Evaluating the Benefits of Pardons

An Overview of *Criminological Highlights* Summaries of Research Related to Pardons

Research Summaries Compiled from *Criminological Highlights*

Maria Jung	Jane B. Sprott	Anthony N. Doob
Ryerson University	Ryerson University	University of Toronto

The materials summarized in this compilation come from *Criminological Highlights,* an information service produced by the Centre for Criminology & Sociolegal Studies (CrimSL) at the University of Toronto.

Criminological Highlights is produced by a group of faculty at the University of Toronto and nearby universities, CrimSL doctoral students, and the CrimSL librarian. To find items appropriate for *Criminological Highlights,* we scan approximately 95 journals and other research reports. We also consider papers published in journals in related fields. A short list (typically about 20-30 articles per issue) is chosen and the group reads and discusses each of these papers. For a paper to be included in *Criminological Highlights* it must be methodologically rigorous and be informative for those interested in criminal justice policy. Each volume contains six issues, with each issue containing 8 article summaries ("Highlights"). Issues are released every 2-3 months.

The project, directed by Anthony Doob and Rosemary Gartner, began in September 1997 with funding from the Department of Justice, Canada. Over the years, it has also been funded by the Correctional Service of Canada and the Ministry of the Attorney General, Ontario. The Centre for Criminology & Sociolegal Studies gratefully acknowledges the Department of Justice, Canada, for its current funding of this project. Views – expressed or implied – in this publication (and in the commentary that follows) are not necessarily those of the Department of Justice, Canada, Ontario Ministry of the Attorney General or the Correctional Service of Canada.

Criminological Highlights is available without charge from our website (https://www.crimsl.utoronto.ca/research-publications/criminological-highlights/about-criminological-highlights) or, if you would like to receive it regularly, please email Anthony Doob or Rosemary Gartner (anthony.doob@utoronto.ca or rosemary.gartner@utoronto.ca).

Centre for Criminology and Sociolegal Studies, University of Toronto
Toronto, Ontario, Canada M5S 3K9
Correspondence regarding this report should be sent to Maria Jung at
seyunmaria.jung@ryerson.ca

An Overview of *Criminological Highlights* Summaries of Research on Pardons

The following is an overview of relatively recent research related to policies of granting pardons to those who have been convicted of criminal offences. The research summarized here comes from *Criminological Highlights*. One-page summaries of the studies are appended to this report. It is recommended that this overview be read along with—rather than instead of—the summaries that are included (page numbers are provided in parentheses). The full studies, obviously, are available to those interested in particular findings.

Background to Pardons in Canada

In 1970, Canada introduced pardons with the enactment of the Criminal Records Act. The main political parties were in agreement with its main purpose: to help offenders reintegrate into society by reducing some of the legal, economic, and social barriers and stigma associated with a criminal record so they can fully participate in Canadian society. Under this system (with amendments in 1992), persons convicted of criminal offences could apply for a pardon after three years for a summary conviction offence or five years for an indictable offence. Pardons (now called "record suspensions") allowed people who were convicted of a criminal offence, but had since demonstrated that they were law-abiding citizens, to have their record of conviction be kept separate and apart from other criminal records. This prohibited the record of conviction from being disclosed, except in specific circumstances involving interactions with vulnerable populations. In other words, a search of the Canadian Police Information Centre (CPIC) database would not show or disclose that the individual had a criminal record.

The Criminal Records Act states that:

> **2.3** A record suspension
>
> **(a)** is evidence of the fact that
>
> **(i)** the Board [the Parole Board of Canada], after making the inquiries referred to in paragraph 4.2(1)(b), was satisfied that the applicant was of good conduct, and
>
> **(ii)** the conviction in respect of which the record suspension is ordered should no longer reflect adversely on the applicant's character; and
>
> **(b)** unless the record suspension is subsequently revoked or ceases to have effect, requires that the judicial record of the conviction be kept separate and apart from other criminal records and removes any disqualification or obligation to which the applicant is, by reason of the conviction, subject under any Act of Parliament other than…
>
> [a set of very specific exceptions such as the possession of a firearm if a judge had imposed such a restriction]

The idea of a pardon (now officially a "record suspension") is that it helps individuals in accessing employment, housing, education, and other opportunities. Pardons could be revoked if the pardoned individual was reconvicted or if the Parole Board had reason to believe that the recipient was no longer of good conduct. As of the 2011-2012 fiscal year (before major changes to the system of pardons came into effect), about 456,600 Canadians had received pardons and 95.7% of pardons issued since 1970 had never been suspended or revoked, indicating that the vast majority of those who had been granted a

pardon had remained conviction free (Public Safety Canada 2012; Corrections and Conditional Release Statistical Overview, p. 108. Available online at:
https://www.publicsafety.gc.ca/cnt/rsrcs/pblctns/ccrso-2012/2012-ccrs-eng.pdf).

Although the system of pardons seemed to be working quite well, as indicated by the fact that only about 5% of pardons had ever been revoked since 1970, the Canadian government nevertheless introduced major changes to the system of pardons through the Limiting Pardons for Serious Crimes Act (2010) and the Safe Streets and Communities Act (2012). The government justified the impetus to introduce these changes by referencing people in two high profile cases: one who had received a pardon and was later found to have committed other offences decades *before* the pardon was issued and another (Karla Homolka, partner to one of Canada's more notorious killers) who was approaching the time when she would have been eligible to apply for a pardon (page 12). These changes eliminated the word "pardon" from the law and replaced it with "record suspension" in order to reflect the view of the government of the day that those who have committed criminal offences should no longer be pardoned or forgiven for what they have done, explicitly noting that a record suspension "does not erase a convicted offence" (https://www.canada.ca/en/parole-board/services/record-suspensions/what-is-a-record-suspension.html). In addition, these changes made it generally more difficult, or in some cases impossible, for some offenders to apply for and receive pardons. The waiting period to be eligible to apply for a pardon increased from three to five years for summary conviction offences and from five to ten years for indictable offences. Certain offenders were rendered permanently ineligible to apply for a record suspension, including people convicted of certain sex offences and those convicted of more than three indictable offences for which the individual was sentenced to imprisonment of two years or more. The government offered no empirical evidence justifying this increase. Finally, the application fee was raised from $50 to $631, making the cost exorbitantly prohibitive, precisely for the very people who may be the least able to afford it (page 12).

Restricting pardons through these changes goes against the original objective behind instituting pardons in 1970—to help offenders reintegrate and fully participate in society. It has long been recognized in criminological research that there is value in helping those who have been convicted of criminal offences, and especially those who have served time in prison, to become peaceful and law-abiding members of society. Having a criminal record makes life markedly more difficult, particularly with things like obtaining employment, education, and housing—the very things that are essential in reintegration and community participation. A recent study of those applying for record expungement in Illinois found that criminal records impede offenders' ability to get a job or housing, even many years after their contact with the criminal justice system has ended, with the criminal record constituting a form of "indefinite punishment" (page 13).

This overview will discuss four broad themes in the research literature that are pertinent to explaining why restricting pardons may be counter-productive to offender reintegration and ultimately, public safety.

1) Studies on offending, re-offending, and predicting (re-)offending suggest that offending generally declines with age. In addition, the likelihood of re-offending decreases with increases in time since the last offence. Even the best risk prediction tools for offending and re-offending are neither very accurate nor effective in predicting whether a given individual will offend or reoffend, especially when using the presence of a prior criminal record as a predictive tool. In other words, the notion of "once an offender, always an offender" is *not* applicable to most offenders. Using a restrictive approach to pardons based on the idea that

those with a criminal record are more likely to re-offend, forever, is not supported by empirical evidence.

2) Research on prisoner re-entry demonstrates that employment, especially stable and permanent employment, is difficult to obtain post-release. However, when obtained, employment helps to reduce re-offending and increases reintegration. Making it difficult for people to obtain pardons also makes obtaining a stable job even more difficult, and thus has the potential to unintentionally *increase* the likelihood of re-offending, which works against the interests of public safety.

3) Literature on the impact of criminal records shows deleterious effects in a variety of different aspects of civic engagement including but not limited to: employment, housing, education, and political participation. Limiting pardons does not accomplish the original goal of pardons; to reintegrate the offender by allowing full participation in the community.

4) Examinations of public perceptions about sentencing and criminal justice decision-making suggest that the public is not likely to be opposed to pardons, if more information is provided about pardons and the circumstances surrounding different types of cases.

1) Predicting Offending/Re-Offending

a) Trends in (Re-)offending over Time

There are two "brute facts of criminology"[1] (Hirschi and Gottfredson 1983, p. 552) that criminologists agree on as being associated with offending (and re-offending): sex and age. Males are considerably more likely to offend than females in all age groups for most offences. And younger people are much more likely to offend than older people. Although the age-crime relationship can depend somewhat on the offence, the overall pattern is that as people pass through adolescence into adulthood, the likelihood of offending drops dramatically. This is also why age forms a part of the 'standard' block of covariates in criminological studies so that researchers can 'control for' the age structure of a group, when examining the impact of other factors, typically by taking into account the proportion of groups that is between the age of 15 and 29 (usually the most crime prone years).

Indeed, as one study that followed a group of youths from age 7 to 70 showed, there was variation in the point at which certain groups of men peak in their offending rates (and subsequently drop off), but there were *no* groups whose level of offending did not drop off with age. In other words, "[c]rime declines with age even for active offenders" (page 14). This study categorized youths into a "high risk" group (i.e. the top 20% with the highest risk to offend) versus the rest. Although the offending rate was higher for the high risk group, for both groups the same curve emerged. High rate offenders showed the same pattern of drop-off in offending as was demonstrated by the group with lower rates of offending. In other words, as adults age, they become less likely to re-offend, even if they had offended once (or more times) in their lives.

In fact, it is impossible to predict at an early age who will turn out to be a high rate offender or who will re-offend among a group of high rate offenders. What can be predicted is that adults become less likely to re-offend as they grow older, no matter what their early pattern of offending looked like. This was

[1] Hirschi, Travis and Michael Gottfredson (1983). Age and the explanation of crime. *American Journal of Sociology* 89(3) 552-584.

observed in a study that followed, for 25 years, all who were convicted of a criminal offence in 1977 in the Netherlands. Only 2 of the 84 identified at the end of this period as "chronic" offenders could have been identified at a young age using the best prediction models that were available. However, "chronic" offenders followed the same pattern as low rate offenders; their offending peaked in the late teens to early 20s and then declined (page 15). Said differently, as people age, they lose the 'offender' status and look increasingly like non-offenders.

A number of studies examining recidivism have been conducted in different jurisdictions, time frames, and populations and have all come to similar conclusions. For example, a study following a representative sample of Dutch offenders whose cases were adjudicated in 1977 found that for most offenders who have lived crime free in the community for about ten years, criminal record was no longer useful in predicting offending. In other words, after about ten years in the community, those with criminal records were no more likely to offend than those without criminal records. In fact, if offenders reoffended, it was likely to occur shortly after their release from prison, not when they have been in the community for years (page 16). Another study examining those first arrested as adults at age 16 or older in 1980 in New York State found that risk of recidivism declines with the number of years since the last conviction. For property offenders, it took about four crime-free years and about eight crime-free years for violent offenders to be considered to have been essentially 'redeemed' from their criminal past. Similarly, studies of offenders from Pennsylvania and Wisconsin found that offenders who have gone six or seven years without committing a new offence are no more likely to offend than people who have no criminal record at all (page 17).

