

Correctional Rehabilitation

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Beginning in the late 1960s, the rehabilitative ideal suffered a stunning decline, sharply criticized for permitting inequality in sentencing, coercion inside prisons, and treatment programs that did not work to reduce recidivism. The get-tough era that ensued proved to be a policy nightmare, marked by mass imprisonment, the intentional infliction of pain on offenders, and ineffective interventions. Elected officials of both political parties have reached a consensus that reforms are needed that take a more balanced crime-control approach that includes efforts to improve offenders' lives. Conditions are conducive for this policy turning point to occur. Thus, opinion polls are clear in showing that the American public supports offender rehabilitation as a core correctional goal. Scientific advances also have been achieved that identify a treatment paradigm—the risk-need-responsivity (RNR) model—capable of lowering reoffending. The challenge remains to implement evidence-based treatment practices and, more broadly, to create legal processes that afford offenders the opportunity to earn true redemption and thus escape the burdens of a criminal record.

INTRODUCTION

Each day in the United States, 6,730,900 residents—or about 1 in 37 adults among us—are under some form of correctional supervision. More than 2.1 million Americans are guarded behind jail or prison bars and nearly 4.7 million are watched on probation or parole.¹ Considerable commentary exists on whether such mass incarceration and mass community supervision constitute a major domestic policy failure. The general consensus among criminologists, and increasingly among policymakers, is that current levels of correctional

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1. DANIELLE KAEBLE & LAUREN GLAZE, BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, CORRECTIONAL POPULATIONS IN THE UNITED STATES, 2015, at 1–2 (2016).

intervention are excessive.² A key task is to determine how to curb such excess, especially in the use of imprisonment.³

However, this focus on the *size* of the correctional enterprise and how to get it under control has often come at the expense of policymakers focusing seriously on the *quality* of this enterprise. Regardless of whether the correctional population sticks at more than 6.7 million or declines a million or two, a critical question will persist: What should correctional agencies do with those they lock up or supervise in the community? Legal theorists often answer this question by taking one of two positions: The purpose is to exact retribution on offenders—giving them their just deserts—or the purpose is utilitarian or consequentialist where a sanction is a means to achieve an end such as reducing crime.⁴ In practice, however, American corrections has long been a battle between those who wish to inflict punishment on the convicted versus those who believe that the wayward should be rehabilitated.⁵

For the past four decades, the “punitive imperative”—as Clear and Frost refer to it—was vividly on display, as policymakers succeeded in toughening the response to crime through measures such as the building and crowding of correctional facilities, mandatory minimum sentences, truth-in-sentencing laws, three-strikes laws, the imposition of austere living conditions within prisons, boot camps, and intensive supervision probation and parole programs.⁶

2. See, e.g., TRAVIS C. PRATT, *ADDICTED TO INCARCERATION: CORRECTIONAL POLICY AND THE POLITICS OF MISINFORMATION IN THE UNITED STATES* (2009); JONATHAN SIMON, *MASS INCARCERATION ON TRIAL: A REMARKABLE COURT DECISION AND THE FUTURE OF PRISONS IN AMERICA* (2014); Michelle S. Phelps, *Mass Probation: Toward a More Robust Theory of State Variation in Punishment*, 19 PUNISHMENT & SOC’Y 53 (2017); Todd R. Clear & James Austin, “Mass Incarceration,” in the present Volume.

3. Joan Petersilia & Francis T. Cullen, *Liberal But Not Stupid: Meeting the Promise of Downsizing Prisons*, 2 STAN. J. CRIM. L. & POL’Y 1 (2015).

4. See, e.g., JOHN BRAITHWAITE & PHILIP PETTIT, *NOT JUST DESERTS: A REPUBLICAN THEORY OF CRIMINAL JUSTICE* (1990). See generally Jeffrie G. Murphy, “Retribution,” in the present Volume; Daniel S. Nagin, “Deterrence,” in the present Volume; Shawn D. Bushway, “Incapacitation,” in the present Volume; John Monahan, “Risk Assessment in Sentencing,” in the present Volume.

5. FRANCIS T. CULLEN & KAREN E. GILBERT, *REAFFIRMING REHABILITATION* (2d ed. 2013).

6. TODD R. CLEAR & NATASHA A. FROST, *THE PUNISHMENT IMPERATIVE: THE RISE AND FAILURE OF MASS INCARCERATION IN AMERICA* (2014); see also Douglas A. Berman, “Sentencing Guidelines,” in the present Volume; Erik Luna, “Mandatory Minimums,” in the present Volume; Michael Tonry, “Community Punishments,” in the present Volume; Sharon Dolovich, “Prison Conditions,” in the present Volume.

Within this context, the rehabilitative ideal lost its capacity to function as the governing theory of correctional policy and practice.⁷ But in the midst of a get-tough era, rehabilitation did not vanish in two important respects.⁸

First, although a large reservoir of punitive sentiments exists in the American public, so too does an abiding commitment to rehabilitation. Policy debates are often cast as a clash of incompatible views, with punitive conservatives battling compassionate liberals. Public-opinion polls, however, have shown that Americans are centrist and pragmatic in their correctional attitudes: They want punishment inflicted on the guilty, but they also want offenders to be rehabilitated.⁹ Consistent support for rehabilitation has existed since the 1960s, when Americans were polled on their preferred goals of imprisonment.¹⁰ Such approval of offender treatment remained high even during the height of the “get tough” era. Thus, a 2001 national survey found that 88% of the respondents agreed that “[i]t is important to try to rehabilitate adults who have committed crimes and are now in the correctional system”; for juveniles, this figure jumped to 98%.¹¹ Recent public-opinion studies continue to reveal strong support for rehabilitation, including providing re-entry services to prisoners released to the community.¹² For example, in a 2017 national survey, 87.2% agreed with the same item on the importance of rehabilitation used in the 2001 study.¹³ This public-opinion poll also revealed high support for a range of policies aimed at facilitating the reform of offenders, including “ban-the-box laws,” problem-oriented courts (e.g., for drug, mental health, veterans),

7. CULLEN & GILBERT, *supra* note 5.

8. See generally Shelley Johnson Listwan et al., *Cracks in the Penal Harm Movement: Evidence from the Field*, 7 CRIMINOLOGY & PUB. POL’Y 423 (2008).

9. Francis T. Cullen et al., *Public Opinion About Punishment and Corrections*, 27 CRIME & JUST. 1 (2000); James D. Unnever et al., *The Pragmatic American: Attributions and the Hydraulic Relation Hypothesis*, 27 JUST. Q. 431 (2010).

10. Cullen et al., *supra* note 9.

11. Francis T. Cullen et al., *Public Support for Correctional Rehabilitation in America: Change or Consistency?*, in CHANGING ATTITUDES TO PUNISHMENT: PUBLIC OPINION, CRIME AND JUSTICE 128 (Julian V. Roberts & Michael Hough eds., 2002); see also Francis T. Cullen et al., *Public Support for Early Intervention: Is Child Saving a ‘Habit of the Heart’?*, 2 VICTIMS & OFFENDERS 109 (2007).

12. Jody Sundt et al., *Public Willingness to Downsize Prisons: Implications from Oregon*, 10 VICTIMS & OFFENDERS 365 (2015); Angela J. Thielo et al., *Rehabilitation in a Red State: Public Support for Correctional Reform in Texas*, 15 CRIMINOLOGY & PUB. POL’Y 137 (2016); see also Cheryl Lero Jonson & Francis T. Cullen, *Prisoner Reentry Programs*, 44 CRIME & JUST. 517 (2015).

13. Angela J. Thielo, *Redemption in an Era of Penal Harm: Moving Beyond Offender Exclusion* (2017) (unpublished Ph.D. dissertation, University of Cincinnati).

re-entry services, reducing any collateral consequences of conviction that are not shown to prevent recidivism, and rehabilitation ceremonies that declare offenders cured and free from legal restrictions.¹⁴

Second, even if devalued, rehabilitation programs were not fully eliminated, for several reasons: inertia, where maintaining the status quo required less effort than any alternative; they served the function of occupying inmate time (e.g., schooling, work training); and some jurisdictions remained firm in their commitment to treating offenders. More than this, a small group of scholars continued to conduct research aimed at uncovering principles that could guide effective intervention with offenders. As will be discussed, their investigations built a strong empirical case that a rehabilitative, human-service approach to corrections could reduce recidivism. Their inquiries also demonstrated that punitive programs were largely ineffective. This agenda has been instrumental in restoring legitimacy to the rehabilitative ideal.¹⁵ Still, to retain this hard-won credibility, much more needs to be done.

