REDUCING REOFFENDING AND ENABLING REINTEGRATION

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I. INTRODUCTION

Reoffending by people who have been through criminal justice is a challenge for governments and societies around the world. A recent review suggests that in most developed countries reoffending rates after sanctions fall in the 30–50 per cent range. To sum up a very broad evidence base, we know that:

- Men tend to be reconvicted more often than women:
- Younger people tend to be reconvicted more often than older people;
- Among offence types, theft and property offences have the highest reconviction rates;
- Among different sanction types, imprisonment has the highest reconviction rates;
- Among prison sentences, short sentences have higher reconviction rates.

The costs of reoffending are not just economic. Behind these statistics, there are citizens, families, groups and businesses suffering crime victimization; and very often, it is those who are *already* disadvantaged in a variety of other ways that suffer repeated victimization. Since the protection of citizens – and especially vulnerable citizens – is a key duty of the state, the failure to protect is also a political problem; indeed, it strikes at the legitimacy of the state itself.

But this legitimacy problem also has another important aspect. If a key aim of our penal systems is to secure the reintegration of those who have offended (see du Bois Pedain, 2017), then it seems uncontroversial to suggest that when a punished person goes on to reoffend, then their punishment has failed in an important sense.

Evidence of the impact of the Covid-19 pandemic on criminal justice is only now being gathered and analysed, but we know that in many countries pandemic-related restrictions have impoverished correctional regimes, limiting opportunities for rehabilitation of people serving sentences in prisons and communities, and that they have exacerbated re-entry challenges for those leaving prisons only to enter communities in "lockdown".² Reoffending rates might then be expected to rise yet further, unless we take appropriate action now.

In many states, the paradoxical reaction to such failure has been to do more of the same (see *Figure 1* below); imposing even *more* punishment and *more* control and restriction on those who have offended. Sometimes perhaps, this is the response that hurt, fearful or angry

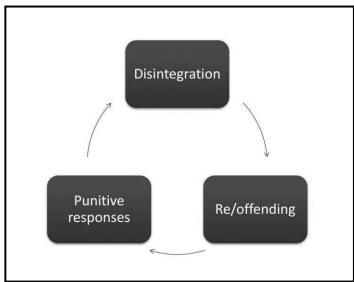
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¹ See https://www.sccjr.ac.uk/wp-content/uploads/2012/12/Reducing-Reoffending-FINAL-Dec-2012.pdf, accessed 15 January 2020.

² See, for example chapter 5 of this report, https://scotlandinlockdown.files.wordpress.com/2020/12/scotlock_project_report_full_dec2020-2.pdf, accessed 4 February 2021.

communities demand of their leaders (although, on closer inspection, public opinion about punishment and reintegration turns out to be much more complex and nuanced than that; see Maruna and King, 2009).

Figure 1: The penal paradox



But, as well as being expensive, increasingly punitive responses also come into conflict with international standards in relation to human rights. Since they tend to worsen the *dis*-integration and disadvantage that is sadly so typical of those who find their way into prison, they also waste precious resources, instead fuelling the vicious cycle of reoffending. In consequence, social stability and solidarity are weakened, and with them, so are the prospects for the kinds of collective flourishing that we all seek, and which are reflected in the UN Sustainable Development Goals. In this sense, therefore, reintegration is a key challenge for sustainability – and getting reintegration right is key to criminal justice's contribution to that wider goal. Both the UN's Mandela Rules and the Tokyo Rules in different ways reflect this key aspiration – to move away from merely punitive punishment and towards rehabilitative and reintegrative approaches, whether in prisons or in the community.

Thankfully, as well as these important standards, there is also a rapidly developing evidence base that we can use to re-direct our policies and practices towards reducing reoffending and enabling reintegration. It is that evidence base to which I now turn.