These studies demonstrate that the notion of "once an offender, always an offender" is not borne out by empirical evidence. In fact, the empirical evidence would support legal procedures like pardons that recognize that former offenders who have not reoffended after a period of time do not, in fact, present significant risks to society and public safety. Prior to the recent changes in Canada's pardon legislation, the pardon legislation had taken into account the empirical finding that the likelihood of reoffending goes down over time. Under the previous system there was already a 3 or 5 year waiting time—not from the most recent offence, but from the end of the sentence for the most recent offences. Taking into account the noted delays and backlogs in criminal justice proceedings from time of the offence to sentencing and including the time of the sentence itself (including time on probation or parole, etc.), people were already waiting a substantial period of time after offending (often considerably more than 5 years) to apply for a pardon. In addition to not being based on any evidence, increasing the time to 5 or 10 years (for summary conviction and indictable offences, respectively) makes it more difficult and restrictive for people to receive pardons, without corresponding gains in public safety.

b) Trends in Sex Offending

Sex offenders[2], or more specifically those whose offences involved minors, are one of the explicitly mentioned groups in the amendments to the Criminal Records Act that are rendered permanently ineligible from applying for and receiving a record suspension. Public attitudes are the most punitive and hostile toward sex offenders based on the stereotype that sex offenders are "unreformable" (page

[2] See also the Criminological Highlights collection "Some Recent Research on Sex Offenders and Society's Responses to Them" 2013 https://www.crimsl.utoronto.ca/research-publications/faculty-publications/some-recent-research-sex-offenders-and-society%E2%80%99s

18). If true, this would suggest that once people are identified as sex offenders, they would be likely to commit more sex offences in the future. However, the empirical evidence does not support this belief.

As noted above, offending declines over time and sex offenders are not exceptions. A study of over 7,000 people convicted of sex offences in eight countries demonstrates that after about 10 years, the risk of reoffending decreases significantly for all age groups of offenders, with most individuals convicted of a sex offence being unlikely to commit another sex offence, even those identified as being "high risk" to reoffend (page 19). Similar to non-sex offences, even if sex offenders were to reoffend, the likelihood of reoffending is highest shortly after release from prison, and declines dramatically over time, such that longer periods of being offence-free in the community are associated with decreased likelihoods of re-offending, even for those categorized as "high risk" (page 20). Even if sex offenders do re-offend, their offences are not likely to be a sex offence (pages 21 and 22). This finding also holds true for youth, as observed in an examination of young men convicted of sex offence before age 21 in England and Wales. After 10 years, young men convicted of a sex offence before age 21 were no more likely to be convicted of a sex offence than those initially convicted of a non-sex offence, with the likelihood of re-offending declining over time (page 23). This declining likelihood of re-offending over time is part of the reason that restrictive sex offender registration and notification laws have been found to have had no overall impact on the incidence of sex offences over a 35-year period in Houston, Texas (page 24).

The changes to Canada's pardons legislation that have the effect of prohibiting certain sex offenders from applying for and receiving pardons is inconsistent with the empirical evidence. Most of the evidence would indicate that after about 10 years (the increased period of time for indictable offences brought into effect by the amendments), especially if they have been crime free, sex offenders pose no special threat to society. "If the goal is increased public protection…then efficient policies would be proportional to the risk presented" (page 19); —a risk that declines over time. Not allowing pardons for certain sex offenders based on the idea that 'once a sex offender, always a sex offender' is neither defensible nor consistent with empirical evidence.

c) Re-Offending Prediction Tools

The stereotype of 'once an offender, always an offender' often invoked by the government to restrict pardons (and other criminal justice reforms) is also not supported by the data we have on risk prediction instruments. No prediction model, tool, test, or instrument designed to determine whether a person is going to commit a crime in the future is perfect. On occasion, older people without any prior criminal record commit crimes. Or, alternatively, someone who meets all of the risk factors never commits a crime. For pardons, the concern is that some people will still commit crimes after receiving a pardon. No prediction instrument is perfect, and in the short term, having once been found guilty of an offence does make someone more likely (than an apparently crime free person) to commit a further offence. But the validity of these predictions is not perfect: Many people predicted to commit offences will not. And, on the other side, some people without any previous criminal history will commit an offence for the first time late in life. The fact that this is unlikely does not mean that it doesn't happen. But if past behaviour were a good indicator of future behaviour in this area, then a much larger proportion of the pardons issued since 1970 should have been revoked. As already noted, only about 5% of all pardons issued since 1970 have been revoked. In other words, the prediction that those with past offences would commit future offences would be inaccurate in 95% of pardon cases. Making predictions about human behaviour, which is amenable to change and, to some degree is a matter of choice on the part of the person who is subject to the prediction, inevitably involves errors.

Consider this Dutch cohort study that examined whether prediction models can determine with any useful level of accuracy who would be likely to be a high rate offender in the future (page 15). Because the researchers followed everyone who had been convicted of a criminal offence in 1977 for 25 years, they were able to see the various patterns or trajectories of offending for those individuals. Based on this, they identified people who might be deemed 'low rate offenders' for a long period of time. They also identified a group of 'chronic offenders' who continued offending at a relatively high rate for much of their lives. Based on the characteristics associated with these two different groups, they tried to see if they could predict who would have been a future offender based on the information that would have been available when these offenders were young. They found that even with the best predictive model available, they would have been only able to pick out 3 out of 328 'low rate offenders' and only 2 of the 84 'chronic offenders'.

Another study that tested the accuracy of the prediction tool most frequently used by British police forces in domestic violence cases to assess future domestic violence risk found that of those initially given 'high risk' ratings, only about 10% actually re-offended, meaning they were wrong in 90% of the 'high risk' cases (page 25). Risk prediction measures, particularly those based on prior criminal offences, are fallible indicators of likelihood of (re-)offending.

In addition to being fallible and inaccurate, prediction tools about (re-)offending tend to perpetuate systemic discrimination against marginalized and minority groups. Numerous studies have demonstrated this. For example, one study found that providing judges with risk assessments at sentencing tends to increase the likelihood of incarceration for poor defendants but decreases the likelihood for relatively more affluent defendants, other things being equal (page 26). An overview of the accuracy of predicting dangerousness in sentencing found that the best predictions available now for predicting future violent offending were wrong in about 3 out of 5 cases, with minority and other racialized groups being disproportionately impacted by incorrect predictions (page 27). By extension, making pardons more restrictive and difficult to obtain based on risks predicted by prior offending has the effect of disadvantaging the already disadvantaged when it comes to full participation in society.

2) The Role of Employment Post-Release

One of the main ways in which individuals participate in society is through employment. Not surprisingly, then, one of the key ways in which the successful transition of people from prisons to communities can be facilitated is through employment. Employment can help to increase reintegration and reduce re-offending. However, having a criminal record makes obtaining employment, especially stable and permanent employment, very difficult. Restricting pardons further compounds these difficulties and has the potential to unintentionally increase the likelihood of re-offending which, in turn, works against the interests of public safety.

a) Difficulty Obtaining Employment Post-Release/Impact of Criminal Records on Employment

In fact, one of the main reasons that people apply for pardons is because of work. Using data from an organization that helps those applying for pardons complete their application, a Canadian study found that 71% of their sample mentioned employment as the primary reason for applying for a pardon, with this reason being mentioned by 87% of those under 40 at the time of the application (page 12). In other words, many people want to get a pardon as soon as possible so they can become productive members of society and participate in the labour force.

Obtaining employment after release from prison is extremely difficult. A study examining the search

for employment by 133 men living in Newark, New Jersey, after their release from state prisons found that the post-release job market for offenders is one characterized by "irregularity, instability, and variability among marginalized job seekers navigating a labor market in which work [for which they are qualified] has disappeared" (page 28). These difficulties are not just limited to the time immediately following release. Even short periods of incarceration can have long-lasting impact on employment patterns. For example, one study compared convicted youths who were incarcerated and youth who were convicted but not incarcerated on employment outcomes and found that even with relatively short periods in prison (an average of 4 months), youths who were incarcerated had negative long-term effects leading to unstable employment and increased likelihoods of being out of the work force (page 29). Such precarious prospects eliminate wage growth for ex-offenders over their life course and contribute to significant wage gaps between non-offenders and offenders over time (page 30). Unfortunately, these difficulties are compounded for marginalized minority populations with studies finding that a black person with a criminal record has an 85% lower chance of obtaining an entry level job than a white person without a criminal record (page 31) and that the wage gap between blacks and whites becomes even wider post-incarceration, after controlling for employment history, education, offence, age, and length of incarceration (page 32).

b) Impact of Employment on Re-Offending

If obtained, employment can increase reintegration and reduce the likelihood of re-offending. Providing work opportunities in construction and manufacturing to previously incarcerated heavy drug users reduced their offending and likelihood of re-arrest for any crime compared to a comparison group of previously incarcerated heavy drug users who were not given these work supports (page 33). Similar findings have been reported from different jurisdictions from studies that have examined offenders released from prison in Norway (page 34), in the US (page 35), and in the UK (page 36). These findings not only apply to adults but also to young people who were incarcerated as youths in the US (page 37) and in the Netherlands (page 38). In addition to legitimate earnings, employment can help to reduce re-offending by increasing individuals' contact with prosocial coworkers and decreasing their contact with delinquent people (page 37), while also increasing social control and changing routines (page 38). Employment can also provide a sense of stability in day-to-day life (page 39). For young adults emerging into full adulthood, especially those 27 years and older, providing even marginal employment opportunities reduced reoffending (page 40).

One way we can make it easier for people to obtain employment, and by extension help to better secure public safety by decreasing re-offending, is to help individuals overcome some of the negative effects of a criminal record by granting pardons. For example, an analysis of criminal record expungement practices in Michigan, which allowed a single criminal conviction to be set aside after 5 crime free years found that expungement was associated with increased employment rates and wages (page 41). The state of New York allowed people with criminal records to work in jobs that are presumptively restricted to those without criminal records, particularly low wage jobs in health care for which people do not need a specific license but do have contact with patients, such as positions in nursing homes and assisted living. There was a 4% reduction in re-offending over a 3-year period for those cleared for work (page 42). This type of evidence supports the increased availability of pardons (not more restrictions) in order to facilitate the transition from prison to community so that individuals can more fully participate in society, which in turn, reduces re-offending and helps to bolster public safety.

3) Impact of Criminal Records on Other Areas of Reintegration and Community Participation

Employment is not the only factor in reintegration that is negatively impacted by a criminal record.