Importantly, correctional rehabilitation can be justified on moral grounds as a humane alternative to efforts to inflict pain on the convicted and for the investment it makes in offenders' lives (e.g., improves their citizenship, mental health, human capital). But treatment's legitimacy hinges most fully on its ability to fulfill its promise to make offenders less likely to recidivate. This utilitarian claim ultimately is an empirical question—rehabilitation programs either do or do not work. Accordingly, the effectiveness of treatment interventions has been the central policy question of the last half-century. As will be reviewed, rehabilitation declined because its long-standing advocates, liberals, came to believe that the rhetoric of good intentions did not match the harm incurred when interventions were put into practice. Only by demonstrating that treatment programs worked—and worked better than punitive programs—could the status of rehabilitation be restored.

This chapter tells the story of rehabilitation—its rise during the first seven decades of the 20th century, its sudden decline in the 1970s and beyond, and its use of evidence-based corrections to reclaim legitimacy and be a counterpoint to the punitive imperative. An attempt will be made to assess what next steps

14. *Id.* See, e.g., Richard C. Boldt, "Problem-Solving Courts," in Volume 3 of the present Report; Gabriel J. Chin, "Collateral Consequences," in the present Volume; Wayne A. Logan, "Sex Offender Registration and Notification," in the present Volume; Susan Turner, "Reentry," in the present Volume.

15. Francis T. Cullen, *The Twelve People Who Saved Rehabilitation: How the Science of Criminology Made a Difference—The American Society of Criminology 2004 Presidential Address*, 43 *CRIMINOLOGY* 1 (2005).

advocates of offender treatment must take to solidify the gains made thus far. The chapter ends with a short but important list of policy recommendations.

Before embarking on this account, three matters merit attention. First, it is necessary to clearly define what is meant by the concept of rehabilitation. Cullen and Jonson¹⁶ have offered the following definition of rehabilitation: “a planned correctional intervention that targets for change internal and/or social criminogenic factors with the goal of reducing recidivism and, where possible, of improving other aspects of an offender’s life.” There are three key components of this definition, each of which carries with it a normative requirement: (1) Treatments with offenders should be planned, having features designed to reduce recidivism. (2) Treatments should identify the causes of crime (i.e., those things that are “criminogenic”) and be capable of changing or curing them. And (3) treatments should be oriented toward human service and, whenever possible, seek to improve offenders’ well-being. Conversely, it is impermissible to inflict needless suffering on or do enduring harm to offenders.

Second, this chapter avoids the debate over which legal theory should govern the sanctioning of offenders, especially at the sentencing phase. This matter is complex and unsettled, and a strong case can be made for rehabilitation serving as a central principle in guiding sentencing and the conditions under which offenders are supervised or confined.¹⁷ But to a large extent, the discussion here is more pragmatic in focus. The argument set forth is that rehabilitation is already integral to corrections and that, when undertaken in appropriate ways, it improves offenders’ lives and public safety.

Third, the rehabilitative ideal is rooted in the desire of “doing good” for offenders.¹⁸ As noted ahead, good intentions do not always translate into good results. Rehabilitation can be coercive and harmful if undertaken with malice or inexpertly. It also is the case that treating rather than punishing offenders does not mean that rehabilitation is necessarily lenient. A growing literature shows that offenders often perceive even prison terms as preferable to interventions that are intended to be less punitive and more helpful.¹⁹ Insisting that offenders make the effort to change their thinking and behavior may not be seen as

16. Francis T. Cullen & Cheryl Lero Jonson, *Rehabilitation and Treatment Programs, in CRIME AND PUBLIC POLICY* 293, 295 (James Q. Wilson & Joan Petersilia eds., 2011).

17. For further discussion of these issues, see FRANCIS T. CULLEN & CHERYL LERO, *CORRECTIONAL THEORY: CONTEXT AND CONSEQUENCES* (2d ed. 2017); *PRINCIPLED SENTENCING: READINGS ON THEORY AND POLICY* (Andrew von Hirsch et al. eds., 2009).

18. See WILLARD GAYLIN ET AL., *DOING GOOD: THE LIMITS OF BENEVOLENCE* (1978).

19. See, e.g., Joan Petersilia & Elizabeth Piper Deschenes, *Perceptions of Punishment: Inmates and Staff Rank the Severity of Prison Versus Intermediate Sanctions*, 74 *PRISON J.* 306 (1994); Erik J. Wodahl et al., *Offender Perceptions of Graduated Sanctions*, 59 *CRIME & DELINQ.* 1185 (2013).

“easier” than sitting in a cell unbothered until their sentence is completed. In the end, the issue is not whether offenders “like” treatment but rather whether rehabilitative interventions are delivered ethically and effectively.

I. POLICY ISSUE: DOES REHABILITATION WORK?

A. *THE REHABILITATIVE IDEAL*

What is the rehabilitative ideal? In many ways, it is based on the medical model that is used to cure physical ailments. Thus, similar to illness, crime is not seen as chosen in the sense that it flows from the exercise of free will at the point the decision to offend occurs. Rather, choices are influenced, if not highly determined, by causal factors, which today are often referred to as “risk factors.” These factors may lie within the individual (biological or psychological) or originate outside the individual (social). Regardless, if they are not accurately diagnosed and treated, then offenders will not be cured and their wayward conduct will continue. By contrast, rehabilitation is possible when the causes underlying an individuals’ criminality are identified and then are prescribed the appropriate treatment.

The rehabilitative ideal views as unscientific, if not as uncivilized, the traditional legal approach of calibrating punishment to the nature of the crime, a practice that supposedly achieves equal justice and, some would argue, deterrence. The obvious difficulty is that two people who commit the same crime—for example, shoplifting—might do so for quite different reasons (e.g., a desperate need for money, pressured by peers, impulsive due to low self-control). Imposing a one-size-fits-all sanction makes no more sense than treating every patient with a disease exactly the same. Imposing punishment on offenders is similarly nonsensical—whether this is a fine or a prison sentence. How does inflicting pain—a “cost”—on offenders cure the underlying causes of their behavior? Notably, this is one reason why scholars embracing rehabilitation predict that punitive interventions will have minimal effects: They do not target for change the engines of criminal behavior—risk factors.

The promise of rehabilitating offenders, however, hinges on two challenging assumptions. First, the rehabilitative ideal assumes that those undertaking rehabilitation have the expertise to diagnose criminogenic risk factors and then to deliver an appropriate treatment intervention effectively. In reality, treatment expertise and knowledge have often been sorely lacking, with offenders subjected to interventions that merit the designation of “correctional

quackery.”²⁰ Second, the rehabilitative ideal assumes that correctional staff will exercise their discretion according to therapeutic principles and according to what is in the best interests of offenders. Allocating this trust is essential because discretion is essential to delivering individualized interventions that can address why each person entered crime. The stubborn reality, however, is that rehabilitation occurs within a correctional system in which staff decisions can be influenced not only by legitimate treatment priorities but also by political and custodial considerations. As Rothman has cautioned, in such circumstances, “conscience” often is corrupted by the need to satisfy “convenience.”²¹

The first clear statement of the rehabilitative ideal occurred in 1870 at the National Congress on Penitentiary and Reformatory Discipline. In the aftermath of the Civil War, the nation’s prisons were crowded, filled to the brim by the so-called “dangerous classes of impoverished immigrants.” Correctional elites could have defined these offenders as the “other” and as beyond redemption. Instead, meeting in Cincinnati, the leading prison administrators and reformers reaffirmed that “the supreme aim of prison discipline is the reformation of criminals, not the infliction of vindictive suffering.”²² In their *Declaration of Principles*—a roster of policies that could be written today—they favored the classification of inmates, the use of rewards more than punishments, inmate education and industrial training, the special training of guards, and efforts to reintegrate prisoners back into society by providing work and encouragement. Their key recommendation, however, was the indeterminate sentence, which would keep offenders in prison not for a set time based on the seriousness of their crime but until they were reformed. As they noted, only in this way would “the prisoner’s destiny . . . be placed measurably in his own hands.”²³

In the first two decades of the 20th century—the Progressive era—these ideas came to guide the development of a modern correctional system. The emerging social sciences provided confidence that the causes of crime could be identified more reliably, and the political climate of this “age of reform” was ripe for social engineering. Notably, the rehabilitative ideal provided the conceptual foundation for the renovation of the system. Sentencing became

20. Edward J. Latessa et al., *Beyond Correctional Quackery: Professionalism and the Possibility of Effective Treatment*, 66 FED. PROB. 43 (2002).

