

# Punishment & Behaviour Change

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## **Executive Summary**

In view of recent trends in Australia and overseas towards an increased reliance on punishment as a primary response to crime, this paper reviews the psychological research evidence on the efficacy of punishment, and considers alternatives to present trends. It discusses the circumstances under which punishment has positive and detrimental effects, and the limited ability of the justice system to deliver punishment in a manner, which might achieve the goals of rehabilitation and deterrence against reoffence.

Punishment can serve a purpose, if delivered in appropriate ways. However, the evidence is strong that punitive approaches as currently used in the justice system do not succeed in rehabilitating offenders or in deterring them from reoffence, and will often have the opposite effect. The current formal justice system cannot apply punishments with the required consistency and timing, is often perceived as illegitimate by the offender, and does not avoid stigmatising and alienating effects. Therefore, it is as likely to have undesirable effects as positive ones. Punitive approaches do not teach alternative acceptable behaviours. Neither does punishment appear to have strong deterrent effects on the rest of the community.

Antisocial and criminal behaviour often have their roots in childhood and adolescence. It is likely to be more cost effective for society to allocate resources to preventing the development of these behaviours, through family-, school- and community-based programs, than to attempt to treat them once established.

In terms of treatment, there are models available, which better fit with established psychological principles of achieving behaviour change. When prison sentences are employed, they should be taken as an opportunity to develop alternative acceptable behaviours and the skills needed for the offender to be able to meet their needs in legitimate ways upon release.

## Summary of Recommendations

### A: Primary Prevention

- 1 All parents should have access to culturally appropriate parenting programs designed to discourage the early development of aggressive behaviour.
- 2 Discipline policies in schools should prohibit physical punishment and emphasise positive behaviour management and conflict resolution strategies.
- 3 Governments should take a lead in public education on the failure of punishment to achieve the goals of deterrence or rehabilitation.
- 4 Social cost-benefit analyses should be conducted on prevention programs and on different responses to offending behaviour.
- 5 Violence on the media should be discouraged, and media education should be widely available.

### B: Secondary Prevention

- 1 Programs should be available to young people at risk for developing antisocial and criminal behaviour, and their families and communities.
- 2 Programs to support and enhance family well being should be adequately financed.

### C: Tertiary Prevention

- 1 Large scale trials of alternatives to the current formal justice system, which are more consistent with established psychological principles of behaviour change, should be conducted.
- 2 Accused persons should be brought to trial as quickly as possible and should be treated with respect by authorities.
- 3 Training of police, correctional services workers and youth and community service workers should include access to the research evidence on factors affecting the efficacy of punishment.
- 4 The particular sociocultural characteristics of offenders should be considered in designing correctional services.
- 5 Demographic patterns of offending, arrest and conviction should be considered in designing correctional services.
- 6 Rehabilitation programs with demonstrated effectiveness should be available to all prisoners; contact between prisoners and their communities should be maintained during sentences; support should be available for the reintegration of ex-prisoners into the community.

# 1 Introduction

Over recent years a shift has occurred in most Western countries from an emphasis on the prevention of crime, to punishment. In the US at least, it is predicted that this trend, already under way, is likely to accelerate (Fowler, 1995). Particularly in relation to juvenile crime, a frequent call has been made for increased outlays on detection and law enforcement, and for increased penalties for criminal and other antisocial behaviour. For example, the recent adoption in some Australian jurisdictions of so-called "truth in sentencing" has resulted in an increase in prison sentences for some types of offences; thus in Victoria provisions of the Sentencing Act 1991 virtually eliminated remissions for good behaviour. Such punishment is usually intended to fulfill one or several of the following aims: to have a deterrent effect (on the individual and on members of society in general); to prevent the offender from undertaking further offences (through incarceration); to exact retribution for the offence; and to correct or rehabilitate the offender.

In view of this situation, it is timely to look at the psychological research evidence on the efficacy of punishment, and to consider alternatives to present trends. While punishment is used to change many forms of behaviour deemed unacceptable, our discussion will focus principally on its ability to fulfill the aims of deterrence and rehabilitation of criminal and antisocial behaviour with young people in particular, with some attention paid also to its effects on behaviour change in children.

The goal of retribution is perhaps more an issue of social justice than a question of behavioural change. Wronged parties - individual victims, or society in general - are seen to have their wrongs redressed, at least to some extent, by seeing the offender punished. Consideration of victim impact statements in some jurisdictions can be seen as an attempt to match retribution to the effects of the crime on the victim. There is some suggestion that victims may have their distress alleviated by seeing an offender justly punished. This possible effect on victims falls outside the scope of this discussion.

In this paper, we first discuss the circumstances under which punishment has positive and detrimental effects, and the limited ability of the justice system to deliver punishment in a manner, which might achieve the goals of rehabilitation and deterrence against reoffence. Punishment as a general societal deterrent is then examined through analysis of the effects of capital punishment. The fourth section first discusses possibilities for prevention of criminal and antisocial behaviour through early intervention, and then examines alternative approaches to the treatment of criminal behaviour, and the role of rehabilitation programs in prisons. In the final section, we make several recommendations for actions and policy changes which follow from the evidence reviewed.