II. PRINCIPLES, EVIDENCE AND REINTEGRATION

A. Parsimony, Proportionality and Productiveness

But before I turn to this positive evidence base, it is important to say something briefly about what *doesn't* seem to work. One very robustly designed longitudinal study – the Edinburgh Study of Youth Transitions – has demonstrated convincingly that, controlling for all other factors, contact with formal authorities tends to *slow down* rather than accelerate young people's movement away from crime and towards integration. It seems that once a young person is labelled and processed as an "offender", they become more vulnerable to re-processing; the label "offender" sticks hard and does both symbolic and material harm to young people's prospects, often driving them back into offending and

further criminalization and penalization (McAra and McVie, 2009).

It follows that, wherever possible, we must respond to individual misconduct and interpersonal conflict in ways that avoid formal criminalization. As the Howard League for Penal Reform in England and Wales³ puts it, even before we think about doing justice better, our priority should be to "stem the flow" of people into criminal justice.

When prosecutors decide that formal criminal justice processing is unavoidable, the question then becomes not just how to respond most constructively, but also how to minimize the harm that accompanies formal processing? In this regard, we should apply the principles of *parsimony* – never intervening in more demanding and intrusive ways than we must – and *proportionality* – always ensuring that the scale of the response is commensurate with the seriousness of the offending. I add a third principle – *productiveness* – stressing that the form and focus of our approach should reflect positive efforts to rehabilitate and reintegrate (McNeill, 2019).

1. Four Forms of Rehabilitation

There are four forms of productive rehabilitative intervention that we should always consider, and which very often need to be combined, if we are to achieve the goal of reintegration (see Burke, Collett and McNeill, 2018; McNeill and Graham, 2020):

- **Personal rehabilitation** aims to develop new or existing motivation to change, as well as building new skills, capabilities and capacities for living differently.
- **Judicial rehabilitation** is a process of formal, legal "de-labelling" where the status and rights of the citizen are reinstated. This is a duty that the punishing state owes to those citizens who have completed their sanction; it signifies and secures the end of punishment.
- Moral and political rehabilitation is more informal and focuses on dialogue between citizen, civil society and state a civic and civil conversation that looks back not just at the offence but at what lies behind it, and that explores harm and repair.
- Social rehabilitation concerns the individual's social position and their social identity. It is about their connections and resources, their social capital; the help and welcome that they require from other citizens along the path to reintegration.

It is easy to see why these four approaches most often need to be combined. Personal transformation can easily come undone when confronted with informal social obstacles and formal legal barriers to building and sustaining a law-abiding life.

2. What Works? Risk-Needs-Responsivity

Especially in Anglophone countries, policy and practice have been very much preoccupied with personal rehabilitation. On the plus side, this preoccupation has generated compelling evidence about the kinds of interventions, programmes and staff skills that best support the kinds of shifts in attitudes, values and behaviours that support a move away

³ See https://howardleague.org/>, accessed 16 January 2020.

from offending. Perhaps the most developed evidence base surrounds the "Risks-Needs-Responsivity" model of rehabilitation (see Ziv, 2020). Summing this up, the model argues, firstly, that we should match the level and extent of rehabilitative intervention with the level of risk of reoffending that a person presents; the greater the risk, the more work needs to be done. Secondly, we should focus our efforts on "criminogenic" needs; meaning those needs that are most associated with offending – for example, anti-social attitudes, peer groups, substance use, etc. Thirdly, we should intervene in ways that are responsive to people's learning styles, since this will maximize the chances that they will be able to learn what they need to learn, and that they will be motivated to do so.

RNR therefore represents a quite specific form of personal rehabilitation. The model's advocates claim that this narrow focus on criminogenic need has been shown to be effective in terms of reducing reconviction. This may also suit correctional systems in as much as it provides managers and practitioners with a way of pursuing rehabilitation that does not require complex partnerships beyond prisons and probation. Because RNR tends to locate the problem mainly within the "offender", it situates the solution mainly within the prison or probation "treatment" room.

