the dominant theory of American conservatives towards rehabilitation: that “nothing works.”

“Nothing works” was the soundbite summary of a 1974 essay by flamboyant New York sociologist Robert Martinson that appeared in the conservative periodical *The Public Interest*. “What works? Questions and answers about prison reform” summarized Martinson’s conclusions from a survey of 231 research studies on offender rehabilitation entitled, dryly, “The Effectiveness of Correctional Treatment: A Survey of Treatment Evaluation Studies.” Martinson concluded that “with few and isolated exceptions the rehabilitative efforts that have been reported so far have had no appreciable effect on recidivism”¹.

This article, and a series of sister articles in the liberal magazine *The New Republic* proved tremendously influential on both sides of the political divide. Liberals, for instance, had long been opposed to the American practice of “indeterminate sentencing,” whereby convicted criminals were given sentences with release dates vaguely tied to rehabilitation. In California, for instance, it was routine to hand down “day-to-life” prison sentences where release depended on the prisoner’s “attitude.” The idea that rehabilitation was unlikely to succeed potentially spelled the end for this practice, much to the delight of civil libertarians. Prisons had proven useless. Martinson himself wrote, “The long history of ‘prison reform’ is over. On the whole the prisons have played out their allotted role. They cannot be reformed and must be gradually torn down.”

Indeed, the notion that rehabilitation was ineffective was central to the passage of the Sentencing Reform Act 1984, which established an independent United States Sentencing Commission. The sentencing guidelines which this body introduced were ruled constitutional by the Supreme Court of the United States on January 18, 1989. Writing for the majority, Justice Blackmun said, “Rehabilitation as a sound penological theory came to be questioned and, in any event, was regarded by some as an unattainable goal for most cases.... Helpful in our consideration and analysis of the statute is the Senate Report on the 1984 legislation. The Report referred to the “outmoded rehabilitation model” for federal criminal sentencing, and recognized that the efforts of the criminal justice system to achieve rehabilitation of offenders had failed”². Justice Scalia, perhaps the most libertarian conservative in the court, dissented.

Conservatives in general, however, were even more motivated by the findings than the liberals. The early seventies were a time during which crime had exploded, with the murder rate doubling in the ten years from 1963 to 1973. This was the beginning of an era in which being ‘soft on crime’ was one of the worst insults a conservative could throw at an opponent. To paraphrase Tony Blair, ‘tough on crime, tough on the perpetrators of crime’ was the motivation. Throughout the nation, what little amounts that had been allocated to rehabilitation in the form of psychiatric help or social work were cut from correctional budgets. The 1984 act, indeed, rejected imprisonment completely as a means of promoting rehabilitation, and stated that punishment should instead serve retributive, educational, deterrent, and incapacitative goals.

Yet throughout this period there was a nagging suspicion that something had gone wrong.

A 1976 panel the National Academy of Sciences put together to re-examine the work of Martinson and his colleagues was unable to dispute the findings that rehabilitative efforts to date had not proven successful, but added the coda, “when it is asserted that ‘nothing works,’ the panel is uncertain as to just what has even been given a fair trial”³. The trouble was that the studies Martinson and his colleagues had examined had been hampered by primitive methodology. As more sophisticated, computer-based analysis began to become available, it became apparent that some programs had been effective.

Martinson himself realized this. In an article for Hofstra Law Review in 1979, he wrote that “startling results are found again and again in our study, for treatment programs as diverse as individual psychotherapy, group counseling, intensive supervision and individual .. aid, advice, counseling.” As a result of these conclusions, he withdrew the contention that “nothing works”⁴.

It was too late to make a difference, however. A year later, Martinson threw himself out of a Manhattan apartment window while his teenaged son watched. In his absence, the prevailing attitude towards rehabilitation grew more and more disdainful. A United States District Judge wrote of this era, “Public and political opinion were shaped by sentiments castigating the rehabilitative model. A perceived large crime wave and fear of criminals enhanced this revulsion towards any form of leniency. This shift occurred simultaneously with a change in modern prison conditions and new laws limiting the role prisoner rehabilitation could play in sentencing decisions”⁵.

This is still the prevailing attitude amongst conservatives in the United States. Summarizing the position, the Dallas-based think tank the National Center for Policy Analysis says, “Relatively little comparable research has materialized to refute Martinson's analysis, although this has not been from want of effort. A possible exception may be a modest superiority for the better-designed interventions in the outcomes of juveniles, and some researchers still believe that “appropriate correctional service” and treatment can cut recidivism sharply for other criminals, too”⁶.

Most efforts at reducing crime have therefore been directed towards incarceration, relying on its deterrent and incapacitative effects. The number of Americans in local jail or state or federal prison grew from just over 500,000 in 1980 to slightly under 2,000,000 in 2001.

As a result, The Economist was able to sum up the general situation in the USA in 2002 as follows: “Rehabilitation has become something of a dirty word in American debates about crime. ... To begin with, some rehabilitation projects – particularly drug treatment – seem to work. Yet America has slashed money for such schemes, often to pay for new prisons. One advantage of leaving some degree of discretion over sentencing to parole boards was that it obliged prisoners to prove that they were ready for outside life. This incentive has now gone. Outside prison, the aftercare system is even weaker. Many ex-cons are simply presented with a one-way bus ticket. The number of prisoners for each parole officer has risen by 50%”⁷.

Yet despite these seeming injustices, recidivism rates have not changed noticeably over the years. A study of prisoners released in 1983 found that 62 percent of them had re-offended within three years. A similar study of prisoners released in 1994 found the number up slightly at 67 percent⁸, but easily within the bounds of random variation. Things are not exactly going to the dogs in terms of prisoners becoming more savage by their experiences inside, although as there are far more prisoners now than there were previously, there will therefore be that many more re-offences.