## **2 The Capacity of Punishment to Achieve Behavioural Change**

**What is punishment?**

**Does punishment work?**

**Punishment and avoidance**

**Intensity and consistency of punishment**

**Timing of punishment**

**Perceived legitimacy of punishment**

**Relationship between punisher and recipient**

**Shame and defiance**

**Punitive discipline in childhood**

**Summary**

As noted above, two principal goals of punishment, as it has traditionally been used, are deterrence of future unacceptable behaviour and rehabilitation of the offender. The assumed deterrent effect has been expected to influence the future behaviour of the specific offender being punished, or generally of other potential offenders directly or indirectly observing the punishment, or both. The assumed rehabilitation effect arises in response to the belief that some faulty aspect of the offender's personality or character or learning history was a major cause of the offending behaviour and that this personal fault will be corrected by the punishment. Both the specific deterrent and rehabilitative effects can be evaluated by studying the behaviour of offenders after punishment, and evidence on this is reviewed below; the general deterrent effect can be estimated by studying the behaviour of the community from which punished offenders come (see Section 3).

### **2.1 What is punishment?**

Punishment can be technically described as the response-contingent application of an unpleasant or aversive event in an attempt to suppress, or prevent the recurrence of, that response. It is response-contingent in that punishment is supposed to occur if the unacceptable response occurs. An aversive event may be physical (e.g. smacking a child, flogging an adult, execution), material (e.g. imposing a fine, loss of activities or freedom), or emotional (e.g. expression of disapproval, or withdrawal of affection). The response being punished has been deemed unacceptable (e.g. regarded as "bad" behaviour by a parent, or defined as illegal by a society).

## **2.2 Does punishment work?**

The widespread and continuing use of punishment is evidence of the strength of popular belief in its efficacy. Yet there is also abundant popular acknowledgment of the failures of punishment to improve behaviour, often attributed to either the "incurability" of the offender or the "weakness" of the punishment. This contradiction in the apparent effects of punishment has also been found in extensive research. The useful question is no longer simply 'Does punishment work?', but 'Under what circumstances does it have what effects?' This discussion is intended to review research addressing this more complex question.

On some aspects of the topic, the research evidence is extensive and supports confident conclusions. On others, research is ongoing, the evidence is less consistent, and less confident conclusions are appropriate at this stage. Issues that at present seem quite equivocal and undecided have been omitted from this discussion, with the aim of stating what is already known with at least some confidence about punishment and facilitating informed decisions about its use. Inevitably some of the conclusions offered here will be revised and extended by future research. Nonetheless, the conclusions are based on extensive research and experience.

## **2.3 Punishment and avoidance**

Since punishment is aversive, it is likely to prompt avoidance learning (Church, 1963). Learning how to avoid punishment does not necessarily mean learning to stop the unacceptable behaviour; it can mean learning how to avoid detection and apprehension, with no reduction or even an increase in the offending behaviour. Which of these outcomes occurs seems likely to depend partly on the recipient's perception of the fairness of the punishment (Sherman, 1993), an issue to be considered later.

If the learned avoidance is general (i.e. the person learns to avoid all 'authority figures'), it may result in lessened contact with possible sources of learning of more acceptable behaviour such as parents, teachers, or counsellors (Clarke, Montgomery & Viney, 1971), and may exacerbate a sense of belonging to a social out-group (i.e. a group distanced from mainstream society, such as delinquent, criminal or ostracised ethnic subgroups). In this case, punishment may well have counter-productive effects, since a number of research studies have found that punishment increases future offending in social out-groups (Sherman, 1993). Some outgroups are also characterised by an already high rate of offending among members.

## **2.4 Intensity and consistency of punishment**

Although increasing the intensity of punishment has been found to increase the amount of suppression of the unwanted behaviour (Azrin & Holz, 1966; Parke & Walters, 1967), near-complete suppression can be achieved only by using extremely intense punishment, more intense than would normally be regarded as humane (Turner & Solomon, 1962). Furthermore, if punishment is sufficiently intense to have a significant deterrent effect, it is likely to have general emotional effects that can interfere with any intended learning of alternative behaviours (Clarke, Montgomery & Viney, 1971). Trying to achieve increased deterrence by simply increasing the severity of punishment runs the risk of having a counter-productive effect, since punishment that is seen by the recipient as excessive or otherwise objectively unjust is likely to provoke defiance, in the form of an increased rate or severity of offending (Sherman, 1993). Unacceptable

behaviour has been observed to return to its original unpunished level after punishment is discontinued (Ferster, 1958; Powel & Azrin, 1968); that is, punishment may temporarily suppress behaviour but of itself does not correct behaviour in the long term.

For more lasting deterrence, the threat of punishment also needs to be lasting. That is, a potential offender must believe that, if he offends again, it is likely that he will be detected and punished again (Clarke, Montgomery & Viney, 1971). In some instances (e.g. speeding, drink driving), technological advances have made it possible to increase the likelihood of detection (through the use of speed cameras, 'booze buses', etc.), and there is evidence that the increased threat of punishment may be having a deterrent effect. However, the likely experience of most offenders is the opposite - for many forms of criminal behaviour, it is simply not realistically possible to obtain significantly higher rates of detection of offences.