3. Who Works? Staff Skills

More recent research suggests that people supervised by staff who demonstrate the skills required to effectively apply these principles, who can develop constructive relationships with their supervisees, who model pro-social behaviour and who act as brokers for the other services their supervisees need, tend to have lower reconviction rates than those supervised by less skilled staff (see Chadwick, Serin and Lloyd, 2020; Haas and Smith 2020; Trotter, 2020). This body of work helpfully broadens thinking both about the mechanisms of delivery of effective practice – from programmes to practitioners – and, to a certain extent, about its aspirations: Whereas, the RNR model does not aim ultimately at reintegration, settling more narrowly for reduced reoffending, these skills-based approaches do often stretch to include work around social integration.

4. The Good Lives Model

The second influential model of rehabilitative practice is broader than RNR both in its aims and in its approach. The Good Lives Model (GLM) (see Purvis and Ward, 2020) rests on the assumption that interventions should aim to promote a person's "goods" as well as to manage or reduce risks. Hence it aims to help a person develop a "good life plan" that identifies ways of effectively securing "primary human goods" without harming others. These "primary human goods" include, life, knowledge, excellence in play and work, agency or autonomy, inner peace, friendship, community, spirituality, happiness, and creativity. Clearly, this is not just about tackling "criminogenic needs"; it entails a much bigger project of personal rehabilitation involving the rebuilding of person's aspirations and identity as well as their behaviour. Also, though still focused on the individual, the GLM requires practitioners to see the individual within the context of their social relationships and environment. The GLM is a more recent development than RNR and so the evidence base is less mature, but it is developing rapidly (see Purvis and Ward, 2020), with many countries adopting GLM-inspired approaches.

III. SUPPORTING DESISTANCE AND REINTEGRATION

A. Desistance Theories and Research

Clearly, proper evaluation is critical to the development of the most effective approaches to rehabilitation, and I will return to this issue later. But in this field as in any other area of human development, evaluation research alone is insufficient to guide policy and practice. It is equally important to better understand the *processes of change* we are trying to support. For example, teachers need to understand how and why children learn and develop, and not just how best to teach them.

Fortunately, within criminology, there is a rapidly expanding evidence base about how and why people desist from offending. This is important, not least because there is plenty of evidence that most people stop offending *without* and sometimes even *in spite of* criminal justice intervention.

Many desistance theories thus offer accounts of a kind of "natural" or "spontaneous" rehabilitation.

To say that the process of desistance often happens naturally is not necessarily to say that it is or should be unassisted; crucially, nor is it to suggest that it cannot be accelerated (see Graham and McNeill 2017, 2020; Johnson and Maruna 2020). Indeed, many of the most common explanations of desistance, on closer examination, do imply some important forms of assistance. For example, desistance is linked to physical and psychological maturation, but we should understand this not just as a spontaneous and inevitable process associated with ageing, but also as a *social* process which can be enabled or impeded by a person's associates and environments. Similarly, desistance is often linked to the development of new social bonds like those associated with intimate relationships, parenthood or employment; but it should be obvious that we find our ways into these important connections not entirely by accident. More often, they reflect supported changes in our social positions. Similarly, desistance often involves a gradual shift in identity and personal narrative (towards a more positive sense of self). But that too is a process which, for most of us, requires a receptive audience for the reformed (or evolved) self; one that endorses and supports the change within us.

In other words, in each of these cases, while rehabilitation is not always or even often engineered by a criminal justice practitioner, it is being supported by other social actors, relationships, and contexts – and it can be just as easily undermined by them.

B. Supporting Desistance in Criminal Justice

Over the last 20 years, researchers have been exploring whether and how criminal justice policies and practices can draw on desistance research to find ways to actively prompt, sponsor, support and sustain desistance. This is where the research on desistance and rehabilitation has begun to meet and merge. Much of this work has focused on reforming probation practice, though it has wider applications. To summarize some of the key principles that have emerged (see also McNeill, et al., 2012; McNeill, 2016; Burke et al., 2018):

1. Desistance is not a linear process; it usually involves numerous lapses and setbacks. We need to find ways to use these as learning opportunities, *supporting people towards compliance* rather than rushing to punitive enforcement.