For The Economist's summary neglects the devolved, federal nature of the American criminal justice system. Despite the sentencing guidelines, local authorities are generally free to experiment with their correctional systems. In many cases it is true that rehabilitative efforts have been shelved, slashed or cut back. In other areas, however, rehabilitation efforts have continued. Imaginative local politicians, prison wardens and university researchers have introduced, implemented and evaluated many hundreds of rehabilitation programs over the past couple of decades. America may seem like a desert when it comes to rehabilitation, but there are plenty of oases.

It is this plethora of programs that enabled the United States Congress to commission a report from the University of Maryland's Department of Criminology and Criminal Justice in 1997. "Preventing Crime: What Works, What Doesn't and What's Promising" is perhaps the most rigorous and comprehensive look at the effectiveness of crime prevention programs ever compiled. It examines over 500 evaluations of such practices, not all of which were rehabilitation schemes. By sorting out methodologically inadequate studies, it was able to come to scientifically-grounded conclusions about what makes a crime prevention program work.

For supporters of rehabilitation schemes, the study makes grim reading. While Martinson may have been right to repudiate his stance that "nothing works," there are precious few corrections-based programs that can be said to be effective. Many "short, sharp shock" programs beloved of civil authoritarians, such as boot camps, "scared straight" programs, and electronic tagging fail to reduce re-offending. Yet general counseling, intensive supervision and "outward bound" or safari courses are similarly ineffective. It seems that what makes a rehabilitation program work is not a general or over-arching theory, but specific attention to the risk factors that surround individual offenders. The study also includes a category – "what's promising" – for schemes that may work, but which require further evaluation.

The next few sections will attempt to provide an overview of what does and does not work, as well as answer three specific questions:

1. How do we know whether a scheme is effective?
2. Have sentences served within the community proved to be effective in reducing re-offending as traditional custodial sentences? And
3. Are community-based sentences more, less or equally effective as traditional custodial sentences?

By investigating what America has been able to discover from its many and varied experiences, we should be able to assess whether Britain can reduce its exceptionally high crime rate by focusing on rehabilitation, or whether another tack, such as incapacitation, should be tried. First, however, it would be useful to summarize briefly what we know about recidivism in America.

Section 2: What We Know About Recidivism

The afore-mentioned study of recidivism of prisoners (convicted felons) released in 1994 tells us the following⁹:

Within 3 years of their release,

- 67.5 percent of the prisoners were re-arrested for a new offense (almost always a felony or a serious misdemeanor)

- 47 percent were reconvicted of a new crime
- 25 percent were resentenced to prison for a new crime
- 52 percent had returned to prison either for a new crime or for a violation of the terms of their release

And

- Released prisoners with the highest rearrest rates were car thieves (79 percent), dealers in stolen property (77 percent), burglars (74 percent) and robbers (70 percent)
- Although their rates were lower by comparison, 41 percent of murderers and 46 percent of rapists were rearrested
- 2.5 percent of released rapists were arrested for another rape and 1.2 percent of murderers were arrested for another homicide
- The 272,111 prisoners released had accumulated 4.1 million arrest charges before their most recent imprisonment and another 744,000 charges within three years of their release.
- 44 percent of those released were under age 30.
- 29 percent had been rearrested within 6 months of their release, 11 percent reconvicted and 5 percent returned to jail with a new sentence
- Of the 744,000 new arrest charges, almost 3,000 were for murder, 5,500 for rape or other sexual assault and 55,000 for assault.
- Prisoners accounted in 1994 for 5 percent of *all* arrests made in their states from 1994-97, including 8 percent of the murders, 4 percent of the rapes and 9 percent of the robberies.
- 68 percent of the prisoners were ever arrested for a violent crime.
- The youngest prisoners (age 18-24) were most likely to be rearrested (75 percent). Prisoners aged 30-34 were most likely to return to prison (55 percent). Oldest prisoners (45+) were least likely (45 percent rearrested and 41 percent returned to prison). This excludes the very youngest prisoners, age 14-17, who represented only 0.3 percent of the sample, but of who 82 percent were re-arrested and 57 percent returned to prison.
- Sex offenders were most likely to be rearrested for the same offense as they spent time in prison for, murderers the least likely.
- Only 21 percent of prisoners with only 1 prior arrest were rearrested within one year, compared with 61 percent of those with 16 or more prior arrests.
- No evidence emerged that spending more time in prison raises the recidivism rate. The evidence was mixed as to whether spending more time in prison reduces the recidivism rate (such a reduction may be a function of age rather than time spent inside).

This evidence seems to point to an overall picture of criminals, particularly property criminals, generally ‘returning to work’ after their time in prison. The fact that so few criminals with only one prior arrest (presumably for the crime for which they were sentenced to prison) are re-arrested does seem to argue against the idea that prison teaches otherwise “innocent” criminals to turn to crime professionally. Overall, however, released prisoners are much more likely to commit crimes than the general population. Against this background, we can consider how successful recidivism reduction programs work. Yet many of the most heavily-publicized programs do not work, and we should examine those first.

Section 3: What Doesn't Work

Rahway State Prison in New Jersey has a program called "Juvenile Awareness Project Help" (JAPH). It is more widely known to the American public as the "Scared Straight" program. In it, a group of local teens of both sexes who are judged likely to end up in prison at some point of their lives are given a tour of the prison and then introduced to the Lifers Group, a selection of convicts serving life sentences.