It is probable that increasing the severity of punishment actually decreases the likelihood of detection in some cases. First, the offender is more highly motivated to avoid detection. Further, others may protect the offender. For example, in domestic violence, where the onus is on the victim to report the crime, the possibility of severe punishment for the offender may result in the victim being under greater threat and less likely to report the offence.

## **2.5 Timing of punishment**

Punishment is more likely to have a deterrent effect if it occurs soon after the unacceptable behaviour than if it is delayed (Aronfreed & Reber, 1965; Walters & Demkow, 1963; Walters, Parke & Cane, 1965). This criterion might be met in some circumstances (e.g. within a family or school), but is typically not met in formal justice systems, which often involve lengthy delays. It is possible to see the earlier process (of apprehension, being charged, etc.) as punitive in its own right, and therefore capable of acting as a deterrent. However, this will depend on how it is done. If those people dealing with the offender act with disrespect to the offender, or to the group to which the offender belongs, regardless of how objectively fair the punishment is, there is again a strong risk of eliciting defiance rather than deterrence (Sherman, 1993).

## **2.6 Perceived legitimacy of punishment**

In the past 30 years, extensive psychological research has established the crucial role played in human behaviour by cognitive factors (e.g. Ashcroft, 1994). Humans, possibly alone amongst animals, think; and thinking is a major factor in how they behave and feel. Offenders may perceive punishments as fair or unfair. Punishments perceived as fair can increase compliance with the law by affirming the legitimacy of law enforcement, but punishments perceived as unfair can reduce compliance by reducing legitimacy (Tyler, 1990).



## **2.7 Relationship between punisher and recipient**

Punishment is more likely to have a deterrent effect if the punisher has a close affectional relationship with the offender than if the relationship is distant and impersonal (Parke & Walters, 1967). This factor probably accounts for some of the perceived effectiveness of punishment within families, but is inevitably missing from formal justice systems. Where the punishment is delivered on behalf of society, its effects will depend on the degree of bonding by the offender to that society (Scheff & Retzinger, 1991). Punishment may sometimes deter crime among members of mainstream society (the social ingroup), but is likely to increase crime among social and cultural out-groups. Further, if punishment is perceived as unfair, that can alienate people from the society, fostering the further development of out-groups (Sherman, 1993).

## **2.8 Shame and defiance**

Punishment can be delivered in either a reintegrative way - by shaming the action - or in a stigmatising way - by shaming the actor (Braithwaite, 1989). Reintegrative shaming is likely to reduce offending, whereas stigmatic shaming is likely to increase offending (see Section 4.2).

If a recipient of punishment experiences shame as a result, perceives the punishment as legitimate, has good bonds with the punisher or community, then they will be able to accept the shame attached to the punished behaviour and retain pride as a member of the community. Under these circumstances punishment should act as a deterrent. However, if they perceive the punishment as illegitimate, and have poor bonds with the punisher or community, then they are likely to see the shame as attaching to them personally and feel alienated from the punisher or community. They are then likely to react with proud defiance in rejection of what is seen as undeserved shame. This reaction, and its accompanying increase in the frequency or seriousness of offending, is more likely if it is supported by his membership of an out-group. A further complication is the Australian cultural tradition of valuing proud defiance of unfair authority. There is then nothing shameful in defying authority if authority's actions are seen as immoral.

Social aggression, both verbal and physical, is a common response to punishment (Bandura, 1967; Bandura & Walters, 1959; Sears, Maccoby & Levin, 1957; Sears, Whiting, Nowlis & Sears, 1953). The aggression usually has two components: a reflexive fighting aspect which releases tension during the stressful, initial experience of punishment; and a more delayed aspect involving malice and forethought aimed at bringing the satisfaction of directly harming the punisher or persons or property associated with him or her (Azrin & Holz, 1966; Risley, 1968). Direct defiance is an act committed against the punishing agent. If the punishing agent is not available for retaliation or such retaliation is seen as too risky, indirect defiance may be aimed at any individual or organisation seen as representative of the punishing agent, including the whole of society (Sherman, 1993). This displacement of defiance need not be a consciously articulated plan, but may result in persistent offending aimed at building a reputation as a "tough customer" who will tolerate no disrespect. Much offending, amongst both poor street robbers and middle class adolescents, occurs in cyclical but brief, multioffence rampages, possibly sparked by episodes of disrespectful contact with authority (Katz, 1988). Some offenders seem to relish encounters with police and boast about their battles with them (Anderson, 1978).

## **2.9 Punitive discipline in childhood**

In childhood, too, it is clear that punishment is less effective than other methods of control, and often produces undesirable forms of behaviour, particularly aggression. For example, a recent study by Strassberg, Dodge, Pettit and Bates (1994) showed that the occurrence of parental spanking, regardless of its frequency and whether it was inflicted by the mother or father, was related to higher levels of child aggression. Violent parental behaviour showed even stronger linkages to child aggression. Similar findings have emerged for other punitive, power-based forms of discipline and child rearing (see Section 4.1 for further discussion).

