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052100120X - What Works in Corrections: Reducing the Criminal Activities of Offenders
and Delinquents

Doris Layton MacKenzie

Excerpt

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PART ONE

STRATEGIES FOR REDUCING CRIME

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CHAPTER ONE

Strategies for Reducing Recidivism

Which correctional strategies, programs, policies, and interventions effectively reduce crime? That is the question addressed in this book. Obviously, other issues such as costs and justice are important in public policy decisions. However, the degree to which crime is reduced is always important, and, in the eyes of many, it is the primary reason for or goal of corrections. In this book, therefore, I focus solely on the effectiveness of these policies in *reducing crime*. The decision whether a particular strategy is effective is made on the basis of scientific evidence.

Although crime reduction is one of the major, if not the major, goal of correctional policy, the goals of sentencing are somewhat different. Traditionally, four major goals are attributed to sentencing: retribution, rehabilitation, deterrence, and incapacitation. Retribution refers to just desserts: the idea that people who engage in criminal behavior deserve to be punished. This is an important purpose of most sentences. The three other goals of sentencing are similar to those of corrections. These goals are utilitarian in purpose, emphasizing methods to protect the public and reduce crime. The three goals differ, however, in the mechanism expected to provide public safety. The first, deterrence, emphasizes the onerousness of punishment; offenders will be deterred from committing crimes as a result of a rational calculation that the costs of punishment are too great. From this perspective, the punishment is so repugnant that neither the punished offender (specific deterrence) nor others (general deterrence) will commit the crimes. The second, incapacitation, deprives offenders of the capacity to commit crimes because they are physically detained in prison; when offenders are in prison they cannot continue to commit

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crimes in the community. The third sentencing goal, rehabilitation, is directed toward changing offenders so they will not continue to commit crimes.

Within corrections, debate continues about the most viable strategies for reducing crime. Some argue for incapacitating large numbers of offenders so they will not continue committing crimes in the community. Others believe that offenders make rational choices to commit crimes and that they will be deterred from these activities if the punishment is sufficiently onerous. A third group focuses on the ability of correctional programs to change offenders so that they will not continue to commit crimes. Many who take this perspective believe crime will be prevented through rehabilitation or treatment directed toward changing the offender. Finally, some believe correctional programs will reduce crime by increasing control over offenders while they are in the community or by involving them in some type of physically and/or mentally stressful experience(s). These latter programs attempt to combine aspects of incapacitation, deterrence, and/or rehabilitation.

There are a wide range of strategies, programs, policies, and interventions currently in use in corrections. One heuristic approach classifies these various strategies into the following categories: (1) incapacitation; (2) deterrence; (3) rehabilitation; (4) community control; (5) structure, discipline, and challenge programs; and (6) other combinations of rehabilitation and control (MacKenzie, 2002). Obviously, these categories are not mutually exclusive. They represent different strategies for controlling crime in the community. Most strategies, programs, and interventions have some theoretical rationale for expecting a reduction in crime; they differ enormously in the mechanism anticipated to produce the reduction.

Incapacitation deprives the offender of the capacity to commit crimes, usually through detention in prison or jail or through capital punishment. There are numerous strategies that fall under the five other types of interventions categorized previously. Deterrence is punishment designed to be so repugnant that neither the offender nor others will commit the crime in the future. A heavy fine for criminal activities is an example of the use of deterrence to attempt to reduce crime. Rehabilitation-oriented programs such as cognitive skills, education,

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employment services, and life skills are directed toward changing the offender to prevent future criminal behavior of the treated individual. Community control or the surveillance and supervision of offenders in the community is an attempt to reduce the delinquent or offender's capacity and/or opportunity for criminal activities. Intensive supervision, electronic monitoring, and home confinement are examples of increased community control. Structure, discipline, and challenge programs use physically and/or mentally stressful experiences designed to change offenders in positive ways (rehabilitation) or deter them from later crime. Examples are wilderness programs, outward bound, and the recently popular correctional boot camps. Finally, other programs attempt to combine rehabilitation and control or structure by increasing the surveillance and control, or the structure and discipline, while at the same time providing rehabilitation services. Two recent examples of these programs are drug courts and correctional boot camps that incorporate drug treatment or other rehabilitation programs.