This confrontation between juvenile delinquents and what they might become was made into an Oscar-winning television program in 1978. Presented without commercial interruption to maintain the intensity of the occasion, it made for gripping television. The Lifers did not hold back in the presence of the camera. They provided the youngsters with an unglamourised description of life in prison, complete with references to homosexual rape and constant, horrifying violence. "Please don't make me hurt you," one lifer spats at a teenage boy, "because if I have to break your face to get my point across, I'll do it, you little dummy. You're here for two hours, you belong to us for two hours." A succession of convicts ram the point home. "I'm bad, you see me, boy, I'm bad," snarls another. "You see them pretty blue eyes of yours? I'll take one out of your face and squish it in front of you." In prison, "the big eat the little."

In that documentary, most of the children spoke about how the experience had "scared them straight." Follow-up programs ten and twenty years later confirmed this. Only one of the group had become a hardened criminal himself. Of the JAPH program itself, great things were predicted. After the broadcast, grandiose claims were made about the success rate of the program. The Newark Star-Ledger reported the Lifers Group leader as saying that "some 8,000 young people have participated and we have been able to reduce their recidivism rate from 86.2% to 10.2%."

But it has been hard to substantiate these claims. The first independent, scientific review of the JAPH found higher recidivism rates in the program group than in a control group who had had no special intervention. The confidentiality of juvenile records makes retrospective scientific study difficult, but whenever scientific analysis of "scared straight" programs across the nation has been possible, no significant improvement in recidivism among participants has been found. In some cases, participants performed significantly worse¹⁰.

The results of this analysis strike anyone who has seen the program as counter-intuitive. The convicts are truly terrifying and it seems unthinkable that anyone would willingly risk thrusting themselves into that world. Yet what seems like a deterrent to the law-abiding can often be seen as a challenge to the delinquent. Time after time, the sort of rehabilitation program that sounds like a good idea, one that will force offenders to shape up and face reality, fails to deliver the sort of results expected of it.

Another case in point is "boot camps." Based on the basic training programs of American military units, the first such correctional institutions opened in Georgia and Oklahoma in 1983. By 1995, 36 states had adopted them and there were 75 spread around the country.

The first boot camps were very military in their outlook, relying on drill patterns, strict discipline, physical training and hard work. Later camps were viewed more as a rehabilitative exercise, focusing on education and skills programs. They became more like intensely supervised community service than military service.

The goals of Labette Correctional Conservation Camp, run by the Kansas Department of

Corrections, are instructive as to what state authorities hope to get out of their boot camps. They are:

- To provide control over offenders, community supervision to reduce recidivism, and satisfy the community's concern for safety.
- To provide programs and services in the community which assist offenders in becoming law-abiding and self-supporting citizens
- To expand services and activities directed towards victim and community restoration¹¹.

Yet, in so far as success is measured by the offender becoming a "law-abiding and self-supporting citizen," boot camps have proven to be no more effective than traditional custodial sentences. The most rigorous analysis of boot camp efficacy concluded that, compared to probationers, boot camp graduates had fewer rearrests in one state and more in two. Compared to parolees from prison, boot camp graduates had fewer rearrests in four states, but these results were not statistically significant. Boot camp graduate rearrest rates were about the same as those for other offenders, around two-thirds re-offending¹².

The measure of success in both these cases has been whether or not program graduates re-offend within two or three years (depending on the study). In the case of "scared straight" programs, this seems reasonable. Re-offences later than that may have little to do with the program failing and more with other, new circumstances. There is, however, one significant weakness with the measure. A re-arrest does not necessarily mean an offense has been committed. A known juvenile delinquent, for example, may be arrested simply as being a "usual suspect." But it is hard to find a better measure. Self-reports of criminality are notoriously unreliable, although useful when comparing two groups who are asked the same questions (they are therefore useful in evaluating the success of properly designed studies). Nor do all crimes lead to convictions, and, especially in the case of juvenile crime, most of the parties are concerned to prevent the case getting that far. Convictions are therefore a less-than-satisfactory measure of recidivism. Re-arrests, therefore, may present the best generally available measure of the success or failure of rehabilitation programs. In the case of boot camps, however, there are other factors to bear in mind.

The avowed purpose of the Kansas boot camp is not just to rehabilitate, at which it performs no better than traditional criminal supervision, but to incapacitate and control offenders while they are at the camp. In this respect, cost to the community is another measure that should be born in mind. The Koch Crime Commission found that Labette's annual cost per offender was \$33,480, while a year at a traditional Juvenile Rehabilitation Administration institution was approximately \$47,400¹³. A traditional institution incarcerates a juvenile for roughly 220 days a year, but is more expensive than an adult facility because staff costs are higher and their primarily urban locations drive up other costs. The cost saving is therefore considerable. In the case of boot camps, therefore, the saving to the community might justify a transition to their use while their rehabilitative effects alone do not. Moreover, as we will see, it is possible that combining boot camps for juveniles and intensive supervision after release might have a better rehabilitative effect. To quote the economist's motto, however, all other things being equal, the best measure of the effectiveness of rehabilitation is the rate of re-offense within two or three years.

Similarly failing to reduce re-offending is the concept of "shock sentencing." While many may remember the failure of the "short, sharp shock" idea introduced by Willie Whitelaw when Home Secretary, America has also experienced mixed results from shock probation and shock parole experiments. In these, offenders (again, mostly juveniles) are

sentenced to short periods of time in jail or prison, followed by longer periods under probation or parole arrangements. Yet the shock value of these sentences must be questioned, as offenders are often far more shocked to be granted full custodial sentences. The sentences provide no special programs aimed at rehabilitation during jail time, mixing them with other offenders before release. No studies have reported any reduction in re-offending compared with probation or other community supervision and some have even reported increased crime rates¹⁴.