## **2.10 Summary**

The continued use of punishment in society to deter unacceptable behaviour probably rests on misinterpretations of both its occasional efficacy and its repeated inefficacy. The temporary suppression of the behaviour in question, as well as a possible ventilation of associated anger or frustration, is likely to be rewarding for the punisher and to motivate a continued use of punishment (Yates, 1962). The temporary nature of the deterrence is then often attributed by the punisher to a "lack of motivation" on the part of the offender, despite the fact that punishment itself is supposed to decrease motivation to reoffend. This simple analysis of the motivational effects of punishment may explain in part its continued use in the face of lack of evidence for any lasting success.

Simply increasing the intensity of punishment will not alter this situation and is likely to be counterproductive with many offenders. There is already sufficient evidence to show that attempts to improve behaviour, based solely or largely on punishment, will be ineffective in some cases and result in increased unacceptable behaviour in some cases.

In sum, rather than inhibiting the unacceptable behaviour, punishment can lead to increased efforts to evade detection, and to defiant noncompliant behaviour. The current formal justice system rarely allows for the necessary contiguous timing of offence and punishment, nor consistency of punishment, which might increase its efficacy. It is frequently meted out by those to whom the offender has no attachment, decreasing its perceived legitimacy and hence its effectiveness further. Given this, it is not surprising that evaluations of the efficacy of programs, which have relied on punitive techniques, have been negative. An analysis of 500 delinquency treatment programs in the US found that punitive programs such as "Scared Straight" and "boot camp" programs tended to increase recidivism slightly, whereas behavioural and family intervention programs had more promising results (Gibbs, 1995; see Section 4.2). As Tolan and Guerra's (1994) review concluded, we do know that locking kids up will not reduce crime and may eventually make the problem worse.

It is difficult to see any logical justification for such attempts. In contrast, a more informed and selective use of punitive techniques, particularly aimed at producing integrative rather than stigmatic shaming, and accompanied by procedures aimed at strengthening acceptable behaviour, is more likely to achieve the goals currently pursued by simple punishment.

### **3 Punishment as a Social Deterrent – the Case of Capital Punishment**

Calls for the reintroduction of capital punishment are periodically made. Obviously capital punishment achieves the goal of incapacitation and deterrence of the offender (in an absolute way), it presumably fulfills wishes for retribution and it renders rehabilitation impossible. However, it is worthwhile to consider the evidence on the deterrent effect of this form of punishment on the remainder of the community.

Relevant sources of data fall into several groupings:

- (a) Changes in homicide rates from before to after abolition of the death penalty. No change in rate has generally been found in these situations (Ward & Woods, 1982). Conversely, the homicide rate in USA has increased since re-introduction of execution in some States, suggesting failure of the death penalty as a deterrent, and directing attention to other possible causes of increases in the homicide rate such as socioeconomic factors.
- (b) Cross-comparison of states with and without the death penalty. For example, comparisons of adjacent Mid-West States of the USA with same-sized and comparable rural/urban concentrations of population, but with and without capital punishment, have demonstrated similar homicide rates (Ward & Woods, 1982).
- (c) Sociological analyses of the causes and deterrence of crime. While some of these analyses have found a small contribution to deterrence arising from the presence of the death penalty, it is outweighed by the contributions of socioeconomic variables such as per capita income, employment levels, and poverty (Ward & Woods, 1982).

On the available evidence, the following conclusion by Morris and Hawkins in 1970 appears to hold today: "The conclusion which emerges ... from all the literature and research reports on the death penalty is, to the point of monotony: the existence or nonexistence of capital punishment is irrelevant to the murder, or attempted murder, rate. This is as established as any proposition in social science" (pp75-76). Given that capital punishment represents an extreme form of punishment, its failure to act as a general social deterrent suggests that milder forms of punishment are also unlikely to have a strong general deterrent effect.

## 4. Alternatives to Punishment

### Prevention

#### Some alternatives to punishment as a response to unacceptable behaviour

### Rehabilitation

### Summary

#### 4.1 Prevention

Research evidence supports the assertion that it would be more cost effective for society to put resources into the prevention of criminal and antisocial behaviour rather than into its treatment or punishment. One well-established finding is that aggression and antisocial behaviour are remarkably stable from early childhood into adulthood - i.e. those who develop aggressive tendencies in childhood are likely to remain aggressive. Early aggressive tendencies are related to later criminality (Eron & Huesmann, 1990; Robins, 1978), and almost all cases of serious adult antisocial behaviour were antisocial as children (Robins, 1978). Furthermore, early onset of criminal behaviour is a strong predictor of later criminality.

The developmental pathway from childhood behaviour problems to antisocial and criminal behaviour means that efforts at prevention are best targeted in childhood, before delinquent, criminal or antisocial behaviour has become established. Prevention here can include primary prevention, targeted at the whole community, and secondary prevention or early intervention with high risk groups.