21. DAVID J. ROTHMAN, CONSCIENCE AND CONVENIENCE: THE ASYLUM AND ITS ALTERNATIVES IN PROGRESSIVE AMERICA (1980).

22. Nat’l Congress on Penitentiary & Reformatory Discipline, *Declaration of Principles Promulgated at Cincinnati, Ohio, 1870*, in PRISON REFORM: CORRECTION AND PREVENTION 39, 39 (Charles Henderson ed., 1910).

23. *Id.*

more indeterminate and led to the creation of parole boards that were assigned the task of deciding when inmates had been cured and could be safely released. Probation and parole supervision were logical necessities because offenders in the community needed help to avoid crime and, if unsuccessful at that task, policing to be sent to prison. Pre-sentence reports, which would document the life details of offenders and be compiled by probation officers, were essential to assist judges in determining whom to incarcerate and whom to keep in the community. Finally, a separate juvenile justice system devoted only to treatment was essential if wayward children were to be saved.²⁴

The rehabilitative ideal's appeal was strong. As soon as it was admitted that criminal behavior was caused, the logic of calibrating punishments to the crime rather than treatments to individual differences collapsed. Embracing rehabilitation—the model of individual treatment—thus seemed rational and civilized, not irrational and vengeful. Secular humanism, with its emphasis on science, and sacred belief, with its emphasis on the universal potential to be saved, coalesced into a hopeful correctional paradigm—one in which the goal was to improve offenders. Children would be the special objects of attention, again having a justice system designed for their special needs. All this would be accomplished without sacrificing social defense. Ever-vigilant probation and parole officers would watch for offenders unable to remain crime-free in the community, and recalcitrant inmates would be kept behind bars—for life, if necessary—until they were cured.

This was the dominant ideology across most of the first seven decades in the 20th century. By the 1950s, the term “corrections” was in vogue and embodied the nature of the enterprise: correcting those found guilty of a crime. None of this to suggest that criminal sanctions—and prisons in particular—lived up to the rehabilitative ideal. Still, among correctional elites, many elected officials, and virtually all criminologists, there was little dispute about the need to pursue this ideal. Then, within a very short period of time—roughly from the latter part of the 1960s to the mid-1970s—the legitimacy of the rehabilitative ideal collapsed, so much so that it was now common to ask: “Is rehabilitation dead?”²⁵ This reversal of fortunes for offender treatment was stunning and consequential.

24. ROTHMAN, *supra* note 21; see also ANTHONY R. PLATT, *THE CHILD SAVERS: THE INVENTION OF JUVENILE DELINQUENCY* (1969); Barry C. Feld, “Juvenile Justice,” in Volume 1 of the present Report.

25. Francis T. Cullen et al., *Is Rehabilitation Dead? The Myth of the Punitive Public*, 16 J. CRIM. JUST. 303 (1988).

B. TWO CRITIQUES

Two broad critiques contributed to the decline of the rehabilitative ideal: (1) a critique of state discretionary power nourished by a declining confidence in the government, and (2) the “nothing works” critique inspired by Robert Martinson’s review of program evaluations purporting to show that “nothing works” to rehabilitate offenders. Each of these will be briefly discussed.

1. The abuse of discretionary powers

The rehabilitative ideal is rooted in the individual treatment model. Individualizing interventions, however, depends on giving judges, parole boards, and correctional staff wide discretionary power. Just as physicians require the flexibility to prescribe medication or services unique to each patient, so too do those who administer rehabilitation require the leeway to intervene with each offender. Allocating largely unfettered discretionary powers assumes that state officials can be trusted to make scientifically informed decisions in which the reform of offenders is paramount—that they are smart and well-intended, not quacks and crassly self-interested. Rehabilitation advocates had long understood that this standard was more often an aspiration than a reality. Still, imperfection was not seen as a rationale for abandoning the rehabilitative ideal but rather for intensifying its pursuit.²⁶

By the latter part of the 1960s, trust in the state was decreasing precipitously, with polling data showing a “virtual explosion in anti-government feeling.”²⁷ A confidence gap or legitimacy crisis had emerged. Whereas 73% of the public in 1958 believed that government officials would “do what is right just about always or most of the time,” this figure had plummeted to below 40% by the mid-1970s.²⁸ The sources of this sea change in public opinion are well chronicled as a series of major social events rocked the nation: political assassinations, brutal suppression of civil-rights protests, violent insurgencies in inner cities, sustained protests of the Vietnam War, and disclosures of political corruption exemplified by the Watergate scandal. In this context, criticisms of the rehabilitative ideal found an increasingly receptive audience. Rehabilitation’s reputation thus shifted from a progressive ideal that should guide reform efforts, to a mask

26. See, e.g., KARL MENNINGER, *THE CRIME OF PUNISHMENT* (1968).

27. SEYMOUR MARTIN LIPSET & WILLIAM SCHNEIDER, *THE CONFIDENCE GAP: BUSINESS, LABOR, AND GOVERNMENT IN THE PUBLIC MIND* 16 (1983).

28. *The People and Their Government: Distrust, Discontent, Anger, and Partisan Rancor*, PEW RES. CTR. (Apr. 18, 2010), <http://www.people-press.org/2010/04/18/distrust-discontent-anger-and-partisan-rancor/>.

of benevolence or “noble lie” that was being used to permit and hide the repression of those caught in the iron fist of the state.²⁹

In short, the rehabilitative ideal was being blamed for trusting state officials to do good when, in fact, they were abusing their discretionary powers. In part, this abuse was due to incompetence: Government officials in the correctional system did not have the scientific expertise to deliver effective treatment or to know when someone was cured. But the deeper critique was that these officials had evil intent. For example, judges were indicted for using their discretion not to individualize treatment but to discriminate against the poor and racial minorities. Prisons were a special object for scrutiny, depicted as being inherently inhumane (as Philip Zimbardo’s Stanford Prison Experiment seemed to show).³⁰ In this bleak environment, correctional officers would use the threat of perpetual confinement not as a carrot in a treatment regimen but as a stick to coerce obedience to their authority.³¹

Inspired by this mindset, progressive scholars and reformers embraced efforts to curtail discretion. The linchpin of their favored “justice model” was determinate sentencing, which involved fixed prison terms written into law, equal not individualized punishments, and the abolition of parole release. Conservatives were more than happy to jump on this bandwagon. Whereas liberals criticized the rehabilitative ideal for permitting the *victimization of offenders*, conservatives saw it as permitting the *victimizing of innocent citizens*. They had long reviewed the discretion as allowing judges to hand out lenient sentences and gullible parole boards to be conned into prematurely releasing predators. By the mid-1970s, a massive sentencing reform movement was under way to strip discretion from the system, supported by liberals hoping for short prison sentences and conservatives hoping for longer ones. Over the next several decades, every state would curtail the discretion of judges and/or parole boards through practices such as determinate sentencing, sentencing and parole guidelines, mandatory minimum sentences, three-strikes laws, and truth-in-sentencing laws.³² These reforms concentrated power in the hands of legislators (who wrote mandatory punishments into statutes) and of prosecutors (who used the threat of certain punishment to induce plea bargains). In the prevailing political context, liberal concerns about justice were largely ignored,

29. NORVAL MORRIS, *THE FUTURE OF IMPRISONMENT* 20 (1974); see also CULLEN & GILBERT, *supra* note 5.

30. Teresa C. Kulig et al., *Revisiting the Stanford Prison Experiment: A Case Study in Organized Skepticism*, 28 J. CRIM. JUST. EDUC. 74 (2017).