All these programs seem to emphasize the authoritarian view that criminals are bad sorts and need to be shown the error of their ways. Yet more liberal programs that seek to free the innate capabilities of the offender have proven to be equally ineffective. Wilderness and outward bound-style programs are a case in point.

The archetypal American wilderness corrections program is VisionQuest, a program that takes its name from the spiritual journey of plains Indians. In it, participants become part of a “tipi family” of 15-17 youths, who live and work together with staff to “develop relationships of mutual respect. Youth learn to respect and trust authority through daily experiences, informal and formal group sessions, education, and consistent parenting which balances firm limit-setting with nurturing guidance and empowerment”¹⁵. They then participate in a series of “quests,” designed to practice new skills and knowledge and face challenges and fears. Native American mystical ceremonies play an important role here. The quests “involve activities such as hiking, rock climbing, horseback pack trips, biking, or participating in the Buffalo Soldiers or Wagon Train Programs.”

VisionQuest claims “studies show that after placement with VisionQuest, 69% to 86% of participants do not become reincarcerated (sic).” Yet the single study that produced these remarkable figures was noticeably lacking in scientific rigor. The Maryland study says that “the research methodology makes it impossible to draw conclusions regarding the program’s effectiveness.” More reputable studies of similar programs found no significant reduction in repeat offending compared with standard training schools.

Nor does “counseling” appear to work well. The Maryland study found repeatedly that vague, undirected, unstructured counseling simply aimed at getting the offender to open up was ineffective in reducing criminality. This finding speaks very much to one of the central principles behind what does work, as we will see in the next chapter.

Finally, intensive supervised probation (or parole), often known simply as ISP, also failed to show any comparative benefits. Crawford County, Ohio, describes its program as follows:

“The first phase of ISP supervision lasts approximately six months and most likely will be extended. The offender must meet face to face with the officer who supervises him/her. Offenders are required to meet once per week with their supervising officer at the ISP office. Two contacts per week with the probation officer at other locations is [sic] also required. The offender is also subject to random home visits by the evening probation officers. All offenders during the first year are subject to electronic monitoring, curfew and random drug screens.

“The second phase of ISP supervision lasts approximately three months. The offender still meets face to face with the officer who supervises him/her. This reporting is now on a twice per month schedule at the ISP office. The offender must also complete either two treatment contacts (if required) and/or two contacts with prospective employers per month. The offender is still subject to random home visits by the evening probation officers.

“The third phase continues until the offender completes the goals that were set at the beginning of the program. The offender still meets with the officer on a face to face basis. Reporting is now accomplished once per month in the office. Home visits by the officer is now once per month with one treatment/employer contact per month. Upon completion of this phase, the offender is then placed on standard probation. If the offender is close enough to the end of the probation period as set by the Judge, early release from probation may occur. The Judge can, in some cases, extend the probation period for five years.”¹⁶

The stated goals of ISP projects are generally rehabilitation and relieving the pressure on the prison system. Unfortunately, the results for rehabilitation are generally poor. In a survey by the RAND Corporation that received the highest marks for methodological soundness from the Maryland study, the ISP participants in no fewer than ten states had a higher recidivism rate than the comparison group. In only four states were recidivism rates lower¹⁷. Nevertheless, there are indications that rearrests can be reduced when offenders receive certain services as well as surveillance and control. These services will be described in the next section.

Overall, it seems that rehabilitation suffers when a big idea is what drives the project. Putting deterrence, discipline, mind-expansion or supervision first seems to fail the subject. Instead, it seems to be putting the individual needs of the subject first that provides the best pathway to rehabilitation, as we will see now as we turn to what does work in encouraging rehabilitation.

Section 4: What Works

A list of programs that work in reducing reoffending in America might seem to be appropriate here, but that would be too easy a solution. What researchers who study rehabilitation have begun to see through a glass darkly is that there is no such thing as an ideal program, one that can be cut out and pasted in anywhere. British policy makers who look to America for an easy answer, a ready-made rehabilitation program they can adapt to British use will be disappointed. Either they will not find one or, worse, they will think they have found one but it will not work when they seek to translate it.

Instead, what researchers have found is that successful rehabilitation programs share certain characteristics, most of which pertain either to treating offenders according to their individual circumstances or to the program’s administration. There is, as it were, a Platonic form of an ideal program, but all successful programs merely reflect this form rather than embody it. As the Maryland study says, “The important issue is not whether something works but what works for whom.” What this section will attempt to do is to describe those characteristics and then provide two examples of programs that meet those requirements, illustrating how effective they can be.

The literature is dominated by the psychologists Andrews, Bonta and Hoge whose 1990 article, “Classification for effective rehabilitation: rediscovering psychology”¹⁸ outlined four principles that applied in all cases of successful rehabilitation programs.

First was what they termed the Risk Principle. Research has shown that programs that seek to treat all offenders, regardless of their likelihood of re-offending, often miss their target. Successful programs match the level of treatment to the risk that the subject will offend again. Higher risk offenders require much more intensive treatment. Lower risk

offenders may require little or even none. While this may seem like common sense, Andrews, Bonta and Hoge discovered evidence that applying intensive treatment to low risk offenders either had no effect or even increased recidivism. It is therefore important that not only should programs be graduated so that differing levels of treatment are offered, but that offenders should be accurately assessed for their risk of re-offending. Sophisticated psychological assessment methods should therefore be employed.