Although there are still many gaps in our knowledge, there is a substantial body of research on causative influences on antisocial and criminal behaviour, which include biological factors, child-rearing conditions, ineffective parenting, sex role socialisation, relations to peers, cultural milieu, social factors such as economic inequality and lack of opportunity, and media influences, among others (American Psychological Association, 1993). Undoubtedly, all these interact and are likely to operate cumulatively. For example, where links with biological factors have been found (e.g. between testosterone with aggression), they appear to be mediated by numerous social factors, such as higher rates of divorce and substance abuse (Gibbs, 1995). In terms of intervention, it is most useful to focus on where change is most achievable and most likely to have generalised effects. Among these, perhaps the most central are parenting, family and school factors.

There is an impressive body of research, which demonstrates that punitive, power-based parenting techniques produce more aggressive children (Cashmore & de Haas, 1995). The well-known writer on child development and parenting, Penelope Leach (1993), has concluded that punitive parenting, especially the use of physical punishment, is linked to higher levels of child aggression, and a failure by children to develop self-control. Punitive parents try to control their child's behaviour by using actual or threatened force, deprivation of objects or privileges, threats, yelling, belittling, and directives with little explanation. Such techniques provide little information on which the child can draw to help them develop social

knowledge about establishing positive social relationships with others. They model a rigid and hostile interactional style as the means of resolving interpersonal conflicts (Eisenberg & Miller, 1990). The child's behaviour comes to be regulated by the punishment delivered by others, thus not promoting the development of self-control. Punitive techniques focus attention on the consequences of behaviour for the child him/herself rather than for others, and therefore fail to promote perspective-taking abilities and empathy (Hart, DeWolf and Burts, 1993).

As the study by Strassberg et al. (1994) indicates, even mild forms of physical punishment, such as smacking, lead to higher levels of child aggression. Physical punishment often "spills over" into more violent behaviour from the adult and so to child abuse, intended first as punishment, leading to more serious and enduring disturbance in the victim. The strongest single developmental predictor of involvement in violence is having experienced violence. About 70% of men who come through the criminal justice system were abused or neglected children (APA, 1993).

In contrast, those parental control practices known as inductive strategies (Hart et al., 1993) involve explanation of others' perspectives and feelings, clear limit-setting, explaining reasons for rules and requests, rewarding appropriate behaviour, and eliciting ideas and reactions from the child. Discipline tends to rely on explanations of the consequences of the child's actions and allowing the child to experience those consequences. There is evidence that the use of such parenting styles helps children learn to be more empathic, altruistic, generous, considerate, self-controlled, and engage in more positive peer interactions (Hart et al., 1993; Eisenberg and Miller, 1990). Children learn to make causal attributions about the effect of their own behaviour on others. They are likely to link their bad feelings, when reprimanded, to their own behaviour rather than to the external threat of punishment, and so develop internalised motivation for behaviour. Parents model a calm, non-punitive, non-coercive approach to negotiating social interaction so the child can learn how to act responsibly. Children develop skills at reading social cues, so social relationships become more predictable, and there is less need to withdraw or be hostile in order to protect themselves in the face of an unpredictable world. In sum, children develop the ability to attempt to achieve their ends without recourse to antisocial means.

The principles applying to the home context also apply at school. In several states, schools are moving to discipline strategies based less on punishment and assertion of power over children, and more on consensually derived rules, logical consequences for misdemeanors, negotiation and peer mediation of disputes. More are also including specific teaching of non-violent, effective, problem-solving and conflict resolution techniques (e.g. Rogers, 1990; Nicholls, 1994; Bagshaw, 1994).

Other social causes of criminal behaviour should not be ignored in terms of intervention and prevention efforts, although achieving change in these may be more challenging. The insight, 1700 years ago, of Roman emperor and Stoic philosopher Marcus Aurelius that "poverty is the mother of crime" endures because it is at least partly true. Much crime is motivated by an attempt to achieve goals which the individual perceives cannot be achieved by legitimate means; so inadequate educational and employment opportunities can be seen as a direct impetus towards crime. It is difficult for parents to use optimal control strategies if they are living in a context of economic and social stress. Organised crime and involvement in criminal subcultures are other influences, although it should be noted that most young offenders are not involved in organised crime. Parental and school attempts to encourage use of appropriate nonviolent

methods of achieving one's ends may be undercut by modeling and rewarding of violence on the sports ground and in the media. The existence and influence of these factors, however, does not preclude the viability of addressing the family and school contexts which are important and direct influences on a child's development.

We do not intend to review intervention and prevention programs here. However, there is substantial evidence that parenting programs, broader family intervention programs and educational programs can be effective in reducing aggression, promoting prosocial behaviour and developing effective problem-solving skills among children (see Sanders, 1995; Deutsch, 1993; Patterson, 1982). It is also the case that a very small number of criminals are responsible for most of the violence. One study (cited in Gibbs, 1995) tracked 10000 males born in Philadelphia in 1945 for 27 years; it found that just 6% of them committed 71% of the homicides, 73% of the rapes and 69% of the aggravated assaults in the group. Preventing just a small fraction of adolescents from degenerating into chronic violent criminals could thus make a sizeable impact on the violent crime rate.