31. ROTHMAN, *supra* note 21.

32. See, e.g., Berman, *supra* note 6; Luna, *supra* note 6.

whereas conservative preferences for getting tough on crime were heeded—and written into law after law. Although other factors mattered, the attack on the rehabilitative ideal thus helped to usher in a punitive movement that used imprisonment in unprecedented ways.³³

2. Nothing works

In 1974, Robert Martinson published what would become a classic essay in *The Public Interest*, “What Works? Questions and Answers About Prison Reform.”³⁴ In collaboration with Douglas Lipton and Judith Wilks, Martinson assessed 231 studies evaluating correctional interventions, which was subsequently published in a lengthy, dense, and infrequently consulted book.³⁵ By contrast, Martinson’s essay in the more popular forum of *The Public Interest* was provocative, short, and widely read. Indeed, his central conclusion was stark and italicized for emphasis: “*With few and isolated exceptions, the rehabilitative efforts that have reported so far have had no appreciable effect on recidivism.*”³⁶ The last heading in his essay then asked, “Does Nothing Work?” It was clear from the comments that followed both in the text and subsequently in the media (such as on *60 Minutes*) that Martinson was asserting that efforts to reform offenders had proven to be a failure. Certainly, the message that “nothing works” quickly took hold and became an unassailable doctrine in the field.³⁷

Importantly, Martinson’s study did not trigger the decline of the rehabilitative ideal. As noted, nourished by the prevailing mistrust of the state and of welfare ideology, a loss of faith in the therapeutic paradigm was already well under way. Rather, skeptical scholars and many policymakers engaged in a collective incident of confirmation bias, suspending the scientific norm of organized skepticism in favor of the uncritical acceptance of the nothing-works slogan.

33. CULLEN & GILBERT, *supra* note 5. For an example of how this occurred in California, see CANDACE KRUTTSCHNITT & ROSEMARY GARTNER, *MARKING TIME IN THE GOLDEN STATE: WOMEN’S IMPRISONMENT IN CALIFORNIA* (2005); JOSHUA PAGE, *THE TOUGHEST BEAT: POLITICS, PUNISHMENT, AND THE PRISON OFFICERS IN CALIFORNIA* (2011).

34. Robert Martinson, *What Works? Questions and Answers About Prison Reform*, 35 *PUB. INT.* 522 (1974).

35. For the full report, see DOUGLAS LIPTON ET AL., *THE EFFECTIVENESS OF CORRECTIONAL TREATMENT: A SURVEY OF TREATMENT EVALUATION STUDIES* (1975).

36. Martinson, *supra* note 34, at 525 (alteration in original).

37. For a discussion of these issues, see Francis T. Cullen, *Rehabilitation: Beyond Nothing Works*, 42 *CRIME & JUST.* 299 (2013).

For them, Martinson's findings simply told them what they "already knew," adding only the cachet of scientific legitimacy. Put another way, his essay was the final nail drilling shut the rehabilitative ideal's coffin.³⁸

In 1979, his follow-up analysis of 555 studies prompted Martinson to moderate his conclusion, noting that, "contrary to my previous position, some treatment programs *do* have an appreciable effect on recidivism."³⁹ He then explicitly recanted the notion that all interventions were "impotent."⁴⁰ But nobody was listening, because these facts did not confirm the near-universal belief in the nothing-works doctrine. Martinson's original 1974 study continued to be cited as established truth—and to be so for many years to come—whereas his latter study would be ignored. Martinson's tragic suicide not long thereafter on August 11, 1979, meant that he would not be present to trumpet his new findings and to advocate for a more balanced view of rehabilitation.

Importantly, the critique of rehabilitation as permitting discretionary abuse largely vanished from sight. As the conservatives' get-tough mass-imprisonment movement gained steam, it became absurd to blame the mounting ills of the correctional system on the "noble lie" of rehabilitation. In fact, the discretion exercised by correctional officials was usurped by legislators who often competed to see who would enact the latest punitive measure to inflict pain on and lengthen the prison sentences of the convicted. Still, the nothing-works critique remained and could be used at any moment to discredit treatment initiatives.

The enduring effect of Martinson's essay, therefore, was that it *reframed* the debate about rehabilitation from a critique of a discretionary system into a debate over *program effectiveness*. At first, this focus on effectiveness was a decided advantage for critics of the rehabilitative ideal, for they could simply ask: "How can anyone be in favor of something that does not work?" Ironically, however, reframing the debate in this way provided hope to the other side. If advocates of treatment could marshal empirical evidence showing that, in fact, intervention programs were effective, then they could turn the tables on opponents: "How can anyone be against something that does work?" As the next section discusses, this empirical reversal is precisely what happened.⁴¹

38 Francis T. Cullen & Paul Gendreau, *From Nothing Works to What Works: Changing Professional Ideology in the 21st Century*, 81 PRISON J. 313 (2001).

39. Robert Martinson, *New Findings, New Views: A Note of Caution Regarding Sentencing Reform*, 7 HOFSTRA L. REV. 243, 244 (1979) (alteration in original).

40. *Id.* at 254.

41. Cullen, *supra* note 37.

II. LITERATURE REVIEW: EMPIRICAL AND THEORETICAL ISSUES

Two important occurrences—one empirical, one theoretical—were integral to efforts to reaffirm rehabilitation. Advocates first had to show that treatment programs “worked” and then had to create a viable model for implementing treatment within the correctional system. Both of these occurred.

A. PROVING THAT REHABILITATION WORKS

Proving that “rehabilitation works” took place in two stages—the second of which was most consequential. First, treatment advocates reviewed the existing body of studies and demonstrated that many of these evaluations yielded the positive result of reduced recidivism. In 1975, Palmer reanalyzed Martinson’s set of studies and showed that 48% had positive results.⁴² In 1979, Gendreau and Ross provided “bibliotherapy for cynics” by reviewing numerous studies in which programs were found to be effective.⁴³

These reviews, however, did not settle the matter. Where one side might see the treatment glass as half full, the other saw it as half empty. The half-full side used the positive findings to easily falsify the claim that “nothing works.” But Martinson’s original point was more subtle. Although little understood by those reading his work, Martinson divided interventions into 11 categories (e.g., casework and individual counseling, life skills, group methods, leisure-time activities). Within each category, it could not be demonstrated that the interventions were reliably effective. Even if some programs—such as a counseling program—might reduce recidivism some of the time, more often or just as often they did not. Nobody could tell a policymaker, Martinson concluded, that a specific program would work all the time. Subjecting offenders to any given treatment program thus was a crapshoot.

This impasse was largely settled when the program evaluation literature was subjected to an emerging statistical technique called meta-analysis. Meta-analysis quantitatively synthesizes the treatment effects reported by evaluations, ultimately reporting a “mean effect size” and a confidence interval for that effect. In other words, this technique yields a specific number that tells whether a rehabilitation program has a positive, null, or negative relationship with the dependent variable, in this case some measure of recidivism (e.g., arrest, incarceration). Depending on the strength of the association and size of the sample, a narrower or larger confidence interval—that is the range within

42. Ted Palmer, *Martinson Revisited*, 12 J. RES. CRIME & DELINQ. 133 (1975).

43. Paul Gendreau & Robert R. Ross, *Effective Correctional Treatment: Bibliotherapy for Cynics*, 25 CRIME & DELINQ. 463 (1979). See also their follow up essay, Paul Gendreau & Robert R. Ross, *Revivification of Rehabilitation: Evidence from the 1980s*, 4 JUST. Q. 349 (1987).

the real effect likely occurs—can be calculated. In concrete terms, a meta-analysis is like computing a batting average for a treatment program across all the studies that have tested its effects. A high batting average—consistently producing high reductions in recidivism in study after study—is a good thing. Note that Martinson essentially predicted that rehabilitation would have a zero batting average, with studies showing effective results canceled out by those that were ineffective. “Nothing works” thus means no overall effect across all types of programs, and no effect for any given program type or modality.