- 2. Desistance is process of personal development which different people experience differently; studies have explored differences, for example, related to gender (Barr, 2019) and ethnicity (Calverley, 2013), as well as those related to different social and cultural contexts (Farrall, 2019). So, we need to individualize the forms of support we offer, *respecting diversity*.
- 3. Desistance is associated with the development of hopefulness and a sense of agency, or increasing control over the direction of one's life. We should therefore work in ways which nurture hope and which *enable self-determination*, for example, engaging people in planning their own pathway through and beyond their sentence, and helping them develop the capacities required to direct their lives.
- 4. Relationships are central to desistance; *social relations and social capital play key roles*, so we should also work with partners, families, friends and communities to find ways together to support people through desistance (see Weaver, 2015; Kotova, 2020).
- 5. Desistance involves constructive changes in people's routine activities and social situations. This means we need to *provide practical support* for such changes, for example via public assistance with financial need, housing, access to health services, education and training, etc.
- 6. Recognition of people's efforts to change has a reinforcing effect. By contrast, if the attitudes, language and practices of criminal justice practitioners and of communities undermine change (for example, by reinforcing criminalization and exclusion), then they will undermine change. We should therefore focus on *finding* ways to recognize, certify and celebrate change.

It is easy so see how these principles correspond to the four forms of rehabilitation discussed above. Whereas principles 1-3 guide our approaches to personal rehabilitation, principles 4 and 5 direct us towards the importance of social and moral rehabilitation. Principle 6 connects with the importance of judicial rehabilitation.

C. Rehabilitative Prisons?

If we turn our attention to another important site where rehabilitation is pursued – the prison – then we find important parallels with findings from yet further kinds of research. Jewkes and Gooch (2020) have recently examined the concept of the "rehabilitative prison", exploring whether this is a contradiction in terms. It is not difficult to see why, in theory and on the available evidence, we might reach that conclusion. By its very nature, imprisonment seems an unpromising context in which to support maturation, the development of positive social relationships and constructive changes in identity, all of which are key to desistance. And, indeed, the empirical evidence from many – perhaps most – prison systems seems to suggest that, at least as currently configured, prisons are much more likely to be sites of suffering and struggle than places of change and growth (McNeill and Schinkel, 2016); and as I have already noted, the pandemic has very probably heightened levels of suffering and struggle while impeding the rehabilitative possibilities.

Yet, it is also undeniable that, perhaps for a small number of people, prisons can sometimes be places of change and growth (Aresti, et al., 2010; Giordano, et al., 2002;

Kazemian, 2019; Schinkel, 2015). Jewkes and Gooch (2020) therefore examine how the planning, design, management, operationalization and culture of prisons might be better adapted for rehabilitation, noting the current popularity of "trauma-informed" approaches (Levenson, 2020) and of "normalisation" (Todd-Kvam, and Ugelvik, 2020). Both concepts are related to efforts to create healthier and more rehabilitative prison environments, in which personal development becomes more possible.

The Cambridge-based criminologist Alison Liebling has done some of the most important work on what constrains and enables personal development within prisons, based on a careful and sophisticated combination of ethnographic and survey research across multiple research sites in many jurisdictions around the world. Liebling (2020) finds that the "big five" dimensions of prison quality that influence personal development are:

- **Bureaucratic legitimacy**: meaning the transparency and responsiveness of the prison and its moral recognition of the individual
- **Humanity**: meaning an environment characterized by kind regard and concern for the person
- Staff professionalism: meaning staff confidence and competence in the use of authority
- **Help and assistance**: meaning support and encouragement for [addressing] problems (including drugs and health care) and progression
- **Organization and consistency**: meaning the clarity, predictability and reliability of the prison regime.