## **4.2 Some alternatives to punishment as a response to unacceptable behaviour**

While preventive efforts have the potential to decrease the level of unwanted (including criminal) behaviour in society, it would be unrealistic to argue that they can solve the problem completely or in the short term. Therefore the need is to develop alternative approaches to crime, which, being more consistent with established psychological principles and research evidence, are likely to be more effective in achieving the goals of deterrence and rehabilitation. Two such approaches focusing on specific offenders, and one more community-based approach, are reviewed below.

(a) A Restitutionary Model Abel and Marsh (1984) propose a restitutionary approach to criminal behaviour as an alternative model to those, which emphasise retribution, removal from the community (imprisonment), rehabilitation, or deterrence. They believe their model is ethically, theoretically and practically better than other approaches at securing human welfare, both of the injured party and the offender, and avoiding adverse social effects. It is punishing because it involves unpleasant consequences, regulated by the state through courts, for an individual who has interfered with the pursuit or realisation by others of individual and social ends. But those unpleasant consequences do not involve total forfeiture of rights, property or life by the offender.

Abel and Marsh propose a model for a restitutionary court, which will adjudicate and implement punishments to the individualised offence. The principle of damage done rather than moral deficiency dictates the sentence an offender receives. The nature and duration of the sentence is to be dependent on the reparation owed. Prison sentences should be the last resort, reserved for those judged to be in some way dangerous to the safety of others. The model proposes that most supervision and restitution will take place outside the prison and within the community, thus providing a saving for the state.

The obligation to make restitution may deter the offender and others because it does involve recognisably unpleasant consequences. It also constitutes retribution because it involves returning to an offender his or her "just" desserts, but these are understood differently (more immediately and in relationship to the particular offence) than they are under present punishments for crime. Restitution can also rehabilitate and reintegrate an offender into society because it at no time removes him/her from the functioning economic system but involves the offender working within it, and remaining at all times socially responsible for his or her own livelihood and the well-being of those injured by the criminal act.

(b) Reintegrative Shaming Braithwaite's (1989) proposal on crime, shame and reintegration refers more to the social than economic relations in communities. Interdependency is a key concept, and means the extent to which individuals participate in networks wherein they depend on others to achieve personal and social ends, and others depend on them. Shaming refers to all ways of showing disapproval intended to bring about remorse in the offender and/or condemnation by others in the community. Such shaming occurs usually through community processes, but can also be brought about by judgements of the state (courts). Reintegrative shaming comes about through efforts to reintegrate the offender back into the law-abiding community through words and rituals, after the shaming judgement has been incurred. It is focused on unacceptable behaviour, not "evil persons". However, as noted in Section 2.8, stigmatisation, the shameful identification of offenders without efforts at reconciling them to the larger community, can lead to 'outcast' deviation into criminal subcultures which incorporate the individual into a different interdependency, which provides criminal opportunities, values and attitudes and tends to perpetuate them.

The application of the idea of reintegration in society through the process of shaming has been seen in adolescent offender-victim confrontation and reparation programs adopted successfully in New Zealand and USA and recently given trials in some Australian contexts. The offender, once charged and convicted, is confronted by the victim in company of "significant others" (arresting officer, parents, probation officer, social worker etc.) and obliged to acknowledge the crime and its effects on the victim, bear the reproaches from the victim, then negotiate reparation, which may be worked out in fine, direct payment to the victim, public demonstration of reparation through community service, public apology in newspaper, etc. The process encourages the perpetrator to see the victim as a fellow human being.

This alternative to punishment has so far been seen to be applicable to young offenders, and also to older first offenders. It is applicable to "social" offences, e.g. vandalism, but also to property offences (e.g. vehicle theft, shoplifting, theft), and, perhaps, some offences against the person (brawling, petty assault).

(c) Community-Based Approaches In the past, the identification of particular social groups as over-represented in the criminal justice system (ethnic minorities, sole parents, 'latch-key' children, etc) has often led to their further stigmatisation and marginalisation. Attempts have then been made to modify the behaviour of group members instead of addressing the discriminatory practices, which result in members being arrested, convicted and punished in disproportionate numbers. Attention to "cultural safety" is an increasingly recognised aspect of prevention programs with particular target groups, and is embedded in the recommendations arising from the Royal Commission on Aboriginal Deaths in Custody, many of which have not yet been taken up by the relevant authorities. An example of such a tertiary prevention program in New Zealand is the Hamilton Abuse Intervention Program, an integrated response to violence against women. By adopting a policy of parallel development, whereby participants are placed in same-culture

groups, the program affirms the right of Maori to determine their own future, while enhancing the accountability of participants for their use of violence within their own communities (Nikora & Robertson, 1995).

Further evaluation is needed on the ranges of situations to which these approaches are applicable; for example, programs need to be sensitive to the victim's wishes about future contact with and/or protection from the offender. Further research is also needed on their effectiveness in rehabilitating offenders, cutting reoffence rates, and deterring other offenders (some evaluation research is currently underway in Australia). At present, they appear promising. All three appear to avoid the unintended negative consequences of traditional punitive approaches outlined in Section 2. In particular, by avoiding the isolating and stigmatising processes involved in traditional punitive approaches, the chances for continued appropriate socialisation within the context of the community are enhanced.