A number of meta-analyses appeared that reached the same conclusion: Across all types of correctional interventions, treatment programs were effective in reducing recidivism by about 10%. Rehabilitation worked!⁴⁴ Because of the large sample size of the studies evaluated and the sophistication of the methods used, the meta-analyses conducted by Mark Lipsey and his associates proved particularly convincing.⁴⁵ Lipsey’s credibility also could not be questioned, because he had no dog in the hunt—he was not an identifiable treatment advocate. Still, a 0.10 effect size is modest at best—perhaps enough to silence the nothing-works crowd but not enough to revive the rehabilitative ideal and direct program implementation. Importantly, however, the meta-analyses revealed that across types of treatment, the effects were not homogenous but *heterogeneous*. That is, some intervention modalities were highly effective, whereas others were ineffective, if not criminogenic. Two critical insights were gained from this unpacking of treatment effects.⁴⁶

First, interventions that are punitive—that emphasize deterrence, discipline, or surveillance—have weak, null, or iatrogenic effects on recidivism (e.g., boot camps, scared-straight programs, intensive supervision). To assess “what works to reduce re-offending,” McGuire assessed 100 meta-analyses or systematic reviews. His dismal conclusion is that “the only recurrently negative mean effect sizes reported to date are those obtained from criminal sanctions or deterrence-based methods. Punitive sanctions repeatedly emerge as a failed strategy for

44. For discussion of the empirical literature that emerged at this time, see Francis T. Cullen & Paul Gendreau, *Assessing Correctional Rehabilitation: Policy, Practice, and Prospects*, in 3 POLICIES, PROCESSES, AND DECISIONS OF THE CRIMINAL JUSTICE SYSTEM—CRIMINAL JUSTICE 2000, at 109 (Julie Horney ed., 2000).

45. See, e.g., MARK W. LIPSEY ET AL., *EFFECTIVE INTERVENTION WITH SERIOUS OFFENDERS* (2000); see also Mark W. Lipsey & Francis T. Cullen, *The Effectiveness of Correctional Rehabilitation: A Review of Systematic Reviews*, 3 ANN. REV. L. & SOC. SCI. 297 (2007).

46. Cullen & Gendreau, *supra* note 44; Sarah M. Manchak & Francis T. Cullen, *Intervening Effectively with Juvenile Offenders: Answers from Meta-Analysis*, in *THE DEVELOPMENT OF CRIMINAL AND ANTISOCIAL BEHAVIOR: THEORETICAL FOUNDATIONS AND PRACTICAL APPLICATIONS* 477 (Julien Morizot & Lila Kazemian eds., 2015).

altering offenders' behaviour.⁴⁷ Second, interventions that are therapeutic and emphasize a human-service approach are most likely to achieve substantial reductions in recidivism.⁴⁸ Taken together, these findings directly contradicted not only the nothing-works doctrine but also claims, widespread during the get-tough era, that punishment was an effective correctional tool to improve public safety by specifically deterring offenders.

The empirical evidence has helped to re-establish the legitimacy of the rehabilitative ideal. It no longer can claim to be the dominant model, but it is clearly the case that offender treatment is seen in most places as an important correctional goal. In part, the ideal's reaffirmation is due to the movement over the past two decades—not only within corrections but also in medicine, corrections, and even baseball—to base decisions on evidence. Thus, just as the data supportive of treatment were amassing, evidence-based corrections was itself ascending.⁴⁹ In this context, claims that treatment works took on increased salience. The difficulty, however, was moving from this generic conclusion to implementing programs within correctional agencies. It is one thing to say that rehabilitation works better than punishment, but it is quite another to tell correctional staff how specifically they should treat offenders. Importantly, Canadian scholars took up this challenge, and it is to that story that we now turn.

B. THE CANADIANS' RNR MODEL

In the delivery of medical treatments, physicians reserve the most serious interventions—such as sophisticated testing, emergency-room services, and hospitalization—for the sickest patients. Those who experience low-risk ailments either get better on their own or receive minimal interventions. Once a high-risk patient is seen, the doctor assesses the individual to discover what is causing the illness. And once the causes are identified, a medical intervention

47. James McGuire, 'What Works' to Reduce Re-Offending: 18 Years On, in *WHAT WORKS IN OFFENDER REHABILITATION: AN EVIDENCE-BASED APPROACH TO ASSESSMENT AND TREATMENT* 20, 30 (Leam A. Craig et al. eds., 2013). For a similar conclusion, see Doris Layton MacKenzie & David P. Farrington, *Preventing Future Offending of Delinquents and Offenders: What Have We Learned from Experiments and Meta-Analyses?*, 15 *J. EXPERIMENTAL CRIMINOLOGY* 565 (2015). Further, for the limited effects of prison on recidivism, see Francis T. Cullen et al., *Prisons Do Not Reduce Recidivism: The High Cost of Ignoring Science*, 91 *PRISON J.* 48S (2011).

48. JAMES BONTA & D.A. ANDREWS, *THE PSYCHOLOGY OF CRIMINAL CONDUCT* (6th ed. 2017); Mark W. Lipsey, *The Primary Factors that Characterize Effective Interventions with Juvenile Offenders: A Meta-Analytic Overview*, 4 *VICTIMS & OFFENDERS* 124 (2009).

49. Francis T. Cullen et al., *Eight Lessons from Moneyball: The High Cost of Ignoring Evidence-Based Corrections*, 4 *VICTIMS & OFFENDERS* 197 (2009); Doris Layton MacKenzie, *Evidence-Based Corrections: Identifying What Works*, 46 *CRIME & DELINQ.* 457 (2000).

is prescribed that is responsive to these factors—that is, one capable of curing these deficits. All this makes sense, and, in fact, it is not clear what would be an alternative strategy to the following: (1) concentrate on high-risk cases; (2) find the factors established by science to cause the disease; and (3) select treatment shown by science to eliminate the disease-causing factors.

The logic expressed in the above paragraph mirrors the logic of the dominant rehabilitation approach, known by the acronym of its three core principles: the RNR model or the risk-need-responsivity model. Thus, this perspective argues that treatment programs will be most effective if they comply with three principles. First, *the risk principle* (R) advises that correctional interventions should focus on high-risk offenders. Low-risk offenders should receive little or no attention and certainly not be incarcerated. Second, *the need principle* (N) advises that interventions target for change empirically established predictors of recidivism that are “dynamic” or can be changed. For example, race or age are “static” risk factors. By contrast, pro-criminal attitudes or pro-criminal associates can be altered—replaced, that is, by pro-conventional friends and associates. The key is to give priority to those factors demonstrated to be strongly related to recidivism. Finally, *the responsivity principle* (R) advises that staff use treatments that are capable of changing dynamic risk factors—that is, that are “responsive” to them. The most effective strategies fall into the category of cognitive-behavioral therapy.⁵⁰ Notably, the inventors of the RNR model used rigorous science, including meta-analyses, to identify which risk factors to target for change and which treatments to employ when intervening with offenders.⁵¹

As a brief aside, cognitive-behavioral therapy—also known as “CBT”—is a widely used treatment approach that is applied to reduce a range of psychological disorders and behavioral problems, of which crime is but one target for cure. Its central premise is that incorrect or maladaptive cognitions lead and help to maintain problematic emotions and conduct. As explained by Spiegler and Guevremont, there are two main approaches to CBT:

Cognitive restructuring therapy, the first model, teaches clients to change distorted and erroneous cognitions that are maintaining their problem behaviors. Cognitive restructuring involves recognizing maladaptive cognitions and substituting more adaptive cognitions for them. Cognitive restructuring is used

50. BONTA & ANDREWS, *supra* note 48.

51. For an early example of this commitment, see D.A. Andrews et al., *Does Correctional Treatment Work? A Clinically Relevant and Psychologically Informed Meta-Analysis*, 28 CRIMINOLOGY 369 (1990).