Deleterious effects extend to other areas as well, such as housing, education, and civic engagement.

a) Housing

Research has documented the difficulties people have experienced in persuading a potential landlord to overlook their criminal record in obtaining housing. For example, even when people are forthright and tell potential landlords about their backgrounds, prospective tenants without a criminal record received agreement from 96% of landlords to view an advertised apartment compared to only 43% for those with a criminal record. In other words, having a criminal record cut in half the likelihood of a person even getting a chance to view an apartment, let alone obtain housing (page 43). Even for the same basic act—possession of marijuana – a 10-year old felony conviction with no subsequent conviction was more of an impediment to getting housing than a 1-year old less serious (misdemeanor) conviction for the same act (page 44). These findings highlight the need for some form of state expungement so that people who have been convicted of criminal offences can avoid being disadvantaged in obtaining housing after they have served their sentences. If anything, it now may be more necessary to make pardons easier to obtain than was the case in 1970. With the proliferation of the internet, landlords can easily do informal background checks which makes it easier to deny people housing where it appears that they might have a criminal record. In pre-internet days, criminal records could be rendered essentially invisible because there was no easy way for ordinary people to find out about whether an individual had a criminal record (page 13).

b) Education

The presence of a criminal record also disadvantages people in their access to education. Many US post-secondary educational institutions require criminal history information from applicants, even though criminal history questions are not effective tools for reducing campus crime. Applicants with criminal records applying to 4-year colleges were more likely to be rejected than comparable applicants without criminal records who had slightly weaker applications (page 45). Given that higher education is a key factor in upward social mobility, job opportunities, and social cohesion, the presence of a criminal record can further disadvantage the already disadvantaged by cutting off access to future opportunities linked to education.

c) Civic Engagement

Research has also documented that a criminal record can hinder people from fully participating in their communities once released from prison by lowering their willingness for, and levels of, civic engagement (page 46). There is evidence that people tend to see government as "one big system" (page 46) and negative experiences from the criminal justice system may be generalized to other parts of the government, lowering their likelihood of registering to vote, of voting, and/or participating in civic and political activities, and reducing their trust in all levels of government. This results from the message communicated to people that they are not full members of the community. If we want people who have once committed a criminal offence to reintegrate into society and to fully participate in, and contribute to, civic and political life, we need to be able to reduce the stigma and barriers attached to having a criminal record.

Reducing the availability of pardons by making them more difficult and restrictive to obtain is counterproductive to the original aims of the pardons legislation instituted in 1970. The availability, generally, of information about a person's criminal record has increased in part because of the availability of easy internet searches. Although a pardon would not reliably eliminate this information, a pardon would allow a person to demonstrate that they do not have an active criminal record. With far reaching consequences for employment, housing, education, and civic engagement, allowing the negative, punitive

effects of a criminal record to continue for longer periods (or indefinitely in some cases) works against the very kind of reintegration we want offenders to experience in order to be able to participate fully in society.

4) Public Perceptions

Even with the empirical evidence, some public officials may be concerned that pardoning people convicted of certain categories of offences would bring the administration of justice into disrepute or cause people to lose confidence in the justice system. However, research into sentencing and other criminal justice decision-making suggests that this worry is unwarranted. The public should be given more credit in terms of their ability to evaluate decisions when given appropriate information and evidence.[3] When ordinary people find out the details of the operation of the justice system, they are less likely to think that the criminal justice decision makers, for example, judges, are out of touch. There is substantial evidence that those who are better informed about sentencing, who are judging the appropriateness of sentences in cases they know about (e.g., in cases in which they were jurors), or who are given more explanation about the details of a particular case are more likely to be content with the sentence handed down than those who are not (see, for example, pages 47-50). Indeed, even support for mandatory life sentences for murder breaks down when case-specific information is provided. Of 10 different murder cases presented to UK respondents, in all but one scenario most respondents favoured a sentence with a definite ending (pages 51 and 52).

Similarly, the public is not likely to be opposed to pardons if they are given more information and context surrounding different cases. In fact, a Canadian study found that providing a small amount of information about recidivism rates for sex offenders (i.e. that their recidivism is not exceptionally higher than non-sex offenders) increased the acceptability of allowing those convicted of sex offences to receive pardons. If given appropriate evidence-based information that can minimize fears and highlight existing safeguards, the public is generally more receptive to reform than the government gives the public credit for, even on highly sensitive issues such as pardons for sex offences.[4]

Conclusion. When Canada's pardon legislation was first introduced in 1970, the Conservative opposition in Parliament argued that the "main purpose of this bill is not to coddle criminals. … This criminal record has hounded them for years and has created economic difficulties. We are now making an honest attempt to eliminate these difficulties as much as possible." Further, it was argued that the pardon application must "be processed without any cost to the person concerned except the cost of the stamp and his time in writing the letter" (see original article highlighted: page 12).

Canada has now experienced more than half a century with the pardon. The most recent restrictions were imposed without reference to any information about the usefulness or problems with the pardon. The amount of information currently available about reoffending, among other relevant issues, has increased dramatically since 1970. A proper review of the pardon legislation, therefore, might include an examination of whether certain categories of criminal records should disappear on their own (as they do for youths convicted of offences). But in addition, a more nuanced and varied waiting period could

---

[3] See also the Criminological Highlights collection "Research on Public Confidence in the Criminal Justice System" (2014): https://www.crimsl.utoronto.ca/research-publications/faculty-publications/research-public-confidence-criminal-justice-system

[4] Murphy, Yoko (2020). Contextualizing opposition to pardons: Implications for pardon reform. *Criminology & Criminal Justice,* 20(1) 21– 38.

be appropriate where the length of a criminal record and perhaps the seriousness of the offence could be considered in a thoughtful manner. Distinctions that now exist in the legislation (e.g., between a summary conviction offence and an indictable offence) become less meaningful as the number of "hybrid" offences (those that can be prosecuted by way of summary conviction or indictment) increases.

Making pardons more easily and broadly available would appear to make sense from at least two perspectives. In the first place, those with 'active' criminal records are likely to be experiencing 'punishment' as long as they have criminal records. But second, having a criminal record for a long time may undermine the safe reintegration into society of those who have offended.

Canada's system of pardons for ordinary offences was designed to reduce the stigma of a criminal conviction. Recent legislative changes were designed to undermine this purpose.

In 1970, when Canada's pardon legislation was introduced, the main Canadian political parties were in agreement with its overall purpose. Pardons were seen as a mechanism to reintegrate offenders back into society. 480,035 pardons have been issued since 1970. Only 5% of them have been revoked.

Recently, however, the Canadian government made changes in the legislation. The triggering events that the government used to justify the changes to the pardon related to two high profile offenders. One had received a pardon and was later found to have committed other offences decades before the pardon was issued. The other, a high profile offender, was approaching the time when she would have been eligible to apply for a pardon.

The legislation eliminated the word "pardon" from the law. Some of those with criminal convictions can now apply for "record suspensions" reflecting, apparently, the Government's view that those who have committed criminal offences should no longer be pardoned or forgiven for what they have done. As one Government spokesperson put it, "A pardon suggests that everything is now OK" (p. 222).

In addition, those guilty of certain offences (e.g., certain sex offences) or patterns of offences, are never eligible for pardons. The waiting time for applications increased from 3 to 5 years for less serious offences and from 5 to 10 years for more serious offences. No empirical justification was offered. Finally the application fee was raised from $50 to $150 and then to $631 on the theory, according to the government minister, that "ordinary Canadians shouldn't be having to foot the bill for a criminal asking for a pardon" (p. 222).

Using data from an organization that helps those applying for pardons complete the application, it would appear women are very slightly over-represented among pardon applicants compared to those found guilty in court (22% vs. 16%). Compared to those found guilty in courts, those receiving pardons are considerably more likely to have been found guilty of a drinking-driving offence (33% vs. 14%) or a property offence (35% vs. 22%) and much less likely to have been found guilty of an administration of justice offence (0% vs. 25%). They were equally likely to have been found guilty of a violent offence (19%).

Unlike those found guilty in court, about half were age 45 or older. Most (82%) were employed and the vast majority were applying because of work related issues (71%). A sizable number, however, were applying because of matters of conscience (15%) or so that they could do volunteer work (14%). These latter two purposes were mentioned disproportionately by those over age 45 and by those who had waited a long time after becoming eligible for a pardon. In effect, then, those applying for pardons "were convicted of ordinary, relatively minor types of offences and they desired a pardon for… employment purposes, or simply to clear their conscience of a mistake, or to be able to volunteer… exactly what was envisioned – and hoped for – by the drafters of the original pardons bill introduced in 1970" (p. 220).

Conclusion: The original legislation was designed to deal with a problem inherent in criminal convictions identified by the opposition (Conservative) party in Parliament in 1970. As they put it, it was "absolutely unfair for a person to carry on his shoulders for a lifetime, something which was done perhaps on the spur of the moment." The pardon legislation, as it operated for about 40 years, appeared to be working quite well. Nevertheless, the government of Canada decided, without empirical justification, to restrict the availability of pardons.

Reference: Murphy, Yoko, Jane B. Sprott, and Anthony N. Doob (2015). Pardoning People Who Once Offended. *Criminal Law Quarterly, 62,* 209-225

People with records of contact with the criminal justice system find that persuading others – potential employers or landlords – to overlook their records is just about impossible. They clearly realize that some form of state expungement of the record is necessary for them to have a chance at full reintegration into society.

In pre-internet days, criminal records could effectively be made to disappear because there was no easy way for ordinary people to find out whether someone had a criminal record. Today, "the visibility of the criminal record history makes it difficult for record-bearers to avoid negative repercussions: background checks have become commonplace" (p. 388).

In addition, in many jurisdictions, criminal records do not necessarily involve just criminal convictions. Simply being arrested at some point, even if no conviction results from the arrest, can become part of one's criminal record and, in turn, affect one's life chances. Well-paying jobs where minor records are irrelevant (e.g., in manufacturing) are fewer in number. Various licensed trades and professions, as well as the education programs required for occupational or professional certification, often require 'clean' records. In addition, rules requiring 'clean records' are often made by national head offices of corporations, which may mean it is impossible for local exceptions to be made. "Criminal justice records are more plentiful, accessible, and persistent than they have been…" (p. 390). Many jurisdictions allow some form of expungement or sealing of criminal records (see, *Criminological Highlights 15*(2)#6). Illinois, where this study was carried out, allowed expungement of records of most offences, often after a designated waiting period.

In this study, people applying to have their records expunged were interviewed to find out how they had been affected by a criminal record. The most obvious disadvantage they mentioned was in obtaining or maintaining employment. For example, one 30 year-old woman, arrested at age 21 for the misdemeanour offence of "reckless conduct – the result of a loud argument with her cousin" (p.399)– found that her undergraduate degree in early childhood and family services and her verifiable work history were irrelevant for getting a job: She was explicitly told that her one arrest labelled her forever. Another man, who had been free of any problems for 12 years, was told by Walmart that they wouldn't hire him even if his last contact with the justice system had been 102 years before. McDonalds took the same position. Another man was conditionally accepted for a job and then had the offer revoked because of a 14-year old misdemeanor charge that was ultimately dismissed. Such decisions were non-negotiable.

Conclusion: The common themes of those who were trying to get their records expunged were "frustration with blocked opportunity…; an inability to use personal contact to change employers' beliefs about the meaning and relevance of the criminal record history; and frustration with the ongoing and punitive nature of the criminal justice system. These themes were present for participants with both extensive and minor criminal justice histories" (p. 405). Given that after a period of time, a criminal record no longer predicts offending (*Criminological Highlights 8*(4)#4, *10*(5)#6), these findings suggest a disproportionately punitive response to criminal justice contact. In past decades, "By not disclosing their past criminal justice contact, and upholding conventional lifestyles, ex-offenders could easily circumvent potential stigma" (p. 407). This no longer is the case. For jurisdictions truly interested in promoting reintegration of those who have come in contact with the criminal justice system, this would seem to be a useful area for reform.