Two forms of punishment currently awarded by the courts to selected offenders can be seen to include some of the positive aspects of the three approaches outlined above. They are 'periodic detention' and 'community service orders'. In periodic detention, the offender attends out of working hours at an 'attendance centre' for approved work. This is a version of the restitutionary approach, where the offender loses some liberty whilst remaining a productive member of society. Under community service orders, selected offenders carry out a prescribed number of hours in unpaid service to the community, usually in the form of humanitarian or other socially useful work. Whilst placing some limitations on the liberty of the individual (loss of leisure), it offers possibilities for approval, social acceptance and reintegration.

One characteristic of the approaches outlined above is that they involve positive learning experiences for the offender through gaining social approval and acceptance for their acts of reparation and restitution. Other programs also have focused on the development of prosocial skills and abilities. The analysis, cited in Section 2.10, of 500 delinquency treatment programs found that, in contrast to the negative effects of punitive approaches, behavioural programs concentrating on teaching job skills and rewarding prosocial attitudes cut rearrest rates from about 50% to about 35%. In interpreting this encouraging but modest improvement, it should be borne in mind that many behavioural programs to date have been under-resourced, making positive results harder to achieve - in this light, the overall improvement found is more impressive.

### **4.3 Rehabilitation**

It is clear that prison sentences will continue to be used as a form of punishment in the foreseeable future. Following from the principles outlined in Section 2, prison as punishment does nothing except temporarily suppress the undesired behaviour, and there is no evidence that increasing the length of prison sentences increases either specific or general deterrence (Hollin, 1992; Losel, 1995). Further, it is well known that prison often teaches prisoners more undesirable skills and behaviours, enculturates them into a "criminal subclass", and stigmatises them in the eyes of the community. These factors presumably contribute to the very high recidivism rates of ex-prisoners (Losel, 1995; Bailey 1996).

However, as a prison sentence does suppress the undesirable behaviours for its duration, it can also offer the opportunity for the offender to learn alternative acceptable behaviour as alternatives to criminal



behaviour. Social skills training, alternatives to violence as ways of resolving conflicts, vocational skills and educational programs can be provided in prison so that the prisoner on release can play a productive role in society and achieve their goals through socially acceptable means. Such learning is unlikely to take place if the prisoner is treated with disrespect and loses his dignity. (Gendreau & Ross, 1987; Gendreau & Andrews, 1990; Losel, 1995). Further, to enhance generalisation of skills learnt in prison to the outside environment, and to facilitate reintegration of ex-prisoners into their communities, continuing support upon release is needed.

#### **4.4 Summary**

The data reviewed in this section reinforce the need for rethinking policies on how to respond to questions of law and order. Preventive training in prosocial behaviours, and programs for restitution, reparation and reintegration of offenders, are possible substitutes for the conventional practices of punishment, which have not served us well in the past. No long-term benefits are likely to accrue from the use of prison sentences as punishment unless rehabilitation programs within prison and upon release are in place.

## 5 Recommendations

### Primary prevention

### Secondary prevention

### Tertiary prevention

This review has highlighted several issues pertinent to policy on the prevention and treatment of criminal and antisocial behaviour. Punishment can serve a purpose, if delivered in appropriate ways. However, the evidence is strong that punitive approaches as currently emphasised in the justice system do not succeed in rehabilitating offenders or in deterring them from reoffence, and in fact will often have the opposite effect. The current formal justice system cannot apply punishments with the required consistency and timing, is often perceived as illegitimate by the offender, and does not avoid stigmatising and alienating effects. Therefore, it is as likely to have undesirable effects as positive ones. Punitive approaches do not teach alternative acceptable behaviours. Neither does punishment appear to have strong deterrent effects on the rest of the community. Antisocial and criminal behaviour often have their roots in childhood and adolescence. It is likely to be far more cost effective for society to allocate resources to preventing the development of these behaviours, through family-, school- and community-based programs, than to attempt to treat them once established. Given the costs of the justice and correction systems, even a small reduction in the rate of criminal behaviour resulting from prevention programs would be cost-effective. In terms of treatment, there are models available, which better fit with established psychological principles of achieving behaviour change. These deserve further elaboration and evaluation. When prison sentences are employed, they should be taken as an opportunity to develop alternative acceptable behaviours and the skills needed for the offender to be able to meet their needs in legitimate ways upon release. In the light of these findings, the following recommendations are put forward under the headings of primary, secondary and tertiary prevention:

### 5.1 Primary Prevention

1 All parents should have access to culturally appropriate parenting programs which help them develop skills in using age-appropriate explanations, reasoning and reward to guide and control their children's behaviour, and to learn alternatives to punitive, power-assertive strategies. State and Federal governments should give increased support for such programs.

2 We recommend that those state governments, which have not already done so adopt policies, and provide training to prohibit the use of corporal punishment in schools and to encourage positive behaviour management techniques to maintain school discipline and safety. Peer mediation programs, which teach students non-violent conflict resolution strategies, and programs based on the total school community to control bullying and victimisation, require further support.