Prisons that score more highly on these indicators also score highly on personal development and on a range of other measures (including lower rates of self-harm and suicide, disorder and misconduct; there is also some evidence of lower post-prison reconviction rates). Importantly the whole prison environment, and not just the "treatment" or intervention room, needs to reflect these qualities. Specific rehabilitative interventions, like those we have discussed above, are more effective within such contexts. At the most fundamental level, "seeing and working with the prisoner as an 'emergent person' seems to be transformational" (Liebling, 2020: 204).

Crucially, almost all prison researchers agree that the possibility of developing these kinds of prison environments diminishes as prison systems swell in size and scale; over-crowded, under-funded and under-staffed institutions cannot provide rehabilitative environments. Therefore, as Liebling (2020: 205) says: "We should make prison a minor, and therefore properly affordable, but morally intelligible and 'enabling' part of the rehabilitation effort".

D. Other Ways of Supporting Desistance and Reintegration

Whether we look at probation research, prison research or desistance research then, we find that seeking and supporting changes in behaviour depends on and is secured by actively developing the institutional climates and cultures, and the social relations and contexts, within which people are enabled to flourish. Absent these systemic and social preconditions, efforts to reduce reoffending are insecure at best.

This explains why, ultimately, we need to look beyond – and reach beyond – criminal justice to secure reintegration. As the concepts of judicial, moral and social rehabilitation imply, we need to strive to create societies that respect the rights of restored citizens to fully participate in all forms of social life. That means examining our legal systems and developing approaches that, as in some Nordic countries, seek to provide "reintegration guarantees"; securing access to both public services and labour market participation. It means that we should work energetically and enthusiastically to educate the public about reintegration and to encourage them to play their part in it; here, we might follow the example of Singapore's pioneering Yellow Ribbon Project, or of an innovative Scottish project called "Distant Voices: Coming Home" which uses creative methods to engage citizens in public dialogue about reintegration. With our citizens better educated about and better engaged in reintegration, we might be more able to follow Japan's example in mobilizing volunteers to support people through probation, building bridges rather than walls within our communities.

And if, as Liebling (2020) insists, we choose to see and engage the person behind the criminal label, then we may also start to see in people within our penal systems strengths, capabilities and assets that can be mobilized for the common good, rather than just threats and liabilities to be managed (LeBel, 2020). The very promising development of peer mentoring schemes in criminal justice (Buck 2020), of sports-based (Meek, 2020) and of arts-based (Caulfield and Simpson, 2020) initiatives, and the notable recent accomplishments of collectives and mutual aid groups of people with convictions point to the enormous, and largely untapped potential, that we too often lock-down instead of guiding and releasing.

Lastly, if, as I argued above, moral rehabilitation is also a critical part of the process of reintegration, then we would do well to attend to the lessons of indigenous and traditional community justice in many places in Africa, the Americas and Australasia, as well as to the global movement around restorative justice (Chapman, 2020). These practices have much more to say to the crucial, relational aspects of punishment and reintegration than the formalized justice systems of liberal democracies.

IV. CONCLUSIONS: DEVELOPING REINTEGRATION THROUGH RESEARCH AND EVALUATION

I will end by briefly commenting on how we might best develop our services and practices through research and evaluation. Important though it is to collect reconviction data, evaluative studies that rely on this outcome measure represent an insecure basis for criminal justice development. The reasons are obvious: An offence does not become a conviction unless and until it is witnessed, reported, detected, prosecuted, convicted and sentenced; so, re-*conviction* is as much a measure of how people and systems *respond* to alleged reoffending as it is of behavioural change.

It follows that we need to supplement and compare reconviction data with other kinds of evidence. Indeed, if we are genuinely concerned with building safer and fairer societies, then we need to generate and use all the forms of evidence reported above, and to employ a range of knowledge exchange strategies to guide us.

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⁴ See <www.distantvoices.org.uk>, accessed 17 January 2020.