Reference: Ispa-Landa, Simone and Charles E. Loeffler (2016). Indefinite Punishment and the Criminal Record: Stigma Reports Among Expungement-Seekers in Illinois. *Criminology, 54*(3), 387-412.

In a longitudinal study of delinquent males followed from age 7 to age 70, there were no identifiable groups whose rates of offending did not decline with age.

Background. The belief that a group of offenders exists whose crime rate does not drop with age is attractive to policy makers. It suggests that criminal activity can be substantially reduced if something were done (*e.g.,* treatment or incapacitation) with such a group that would stop future offending. Within this context, policy makers and "criminal careers" researchers have focused on identifying "the subset of chronic offenders known as serious, violent offenders" (p.558) (See also, *Criminological Highlights, 1* (3) #7).

This study followed a sample of 500 boys born between 1924-1931 through to 1996. Originally part of a study carried out by Sheldon and Eleanor Glueck, these boys were subsequently traced until the 1990s by way of various death and (state and federal) offending records. The main focus of this research was to determine whether the age-crime relationship – an increase in crime from childhood into adolescence or early adulthood and a decline thereafter – was consistent across groups of offenders.

The results are easy to describe.

- Pooling across all offences, there was a sharp increase in offending which peaked in adolescence and was followed by a slower decline throughout the life course.
- For property offences, the rate peaked in adolescence, with a very sharp rate of decline immediately afterward. In fact, the rate of (property) offending was quite low by age 30.
- For violent offending, the peak was in the 20s, and the drop-off in offending rates was substantially slower, "with some offenders remaining active well into their 40s…" (pp. 565-6).
- Drug and alcohol offending was relatively constant between age 20 and approximately age 47 before it sharply declined.
- In an attempt to identify groups that might not show a decline in offending, 13 measures from the boys themselves (as youths), their parents, official records, and teachers were used. More specifically, this study examined differences in such variables as IQ, age of onset of misbehaviour, psychological assessment indicators of the boys and level of delinquency in adolescence. Youths were grouped into those 20% with the most "risks" vs. the rest. The same pattern emerged – early peaks in late adolescence for property crimes, and later peaks (late 20s) for violent offences, and a flatter curve peaking in the 30s for drug/alcohol crime. Though obviously the rate was higher for the "high risk" offenders, the general shape of the curves was the same.
- High rate chronic offenders showed the same pattern of drop-off in offending demonstrated by those with lower rates of offending.
- Even when the high rate offenders with high "family risk" factors were compared with the remaining youths, the results were identical: the drop-off in offending occurred more or less at the same time.

Conclusion. "The data are firm in signaling that persistent and frequent offending in the adult years is not easily divined from zeroing in on juvenile offenders at risk" (p.577). There is variation in the age at which certain groups of men will peak in their offending rates, but there are no identifiable groups whose level of offending does not drop off with age. "Crime declines with age even for active offenders" (p.585). As such, it was impossible to find a "life-course persistent group [that] can be prospectively or even retrospectively identified based on theoretical risk factors at the individual level in childhood or adolescence" (p.588).

Reference: Sampson, Robert J. and John H. Laub (2003). Life-Course Desisters? Trajectories of Crime Among Delinquent Boys Followed to Age 70. *Criminology, 41,* 555-592.

It is impossible to predict at an early age who will turn out to be a 'high rate' or serious offender. What can be predicted is that people become less likely to re-offend as they grow older no matter what their early pattern of offending looks like.

There is a good deal of research demonstrating that offenders are typically relatively young and that even relatively high rate offenders eventually slow down or stop offending (see, e.g., *Criminological Highlights* 6(4)#3). However, some policy makers appear to believe that because, in retrospect, it can be shown that a small portion of the population was responsible for a disproportionate amount of past offending, early identification and incapacitation of high rate offenders would be an effective crime control strategy. Such a belief is based on a lack of understanding of the problem of predicting rare events.

This paper focuses on an interesting sample: all of those convicted of criminal offences in the Netherlands in 1977. It then examines their previous offending patterns as well as their offending for the next 25 years. From a practical perspective, then, it allows one to answer two questions: (1) What are the various 'patterns' of offending of those who are in contact with the criminal justice system? (2) Can one predict with any useful level of accuracy who, in the future, is likely to be a high rate offender?

Starting with those who were convicted in 1977, and looking back to records of offending from age 12 onwards and forward for decades, there was, not surprisingly, a relatively early peak in the overall offending rate of this group in the late teens and early 20s and a gradual dropoff after that. The rate of violent offending was, as is normally the case, somewhat flatter, but did show a gradual decrease with age. Those offenders whose offending careers began relatively early in life (age 15 or younger, or, in a separate analysis, age 13 or younger) obviously had, overall, higher rates of offending. However, the shape of the curve was the same as that of other offenders: peaking in early adulthood followed by a decline thereafter. Similar declines were found for those who were early and high rate offenders: rates of offending dropped off after the late teens or early 20s.

When offenders were divided into four groups (according to their patterns of offending) there were some differences across groups. Chronic offenders (the 4% of the group with relatively high rates of offending throughout their 20s and 30s), were more likely to have started offending early in life at a high rate, to have a low IQ, and to have been assessed as unstable psychologically. One might think, therefore, that they could be accurately identified in advance. That turns out *not* to be the case.

In a two stage validation study, a descriptive model identified a small group of 'low rate offenders' (14% of the total sample) – those who continue offending at a low rate for relatively long periods of time. However, the best predictive model that would have been available to identify them would have picked out only 3 out of 328 of them. More important was the inability to identify the 'chronic offenders' – those with relatively high rates of offending for long periods of time. Of the 84 who were identified as such on the basis of actual offending patterns over their whole lives, only two could have been identified in advance using the best predictive model that would have been available when they were young.

Conclusion: The results are consistent with previous findings demonstrating the futility of trying to predict in advance which offenders are likely to be high rate or chronic offenders. Although certain factors (e.g., low intelligence and psychological instability) predict early onset and chronic offending to some extent, the ability of factors such as these to identify high rate offenders is extremely limited. Hence policies based on early identification and treatment (or incapacitation) of high rate offenders are doomed to failure.

Reference: Bersani, Bianca E., Paul Nieuwbeerta, and John Laub (2009) Predicting Trajectories of Offending over the Life Course: Findings from a Dutch Conviction Cohort. *Journal of Research in Crime and Delinquency, 46* (4), 468-494.

Those employers who use criminal records checks for job applicants should know that for most former offenders who have lived crime-free in the community for about 10 years the criminal record no longer predicts offending.

There is substantial evidence that job applicants who have a criminal record are severely disadvantaged when they look for jobs (see *Criminal Highlights 6*(3)#2). Given that a substantial portion of people in many countries have criminal records, it is important to know how predictive these records are of future offending. Recent research (*Criminological Highligths 10*(5)#6, *8*(4)#4) suggests that, in general, after a few years of living in the community without additional offending, those with criminal records are no more likely to offend than those without records.

This paper looks at a large and varied group of offenders: a representative sample of 3,243 male Dutch offenders whose cases were adjudicated in 1977. Their pre-1977 criminal records were made available to the researchers as were records of their offending thereafter. In addition, a representative sample of same age male 'non-offenders' – those with no record of offending before 1978 -- was examined. The question, then, is a simple one: how many years of non-offending does it take until offenders have the same probability of offending (defined as a conviction for a criminal offence) as those who have not previously offended?

Looking at *all* of the 1977 offenders, it is clear that if offenders reoffend, it is likely to occur very soon after their conviction (or release from prison). But all offenders do not have the same likelihood of reoffending: older people and those without extensive criminal histories are, generally speaking, less likely to reoffend. From the perspective of an employer, the question is a straightforward one: when does an offender's likelihood of reoffending become indistinguishable from those who had never offended in 1977. This might be called the point at which their offending likelihoods *converge*. It turns out that this is a function of two quite separate factors. Younger offenders were more likely to reoffend and those with no criminal record prior to 1977 were less likely to reoffend.

The youngest groups of offenders with no convictions before their 1977 conviction become indistinguishable from non-offenders after about 10-13 years (depending on the criterion used for being 'indistinguishable'). For older offenders, however, the point at which they become indistinguishable from non-offenders occurs earlier – 6 to 10 years for 27 year olds, and 2 years for men 42-46 years old who offended in 1977.

For those with extensive criminal records in 1977, however, the time it takes for a person who is crime-free in the community to become indistinguishable from non-offenders is considerably longer and, depending on the criterion for being 'indistinguishable', they may always have a slightly higher likelihood of reoffending than those who had not offended prior to 1977.

Conclusion: These data suggest that knowledge that a person once committed a criminal offence gives very little information about the likelihood that he will reoffend. However, knowing the age of the person at his last offence and his prior criminal record increases the accuracy of prediction. For those who had no criminal record before being convicted in 1977, ten years of crime-free living brings the probability of reoffending down to the level of non-offenders as it does for those 27 or older who, prior to offending in 1977, had no more than 3 previous convictions. It should also be remembered that, in general, reoffending, if it is to take place, is much more likely to occur shortly after the most recent conviction.

Reference: Bushway, Shawn D., Paul Nieubeerta, and Arjan Blokland (2011). The Predictive Value of Criminal Background Checks: Do Age and Criminal History Affect Time to Redemption? *Criminology, 49*(1), 27-60.

Offenders who have gone six or seven years without committing a new offence are only slightly more likely to offend than are people who have no criminal record at all.

It is common for employers to ask job applicants whether they have a criminal record. Though in some places, such as Canada, most offenders can apply for a pardon if they have lived 'crime free' for a certain period of time (3-5 years after the end of the sentence in Canada, depending on the offence), being pardoned does not mean that one does not, for certain purposes, have a criminal record. For example, although in Canada a criminal record cannot be used to deny a pardoned individual a job that is regulated by federal law, other employers can still refuse to hire someone who has a criminal record but has been pardoned. These decisions would appear to be informed by the notion that "once a criminal, always a criminal." But are ex-offenders who live crime-free for extended periods of time, in fact, any more likely to offend than people who have no criminal record?

Two very similar studies (by the same three authors and published nearly simultaneously in different journals) use different data sets to examine the re-offending records of groups of male offenders. In the first study, the records of reoffending (to age 26) for all 13,160 males who were born in Philadelphia, Pennsylvania in 1958 were examined. In the second study the records of males born in Racine, Wisconsin in 1942 were examined up to their 32nd birthday. In each of these studies, the likelihood of subsequent offending could be compared for two different groups: those who, by a certain age, had offended and those who apparently had not offended by the time they reached this same age. In one study an arrest for a criminal charge was used as a proxy for re-offending; in the other the measure was a 'contact' with the police in relation to a criminal matter.