CHANGES IN THE PHILOSOPHY AND PRACTICE OF CORRECTIONS

The philosophy and practice of sentencing and corrections have changed dramatically in the past thirty years. For the first seven decades of the twentieth century, sentencing and corrections strongly emphasized rehabilitation. This changed during the 1970s when this emphasis gave way to a focus on fairness and justice. In this model, sentences were expected to reflect just desserts and not some utilitarian motive. Subsequently, sentencing practices moved to a crime control model, emphasizing the use of incapacitation to reduce crime. During the 1980s and 1990s, the crime control model became increasingly popular. These changes in the goals of corrections have been associated with an enormous increase in the number of people in the United States who are under some form of correctional supervision. Changes in the philosophy and practice of sentencing and corrections have clearly had a major effect on these rates. However, there is no consensus about what specifically has caused the changes, the effect of the changes, and their intended and unintended consequences.

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[More information](#)**The Age of Indeterminate Sentencing and Rehabilitation**

In the 1960s, all U.S. states, the federal government, and the District of Columbia had indeterminate sentencing systems. The emphasis of sentencing and corrections was on rehabilitation. Theoretically, both the juvenile and adult correctional systems focused on treating individuals adjudicated for delinquent or criminal offenses. During this time, prisons were referred to as “correctional institutions” and prison guards became “correctional officers.”

Under the indeterminate model of sentencing, legislatures set maximum authorized sentences; judges sentenced offenders to imprisonment, probation, and fines and set maximum durations; correctional officials had power over granting good time, earned time, and furloughs; and parole boards set release dates. In some states the indeterminacy of the sentences permitted sufficient leeway to permit courts to sentence offenders to prison for time periods from one day to life. Professionals, typically the parole board, were assigned the task of determining when the offender had made sufficient progress to be awarded supervised release in the community.

After the sentence was imposed, decision making was almost totally the prerogative of correctional authorities or parole boards. Parole boards, in various forms, had the responsibility to set conditions of release for offenders under conditional or supervised release, the authority to return an offender to prison for violating the conditions of parole or supervised release, and the power to grant parole for medical reasons. Reductions in the length of prison sentences could be given for satisfactory prison behavior (good time) or for participation in work or educational programs (earned time).

The idea behind indeterminate sentencing was individualization of sentences. Judges gave sentences with a wide range between the minimum and maximum length of time (e.g., zero to twenty years) the offender had to serve in prison. Offenders were supposed to be released when they were rehabilitated. Decisions about release were the responsibility of prison authorities and the parole board. Officials were given broad authority to tailor new sentences, to promote the correction and rehabilitation of the offenders, and to safeguard offenders against excessive, disproportionate, or arbitrary punishment.

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Theoretically, two underlying beliefs appear to explain the philosophy behind indeterminate sentences – one environmental and the other psychological (Rothman, 1980). Environmental explanations focused on the wretchedness of the inner city slum environments and questioned how an individual growing up in these environments could be held responsible for later criminal behavior. Fairness dictated that offenders be treated as individuals; anything else was vengeful. The psychological perspective considered offenders ill and, therefore, in need of treatment as a cure for the illness. In either case, the criminal justice system was responsible for changing lawbreakers into law abiders.

The recommendations made by a panel of experts in the 1960s is evidence of the strong focus on rehabilitation. This panel was formed in response to President Lyndon Johnson's 1965 address to the U.S. Congress, in which he called for the establishment of a blue ribbon panel to examine the problems of crime in our Nation. Prominent among the panel's recommendations was an emphasis on probation and parole. According to the panel, caseloads should be reduced to an average ratio of thirty-five offenders per probation or parole officer; all releasees from institutions should receive adequate supervision; all jurisdictions should provide services for "felons, juveniles and adult misdemeanants who need or can profit from community treatment; and, probation and parole officials should develop new methods and skills to aid in reintegrating offenders through active intervention on their behalf with community institutions" (President's Commission on Law Enforcement and Administration of Justice, 1967:166).

