

The Most Important Essay I've Ever Written:

A Recidivism Solution

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I know how to solve the recidivism problem ...

The first step is to acknowledge that recidivism is a human problem, and each attempt to solve it has been and will be based on certain basic assumptions about human behavior. As a set, these assumptions form distinct criminological paradigms, different conceptual frameworks through which policymakers look in order to determine what questions should be asked, what information is relevant, and which methods are appropriate. There are currently two major paradigms at work within the criminal justice system, and past attempts to solve the problem have failed because both ways of viewing human behavior are merely pieces of an as of yet unformed larger conceptual framework.

The dominant view is called the rational choice paradigm: Criminal law is the written code that represents public opinion, and it exists solely to protect and produce the overall well-being of society (Siegel, p. 17). Crime is a behavior that violates that code, and behaviors are classified as such because they result in social harm, i.e. harm to others or to society in general. To violate the law is to break faith with society — to violate the implicit social contract. People have free will to choose either criminal or lawful methods of solving problems or dealing with desires. There will be times when the criminal solution will appear more attractive, and this attraction can be counteracted only by instilling in the individual a fear of punishment. It is the role of the justice system to ensure that any incentive to commit a crime is a perverse incentive, i.e. short term gain, but long term pain. Punishment is justified only because it prevents more pain than it creates. The more severe, certain, and swift the punishment is, the more effective it becomes. However, if the punishment is too severe, it can lead to marginal deterrence, wherein a person chooses a greater crime over a lesser crime — since the punishment is relatively the same (pp. 98-100). Because it is perceived to be the least expensive option in terms of money, past attempts to solve the recidivism problem using this paradigm have typically resulted in an increase in the severity of punishments, e.g. longer prison sentences and harsher probationary guidelines.

The next dominant view is called the positivist paradigm. Positivists attribute human behavior to historical, biological, psychological, and social forces beyond a person's ability to control, and they champion science and medicine, not punishment, as the answer to the recidivism problem. This view has given rise to the rehabilitative model of justice: People commit crimes because they are mentally ill — victims of social injustice, poverty, racism, and/or poor socialization. Their suffering has resulted in 'problems in living,' drug addiction, and personality disturbances — enhancing the likelihood that they will commit crimes (Siegel, p. 506). Prison then becomes a place where offenders can receive treatment for their afflictions. Past attempts to solve the recidivism problem using this paradigm have typically resulted in calls for indeterminate sentencing and more rehabilitation programs.

In an effort to reconcile the differences between the two paradigms and work together within a limited space and budget, proponents of the rehabilitation model have conceded that, although offenders are ill, they are also responsible for seeking help, and failing to do so forces society to intervene. On the other hand, those who subscribe to the rational choice paradigm recognize that

without making some effort to help an inmate achieve a productive lifestyle, he will most likely return to the streets diminished by his prison experience: Just as the offender chose a perverse incentive and ended up in prison, putting a person in prison can produce a short-term reduction in the crime rate while at the same time producing a long-term increase in the crime rate. Without some viable alternative to treatment, policy makers are forced to make room for a positivist tangent in what is an otherwise rational choice based system. This attempt at a simultaneous application of paradigms has resulted in what I call the 'refrigerator-oven' model of justice.

Perhaps someday the two paradigms will be absorbed into a larger 'Social Theory of Everything Human.' Until then, policy makers will and should continue to use these two paradigms in their mission to protect society from harm. Some offenders will be deterred, and some will feel 'rehabilitated,' but many more will continue to return to prison again and again ... unless. Is there a third paradigm, one that picks up where the other two leave off? I believe that there is.

The truth is that both paradigms are formed from valid premises. People *are* free to choose the causes of their actions, and creating consequences can be an effective method of controlling another human being's behavior. At the same time, people are also subjected to forces beyond their ability to control. Any attempt to solve the recidivism problem by altering the conditions of prison — as it is currently designed — without first addressing society's overall structural issues will be like trying to use a lid to keep steam in a pot while a fire rages underneath. However, rehabilitation efforts can provide a socialization process that may have been missing during youth. These efforts can also educate offenders about addiction, and they can provide information on interpersonal and intrapersonal social skills like six-step decision making, active listening, and so on.

Unfortunately, as recidivism rates prove, many men who come to prison are undeterred by the government's apparatus of coercion. When an inmate adopts the rational choice paradigm and recidivates, he is effectively stating that the punishment was not certain or severe enough to deter him from violating the law or the rules of probation. When an inmate participates in the efforts to rehabilitate him, he soon finds that what he learned in a program or group took him forward an inch, but it left a mile still to go.

The paradigm that I have adopted addresses this need for the inmate to travel that final mile. It is not a paradigm for policy makers. This new way of looking at the problem is for the offender, and I call it the rationality paradigm. To benefit from it, a person must first understand the premises behind and the inherent limitations built into both the rational choice paradigm and the rehabilitation model. It is both noble and necessary for policy makers to offer deterrence through consequences and attempt to heal through rehabilitation. However, as history has shown, in the realm of human behavior, an action cannot be turned into a reaction. Consequently, the recidivism problem cannot be solved by anyone other than the offenders themselves.