The findings from the two studies are quite consistent. Early in their adult lives (e.g., when they were age 20), the likelihood of offending for those who had offended at least once by age 18 was about four times as high as the likelihood for those who had been crime free at age 18 (8% vs. <2%). However, those people who had offended before they turned 18, but had been crime free up until age 25, had only a 2% likelihood of offending at age 25. This was, however, slightly higher than the likelihood of offending for those who had been crime free at age 18 (<0.5%). In the second study, the data show that those who had been juvenile offenders were more likely to offend as young adults, but "in any given year after the mid-20s, there appears to be little difference in offending likelihoods between juvenile offenders who have avoided offending during early adulthood and those with no record at all" (p. 72). A similar analysis was carried out comparing those who, by age 20, had not offended to those who had at least one police contact between the ages of 18 and 20. In their early 20s, these two groups differed dramatically: those who had offended as young adults (age 18-20) were more likely to offend in their early 20s. However, if a youth made it to about age 25 without re-offending, the likelihood of reoffending was no different than for those who had never offended.

Conclusion. This analysis suggests that those who are using criminal history information "should place [this information] into a context that pays close attention to the recency of the criminal record as well as the [mere] existence of a criminal record. That is, if a person with a criminal record remains crime free for a period of about 7 years, his or her risk of a new offence is similar to that of a person without any criminal record" (p. 80). It would appear that there is empirical justification for legal procedures like the pardon that recognize that former offenders who have not reoffended after a period of time do not, in fact, present special risks to society.

Reference: Kurlychek, Megan C., Robert Brame, and Shawn D. Bushway. Scarlet Letters and Recidivism: Does an Old Criminal Record Predict Future Offending? *Criminology and Public Policy*, 2006 (August), *5*(3), 483-503. Enduring Risk? Old Criminal Records and Predictions of Future Criminal Involvement. *Crime and Delinquency*, 2007 (January), *53*(1), 64-83.

The public wants sex offenders to be punished harshly because they are seen as unreformable immoral monsters who prey on young children.

Punishment policies toward sex offenders in some countries, including Canada, appear to be based more on evidence-free beliefs about the likelihood that sex offenders will re-offend and the overly-optimistic view that special control programs (e.g., registries, community notification, restrictions on residence and movement, etc.) are effective in reducing sex crimes (see the *Criminological Highlights* collection on sex offenders at http://criminology.utoronto.ca/criminological-highlights for evidence about sex offenders). However, relatively little is known about what drives public views about sex offenders, other than the fact that compared to almost any type of offence, "public attitudes are the most punitive toward sex offenders" (p. 730).

This study examines the relationship between three sets of beliefs about sex offending and punitive attitudes toward sex offenders. The hypotheses were that holding these beliefs may account for the public's punitive preferences with regard to the control of sex crime. The beliefs that were examined were: that sex offenders almost invariably chose young female victims who are permanently damaged as a result of the crime; that sex offenders are evil, unreformable strangers preying, without remorse, on vulnerable people; and that rates of sex crime are increasing and it is very difficult to control sex offending.

In a recent survey, 537 Americans were asked to report their support for 7 punitive responses to sex offending (e.g., banning sex offenders from using the internet; death penalty for repeat sex offenders). They were also questioned about their support for sex offender treatment (e.g., making more programs available in prison; increasing taxes to pay for sex offender rehabilitation programs).

"Punitiveness toward sex offenders tended to be higher among individuals who (1) perceived that a larger proportion of sex crime victims are young children, (2) believed that such victims suffer more than victims of other crimes, (3) endorsed stereotypes of sex offenders as unreformable and driven to crime by immorality, and (4) judged that sex crimes have increased over the previous 5 years. The results revealed that sex offender stereotypes, particularly the stereotype of sex offenders as unreformable, may play the most prominent role in generating hostility toward persons convicted of sex crimes" (p. 749-750). In addition, women and conservatives tended to be more supportive of punitive sex crime laws.

Support for sex offender treatment, on the other hand, is related only to one set of beliefs: disagreement with the view that sex offenders are inherently immoral and unreformable. Independent of these effects, however, those who identify themselves as conservative are less likely to support treatment for sex offenders.

Conclusion: The evidence suggests that support for punitive policies toward sex offenders is fuelled more by "moral outrage, and thus the desire for retribution." But the findings also support "utilitarian accounts of punitiveness, which specify that punitive policies often receive public support because of their presumed crime control benefits" even though research has shown that these benefits are almost certainly illusory. Overall the results demonstrate that "No single impetus drives views about punishing sex offenders" (p. 750).

Reference: Pickett, Justin T., Christina Mancini, and Daniel P. Mears (2013). Vulnerable Victims, Monstrous Offenders, and Unmanageable Risk: Explaining Public Opinion on the Social Control of Sex Crime. *Criminology 51*(3), 729-759.

A study of over 7,000 people convicted of sex offences in 8 countries demonstrates that after about 10-15 years, most individuals with a history of sexual crimes are very unlikely to commit another sex offence. Risk of reoffending decreases dramatically with time for all age groups of offenders and for people who, when released, were originally identified as either being high or low risk to reoffend.

This paper examines the data relevant to the belief that those convicted of a sex offence present an enduring risk to society even after many years of crime-free living in the community. In Canada, for example, people convicted of a single sex offence involving a child are never eligible for a pardon.

The belief that those once convicted of a sex offence are forever dangerous goes against the conclusion that "The general tendency for recidivism risk to decline over time is among the most replicated results in empirical criminology" (p. 49). In general, long-term follow-up studies of sexual recidivism find that the highest rates of reoffending are in the years immediately following release into the community. As with any recidivism study, it is impossible to measure "offending" directly; what can be measured are charges or convictions. This study examines the long-term criminal justice indicators of sexual offending of those once convicted of a sex offence.

Data were gathered from 20 studies carried out in 8 countries. The studies examined reoffending by convicted sex offenders after their release back into the community. Recidivism of those in the community was calculated in 6 month intervals starting with release into the community. In some samples, people were followed for up to 25 years.

Over time, the likelihood of sexual recidivism dropped dramatically from about 3% in the first 6 months to close to zero after 25 years. Across time, of course, the overall proportion of the sample who reoffended increased from 9.1% of the sample at 5 years to 18.5% in 25 years.

Putting these two sets of findings together is important: While 13.2% of the sample committed a sexual offence in the first 10 years, only 4.9% reoffended in the next decade. Furthermore, the relative risk reduction over time was similar for those originally estimated to be either high or low risk to reoffend. The results also hold for offenders of all ages. Even when looking at the higher risk group, most (about 80%) were never reconvicted of another sexual offence. And if they did reoffend, they tended to reoffend soon after being released back into the community.

It appears that "there is wide variability in recidivism risk for individuals with a history of sexual crime; risk probability declines over time; and risk can be very low – so low, in fact, that it becomes indistinguishable from the rate of spontaneous sexual offences for individuals with no history of sexual crime but who have a history of nonsexual crime" (p. 58).

Conclusion: Given the well-documented decline over time in the likelihood that a person convicted of a sexual crime reoffends sexually, the special restrictions placed – sometimes forever – on those once convicted of sex offences need to be reevaluated. If these restrictions are based on actual risk, it would make sense for there to be an opportunity for reassessment in a timely fashion. "Any public protection policy that does not allow for diminished risk over time should be immediately suspect" (p. 58). Furthermore, "there should be an upper limit to the absolute duration of public protection measures" such as restrictions on pardons, requirements of registration and notification, as well as restrictions related to residence, education and employment. "If the goal is increased public protection (not retribution or punishment) then efficient policies would be proportional to the risk presented" (p. 59) -- a risk that declines dramatically with time.

Reference: Hanson, R. Karl, Andrew J.R. Harris, Elizabeth Letourneau, and L. Maaike Helmus (2018). *Psychology, Public Policy, and Law, 24*(1), 48-63.

The likelihood of someone convicted of a sex offence reoffending decreases substantially the longer that person remains in the community offence-free.

Sexual offenders are often believed to be the least likely offenders to change, even though the evidence suggests that their rate of recidivism overall does not distinguish them from other groups of offenders (*See Criminological Highlights 3*(3)#3, *5*(1)#4, *6*(3)#3, *6*(6)#8, *9*(2)#5, *13*(2)#6). The result of this incorrect belief is that various jurisdictions put special controls on those released from prison after serving sentences for sex offences.

However, sex offenders as a group vary considerably in their likelihood of committing another sex offence. If sex offenders are like more general offenders, the greatest risk for new criminal offending occurs immediately after release from prison. The purpose of this study is to see whether the time that a sex offender has been free in the community relates to recidivism risk.

Using an aggregate sample of 7,740 sex offenders from 21 different samples, this study estimates the overall sex offence recidivism rates (charges or convictions) for those 5 and 10 years after release, for both typical offenders and low- and high-risk offenders (categorized by the most widely used sexual offender risk tool that is used in mental health and corrections, the Static-99R).

The overall sexual offence recidivism rate was highest in the first few years after release from prison. For the sample as a whole, 10.1% committed new sex offences within 5 years, 14.2% within 10 years, and only 2.4% more or 16.6% within 16 years.

For the highest risk group, 22% had reoffended with a sex offence within 5 years. Within 10 years, only an additional 7% (28.8% overall) had reoffended, and at 15 years, only an additional 3% (31.8% overall) reoffended. No high risk sex offender who had been offence-free for 16 years reoffended. For low risk sex offenders 2.2% had reoffended within 5 years, 3.1% within 10 years, and 4.7% within 15 years. For the large 'moderate risk' group (62% of the overall sample), 6.7% reoffended; within 10 years 10.4% reoffended, and within 15 years 12.6% reoffended.

Conclusion: "The risk of sexual recidivism was highest in the first few years after release, and decreased the longer [these offenders] remained offence free in the community" (p. 2804-5). The decline over time was greatest for those who had been categorized as highest in risk. "If high-risk sexual offenders do not reoffend when given the opportunity to do so, then there is clear evidence that they are not as high risk as they are initially perceived [to be]" (p. 2805). What this implies, of course, is that given that all measures we have (risk prediction measures as well as simple criminal history records) are fallible indicators of risk-relevant propensities to re-offend, individuals who score high either may never actually have been high risk or they may genuinely have changed. The data do show that, as a group, those classified as high risk are, indeed, more likely to reoffend than those with lower classifications. Hence it would make sense, initially, to focus resources (service and monitoring) on them initially. However, the results also suggest that "sexual offenders who remain offence-free could eventually cross a 'redemption' threshold in terms of recidivism risk, such that their current risk for sexual crime becomes indistinguishable from the risk presented by non-sexual offenders" (p. 2806).

Reference: Hanson, R. Karl, Andrew J. R. Harris, Leslie Helmus, and David Thornton (2014). High-Risk Sex Offenders May Not Be High Risk Forever. *Journal of Interpersonal Violence, 29*(15), 2792-2813.

Drug testing of youthful offenders on parole may create more problems than it resolves.

Background. Drug testing might appear to some observers to be an obvious way of controlling drug use for those serving sentences in the community. However, its value has not been adequately examined. Given that a frequent condition of probation (or parole) is that offenders abstain from the use of drugs, it is important to assess the effects of such policies. One obvious problem is that drug testing changes the nature of the relationship between the offender and his/her supervisor. To the extent that a delicate balance exists between support and surveillance in the parole officer - offender relationship, "an over-reliance on testing may push the balance toward control" (p.219).