3 There is a great need for public education about the effects of punishment on offenders. In particular, it needs to be recognised that the goals of rehabilitation and deterrence cannot be met simply by increasing the severity of punishments, and that severe punishment often has unwanted side effects such as the alienation of offenders from society. Governments need to take a lead within the community in communicating this information, rather than acceding to calls for increased penalties. The APS will publicly support governments on this issue.

4 The costs and benefits of different responses to offending behaviour need to be analysed and evaluated from a social-economic stance, e.g. incarceration vs community based programs. Such evaluations should consider not only the costs of running programs per se, but also in terms of reoffence rates. Similarly, social cost-benefit analyses in the Australian context are sorely needed of early preventive efforts aimed at families, schools and communities, and including those addressing the social conditions (such as poverty, unemployment and alienation) which have been shown to foster criminal behaviour.

5 The frequent presentation of violence in the media has been shown to provide models for aggressive antisocial behaviour. The undesirable effects (e.g. imitation of aggression, heightened anxiety and fear) have been shown to be lessened by critical discussion of the viewed material. Widely available educational programs are needed which enhance the critical viewing skills of teachers, parents and young people regarding media violence.

## **5.2 Secondary Prevention**

1 In order to interrupt and redirect processes related to the development of criminal and antisocial behaviour, it is crucial that programs are available to children and adolescents at risk for such behaviour, and their families and communities, from as early as possible. Such programs need to be tailored to the specific needs of individuals, but programs with demonstrated effectiveness include social skills training, training in nonviolent conflict resolution techniques, parent training and family support, and integration of the individual into their community. Training programs with cultural minorities and at-risk groups should to be planned by, delivered by and accountable to those groups wherever possible.

2 The recent report, *Healthy families, healthy nation* (Sanders, 1995), is focused on strategies for promoting family mental health in general in Australia. To the extent that antisocial behaviour and conduct disorders are one aspect of maladjustment, which are affected by family functioning, we endorse its recommendations for supporting and enhancing family well being.

## **5.3 Tertiary Prevention**

1 Given the problems outlined in achieving the goals of rehabilitation and deterrence through the formal justice system, it is important that there is support for large-scale trials of alternatives (such as Reintegrative Shaming and community-based programs) which accord better with established psychological principles of behaviour change. Appropriate evaluation is needed of such alternatives, in terms of both the range of offences to which they are suited, and their impact on reoffence rates in comparison to the current formal justice system. Further research on adaptations of these alternatives, to increase their efficacy and their range of applicability, deserve support.

- 2      Bearing in mind the principles governing the effects of punishment, including the timing requirements and the need for punishment to be perceived as just and delivered by people respected by the offender, it is important that cases are brought to trial as quickly as possible, and that accused persons are treated with respect by police and court personnel.
  
- 3      The training of police, correctional services workers and workers in youth and community services needs to include access to the research evidence on the factors affecting the efficacy of punishment, and the importance of how they deal with the offender. Skills and attitudes should be fostered which will help them to avoid stigmatising and dehumanising the offender and to discourage the development of defiant responses by the offender, all of which are aversive to rehabilitation and reform.
  
- 4      In designing correctional services, the educational, cultural, age and gender differences of offenders need to be considered carefully. Processes whereby offenders must face the consequences of their action for victims, thereby 'humanising' the victim, should be incorporated. Victims' rights need to be taken into account with a focus on compensation and protection of rights rather than revenge.
  
- 5      In designing correctional services, attention needs to be given to demographic patterns of offending and conviction. Firstly, research on reasons why some groups (e.g. women) offend less than the population average may hold important lessons for preventive efforts. Secondly, the implications for the justice system of the overrepresentation of some groups (e.g. indigenous people) as recipients of punishment need careful analysis. Thirdly, the efficacy and appropriateness of using similar types of punishment for victimless crimes as for crimes against persons and property need to be examined. Fourthly, the administration of justice and law needs to be done in culturally sensitive ways. There is special need to recognise the cultural background of Aboriginal and Torres Strait Islander people.
  
- 6      Despite the limitations of punishment in the form of incarceration, it is clear that there will be a continuing need for prison sentences. It should be remembered that prison sentences are given *AS* punishment, not *FOR* punishment. The rights and dignity of prisoners should be maintained, and their capacity to be successfully reintegrated into their communities upon release should be a prime focus. Rehabilitation programs should be available to all prisoners, and need to be tailored to individual needs, but programs with demonstrated effectiveness include social skills training, training in nonviolent conflict resolution techniques, vocational training, and literacy and other educational programs. Adequate funding and resourcing of such programs should be provided. Training in rehabilitation needs to be provided for all prison staff so that all involved shares the goals of rehabilitation. The delivery of rehabilitative services in prison, whether provided on a contract basis or as part of the internal prison system, needs to offer continuity, in accordance with rehabilitative correction principles by professionals experienced in the justice system. The placement of prisons should not be such that it precludes contact with family and community members. Ex-prisoners need access to continuing treatment and support after release, to consolidate gains made while in prison, and so that all factors that contributed to the past criminal activity are satisfactorily addressed.

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