Similarly, the panel's recommendations for institutions reflected the emphasis on rehabilitation, services and reintegration: "Model, small-unit correctional institutions for flexible, community-oriented treatment" should be established (page 173); educational and vocation training programs should be upgraded and "extended to all inmates who could profit from them" (page 175); "modern correctional industries aimed at the rehabilitation of offenders" should be instituted (page 176); and "graduated release and furlough programs should be expanded" (page 177) and coordinated with community treatment services (page 177). Prosecutors were urged to make discriminating discharge decisions by "assuring that offenders who merit criminal

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sanctions are not released and that other offenders are either released or diverted to non-criminal methods of treatment” such as diversion to community treatment (page 134). Out of these recommendations grew the Omnibus Crime Control and Safe Streets Act of 1968.

These recommendations, as well as the indeterminate sentencing structure, clearly demonstrate that the emphasis at the time was on rehabilitation with a focus on community treatment, diversion, reintegration, and education and employment programs. However, it should be noted that despite the philosophical emphasis on rehabilitation, in actual practice, these programs were often poorly implemented and funded.

A Time of Change: 1970–2000

The decade of the 1960s had begun with great optimism about the promises that a new frontier would be created and a more equitable order achieved. By the end of the decade, belief in “the great society” had given way to a despairing distrust of the state. The fallout from this thinking for correctional policy was immense because inherent in the rehabilitative ideal was a trust in criminal justice officials to reform offenders. Some people questioned the unbridled discretion available to criminal justice decision makers who gave preferential sentences to the advantaged and coerced inmates into conformity. Others wished to return to earlier times when “law and order” reigned in our country, and they called for a “war on crime” to preserve the social order. The times were ripe for major changes in the criminal justice system. A virtual revolution occurred in sentencing and corrections policies and practices in the seventies and thereafter.

One of the most visible influences on this change was Martinson’s 1974 summary of a more elaborate report by Lipton, Martinson, and Wilks (1975). Martinson described the results of the research team’s assessment of 231 evaluations of treatment programs conducted between 1945 and 1967. From this research, he concluded that “[w]ith few and isolated exceptions the rehabilitative efforts that have been reported so far have had no appreciable effect on recidivism” (Martinson, 1974:25). This report was widely interpreted as demonstrating that “nothing works” in the rehabilitation of offenders. Subsequently, a National Academy of Science panel reviewed

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the results and agreed with Martinson (Sechrest, White, & Brown, 1979).

Not everyone agreed with Martinson's conclusions. Critics argued the work was flawed for two major reasons (Palmer, 1983; 1992). First, the methodology that had been used in most of the research was so inadequate that only a few studies warranted any unequivocal interpretations, and second, the majority of studies examined programs that were so poorly implemented they could hardly be expected to have an effect on future criminal activities. Despite the concern that the research did not support such a conclusion, the phrase "nothing works" became an instant cliché and exerted a powerful influence on both popular and professional thinking.

Several factors may explain why at that point in time Martinson's conclusion became so widely accepted. Cullen and Gendreau (2000) argue that the historical times were ripe for a full-scale attack on rehabilitation and the indeterminate sentencing model. From this perspective, the decade of social turbulence preceding the publication of Martinson's article profoundly affected many Americans. Inequities based on gender, race, and class had been exposed and challenged. Protests, riots, and bombings about issues such as civil rights and the war in Vietnam were common occurrences. Within the criminal justice system, the 1971 riot and slaughter of inmates and guards at Attica prison demonstrated the extent to which government officials would go to suppress offender protests over prison conditions. The public began to question the past faith in the ability of social institutions to solve social problems. In regard to corrections, the question was: Could judges and correctional officials be trusted to exercise the extreme discretion permitted by the rehabilitative ideal?