The researchers also recognized that simply matching treatment levels to risk was insufficient to provide effective rehabilitation. What was also required was to address what they termed the specific needs of the offender. Hence the second principle is the Needs Principle. Each offender generally has a set of problems that need to be addressed in his or her life. These are what the researchers termed needs. But they also realized that these needs come in two forms, criminogenic and non-criminogenic. A criminogenic need is something that may lead directly to criminal behavior. For example, a subject's substance abuse represents a common pathway towards offending and has to be addressed in any treatment program. Employment status is another example. By addressing these needs one is likely to reduce the chance of the subject re-offending.

Non-criminogenic needs are problems that treatment programs often address but which have been shown to be less indicative of future criminal behavior. Anxiety or low self-esteem are examples of needs that can be addressed, and, in many cases, should be addressed, but which are not in and of themselves likely to cause future criminality. This is likely why general counseling programs and such like fail. They concentrate on addressing non-criminogenic needs and therefore do not affect the propensity of the individual towards crime. They may even simply make the criminal a more confident criminal.

The third principle, the Responsivity Principle, holds that even when a program meets the first two principles, it must also consider offenders' ability to participate in the programs that fit their level of risk and criminogenic need. Thus, programs that might rely on sophisticated methods of training to address criminogenic needs such as lack of education might not be appropriate for less intellectually able offenders. Effective programs must therefore demonstrate an ability to adapt to help the less able. In general, research has shown that a structured, behavioral approach works better with the less able than a supposedly warm, relationship-centred approach. So setting behavioral goals and structured work assignments tend to work better than encouragement. In certain circumstances, race, sex and cultural issues may count as responsivity factors. In general, though, although this principle is perhaps the hardest for a non-psychologist to get to grips with, its basic meaning is clear enough: treat everyone appropriately.

For example, many offenders are simply not motivated to engage with rehabilitation programs, although they seem to be more willing to address their problems as they prepare for parole hearings¹⁹. Clinicians therefore have come to focus on motivation as an intermediate target that will increase the offender's chance of successful treatment. This can be done by assessing the offender's willingness to receive treatment in different areas, such as employment, domestic circumstances, interaction with associates, substance abuse, functioning within the community, personal emotions and attitude. Unsurprisingly, research indicates that offenders are more willing to receive treatment in areas like employment and less willing in relation to their attitude. High-risk offenders tend to be less motivated than low-risk offenders.

Similarly, different offenders have different learning styles. Some learn best by listening, others by reading, yet others react better to graphical or iconic presentation of ideas, while yet others prefer to learn by direct experience. By tailoring treatment courses to the

learning style best suited to the individual offender, better results can be expected. With a more motivated subject whose preferred learning style is catered for, psychologists can then proceed to use the whole host of behavioral intervention techniques they have developed over the years, such as role playing, reinforcement of positive aspects, and the restructuring of cognitive thought processes.

Dealing generally as we are with the public sector in these programs, the fourth principle should come as no surprise. Professional Discretion is enormously important. The first three principles are all geared towards treating the subject as individually as possible. This could all be ruined by the program being administered by staff without the discretion

Non-criminogenic needs are problems that treatment programs often address but which have been shown to be less indicative of future criminal behavior. Anxiety or low self-esteem are examples of needs that can be addressed, and, in many cases, should be addressed, but which are not in and of themselves likely to cause future criminality. This is likely why general counseling programs and such like fail. They concentrate on addressing non-criminogenic needs and therefore do not affect the propensity of the individual towards crime. They may even simply make the criminal a more confident criminal.

The third principle, the Responsivity Principle, holds that even when a program meets the first two principles, it must also consider offenders' ability to participate in the programs that fit their level of risk and criminogenic need. Thus, programs that might rely on sophisticated methods of training to address criminogenic needs such as lack of education might not be appropriate for less intellectually able offenders. Effective programs must therefore demonstrate an ability to adapt to help the less able. In general, research has shown that a structured, behavioral approach works better with the less able than a supposedly warm, relationship-centred approach. So setting behavioral goals and structured work assignments tend to work better than encouragement. In certain circumstances, race, sex and cultural issues may count as responsivity factors. In general, though, although this principle is perhaps the hardest for a non-psychologist to get to grips with, its basic meaning is clear enough: treat everyone appropriately.

For example, many offenders are simply not motivated to engage with rehabilitation programs, although they seem to be more willing to address their problems as they prepare for parole hearings¹⁹. Clinicians therefore have come to focus on motivation as an intermediate target that will increase the offender's chance of successful treatment. This can be done by assessing the offender's willingness to receive treatment in different areas, such as employment, domestic circumstances, interaction with associates, substance abuse, functioning within the community, personal emotions and attitude. Unsurprisingly, research indicates that offenders are more willing to receive treatment in areas like employment and less willing in relation to their attitude. High-risk offenders tend to be less motivated than low-risk offenders.

Similarly, different offenders have different learning styles. Some learn best by listening, others by reading, yet others react better to graphical or iconic presentation of ideas, while yet others prefer to learn by direct experience. By tailoring treatment courses to the learning style best suited to the individual offender, better results can be expected. With a more motivated subject whose preferred learning style is catered for, psychologists can then proceed to use the whole host of behavioral intervention techniques they have developed over the years, such as role playing, reinforcement of positive aspects, and the restructuring of cognitive thought processes.

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should come as no surprise. Professional Discretion is enormously important. The first three principles are all geared towards treating the subject as individually as possible. This could all be ruined by the program being administered by staff without the discretion to recognize when special circumstances take over. For instance, sex offenders often score low on objective risk assessments. A sex offender from the teaching profession, however, presents a special risk that needs to be taken into account. Relying on objective instruments and rules is not sufficient to allow a program to be properly effective.