This study examined the impact of variations in the frequency of drug testing of youths who were under the control of the California Youth Authority. These young offenders had been released on parole from indeterminate custodial sentences. Most (88%) had been committed to custody for offences other than those related to drugs, with over half having been sentenced for a violent crime. They were *randomly* assigned to one of five conditions which varied in the frequency of drug testing from no routine testing to testing every week or two (though not necessarily at predictable intervals). Because of random assignment, the actual groups can be considered to be similar on all dimensions.

The results are easy to summarize: There was no evidence that increased frequency of drug testing enhanced parole adjustment or reduced criminality (as measured by arrests). In fact, arrests during and after the parole period tended to be slightly higher for groups tested more often as part of this study (p.232). Said differently, frequent drug testing did not increase the likelihood that an offender would serve his or her parole period successfully, as opposed to being removed from parole because of a technical violation or a new criminal offence. Generally speaking, it appeared that parole officers were tolerant of positive drug tests up to the third positive test. However, there were some negative impacts of positive drug tests: one-fifth of parolees who tested positive "went AWOL…. They absconded rather than face the possible consequences of detected drug use" (p.236).

Conclusion. "One of the main rationales for increased drug testing has been its assumed value for improving the behaviour of the offenders being tested… The logic of drug testing as a tool for enhancing an agent's ability to observe and respond to drug use would suggest its value for controlling drug use… The present results suggest the need for a thorough review of this assumption… This study provided experimental evidence that the variations in drug testing frequencies that can be implemented as part of regular parole did not produce expected behavioural differences among serious young offenders" (pp. 237-8). In fact, some evidence indicated that high levels of drug testing *increased* rather than decreased arrests for violent (and "total") offences when these youths were followed for 42 months. In other words, interventions which are designed to decrease offending may, in fact, make things worse.

Reference: Haapanen, Rudy and Lee Britton (2002). Drug Testing for Youthful Offenders on Parole: An Experimental Evaluation. *Criminology and Public Policy, 1,* 217-244.

Compared to other groups of offenders, sex offenders are not a highly specialized group. They are no more likely to be "specialized" offenders than are other types of offenders (i.e., those who have committed violent, property or public order offences).

Sex offenders are the focus of many special criminal law provisions (e.g., dangerous offender laws, laws that require them to register their whereabouts after they have served their sentences). The common assumption seems to be that once a sex offender, always a sex offender. "These stereotyped images have been shown… to have serious negative consequences for the effective detection, treatment and control of sex offenders" (p. 205).

Several studies have found that "sex offenders… exhibit lower recidivism rates and have less extensive criminal histories" (p. 207) than other types of offenders (see, e.g., *Criminological Highlights*, *5*(1)#4, *3*(3)#3, *6*(6)#8), *6*(3)#3). This study examines data from 9806 male sex offenders released from state prisons in 15 states in 1994 and an additional 23,849 prisoners released for other violent offences, property offences, or drug and other public order (drug and other public order) offences. The data include information about offenders' entire criminal history prior to their release from prison in 1994 and in the three years following release. Hence it was possible to look at the likelihood that the offence a person was arrested for the "next" time was the same as the previous one.

Overall, it would appear that sex offenders are no more likely to "specialize" than are other offenders. For example, starting with all of those who were arrested for sex offences, one can look at those arrested again and ask whether this next arrest was likely to be for a sex offence. The answer is that the probability of a person who was just arrested having his next offence be another sex offence was about 0.26. For those arrested for violent offences, if they were re-arrested again, the likelihood of their next arrest being a violent offence was 0.33. "Specialization" for property offenders and public order (including drugs) offences was even higher (0.56 and 0.61, respectively).

Perhaps the most interesting finding is that "perfect specialization is rarely observed across all arrest cycles" (p. 216). Only about 5% of sex offenders could be described as 'specialists' (i.e., had only sex offences in their histories). Given that the group of offenders in this study tended to have substantial criminal records, it is not surprising that their re-offending rates tended to be quite high. When one looks at the proportion who never committed the same offence again, however, one finds that "the concentration of one-timers who did not repeated the same offence in any other cycle was substantially higher among sex offenders than any other offence type" (p. 216). Using a more restrictive typology of offences, a similar pattern emerges. Two types of sex offenders (rapists and those arrested for child molestation) were compared to those arrested for other specific offences (e.g., robbery, burglary, aggravated assault). About 74% of rapists and about 70% of those arrested for child molestation were 'one timers' compared to only 57% of robbers, 44% of those arrested for burglary, and 54% of those arrested for aggravated assault.

Conclusion. "As a group and across different measures, sex offenders… are not typically specialists or persistent offenders…. In fact… specialization among sex offenders drops substantially over successive stages of their criminal careers" (p. 222). Obviously, this study depends on 'official' data of offending and hence misses many offences. There is no reason, however, to expect that this problem is specific to sex offenders. The data suggest that the argument for special sexual predator laws (e.g., registries, etc.) may be based on false assumptions. "Given the major finding that the average sex offender… does not appear to be a persistent specialist over his arrest career, it seems somewhat unlikely that registration and notification policies will decrease sexual victimization" (p. 225).

Reference: : Miethe, Terance D., Jodi Olson, and Ojmarrh Mitchell. (2006) Specialization and Persistence in the Arrest Histories of Sex Offenders: A Comparative Analysis of Alternative Measures and Offence Types. *Journal of Research in Crime and Delinquency, 43*, 204-229.

The vast majority of young sex offenders will never be convicted of another sex offence.

Although many criminal justice systems have special measures targeting those who have been found guilty of sex offences, it is well established that sex offenders are not especially likely to reoffend (see *Some Recent Research on Sex Offenders and Society's Responses to Them* at http://criminology.utoronto.ca/criminological-highlights).

This paper examines the criminal justice involvement of young men in England & Wales first convicted of a sex offence before age 21. After their conviction, they were followed for at least 20 years. Their reoffending history is compared to that of two groups of young men: those convicted of violent offences before age 21 and those convicted of burglary before age 21. The offending histories of young men born in 8 different years (every fifth year beginning in 1953 and ending in 1988) were examined to ensure the results weren't specific to one historical period.

13.1% of the group first convicted of a sex offence before age 21 were subsequently convicted of another sex offence. Not surprisingly, the *sex offence re-conviction rate* for the young sex offender group was higher than the rates for the other two groups (2.4%, 2.7%).

Those who were convicted of a sex offence before age 21 were more likely to be convicted subsequently of a violent offence (33%) than a sex offence. They were, however, *less* likely to be convicted of a violent offence than the young violent or burglary offenders (42%, 37%). The three groups were equally likely to have a reconviction for any offence after age 21 (between 60% and 64% were reconvicted of some offence).

Most of the reconvictions – sexual, violent, or general reoffending – occurred when the offender was in his early 20s. In fact, the sex offence reoffending rate for the first 10 year period was 10%. 35 years after the initial conviction, the cumulative reoffending rate had only risen to 13.1%. In fact, 10 years after their initial sex offence conviction, the sex offender group was no more likely to be convicted of a sex offence than were those initially convicted (before age 21) of a non-sex violent offence. 15 years after their initial conviction for a sex offence, these men had the same likelihood of committing a sex offence as those convicted of burglary before age 21.

Conclusion: As previous research has shown, the idea that convicted sex offenders have a high likelihood of committing another sex offence is simply wrong. If they reoffend, they are much more likely to commit an offence *other than* a sex offence. In this study, 87% of young men convicted of a sex offence before age 21 were not convicted of a sex offence again during the 20 to 35 year follow-up period. But in addition, if they were to commit another sex offence, it was very likely to be in the first few years after the initial conviction. The usefulness, therefore, of sex offence registry and notification systems – especially those with long (or indefinite) registration periods, needs to be questioned.

Reference: Hargreaves, Claire and Brian Francis (2014). The Long Term Recidivism Risk of Young Sexual Offenders in England and Wales – Enduring Risk or Redeption? *Journal of Criminal Justice, 42*, 164-172.

A careful analysis of the effects of sex offender registration and notification (SORN) laws in Houston, Texas using data from a 35 year period finds that the original law, as well as changes which broadened its impact, had no overall impact on the incidence of sexual offences. Furthermore, the law had no apparent effect on four subsets of these offences/offenders: sexual assaults, sexual offences against children, first-time offenders, and repeat offenders.

Quick fixes to crime problems are almost always popular. One such 'quick fix' are sex offender registration and notification (SORN) laws. These laws vary considerably and have been subject to a fair amount of research the results of which are consistent: they do not prevent sex offending (*Criminological Highlights 5*(6)#1, *7*(4)#4, *8*(6)#5, *9*(2)#7, *10*(3)#7, *11*(4)#7, *11*(6)#6, *12*(5)#4, *14*(5)#8, *18*(1)#8)).

However, these laws do vary. Hence it is worth examining whether a law – and changes to it – might have an impact in a local context, in this case Houston, Texas, the fourth largest city in the US. The original Texas law was implemented in 1991, requiring all those then in custody (as well as those subsequently imprisoned) to register. In 1997, the law was extended, retroactively, to anyone convicted of a sex offence after 1970. In 2005, it was extended to those living in Texas, but whose convictions were elsewhere.

In this study, the impact of the original law (and changes to it) were examined for different outcome measures using monthly data on the number of charges filed for (a) all sexual offenses, (b) sexual offences involving first time offenders, (c) sexual offences involving repeat offenders, (d) sexual assaults, and (e) sexual offences against children. As one way of ruling out effects that might not be caused by the implementation of SORN laws, changes in the number of non-sexual assaults were also examined. Data were collected for 424 months starting on 1 January 1977 (before the first law came into effect) until 30 April 2012 (about 7 years after the last change).

Because there were sufficient observations both before the laws were first implemented and after the last set of changes, it was possible to use 'interrupted time series' analyses to examine the impact of the change in law. Various controls were included to eliminate both seasonal trends as well as overall trends across the full time period that were not related to changes in the law. Various models were examined, but the obvious expectation was that if the law was effective, it "should have an abrupt and permanent impact on sexual offence case filings as would each of the two subsequent modifications…" (p. 1502).

The results of the study are easy to summarize and are consistent with most of the existing research on SORN laws. Texas' SORN laws "generally reveal a lack of relationship between SORN laws and rates of all sexual offenses, or with specific measures of sexual assaults against adults, or sexual offences against children" (p. 1504). Not surprisingly, most of the sexual offences that were reported were committed by those who had not been previously arrested for a sex offence that was subject to the state's SORN requirements.

Conclusion: "A growing number of studies suggest that the implementation of SORN requirements has had little relationship to the rates of sexual offending over time" (p. 1507). These findings, combined with the knowledge that these laws have unintended (and additionally punitive) negative impacts on those who are subject to them, should lead those interested in reducing the incidence of these serious offences to consider other approaches.

Reference: Bouffard, Jeff A. and LaQuana N. Askew (2019). Time-Series Analyses of the Impact of Sex Offender Registration and Notification Law Implementation and Subsequent Modifications on Rates of Sexual Offences. *Crime & Delinquency, 65*(11), 1483-1512.