when clients' problems are maintained by an excess of maladaptive thoughts. The other model is cognitive-behavioral coping skills therapy, which teaches clients adaptive responses—both cognitive and over behavioral—to deal effectively with difficult situations they encounter. That model is appropriate for problems that are maintained by a deficit in adaptive cognitions.⁵²

Both approaches are used with offenders.⁵³ To give but one example, Anger Control Therapy (ACT) involves five steps aimed at instructing wayward youths on how to control their anger that underlies their aggressive and delinquent conduct. In the ACT model, these youths are taught the following sequential steps: (1) how to recognize “external events and internal self-statements that ... trigger their anger”; (2) how to “recognize the physiological clues,” such as a “tense jaw” and “flushed face,” that “alert” them to the onset of their anger; (3) how to rely on “techniques for dealing with the identified anger,” such as “self-statements” to “calm down” or “cool off”; (4) how to use “reducers, such as “visualizing peaceful scenes” and “counting backward,” that lower anger levels; and (5) how to evaluate “how well they controlled the anger” and then “to praise themselves if they performed effectively.”⁵⁴

The origins of the RNR model extend to the 1980s and to a group of Canadian psychologists who had worked in correctional settings. Unaffected by the nothing-works doctrine reigning among their southern neighbors, Donald Andrews, James Bonta, Paul Gendreau, and their colleagues embarked on an effort to create a systematic model of offender assessment and treatment. The model covers 15 principles, with the three RNR principles at its core.⁵⁵ However, its first principle—Respect for the Person and the Normative Climate—is equally important: “Services are delivered with respect for the person, including respect for personal autonomy, being humane, ethical, just, legal, and being otherwise normative.”⁵⁶ Demeaning and inflicting gratuitous pain on offenders are strongly rejected.

52. MICHAEL D. SPIEGLER & DAVID C. GUEVREMONT, *CONTEMPORARY BEHAVIOR THERAPY* 305 (3d ed. 1998).

53. See Patricia Van Voorhis & David Lester, *Cognitive Therapies*, in *CORRECTIONAL COUNSELING AND REHABILITATION* (Patricia Van Voorhis et al. eds., 5th ed. 2004).

54. *Id.* at 202–03.

55. For a list of the principles, see BONTA & ANDREWS, *supra* note 48, at 176–77. For an early statement, see Paul Gendreau, *The Principles of Effective Intervention with Offenders*, in *CHOOSING CORRECTIONAL OPTIONS THAT WORK: DEFINING THE DEMAND AND EVALUATING THE SUPPLY* 117 (Alan T. Harland ed., 1996).

56. BONTA & ANDREWS, *supra* note 48, at 176.

The strength of the RNR model is that it consists of three interrelated components, the first two of which have been alluded to already: criminological, correctional, and technological.⁵⁷ First, the *criminological component* refers to the model's underlying theory of crime. Importantly, this is not a complete causal explanation but rather a treatment theory because it focuses on dynamic, proximate risk factors that can be changed. It ignores static factors (e.g., age); it also ignores distal factors, such as neighborhood social disorganization, that are beyond correctional intervention.

As adherents of cognitive-social learning theory, the Canadians assume “that all behavior, including criminal behavior, is learned.”⁵⁸ Risk factors are salient because they influence the cognitive decision to commit a crime by making it more rewarding or less costly. Research has confirmed the causal importance of eight factors, but two seem particularly important—pro-criminal attitudes and associates. The other six predictive factors include: criminal history, antisocial personality patterns (e.g., low self-control, callousness), family/marital quality of interpersonal relationships, school/work quality of interpersonal relationships and performance, substance abuse, and leisure/recreation involvement and satisfaction. Referred to as the “central eight,” these risk factors are also called “criminogenic needs” because they are deficits that must be fixed if recidivism is to be lowered. For example, the effects of pro-criminal associates can be addressed through an intervention that reduces these interactions and replaces them with pro-social relationships. Finally, although criminal history is not explicitly a dynamic risk factor, it still represents a promising target for change. As Bonta and Andrews note, “A history cannot be changed, but appropriate intermediate targets for change include building up new noncriminal behaviors in high-risk situations and building self-efficacy beliefs supporting rehabilitation.”⁵⁹

Second, the *correctional component* is the RNR model described above. Because the underlying criminological component is based on cognitive-social learning theory, preferred interventions fall under the category of cognitive-behavioral therapies. These treatments are “responsive” to—that is, can change—the “criminogenic needs” represented by the central eight risk factors. Again, this model mandates following the risk principle, meaning that services be delivered to high-risk offenders. These offenders have substantial

57. For a description of these components, see Cullen, *supra* note 37; Paula Smith, *The Psychology of Criminal Conduct*, in THE OXFORD HANDBOOK OF CRIMINOLOGICAL THEORY 69 (Francis T. Cullen & Pamela Wilcox eds., 2013).

58. BONTA & ANDREWS, *supra* note 48, at 48.

59. *Id.* at 45.

criminogenic needs to be addressed. Focusing on low-risk offenders is similar to hospitalizing patients with a cold: The intervention is not medically required and might expose them to conditions that will worsen their health.

Third, the *technological component* refers to the “instruments needed to ensure that the treatment is administered with integrity. In short, it is not sufficient to know what to do; it also is essential to know how to do it.”⁶⁰ Thus, a unique contribution of the Canadians is that they developed two technologies that would allow the RNR model to be used by practitioners in the field. First, the RNR model depends on offender assessment so that treatment can be delivered to high-risk offenders. Toward this end, the Canadians designed the Level of Service Inventory, which has undergone different advances. The Level of Service Inventory-Revised, known as the LSI-R, has been used in more than half the states and in a number of other nations; in 2012, it was estimated to have been given to more than a million offenders in the past year.⁶¹ As described by Bonta and Andrews, the “LSI-R samples 54 risk and needs (mostly criminogenic) items, each scored in a zero-one format and distributed across 10 subcomponents (e.g., criminal history, education/employment, companions, substance abuse).”⁶² Recently, the LSI has added a case-management component in which the assessment is followed by a plan for how best to intervene with the offender. Here, observe Bonta and Andrews, “correctional staff must prioritize the criminogenic needs of the offender, engage the offender in setting concrete targets for change, and choose a means to reach these goals.”⁶³ In short, the technology component is used to identify the criminological component that is then treated through the correctional component.

Second, the Canadians also developed the technology to assess the extent to which an agency as a whole was adhering to the RNR model—the Correctional Program Assessment Inventory. The CPAI, as this tool is typically known, consists of 10 subscales used by trained evaluators to assess an organization’s capacity to deliver treatment with integrity (e.g., organizational culture, program implementation/maintenance, use of core correctional practices).

60. Smith, *supra* note 57, at 73.

61. Cullen, *supra* note 37, at 345.

62. BONTA & ANDREWS, *supra* note 48, at 195.

63. *Id.* at 201. This new assessment tool is called the Level of Service/Case Management Inventory or the LS/CMI.

The goal is to improve agency performance by asking “them to consider what their program is about and why they do what they do.”⁶⁴ Scores on the CPAI are strongly correlated with reductions in recidivism.⁶⁵

In short, Andrews, Bonta, Gendreau, and their Canadian colleagues moved the treatment enterprise far beyond the generic statement that “rehabilitation works.” In a theoretically grounded and evidence-based model, they provided both concrete instructions on how to intervene with offenders (follow the RNR principles) and the technology needed to undertake such intervention. As a consequence, the Canadians’ RNR model is now the dominant treatment paradigm in North America and, increasingly, across the globe.⁶⁶

III. ANALYSIS AND ASSESSMENT

Currently, it is generally agreed that the nothing-works doctrine is incorrect and that treatment interventions can be effective. The future for correctional reform also appears bright. The punitive paradigm that justified the mass-imprisonment movement is bankrupt. Whatever value it possessed has long since been exceeded by its social and economic costs; few policymakers are still riding the get-tough bandwagon.⁶⁷ The American public remains strongly supportive of the rehabilitative ideal. In this context, the opportunity may exist to implement a range of reforms, including the expansion of treatment programs. The challenge is how best to proceed from here and capitalize on this possibility to show the value of rehabilitation programs. Five considerations seem relevant.