To these four principles they later added a fifth, Program Integrity. Even the best designed program can be destroyed if it is poorly implemented, delivered by untrained personnel and is too short to be effective. Again, this seems particularly important when we realize that many of these programs are delivered in the public sector.

An excellent example of how these principles come together to deliver sustained reductions in recidivism is provided by two sequential programs administered in the State of Delaware – KEY and Crest. Focusing particularly on drug offenders, these programs have provided remarkably good results. The man responsible for implementing the programs, Dr. James Inciardi of the University of Delaware, describes it as follows²⁰:

“The State of Delaware, with the support of the Bureau of Justice Assistance, in 1987 established the Key, a prison-based treatment program for drug-involved offenders at a men's maximum security prison. The Key is a therapeutic community, a self-contained treatment environment separated from the drugs and violence often found in prisons. The therapeutic community model is based on the philosophy that drug abuse is a disorder of the whole person and that treatment should therefore focus on building an offender's self-esteem and changing his values and attitudes.

“Delaware's Department of Corrections immediately found benefits in the program: the Key was the cleanest, safest, most trouble-free section of the prison. The program now is funded by the State and currently has 140 beds. All participants are volunteers and are eligible if they are within 18 months of their work-release dates or parole eligibility. ...

“Earlier studies of the effectiveness of long-term residential treatment indicated that without aftercare and follow up support, offenders were likely to relapse into drug use and crime. The studies, which evaluated the Federal Bureau of Prisons' drug treatment programs in public health service hospitals in Lexington, Kentucky, and Fort Worth, Texas, revealed a 96-percent relapse rate among treatment participants. Based on these and numerous other studies, the researchers at the Key program anticipated that 12-15 months of prison-based treatment would be insufficient.

“With the support of the National Institute on Drug Abuse (NIDA), the researchers established the Crest Outreach Center at the Plummer Center, a conventional work-release center in Delaware. Crest is the first therapeutic community work-release center in the United States. After 17 to recognize when special circumstances take over. For instance, sex offenders often score low on objective risk assessments. A sex offender from the teaching profession, however, presents a special risk that needs to be taken into account. Relying on objective instruments and rules is not sufficient to allow a program to be properly effective.

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“Crest requires participants to stay in the center for the first 3 months of treatment while they learn how to look for a job, prepare resumes, and interview. This approach contrasts with conventional work-release programs where participants immediately begin looking for work during the day and spend only evenings and weekends at the work-release center. Crest admits offenders who have not participated in the Key program and have not received prior treatment, as well as female offenders who may or may not have received prior treatment.

“The treatment staff at Crest is a mix of counseling professionals and recovering drug users. The correctional presence at Crest is limited; a correctional officer walks through the facility three times a day to take count, and the Plummer Center broadcasts announcements to Crest on its public address system.

“After completion of the transitional treatment program at Crest, participants continue treatment in an outpatient aftercare program for 6 months, returning to Crest once a week for group support meetings. At the end of the 6 months they attend a "marathon encounter weekend" of group therapy.”

This program clearly exhibits all the characteristics of a successful rehabilitation

program. The program is based around the individual offender's needs, although it addresses non-criminogenic as well as criminogenic needs. It focuses particularly on responsivity issues, by separating the KEY prisoners from others in the facility, allowing closer attention to be paid to the individual's circumstances. The Crest program is particularly sensitive to risk of re-offending and the whole system is run with an eye to both program integrity and professional discretion; the inclusion of recovering drug users in the staff particularly allows for greater sensitivity to the problems that might befall these former offenders. Figures for the costs of these programs are not readily available, but the White House Office of National Drug Control Policy reports that the average cost per treatment of programs such as KEY-Crest was \$2,941 in 1993-95, while the average benefit to society was \$9,17721.

Follow-up interviews 18 months after release from prison showed excellent results. The comparison group showed a pretty standard 70 percent re-arrest rate. A group that had participated only in the KEY program showed an appreciably better 52 percent re-arrest rate. A group that had participated only in the Crest program performed even better, with a 35 percent re-arrest rate. Best of all, however, was the group that had finished both programs, who delivered a re-arrest rate of only 29 percent.

In terms of keeping themselves off drugs, the figures were similar, although the Key-Crest combination proved even more effective. In the comparison group, 81 percent had release from the Key program, offenders enter the Crest Center for 6 months of treatment and job training in a therapeutic community setting.

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In terms of keeping themselves off drugs, the figures were similar, although the Key-Crest combination proved even more effective. In the comparison group, 81 percent had used drugs 18 months after release. The figure for the KEY group was 70 percent, for the Crest group 55 percent, but for the KEY-Crest cohort a remarkably low 24 percent.

This sort of program demonstrates what can be achieved by well thought out programs. The KEY program is also an example of one of the few “big ideas” that the Maryland study found to be effective – drug treatment in prison by means of “therapeutic community” programs. The basic idea should be familiar to anyone who knows about Alcoholics Anonymous and similar programs, in that it is easier to step away from addiction when you are part of a supportive group all working towards the same goal. The fact that substance abuse is a major criminogenic risk factor underlines the importance of drug treatment to successful rehabilitation programs. It is virtually impossible to find a successful rehabilitation program in the USA that does not address substance abuse.