When an offender adopts the rationality paradigm, he sets for himself two key objectives: to desist in criminality and to become proactive in maintaining his own rationality.

Crimes are events. Criminality is the personal quality or qualities that lead to such events, and the exact make-up and source of those qualities are unique to the individual. Criminality does not always lead to crime; it can also lead to anti-social or self-defeating behaviors that are not prohibited by law. For example, criminality can lead to something as simple as stealing an extra tray in the prison dining hall. The common feature behind carjacking and stealing an extra tray is the personal quality or way of thinking active in both. When a person is tried in a court of law,

the judge and jury look for the presence of *actus reus* and *mens rea*: Was the choice voluntary, and was there evil intent? Desisting in criminality means changing or compensating for the quality or way of thinking that results in evil intent, that manifests as socially harmful behaviors. However, removing a negative is not the same as adding a positive. That is why an offender must also strive to maintain rationality.

Rationality is the state of mind that allows a person to discriminate between appropriate and inappropriate kinds of behavior; and, even when faced with conflicting emotions or desires, it predisposes a person toward making decisions that are consistent with rational norms. In this sense, rational does not mean 'in possession of the faculty of reason.' It means 'using as a standard of comparison that which a fully-informed, intelligent person would do.'

This is what a rational person knows: A human's right to life is self-evident. Life, however, is conditional. To continue living, a person must choose from the available options those that lead to more life. However, humans do not want just any kind of life; they want a certain quality of life. Humans want and pursue what they believe to be useful in their quest for happiness. Some mistake pleasure for happiness. Another term for happiness is "subjective well-being," and it is defined as one's life satisfaction as measured through positive and healthy relationships (i.e. family, friends, significant other, community), rewarding and productive employment, and physical health. Prison is terrible because it limits one's ability to affect these three variables. A rational person also knows that some pleasures can destroy the ability to reason and diminish life, in turn destroying any chance of achieving happiness. The three variables in the equation of subjective well-being are not subject to a natural equilibrium. They require active participation in order to keep them in an ideal balance.

A rational person also subscribes to the pro-social ethic: A good decision, one that is in a person's rational (also called objective or enlightened) self-interest, is one that considers the needs of the decision maker and society. America is an experiment in eighteenth-century Enlightenment political thought, and the person who seeks rationality loves America for what, as an experiment, it was designed to do: perpetuate an economic and political system that protects a person's right to life, liberty, and the private property that results from the use of his mind. If, after reading all of this, a person is unable to see the benefits of maintaining rationality, he is beyond my ability to convince.

The first act of an offender's newborn proactive rationality will be to seek the path to desistance in criminality. There are many modes of criminality, and there are varying opinions as to its source.

Some argue that everyone possesses criminality, and it is a person's self-control and social bonds that prevent criminal behavior. Regardless, the fact is that the offender *does* possess criminality. Desisting in criminality requires a person to find a motive for greater self-control and to strengthen his bond with family, pro-socially minded friends, and an organized community. I call this motivating force my stake in conformity, and finding it was a personal journey. It cannot be forced, only encouraged.

Others argue that criminality is unique to the criminal mind and body. For example, some offenders have a twisted world-view, often expressed in trite aphorisms like 'that's life,' or 'you gotta do what you gotta do to get by.' Others may have learned to commit crimes when they saw people being rewarded for the same act, unaware of the long-term pain that will occur out of sight. Other offenders may be cognitively disadvantaged, making moral reasoning difficult — but not impossible. Moral reasoning is the source of that inner constraining force that most

people feel, and even the brightest person can have flawed moral reasoning if his philosophy is a collection of unexamined and conflicting ideas.

Some believe that the current version of the *American Dream* is a source of criminality. It is both a goal and a socialization process: It drives people to want unlimited material goods, but it fails to instill the value system and work ethic needed to acquire these goods legitimately. Members of all classes are subjected to this strain, and even a millionaire can feel relatively deprived when he compares himself to a billionaire. Feeling deprived decreases one's subjective well-being, but breaking the law only makes life worse.

Others point out that criminality is widespread in men who 'love the streets.' This is another way of identifying men who participate in a sub-culture that rewards them for acting tough, for never showing fear or 'female' emotions, and for displaying a complete disregard for authority or the welfare of society as a whole. For these men, thoughts of life without being able to break the law are often depressing because they believe it means never achieving those rewards. The best remedy for this is to identify those rewards and discover legal means of achieving them.

Some may have been born with a condition called chronic under-arousal, an unpleasant state that, as children, made attempts to socialize them through punishment ineffective. As an adult, this condition can drive a person to take risks — just to get rid of the unpleasant feeling. Again, the best remedy for this is to seek legitimate means of satisfying this need.