The prediction tool used most frequently by British police forces in domestic violence cases to assess the risk for future domestic violence is found to have failed to give substantial assistance to police officers in identifying high-risk re-victimization or recidivism cases.

"One of the most notable reforms on policing domestic abuse internationally has been the introduction of standardized risk assessment" (p. 1013). The purpose in using these instruments, obviously, is to identify perpetrators who are likely to reoffend and to focus interventions (e.g., pretrial detention or special conditions of release) on them.

Though logically such an approach makes sense, the success of such instruments has not been great. Although they may show statistically significant effects larger than chance, the overall accuracy of many of these measures is weak. Said differently, there are many false negatives (recidivism that is not identified by the test) and false positives (people who are predicted to commit offences, but, in fact, do not). A separate question, of course, is what these 'objective' tests should be compared to. An earlier study (*Criminological Highlights 3*(2)#7) found that domestic violence victims were at least as accurate in predicting future violence as were the 'objective' measures.

In this study, data from 41,570 intimate partner violence (IPV) incidents were examined in which a British standardized risk assessment tool – the Domestic Abuse, Stalking, and Honour Based Violence (DASH) form – was administered. Data from 19,510 non-IPV cases were also included in some analyses. DASH uses data from 27 questions that are asked of the victim and is described as a "structured professional judgement scale" in which final judgements are made either by a frontline officer or a police specialist, on the basis of the data collected by the officer. Risks are described as high (victim at risk of serious harm), medium (serious harm unlikely unless the circumstances change) and standard (no evidence of the likelihood of serious future harm).

5.6% of the original victims reported being revictimized by the same person within one year of the occurrence in which DASH data were collected. For every 100 people who, in fact, were revictimized, about 6 were initially given a 'high risk' rating, 27 were given a medium risk rating, and 67 were given a 'standard' (low risk) rating. Of those initially given "high risk" ratings, only about 10% actually reoffended. This was a higher rate than those initially assessed as having a 'standard' risk where only about 5% reoffended. But to say that 'twice the percentage' of high risk people reoffended in the 'high risk' group ignores the fact that 90% of this 'high risk' group did not reoffend.

Even if the 'medium risk' people were considered 'high risk', it turns out that the instrument would only have identified about 33% of those who reoffended. More dramatic is the fact that, using this cutoff of people predicted to reoffend (high and medium risk), only about 8% of those predicted to reoffend actually did. Said differently, if coercive interventions had been used on all of those predicted to be "medium" or "high" likelihood of reoffending solely to stop reoffending, the intervention would not have been justified for 92% of the people.

Other approaches – logistic regression and various machine learning methods – were used with the IPV and non-IPV data to see if more accurate predictions were possible using more sophisticated approaches. These more sophisticated approaches did not improve predictions, possibly because of unmeasured differences in the incidents (above and beyond the IPV/non-IPV distinction) or because of low reliability of the initial measures.

Conclusion: This highly used prediction instrument clearly has relatively low validity – leading to high rates of false positives and false negatives in the prediction of intimate partner violence as well as other types of violence. Hence the results underline the more general conclusion that the use of comprehensive measures (27 separate questions in this measure) or sophisticated looking measures (as in various high-tech approaches – see *Criminological Highlights 17*(2)#1, *17*(6)#7) are unlikely to predict future violence adequately.

Reference: Turner, Emily, Juanjo Medina, and Gavin Brown (2019). Dashing Hopes? The Predictive Accuracy of Domestic Abuse Risk Assessment by Police. *British Journal of Criminology, 59,* 1013-1034.

Providing judges with risk assessments at sentencing increases the likelihood that poor defendants will be incarcerated but reduces the likelihood of incarceration for relatively affluent defendants.

There are many empirical and policy reasons to question the appropriateness of 'predictive' models of sentencing (see *Criminological Highlights 18*(4) #3). Risk has a tendency to worm its way into the sentencing process even in proportional sentencing systems. In Canada, for example, a sentence is supposed to be proportional to the gravity of the offence and the responsibility of the offender for it, but its severity can be increased if the offender was, at the time of the offence, serving a sentence for a previous offence or separation from society is seen by the judge as 'necessary' (*Criminal Code* s.718.2(a)(vi); s. 718(c)).

One worry about risk assessments at sentencing is that they will increase socioeconomic disparities in sentencing. The research question asked in this study is straightforward: Does the presence of a risk assessment at sentencing have the same impact on the sentence imposed on wealthy and poor defendants?

Judges in three regions of the US were asked, either at annual judicial conferences or online, to participate in a sentencing study involving them giving a "sentence" to a hypothetical person described in a printed vignette. Having been assured anonymity, 85%-91% of those invited participated. In two of the regions, risk assessments are routinely presented to judges at sentencing. The vignettes varied slightly so as to include relevant local details and risk assessment information that was similar to that which the judges normally saw.

The defendant in these sentencing scenarios, having been convicted of being a participant in selling heroin, was described either as working class (e.g., a casual labourer in construction who had not graduated from high school) or as middle class (e.g., having a BA in computer science and working in the local Apple store). For half of each of these groups, the judge received no risk assessment information. The other half got detailed information about a risk assessment that had been carried out. This assessment included the factors that went into the overall risk assessment such as criminal history, family problems and antisocial associates. It also included the 'risk' scores that the defendant received on each dimension. The risk assessment information was identical for the relatively poor and relatively affluent defendant. The overall risk score that each hypothetical defendant received was in the middle of the risk scale. Judges were then asked to indicate the sentence that they thought was appropriate.

For middle class defendants, providing a risk assessment *decreased* the rate at which judges indicated they would imprison the defendant from 60% to 44%. In contrast, for the relatively poor defendants, providing the risk assessment *increased* the imprisonment rate from 46% to 61%. "Providing formal risk assessment information to judges reverses the relationship between a defendant's socioeconomic status and sentencing severity…. This reversal held after controlling for judges' jurisdictional and personal characteristics" (p. 56).

Conclusion: "Providing judges with risk assessment information transformed low socioeconomic status from a circumstance that reduced the likelihood of incarceration (perhaps by mitigating perceived blameworthiness) to a factor that increased the likelihood of incarceration (perhaps by increasing perceived risk)" (p. 56). In other words, giving judges information that encouraged them to think about risk *increased* the likelihood that a poor person would be incarcerated. But providing the same risk information about a middle-class person *decreased* the likelihood that the offender would be incarcerated. Focusing the judge's attention on risk, then, disadvantaged the already disadvantaged defendant at sentencing.

Reference: Skeem, Jennifer, Nicholas Scurich, and John Monahan (2020). Impact of Risk Assessment on Judges' Fairness in Sentencing Relatively Poor Defendants. *Law and Human Behavior, 44*(1), 51-59.

It has been well known for decades that predictions of future violent offending are more often than not wrong. A sizable majority of people placed in preventive detention awaiting trial, and a sizable majority of people sentenced to longer sentences because of violence predictions, would not have committed violent crimes.

Forty years ago, 4 of 6 people predicted to be violent were not. Today, using the best instruments, 3 of 5 predictions of future violence are wrong. Much more is now known than in earlier times. The mistaken predictions disproportionately affect members of racial and other minority groups and are in large part based on factors such as age, gender, and socioeconomic status that are *per se* unjust. They are heavily based on criminal history factors that result in part from racial profiling, stereotyping, and police bias.

"Minority offenders are more often incorrectly predicted to be violent than are white offenders" (p. 440). All prediction instruments use socioeconomic status variables such as employment, marital status, education, and residential stability that penalize members of minority group. Criminal history variables exaggerate differences between minority and white offenders and increase racial disparities. "Increasing the severity of a sentence on the basis of risk prediction in effect punishes many offenders for crimes that would not have happened" (p. 440).

In some (largely US) sentencing systems, risk is explicitly a determinant of sentence severity. In others, such as Canada's, risk enters in subtler ways – in the purposes of sentencing and the use of criminal record in determining the sentence even though sentences are supposed to be proportional to the harm done. But in addition, commercial risk instruments (see *Criminological Highlights 17*(2)#1, *17*(6)#7) with serious limitations have become popular because they appear to be based on modern artificial intelligence principles and do not *explicitly* involve race or ethnicity as predictors.

The dilemma is a stark one. Some people believe it is "irresponsible not to use state-of-the-art prediction methods" (p. 447). Others believe that offenders should be punished only for what they have done. Some people acknowledge that violence predictions are often inaccurate (just as some of those exposed to an illness do not get it but are quarantined to prevent spread of the disease) but believe society is better served by being cautious and incarcerating those who might offend. Those incarcerated people who would not have reoffended, however, are unlikely to accept that they are being treated justly, especially since the predictions are often implicitly based on factors (e.g., age, race, gender, socioeconomic status) over which they have no or minimal control. Few disadvantaged people in any meaningful sense choose to be poorly educated, to lack work skills, or to have had unstable home lives.

The use of a person's criminal history to support a harsher sentence is typically justified by the assumption that those with extensive criminal histories are more likely to reoffend than are first offenders. The result, as others have noted, is that a person sentenced at one time for three offences (e.g., three burglaries) will be punished considerably more leniently than will a person who committed the same offences but is sentenced separately for each. Proportionality is lost when criminal record enters the calculation. Scandinavian countries recognize this and typically acknowledge that a person should not be punished twice for the earlier offences. Moving away from the sometimes enormous weight given to criminal record in sentencing would almost certainly reduce (but not eliminate) disproportionate imprisonment rates for various groups (e.g., Blacks in the US; Indigenous people in Canada).

Conclusion: A sentencing system, or, more generally, a criminal justice system less based on prediction would, as a result, impose punishments based on the blameworthiness of the offender and the seriousness of the crime. It would also restore the idea that *who* the offender happens to be is less important than *what* the offender has done. The challenge, however, is that "Prevention concerns and prevailing emotionalism may make elimination of preventive sentencing unachievable" (p. 474). On the other hand, it needs to be remembered that sentencing decisions in most civilized countries in the world are not normally based on predictions of future violence and many have low crime and imprisonment rates.

Reference: Tonry, Michael (2019). Predictions of Dangerousness in Sentencing: Déjà Vu All Over Again. *Crime and Justice: A Review of Research, 48,* 439-482.

The employment and job search activities of men released from prison is not orderly. Employment after release is often the result of an uncertain and haphazard process that leads to a job that may last only a day or two.

Employment for those released from prison is hard to obtain not only because of the stigma of being an offender but also because prisoners often do not have skills that lead to continuous, reasonably paid, employment.

For low-skilled poorly educated young Black men in US cities, the opportunities for continuous reasonably paid employment are few. One study suggests that only 42% of this group were employed in 2008. Only 26% of those with these characteristics as well as having experienced incarceration were employed. Temporary jobs, then, become the norm for those who have experienced imprisonment.

This paper examines the job search and work experience of 133 men living in Newark, New Jersey who had been released on parole from state prisons. Men were chosen for the study if they were not gang affiliated, were not sex offenders, and were looking for work. Newark, at that time, had a higher than the state or national unemployment rate. Participants in the study received gift cards and a smartphone (with a paid service plan) in return for responding twice a day to short surveys received on their smartphones – one survey was sent at a random time between 9am and 6pm and the other at 7pm. The first survey asked whether they were employed or searching for work (or neither) at that moment. The survey received at the end of the day asked similar questions but covered the whole day.