But it is not just in prison that drug treatment programs have been found to reduce re-offending. The Break The Cycle program in Birmingham, Alabama, works on offenders immediately from their arrest. After arrest, drug-involved offenders are immediately judged as to whether they should remain in custody or be released into the community prior to trial, but when they are released they do so under a treatment regimen involving either residential or outpatient medical treatment, daily reporting to the authorities and a program of urine testing to determine drug use. As in the case of KEY-Crest, the program is based on the individual’s needs, with case management, drug testing and treatment as needed, and use of graduated sanctions in the case of drug test failures to ensure responsivity.

In a detailed analysis of the program, researchers from The Urban Institute and elsewhere²² found that 21 percent of those referred to the BTC program were assigned to urine monitoring only, two percent to education programs either for drug education or the development of cognitive skills, 57 percent to outpatient treatment and 16 percent to residential care. During the testing regime, half the tests showed no recent drug use, but 89 percent of participants had at least one infraction. While the initial idea had been for sanctions to be immediate, in practice they were delayed about one month from the date of the first infraction and frequently occurred only after several infractions. Most sanctions imposed, however, were minor, such as increased medical treatment. Supposedly an important part of the BTC philosophy, judicial involvement was severely limited, with jail time and other serious sanctions being imposed only rarely.

The Urban Institute analysis found that the BTC participants were only slightly less likely to use drugs after the program than a comparison group, although African Americans were significantly less likely to use marijuana than African Americans not on the program. However, when it came to crime, there were significant differences. One year later, only 41 percent of the comparison group had not been arrested again, but 76 percent

of the BTC graduates had remained free from arrest. Indeed, 79 percent of the BTC cohort reported no criminal activity of any sort in the last six months before their interview one year after completion of the program. By comparison, only 61 percent of the other group reported no criminal activity.

This program helps to demonstrate the importance of professional discretion and program integrity. Because of budget shortages and organizational issues, the program was not implemented exactly as designed and proved less responsive than it was initially supposed to be. Nevertheless, the results obtained were impressive.

Because there is no such thing as an ideal rehabilitation program, the overall effectiveness of rehabilitation programs in the United States remains small. Programs which exhibit to some degree or other the characteristics outlined by Andrews et al tend to have a statistically significant impact on recidivism, but do not eliminate it entirely.

There are, however, a couple of other ideas that seem to be having a beneficial effect, and it is to those that I turn next.

Section 5: What Might Work

It may surprise Britons to learn that one idea that seems to be having a small effect in America in reducing re-offending is actually European in origin. Fines have historically been rarely used in the United States without other sanctions as well, but following examination of their use in Europe, some jurisdictions have been introducing them as sole penalties. What little research there has been into their use suggests no real difference between recidivism in people receiving fines alone and those receiving other sanctions. However, adding a fine to another sentence reduces recidivism²³ by about a third. The recidivism rate for probationers in the study was 35 percent, while the rate for probation plus a fine was 25 percent, for example.

There has also been some research into the concept of “day” fines, which are linked to the offender’s daily income. These also seem to reduce recidivism, but, as in the case of fines in general, there is not enough research to base a firm conclusion. More widespread use of such fines might diminish the value of what is currently an unusual punishment.

The other major ideas that might work apply specifically to offenders who have used drugs. As the Breaking The Cycle example in the previous section demonstrated, drug treatment programs combined with rehabilitative techniques seem to work. It is also possible, however, that drug treatment alone in jail followed by regular urine-testing after release into the community also reduces recidivism. The results are contradictory, but perhaps the best designed study into such a program compared a group that had community-based treatment and regular urinalysis to one that had treatment in jail followed by regular testing after release. The community care group showed a fairly standard recidivism level of 68 percent, while the jail-based group showed fewer re-arrests, at 55 percent²⁴. This is a promising result that helps demonstrate the theme of the next section.

Finally, it is possible that drug courts may also help. Drug courts were first introduced to speed up the processing of drug-related crime, but have metamorphosed into courts specifically designed to promote treatment-based sanctions for drug offenders. The drug court is basically an extension of plea bargaining in which drug-involved defendants can agree to a mandatory program of treatment as an alternative to going through the full judicial process for their offence. The judiciary remains involved, handing down both rewards for compliance and graduated sanctions when the offender breaches the terms of

the mandated program or fails a drug test.

Great things have been claimed for drug courts thanks to a 1994 study of the original Miami drug courts program funded by the National Institute of Justice, which showed a re-arrest rate for drug court participants of 33 percent compared to 55 percent to a comparison group²⁵. Unfortunately, this study failed to assign participants to the drug court or control group randomly, meaning that this difference could be due simply to selection bias, with less likely re-offenders going to drug court. Moreover, there was a huge difference in the rate of failure to report progress, with 55 percent of the drug court cohort absenting themselves, while only 9 percent of the comparison group did so. This makes the analysis unreliable. More rigorous studies have shown either no reduced recidivism for drug court participants²⁶ or no significant difference in re-arrests but a significantly reduced level of custodial sentences following re-arrest²⁷.

The evidence for the success of drug courts is therefore limited. While many involved, including the authors of the Maryland study, expect great things from them, the evidence does not bear this optimism out yet. Although the lower re-conviction rate in one study is sufficient to suggest that the programs might reduce recidivism, there is no evidence that drug courts actually rehabilitate offenders short of addressing one specific criminogenic need. If other such needs are not addressed, then the offender is likely to re-offend. Drug courts seem to share with deterrent programs, boot camps, wilderness and counseling the idea that rehabilitation can be achieved by concentrating on one problem area for the offender (lack of understanding of consequences, lack of discipline, lack of opportunity or lack of self-esteem). As we have seen, the successful rehabilitation programs address all the needs of the offender. While substance abuse, as mentioned above, is one of the most important risk factors for criminal activity, it is not the only one facing society, never mind individuals. Drug courts may reduce re-offending slightly, or they may in the end prove to be as ineffective as “Scared Straight.” It should, of course, be noted that, despite their ineffectiveness, scared straight programs still continue. Drug courts are probably with us to stay.