One good place to start is with listening much more carefully to the experiences of people themselves engaged in the struggles for desistance and reintegration. Studies that critically analyse this sort of evidence have helped us understand why reintegration is so difficult for many people to achieve. Setting aside the profound problems created by the multiple forms of social deprivation apparent in the lives of our penal populations, and the evidence about how punishment itself often serves to further de-habilitate and dis-integrate them, recent "re-entry" studies have provided a fine-grained picture of the multiple barriers that people face when released from prison (e.g. Western, 2018; Halushka, 2020), and of the pains that they experience in the process (Durnescu, 2019). Halushka (2020: 533) neatly summarizes this evidence; though his focus is on the USA, similar evidence exists elsewhere:

As a *lived experience*, prisoner re-entry is typically a life course transition marked by severe material deprivation (Desmond, 2015; Western, 2018). The population returning home is composed primarily of disadvantaged men of colour, who come from and return to some of America's most racially segregated and economically disadvantaged urban neighbourhoods (Clear, 2007). They face a variety of formal and informal barriers to securing stable sources of employment and housing, and disproportionately suffer from a variety of social vulnerabilities, including low levels of human capital and histories of trauma, substance abuse, physical disability, and mental illness (Harding et al., 2014; Herbert et al., 2015; Western et al., 2015; Western, 2015).

The "informal barriers" that Halushka mentions refer to the stigma and, more broadly, negative social attitudes that former prisoners face, and to the associated social isolation they commonly suffer (Schinkel, 2014). The "formal barriers" are largely state produced through policies and practices of exclusion and disqualification; other studies also highlight the challenges faced by former prisoners in navigating complex and, to them, baffling state bureaucracies, including those putatively intended to help them (Durnescu, 2019; Western, 2018). It might be wise to focus our research and development partly at least on better identifying these barriers and, crucially, on discerning what kinds of laws, policies and practices work to reduce or remove them.

One of criminology's failings, perhaps, has been to use evaluation approaches that settle for measuring mainly the absence of negative outcomes — like reoffending — rather than the achievement of positive social goods. Until recently, in a move partly inspired for me at least by desistence research, criminology has also failed to properly articulate the end-state that criminal sanctions seek.

But if we want to create flourishing and sustainable communities and societies, then we have to be brave enough to imagine what these look like. One eminent scholar who did so was Nils Christie (2004). He suggested firstly that if we believe in kindness and forgiveness as values, then we ought to keep "the institution of penal law" a small one; secondly, that if we believe in keeping civil societies civil, then we should keep the institution of penal law small; and thirdly, that if we value living in cohesive, integrated societies, then we must restrain the growth of that institution.

In closing my remarks, I would add only that we should also work to ensure that, when we must have recourse to the penal law, we should measure and judge it and its implementation not principally by reconviction rates, but rather by a much more exacting standard: We should measure the extent to which it secures the reintegration of those that

it punishes. The means and the markers of integration are to be found in employment, housing, education and health and well-being. Success in these areas is underpinned by our social connections and facilitated both by the knowledge and skills we have acquired and by our sense of safety and stability. At the foundation of integration lies our enjoyment of rights and citizenship. To flourish in our lives and work, we need security, safety, competence and connection (Ager and Strang (2004, 2008).

Reintegration is or should be seen as the central social function of punishment. It follows that we must both conceptualize and measure the success or failure of our penal systems accordingly. The questions we must ask and answer are these: Do these systems re-establish rights and citizenship? Do they create safety, stability and competence? Do they build social connections? Do they enable people to secure work, housing, education and health?

Wherever and whenever the honest answer to these questions is "No", then it is the system we must strive to change, and perhaps the social frailties that it reflects. Because systems and societies that fail to reintegrate also inevitably fail to meet Goal 16 of the 2030 Agenda for Sustainable Development⁵; which seeks to establish peaceful and inclusive societies, to provide access to justice for all and to build effective, accountable and inclusive institutions. That is and must be the mark and the measure for all Member States.

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⁵ A/RES/70/1.

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