Modes of criminality can be identified by the kinds of crimes one is prone to commit. In general, crimes are divided into two categories: instrumental crimes are for profit, expressive crimes are committed out of anger, frustration, lust, and so on. Crimes are also labeled as inherently bad (murder, robbery, etc.) and proscribed (drug use, prostitution, etc.). Crimes that are proscribed may appear to have no other victim but the offender, but public opinion agrees that they should be crimes because they threaten the public order. The key is to commit oneself to not committing any crime for any reason. If a citizen believes that an action should not be a crime, there are legitimate ways to change the law. Otherwise, follow the law or leave — either by choice or by force.

When seeking to desist in criminality, it may also be helpful to know where one falls in the established typology of criminals. An occasional criminal is someone who typically operates out of a positive set of values; but, when the size of the opportunity or inner desire overpowers his stake in conformity, he is able to temporarily neutralize those values for a criminal value set. Psychopathic or sociopathic criminals experience no emotions or extreme emotional states — the former due to a chemical imbalance and the latter due to severe childhood trauma. Their behavior consistently infringes on the rights of those around them, and their moral reasoning excludes all thoughts of others. Their flawed inner logic can be difficult if not impossible to repair, and they may lack the empathetic component needed in order to develop interpersonal and intrapersonal social skills. Most humans experience brief moments of these symptoms; those with mild or severe symptoms should talk to a mental health professional. Sometimes these symptoms can be the result of an artificial impairment brought on by substance abuse, and abstinence can restore to the person all that is good and right about themselves.

From my unique vantage point, I have observed that most offenders fall under one or both of the final two categories: the sub-cultural criminal and the professional criminal. Members of either category want and need, in the broadest possible way, what a law abiding citizen wants and needs: prosperity, pleasure, happiness, and so on. The difference is that sub-cultural and professional criminals satisfy these needs and desires in ways that are consistently criminal. Professional criminals consider breaking the law to be a part-time or full-time career. Sub-

cultural criminals live in a social environment that expects and rewards criminal behavior. A person can be both, and inclusion in either group makes recidivism highly probable — unless one adopts the rationality paradigm. What both classes of criminals fail to grasp is that every criminal choice that they make tightens the net. Incapacitation is society's only rational response.

Some people are able to desist without experiencing prison. They may have entered a new stage of development when they got married, joined the military, or moved to a new place. For me, being sentenced to prison became the defining moment that began the desistance process. I found myself cut off from everything that I thought made me ... well, me. I began to doubt everything that I had thought was true. Around me, fellow inmates complained about the lack of effective rehabilitation, the lack of job training, and so on. To me, something seemed wrong about passively waiting for someone to fix my life. I participated in rehabilitation efforts, learned some useful skills, and met some truly caring individuals. I could not, however, accept the label "sick."

Without a name for it, and with a vague sense of my objective, I set out to desist in criminality. First, I had to be willing to give up who I was in order to become who I could be. This was scary. Next, I discovered that I was both performing and receiving my identity as I interacted with the world around me. I decided to take control of that identity by identifying my 'Self' with my character. It turned out that my character was a mass of unexamined and contradicting elements, and I set out to change that. The code that I have established for myself — the ideal that I strive to let guide my choices — is this:

I will not be a parasite. I will not demand or take what I have not earned. I say what I mean, and I do what I say I will. My purpose is to produce quality in all that I do. My purpose as a human being is to live — and to desire for others — a long, healthy, and meaningful life filled with mental well-being. This is my supreme goal and my ethical standard. All other elements of my code are merely derivatives. I understand that I will not always feel goodwill toward others, but I must nevertheless strive to treat them with the respect and dignity that all humans deserve. In all things, there is only right action or making it right. Wrong action is no longer an option.

I fail, but each mistake is learned from, bringing me one step closer to achieving my ideal. I find myself doing the right thing out of habit, or out of a healthy fear of consequences. I often feel a strong inner moral constraint, or become acutely aware of my stake in conformity. My new understanding of the principles of Enlightenment political thought has stirred in me genuine feelings of patriotism. And, while it may all seem too little too late, this way of being has enriched my existence — even in so dismal a place.

The road has been a lonely one. Criminality is so pervasive, so expected in prison that to not have it is to be considered abnormal or untrustworthy. How ironic is that?

When I first realized that there had been such a fundamental change in me, I knew that I needed to explain it. But, to explain it, I first had to understand it. This essay is my attempt to do both.

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A paradigm shift must take place in the minds of offenders. Instead of waiting for policy makers to make prison more painful, or for doctors to figure out how to cure the 'criminal disease,' each and every offender must find their stake in conformity, desist in their own personal brand of criminality, and begin to proactively maintain a state of rationality. The solution has been inside this entire time.

References:

Siegel, Larry J. *Criminology*. (2006). Belmont, CA: Thompson Wadsworth.