Section 6: Community versus Custody

The Maryland researchers also included another type of programs in their “what’s promising” category, “intense supervision and aftercare,” especially of juvenile offenders. These programs seek to restrict offenders’ scope for criminality when they are in the community, and so therefore are strictly not rehabilitation programs, but some do seem to have a noticeable effect on recidivism.

One project from Pennsylvania in particular seemed to have a significant effect on reducing further offending. It assigned serious juvenile offenders to a regime whereby probation officers had frequent contact with the offenders and with their families or caregivers. Serious offenders not on the program had a 74 percent re-arrest rate, but only 50 percent of those in the program re-offended. The researchers attributed this differential not to any reduction in criminal propensity among the young people affected, but to the restraining effect of the program²⁸.

Other community-based projects provide less useful evidence. In many cases, the research is contradictory, with intensive program participants having more arrests, but fewer serious charges than their comparison group. No conclusions can really be drawn from this research as to whether intensive probation programs are really more successful in reducing crime than normal probation. However, one question can be answered. The researchers Gottfredson and Barton looked at the recidivism of juveniles who had been assigned to a custodial facility to that of juveniles who were assigned to community

supervision following the closing of the facility²⁹. They found a significantly lower rate of re-offending among the youngsters who had been kept out of the community.

Even if the absolute benefit of custodial sentences in terms of reduced recidivism after sentence has been served is questionable (the boot camp experience may seem to argue against Gottfredson and Barton's findings), there is one sense in which their community benefit can be seen clearly. Custodial sentences incapacitate the offender by removing him or her from the community, isolating them from the opportunity to inflict more harm on the community (of course, prisoners frequently commit crimes, but these affect other prisoners primarily and so need to be considered separately).

Community-based sentences on the other hand, however well supervised, allow people likely to re-offend the opportunity to re-offend while their sentence is being carried out. In rigorous scientific reviews of the fashionable practice of electronic tagging, for example, 10-20 percent of offenders, whether tagged or not, were re-arrested or otherwise sanctioned for criminal activity during their sentence³⁰.

Community sentences, therefore, are no better than custodial sentences in reducing re-offending rates. Their value to society is in terms of reducing prison over-crowding and reducing custodial costs rather than in terms of crime reduction. Indeed, they may increase the number of crimes suffered by the community. The issue, as with boot camps, probably therefore comes down to cost to the community. All other things being equal, does the cost of the crimes committed by offenders during community sentences outweigh the marginal cost of keeping offenders under custodial supervision? Although this is a question for another time, some figures may help illuminate the discussion.

- A National Academy of Sciences report in 1994 found that the average cost to American society of a robbery was about \$28,000, while an assault cost \$24,000 (about \$34,000 and \$29,000 in present values)³¹.
- In 1996, it cost \$20,100 (about \$23,000 in current prices) to keep an inmate in state prison for one year³².
- In 2002, the average annual cost of probation in California was \$2,769 per offender³³.
- Within three years of release, 272,111 state prisoners had had 744,480 arrest charges filed against them³⁴.
- The average career criminal is reckoned to be involved in 1 or 2 crime incidents per week, although estimates of the seriousness vary hugely between experts.

Bearing all these points in mind, the issue looks finely balanced.

Section 6: Conclusion

It seems that the natural state of an ex-prisoner is that he or she (recidivism rates for females are not appreciably lower) is liable to re-offend. This is almost certainly because the combination of mindset, worldview and circumstances – the “needs” of the subject – surrounding the newly released prisoner are not appreciably different from what they were before his or her last arrest. Programs that seek to address only one, or even just a few, of these needs are unlikely to succeed in altering the next choice he or she has to make as to whether or not to commit a crime. If there is one overwhelming need, such as substance abuse, that has been addressed, then perhaps the choice will be easier, but if other needs remain, then the choice for crime may still be taken.

Successful rehabilitation exercises recognize the whole of the offender's set of needs, and

proceed to address them as best they can. The individual is not sacrificed to a big idea, and so the individual emerges better equipped to make necessary choices.

It is worth mentioning here that there is one “big idea” that does seem to have had noticeable effect in prisons. Faith-based programs such as Chuck Colson’s Prison Fellowship Ministries³⁵ do tackle the re-offending problem with an over-arching principle, but it is a principle that treats the individual as an individual, meeting his or her needs with studies that seem appropriate to them. These programs have been little studied, thanks partly to the first-amendment induced squeamishness with which American authorities treat religion, but what studies have been performed indicate great success. A 1997 study found that only 14 percent of those who attended at least 10 Prison Fellowship Bible studies in a year were rearrested in the year after release, compared with 41 percent of the non-Prison Fellowship group and about the same percentage of those who attended Prison Fellowship programs less frequently³⁶. An average of 219,000 prisoners per month attend Prison Fellowship programs. Prison Fellowship Ministries, a registered charity, spent \$23 million on this activity in their financial year 2001-2.

The big idea of faith aside, however, it would seem that UK authorities have most to gain from training and empowering corrections staff to understand their wards better and allow them to address their individual problems. This is likely to be unpalatable to those who might wish to change the world with the wave of a Whitehall command paper, but it is most likely to change the lives of those who matter most in this regard, the potential repeat offender.

For in the end, rehabilitation is about changing individual lives. Above all, those who espouse the idea of victim-centered justice should be able to appreciate that.

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