First, the RNR model merits its status as the leading treatment paradigm. It should be recognized as a resource to be used not only within specific treatment programs but also within everyday correctional contexts. For example, as noted, there are nearly 4.7 million offenders on probation and parole, most of whom will have regularly scheduled meetings with their supervising officer. Such supervision is not strongly related to recidivism reduction.⁶⁸ These office visits often involve routine check-ins, unstructured conversation, drug tests,

64. BONTA & ANDREWS, *supra* note 48, at 250.

65. See, e.g., Christopher T. Lowenkamp et al., *Does Correctional Program Quality Really Matter? The Importance of Adhering to the Principles of Effective Intervention*, 5 *CRIMINOLOGY & PUB. POL’Y* 201 (2006).

66. For a systematic analysis of the RNR model, see RONEN ZIV, *THE FUTURE OF CORRECTIONAL REHABILITATION: MOVING BEYOND THE RNR MODEL AND GOOD LIVES MODEL DEBATE* (2018).

67. Petersilia & Cullen, *supra* note 3; Derek Cohen, *Right on Crime: Conservative Reform in the Era of Mass Imprisonment* (2017) (unpublished Ph.D. dissertation, University of Cincinnati).

68. LACEY SCHAEFER ET AL., *ENVIRONMENTAL CORRECTIONS: A NEW PARADIGM FOR SUPERVISING OFFENDERS IN THE COMMUNITY* (2016).

and, if the supervisee has erred in some way, threats of revocation. Bonta and his colleagues, however, have used the RNR model and its suggested core correctional practices to design a 25-minute meeting that is oriented toward “strategic supervision.” Officers are enrolled in the Strategic Training Initiative in Community Supervision (STICS), which involves 10 modules that cover RNR principles and practices. Equipped with STICS training, officers divide an office visit, which would last under a half-hour, into four components: (1) a check-in component, a few minutes in duration, used to build relationships and address any crises; (2) a review component used to reflect on the previous session and skill building through homework; (3) an intervention component, lasting about 15 minutes, in which cognitive-behavioral techniques (e.g., a role-playing exercise) are used to convey pro-social attitudes and skills; and (4) a homework component used to reinforce learning that has occurred in the visit. Notably, research on STICS and two similar supervision models has shown promising results in reducing recidivism.⁶⁹

This kind of strategic use of the RNR model might also be implemented in prison settings, perhaps in units designed as therapeutic communities and perhaps across institutions as a whole. A recent survey of state departments of corrections (30 responding) reported that more than half train correctional officers in cognitive-behavioral interventions and more than a third train them in the RNR model. However, on average, officers receive less than 2.5 hours of training in each of these areas.⁷⁰ Given these inroads, the time may be ripe for experimentation on how RNR principles and practices could improve inmate management and pro-social development.

Second, the RNR model should not be seen as the only rehabilitation program for offenders. Especially in prison, work and educational (academic and vocational) programs consume time and are a potential means for inmate reform. Some evidence exists that these programs can be effective.⁷¹ However, their impact on recidivism might be greater if they were placed under the umbrella of the RNR model and informed by core correctional practices.⁷²

69. For a review of STICS and relevant evaluation research, see BONTA & ANDREWS, *supra* note 48, at 257. See also Francis T. Cullen et al., *Reinventing Community Corrections*, 46 CRIME & JUST. 27 (2017).

70. Alexander L. Burton, *Creating a Correctional Officer Academy: Implications from a National Survey (2017)* (unpublished M.S. demonstration project, University of Cincinnati).

71. DORIS LAYTON MACKENZIE, *WHAT WORKS IN CORRECTIONS: REDUCING THE CRIMINAL ACTIVITIES OF OFFENDERS AND DELINQUENTS* (2006); Cullen & Jonson, *Rehabilitation*, *supra* note 16.

72. BONTA & ANDREWS, *supra* note 48, at 147.

Further, sometimes called “creative corrections,” a competing approach to rehabilitation has emerged that focuses less on fixing deficits (“criminogenic needs”) and more on identifying and building on offender strengths.⁷³ In addition to positive psychology, this perspective is rooted in desistance research, especially the finding that life-course-persistent offenders who desist embrace redemption-oriented identities and experience quality relationships.⁷⁴ Increasing these strengths or positive factors is seen to provide a means out of a criminal career. The “Good Lives Model” (GLM) is the leading treatment paradigm of the genre.⁷⁵ As opposed to the RNR model, the GLM is concerned not only with risk management but also with offender well-being. The GLM starts by working with offenders to identify their core life goals or human needs (called “primary goods”) and then helping them to achieve a “good life” using pro-social rather than criminal means (called “secondary goods”). Once an offender’s unique set of strengths are assessed, a therapist can show the person how to employ these positive qualities to attain the goals that matter most to him or her. For example, if an offender has a capacity for empathy, this strength can be used to enable the person to build rewarding pro-social relationships (e.g., closer ties to family or a romantic partner) that fulfill the goal for connectedness. Or, if an offender has a talent for art, this skill might be used to obtain employment, fulfilling the goal of excellence at work.⁷⁶

At this stage, insufficient research is available to establish the viability of the GLM and similar types of creative correctional interventions.⁷⁷ Still, however valuable the RNR model is, corrections would benefit from having multiple intervention strategies of equal vitality. One way to achieve this goal is to follow the Canadians’ strategy of developing a treatment model that has evidence-based criminological, correctional, and technological components.⁷⁸

Third, beware of correctional programs emphasizing punishment and deterrence, especially those that seem intuitively appealing. They often burst on the scene with fanfare and become a fad that spreads across the nation.

73. WHAT ELSE WORKS? CREATIVE WORK WITH OFFENDERS (Jo Brayford et al. eds., 2010).

74. See SHADD MARUNA, MAKING GOOD: HOW EX-CONVICTS REFORM AND REBUILD THEIR LIVES (2001); ROBERT J. SAMPSON & JOHN H. LAUB, CRIME IN THE MAKING: PATHWAYS AND TURNING POINTS THROUGH LIFE (2003).

75. TONY WARD & SHADD MARUNA, REHABILITATION: BEYOND THE RISK PARADIGM (2007).

76. For a detailed review of the theoretical principles and correctional practices of the GLM, see ZIV, *supra* note 66.

77. For a critical analysis of the relative merits of the RNR model and the GLM, see ZIV, *supra* note 66.

78. Francis T. Cullen, *Taking Rehabilitation Seriously: Creativity, Science, and the Challenge of Offender Change*, 14 PUNISHMENT & SOC’Y 94 (2012).

But because they have a weak theory of recidivism (e.g., crime is beneficial), they ignore and thus do not treat the known predictors of recidivism (e.g., Bonta and Andrews's "central eight"). Boot camps are one recent example of a discipline-oriented program that was implemented widely but now has fallen into disrepute.⁷⁹ A more recent example is Project HOPE, which emphasizes the use of "swift-certain-fair" sanctions (e.g., two-day jail sentence) whenever a probationer or parolee fails a drug test, misses an appointment, or violates some other supervision condition. Just-published experimental research, however, casts doubt on the effectiveness of this intervention strategy.⁸⁰

Fourth, knowing what to do does not mean doing it or doing it well. Virtually every discussion of treatment intervention ends with a warning that effectiveness depends on the quality of program implementation.⁸¹ Moving toward this goal means starting with a proven treatment model, such as the RNR. The next step is using a proven diagnostic tool, such as the CPAI, to assess program deficiencies and how to fix them. On a broader level, correctional staff must be seen as professionals, a designation that includes a strong ethical code and expertise in their field of endeavor.⁸² It is admirable to tell staff to use cognitive-behavioral therapy, but what is the likelihood that they will have any clue of how to deliver this intervention? Effective training—whether in a correctional academy, on-site, or on-line—is essential. Finally, program integrity and effectiveness hinge on accountability. Correctional managers are typically evaluated on their ability to maintain organizational quiescence, not on how much recidivism they reduce. Whether a program is implemented well has little impact on their job security or advancement. Similar to reforms in

79. Francis T. Cullen et al., *The Rise and Fall of Boot Camps: A Case Study in Common-Sense Corrections*, 40 J. OFFENDER REHABILITATION 53 (2005).