For many, the answer to this question was no; the officials should not be given such wide discretion. However, liberals and conservatives differed in why they wanted to limit discretion. Conservatives argued that the judges and parole boards were too lenient; they used their discretion to release predatory criminals who continued to victimize innocent citizens. Liberals argued that the discretion given to officials was coercive and ineffective. Because officials could not really tell when offenders were rehabilitated, why should they have the power to decide when the individual should be released? If the professionals who were

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responsible for rehabilitation could not demonstrate that they could effectively change offenders (as the Martinson report indicated), then their authority and autonomy in establishing the length of sentences should be severely restricted so that they would have less control over people's lives. Furthermore, they argued, the wide discretion often results in disparity and unfair sentences that are not remedied through the parole release system. As a result of the wide discretion allotted to officials in the criminal justice system, offenders with similar past histories convicted of similar crimes often served widely disparate sentences whereas those with disparate histories and crimes served similar sentences. Critics of the indeterminate sentencing system argued that poor and minority offenders were discriminated against, imprisoned offenders were coerced into programs, and offenders who challenged prison conditions were denied parole.

The Justice Model of Sentencing and Corrections

The proposed solution to the problems of sentencing and corrections was to return to a justice model of sentencing and corrections (American Friends Service Committee, 1971). From this perspective, sentences should be decided on the basis of fair and just sentencing policies. The model is based on retributive notions of deserved punishment, or the idea that the sentence should fit the crime. Offenders would receive their just desserts – the deserved punishment – nothing more, nothing less. Advocates argued that prisons should not be used to achieve any public end. In their opinion, it is not morally justified to use people in particular ways to achieve public goals. Punishment should be proportionate to the crime but not be designed to achieve some utilitarian motive such as rehabilitation or crime control. The only relevant factors to consider in sentencing are the crime(s) of conviction and the offender's past history of criminal activity. Under this model, individualized treatment and discretion would be eliminated; thus, all offenders would be treated similarly by the criminal justice system.

The justice model carried with it direct implications for public policy. Offenders should be given substantial procedural protections throughout all stages of criminal justice system processing. Thus, legal rights of inmates became very important to the courts and corrections.

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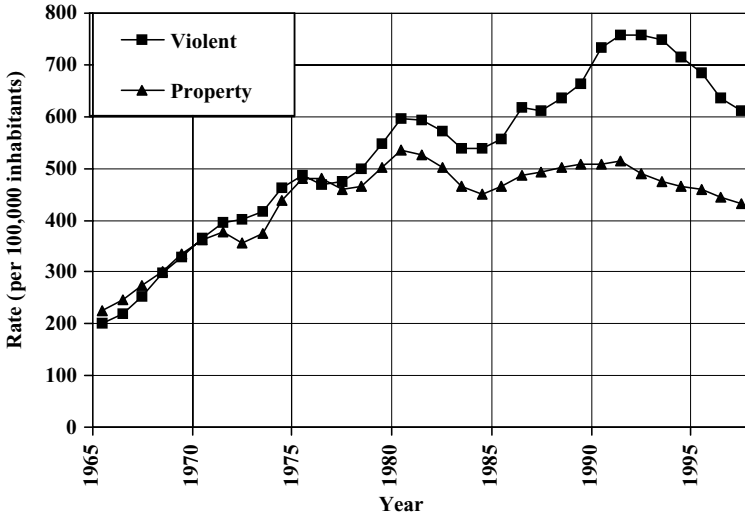
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Figure 1.1. U.S. crime rate (offenses known to the police), 1965–1997.

Rehabilitation, if used, should be voluntary and not coerced. The largest policy effect was the need to change from an indeterminate sentencing model to determinate or *flat* sentencing. Under this sentencing method, a specific crime would carry a clearly identified sentence length, not a broad minimum and maximum; parole release would be eliminated; and sentence lengths would be determined by guidelines that considered only the past history of criminal activity and the current crime of conviction.

Crime Control: Incapacitation and Deterrence

Although proponents of the justice model were arguing in favor of this change away from a rehabilitation model, others began to argue for changes that would increase the crime control aspects of sentencing and corrections through incapacitation and deterrence. Crime rates escalated during the period from 1965 to 1975 (and continued through the early 1990s; see Figure 1.1), and this may have led to the increased emphasis on the need to control crime. “Law and order” advocates attacked rehabilitation as coddling criminals. They wanted to implement policies that would limit the ability of judges and correctional officials to mitigate the harshness of criminal sanctions. They advocated “get tough” proposals for mandatory minimum sentences