80. See PAMELA K. LATTIMORE ET AL., SUMMARY FINDINGS FROM THE NATIONAL EVALUATION OF THE HONEST OPPORTUNITY PROBATION WITH ENFORCEMENT DEMONSTRATION FIELD EXPERIMENT: THE HOPE DFE EVALUATION (2016); Francis T. Cullen et al., *It's Hopeless: Choosing a Better Correctional Future*, 15 CRIMINOLOGY & PUB. POL'Y 1215 (2016). For critical analyses, see Francis T. Cullen et al., *When Bad News Arrives: Project HOPE in a Post-Factual World*, J. CONTEMP. CRIM. JUST. (forthcoming 2018); Stephanie A. Duriez et al., *Is Project HOPE Creating a False Sense of Hope? A Case Study in Correctional Popularity*, 78 FED. PROB. 57 (2014).

81. See, e.g., ANN CHIH LIN, REFORM IN THE MAKING: THE IMPLEMENTATION OF SOCIAL POLICY IN PRISON (2000). Note that the issue of implementation involves not only the initial installation of the program as designed but also factors that maintain its integrity over time, such as continuing staff training and adequate budgetary support.

82. Francis T. Cullen, *Making Corrections Work: It's Time for a New Penology*, 21 J. COMMUNITY CORRECTIONS 5, 15–18 (2011); Edward J. Latessa et al., *Beyond Correctional Quackery: Professionalism and the Possibility of Effective Treatment*, 66 FED. PROB. 43 (2002).

police management (e.g., Compstat), however, it is possible to use a mixture of incentives (positive ones preferred) to reward what should be valued: less reoffending by those sentenced to a community agency or prison facility.⁸³

Fifth, in correctional rehabilitation, staff members have the obligation to provide effective treatment and to motivate offenders to seek behavioral change. Offenders ultimately have the obligation to engage in the change process and to pursue a good life. But rehabilitation is only the first step toward a greater goal—redemption or the full acceptance back into society as an equal citizen. In this process, offenders must do their part by achieving rehabilitation, refraining from crime, and contributing to society. Ultimately, however, for redemption to be earned, it must be made possible by the state. Two considerations are important. First, policymakers should not create needless legal barriers to offender inclusion, such as counterproductive collateral consequences that attach to a conviction.⁸⁴ Second, these officials should create public ceremonies that signify that an offender is legally rehabilitated, that the offender's criminal record is expunged, and that the offender's acceptance into the community is complete.⁸⁵ Public support for this initiative appears high. As noted, a 2017 national survey found that 81.4% of the sample agreed that rehabilitation ceremonies that declared ex-offenders "rehabilitated" and "free from all legal penalties and other collateral sanctions" would "help them reintegrate back into the community and stay out of crime."⁸⁶

RECOMMENDATIONS

Over the past half-century, correctional scholars have taken up two challenges: showing that treatment interventions "work" and showing how best to undertake interventions with offenders. This knowledge construction is significant given the difficulty of the task. Indeed, treatment staff see offenders only after a life course of criminal development that is typically accompanied by an array of personal and social deficits (e.g., antisocial attitudes, low educational attainment). Staff are asked to save these wayward souls with limited training and resources, in daunting environments (e.g., disadvantaged communities, prisons), and few extra rewards for a job well done. In this context, it is perhaps remarkable to discover that treatment programs are effective and, if done appropriately, can yield significant reductions in recidivism.

83. Francis T. Cullen et al., *The Accountable Prison*, 28 J. CONTEMP. CRIM. JUST. 77 (2012); Cullen et al., *Reinventing Community Corrections*, *supra* note 69.

84. See, e.g., Chin, *supra* note 14.

85. For a discussion, see Cullen, *supra* note 37.

86. Thielo, *supra* note 13, at 88 tbl.3.16.

Research in this area is particularly valuable because it gives clear instructions about what to do, and not to do, with offenders. This chapter has attempted to provide a context for understanding these issues. It is now possible to conclude by conveying five policy recommendations:

1. **Do not use punishment to change behavior.** Correctional programs that are punitively oriented—that is, that use surveillance, discipline, control, threats, incarceration, or other unpleasant sanctions—have a long history of failure. They do not target for change the known risk factors for recidivism. They should not be used. New interventions of this genre should be viewed with considerable skepticism. They almost certainly will fail or, at best, have limited effectiveness.
2. **Do use rehabilitation to change behavior.** The research is equally clear that a therapeutic or human-service approach to corrections is most likely to reduce recidivism. These interventions are aimed at helping offenders to acquire the cognitions, problem-solving and coping skills, and human capital needed to overcome the deficits that place them at risk of criminal conduct. Such modalities might include various forms of counseling programs (e.g., individual, family, group) or skill-building programs (e.g., CBT, social skills, academic/employment).⁸⁷ Programs with a therapeutic or human-service orientation should be used.
3. **Use the RNR model until an equally effective model is developed.** The RNR model is built upon theory and research that are grounded in science and explained in detail in Bonta and Andrews's *The Psychology of Criminal Conduct*—a 449-page compendium of treatment knowledge that should be read by all. The RNR model is the most coherent and empirically supported rehabilitation approach, and thus it should now be considered the preferred option when undertaking offender treatment. Using alternative modalities—however well-intended—risks opportunity costs that will decrease offenders' prospects for reform and thus endanger public safety. At the same time, other promising intervention strategies should continue to be evaluated. The ultimate goal should be to have multiple effective treatment options available for use by practitioners.
4. **Professionalize correctional treatment, introducing accountability for using ethical and effective interventions with offenders.** Two hallmarks of any profession are adherence to a code of ethics and the use of specialized knowledge. It is no longer permissible for offenders—whatever their deficiencies or ill behavior—to be responded to in gratuitously

87. See Lipsey, *supra* note 48, at 142–43.

mean-spirited ways or to be subjected to unproven, if not disproven, “treatments” that amount to little more than quackery. As with others who treat human beings—such as physicians and psychologists—undertaking correctional rehabilitation must be seen as a profession governed by ethics (e.g., a “Correctional Hippocratic Oath”)⁸⁸ and by the use of interventions that are evidence-based. Correctional managers and their staff should be held accountable for avoiding malpractice and for achieving reasonable reductions in recidivism. In short, unethical, ineffective, and unaccountable treatment practices should not be tolerated and should be replaced by interventions that are based on the principles of ethical human-service delivery, evidence-based programs, and accountability for improving offenders’ lives and increasing public safety.

5. **Link rehabilitation to a policy of offender redemption.** Scholars have documented the numerous barriers—informal and legal—that offenders experience in attempting to re-enter society after a conviction, whether following a trial or a stay behind bars. One way to mitigate these criminogenic obstacles is to offer offenders the possibility of full legal redemption, which hopefully will increase their acceptance by community members. The past half-century was a period in which offender exclusion was embraced through the use of punitive rhetoric, mass imprisonment, and the endless imposition of collateral consequences. At present, however, a movement for offender inclusion is under way that embraces policies such as “ban the box” in employment applications, prison downsizing and justice reinvestment, and calls to eliminate many collateral consequences. The context thus is promising for considering formal ceremonies that would signify that an offender’s rehabilitation is complete and that this individual is a candidate for legal redemption. Earning redemption might involve completing a designated treatment program and booster sessions, remaining crime-free for a period of time (e.g., three to seven years depending on an offender’s criminal history), and performing good works in their community (e.g., volunteering in a local nonprofit organization). Rehabilitation thus should be seen not only as an end in and of itself but as a means for achieving redemptions—that is, of erasing what James Jacobs has called “the eternal criminal record.”⁸⁹

88. For a discussion of a Correctional Hippocratic Oath, see Cullen, *supra* note 82, at 16.

89. JAMES B. JACOBS, *THE ETERNAL CRIMINAL RECORD* (2015).