During the first month after release from prison, people spend about 40% of their daytime hours searching for work, about 10% working and about 50% neither searching for a job nor working. Over time, however, the proportion of time spent working increased to about 20%, but the amount of time spent searching for work decreased. More importantly "decreases in search do not coincide with comparable increases in work… Rather the proportion of working days remains low, which suggests that people leave the labour market without much consequence to the amount of work that they find" (p. 1465).

For the most part, the work that people do is not continuous regularly scheduled work. Instead, "work is very irregular, without much change over time and without a clear connection to job search activities" (p. 1468). The most common pattern of activities is that people search for work early, but "quickly lessen their efforts and conduct few search activities after the first month" (p. 1469). Most people worked multiple types of very short-term jobs, switching from one type of work to another. These jobs were not found through systematic job searches.

Conclusion: Many men who did not find employment in the first month after release from prison stopped spending time looking for work after about a month, instead depending on occasional short term work that they happened to hear about to make ends meet. Thus they engaged in any short term work that they happened to come across rather than spending time searching for regular employment. It would appear that "the critical window of time to support job search [of low skilled released prisoners] is very short" (p. 1477). Since the reduction in job search activities did not coincide with increases in employment, it would appear that released prisoners did not find work through normal channels. Clearly employment programs for former prisoners need to take account of the "irregularity, instability, and variability among marginalized job seekers navigating a labour market in which [traditional] work [for which they are qualified] has disappeared" (p. 1481).

Reference: Sugie, Naomi F. (2018). Work as Foraging: A Smartphone Study of Job Search and Employment after Prison. *American Journal of Sociology, 123*(5), 1453-1491.

Incarcerating young adults who could be punished in the community ensures that they will be less likely to be in the workforce upon release.

Being imprisoned for the first time appears to increase the likelihood of future offending (*Criminological Highlights* 11(1)#2). In addition, the mention of a criminal record by people applying for an entry level job (*Criminological Highlights* 6(3)#2) reduces considerably their chances of being offered that job. This paper compares the employment prospects of two groups of offenders: those sent to prison and a comparable group who were convicted but not incarcerated.

The challenge in research of this kind is to estimate the impact of imprisonment on employment above and beyond the pre-existing differences between those imprisoned and those not imprisoned. In other words, those who are sent to prison often have employment deficits such as low education or few job skills. This study used a subset of respondents from the (U.S.) National Longitudinal Survey of Youth – those youths who had not been convicted by the time of their first interview (age 13-17) but who were convicted prior to one of the subsequent interviews. As it turns out, the 'to-be-incarcerated' youths who are convicted do differ, as a group, from the 'convicted-but-not-incarcerated' youths. Hence a 'matching' strategy (based on over 30 variables such as family structure, educational background, various risk factors, arrest history, and offence of conviction) was used in this study.

Various outcome measures were examined reflecting the possibility that one of the impacts of imprisonment could be to discourage young people from looking for employment. Thus the researchers examined whether the offender was employed, unemployed (in the work force but not employed) or not in the work force at all.

First time incarceration, controlling for pre-conviction differences, reduces the likelihood of formal employment by about 11% compared to those convicted but not incarcerated. The employment deficit is consistent over time (after conviction). "The higher presence of nonemployment [by those incarcerated] stems almost exclusively from labour force nonparticipation rather than unemployment" (p. 465). In other words, it is not so much that those sent to prison can't find jobs; they simply aren't looking for work (perhaps because they believe – correctly or not – that they will not get jobs). For those who obtain employment, there was no difference between the non-incarcerated and those incarcerated in the number of weeks per year that they actually worked.

Looking at employment over time, most of those convicted (whether sent to prison or not) experienced unstable employment. However, incarcerated youths are less likely to be in stable employment, more likely to be consistently out of the work force, and more likely not employed but only occasionally looking for work.

Conclusion: The youths in this study were, on average, only in prison (on this first occasion) for a little more than 4 months. Nevertheless, this relatively short period of incarceration appears to have had a long-lasting impact on their employment patterns. By their own accounts, it was not so much that ex-inmates were not *finding* work, it is that they were not looking for work. Since all of those in this study had been convicted, it is clear that there is an additional long-term deficit created by incarceration, in addition to any impact of the conviction itself. More specifically, the challenge seems to be to identify ways of attaching ex-inmates to the labour market. "To the degree that… incarceration [of youths] disrupts the process of attachment to work, it has the capacity to serve as a catalyst that sustains long-term criminal involvement" (p. 471).

Reference: Apel, Robert and Gary Sweeten (2010). The Impact of Incarceration on Employment during the Transition to Adulthood. *Social Problems, 57*(3) 448-479.

Being imprisoned has a permanent effect on wages: those who have been incarcerated are likely not only to have reduced wage income, but the effect of imprisonment increases as workers get older. Hence, the increase in wages that ex-offenders experience as they age is smaller than that earned by non-offenders.

Background. It is well accepted that there is increasing wage disparity in the U.S. This study examines the extent to which U.S. income disparity is exacerbated by imprisonment policies. Indeed, incarceration may be expected to have a long term impact on a person's wages for a number of reasons. For instance, the stigma of imprisonment, the lack of job skills acquired while incarcerated, the debilitating effects of prison on physical and mental health, and the nature of those with whom the prisoner is in social contact while in custody can negatively affect subsequent wage income.

This study takes advantage of a remarkable finding: the data from the U.S. National Longitudinal Study of Youth on survey respondents' residence includes whether he/she was in prison. In 1998, 3.2% of the interviews of males between the ages of 14-21 were carried out while the respondent was incarcerated. This incidence is clearly the result of U.S. imprisonment policy. Indeed, studies have shown that 7.8% of all American males have been imprisoned at least once by age 40. The comparable figure for black males is 27%. In fact, it was found that "more black male high school dropouts [in the U.S.] age 20 to 35 were in custody than in paid employment" (p.526) on an average day in 1996.

The results show that "incarceration eliminates *all* wage growth among ex-convicts" (p.536). Further, "[t]he wage gap between nonconvicts and ex-convicts grows as convicts age" (p.538). This is particularly interesting because the effect of incarceration on *whether* the ex-convict is employed *decreases* over time. In other words, it would seem that ex-convicts are eventually able to find jobs. However, these jobs offer little opportunity for wage growth. In addition, "[t]he effect of incarceration on [wage] inequality is twice as large for blacks and Hispanics [as it is for whites]" (p.540).

Conclusion: "Incarceration is a turning point that reduces the earnings mobility of young men" (p.541). Indeed, "[t]here is strong evidence that incarceration reduces the wages of ex-inmates by 10-20 percent… [as well as their] rate of wage growth by about 30 percent" (p.541). This finding is particularly disconcerting when one recalls that "research relating crime to labour market outcomes views stable employment as an important source of criminal desistance… These effects appear strongest for men in their late 20s and 30s… The low wages earned by ex-inmates may thus be associated with further crime after release from prison. The causal path from incarceration to irregular employment to crime may be especially damaging because the economic pain of incarceration is largest for older men – precisely the group that benefits from stable employment" (p.542). Moreover, the impact on racial inequality cannot be ignored. "By the 1990s, around one-fifth of minority men and a comparable proportion of those with only a high school education will pass through prison at some point in their lives. Under these conditions, it appears that the U.S. penal system has grown beyond disciplining the deviant few, to imposing a systemic influence on broad patterns of inequality" (p.542).

Reference: Western, Bruce (2002). The Impact of Incarceration on Wage Mobility and Inequality. *American Sociological Review*, *67,* 526-546.

Men – especially black males – with a prison record in America will have considerably more difficulty in obtaining entry level jobs than will those who have never been incarcerated.

Background. As in Canada, most prisoners in the U.S. will eventually be returned to the community. In fact, approximately half a million American inmates are released from U.S. prisons each year. Roughly 91,000 offenders were released from Canadian prisons in 2001 after serving time for a criminal offence. These figures are of particular concern when one recalls findings from previous research which demonstrated a relationship between imprisonment and the (in)ability of a person to find employment. However, one of the problems with these prior studies is that they have only been correlational in nature. As such, the possibility remains that it is not incarceration *per se* that disadvantages a person in search of a job, but rather some other related factor (*e.g.,* possessing fewer relevant job skills).

This study used an experimental design in which black and white male research assistants pretended to be ordinary job applicants and applied for entry level jobs with 350 different employers in the Milwaukee, Wisconsin area. They randomly described themselves as either having a criminal record or not. Two different people applied for each position - one of whom either indicated that he had a criminal record when asked (a situation which occurred in 74% of the jobs applications or interviews) or simply listed his parole officer as a reference if information about his criminal history was not requested. In all other ways, the two applicants did not differ.

The results were dramatic. Of the white applicants, 34% of those without a criminal record were "called back" (to be offered the job or for a formal interview) compared to only 17% with a criminal history. For black applicants, while 14% of those without a criminal record were called back, a mere 5% of those with a prison record were contacted. In other words, when comparing the white applicant with no criminal record to the black person with a criminal record, the likelihood of the latter obtaining a job was reduced by approximately 85%. This effect held for those employers who specifically asked about the applicant's criminal record as well as those who did not explicitly request this information. Similarly, the pattern of findings was the same for applicants with and without personal contact with a decision maker (*i.e.* those who were either asked simply to fill out an application or were given an initial interview).

Conclusion. The presence of a criminal record renders the reintegration of ex-offenders into the community as productive citizens more difficult. One important hurdle for individuals who want to achieve the goal of successful reintegration is to acquire a job. This study demonstrates conclusively that having a criminal record makes this objective a considerably greater challenge. In addition, it demonstrates that being black and having a criminal record constitute two enormous - albeit separate - impediments to getting a job. These results are consistent with previous research (*Criminological Highlights, 5*(3) #7) which shows that imprisonment has a permanent effect on wages. More specifically, those who have been incarcerated are likely to have reduced wage income. Further, the effect of imprisonment *increases* as workers get older. Hence, the rise in wages that ex-offenders experience as they age is smaller than the increases received by non-offenders. Taken together, these findings demonstrate not only that a criminal record renders it more difficult for the ex-inmate to enter the work force but that people with criminal records are also more likely – once employed – to be trapped in low paying jobs. Clearly, a criminal record has costs for both the offender as well as society.

Reference: Pager, Devah (2003). The Mark of a Criminal Record. *American Journal of Sociology, 108,* 937-975.

The gap between the earnings of Black and White Americans increases after imprisonment.

It is well established that those with criminal records have difficulty finding work after being incarcerated, and these effects may be greater for Blacks than Whites (*Criminological Highlights 6*(3)#2). Similarly, youths who have been incarcerated rather than being given community sanctions are less likely to be in the workforce after their sentences have been served (*Criminological Highlights 11*(4)#4). And the increase in wages that occurs as people gain more experience in the workforce is lower for those who have been imprisoned than for comparable people who have not been imprisoned (*Criminological Highlights, 5*(3)#7).

This study looks at the impact of imprisonment on the gap between the earnings of Black and White offenders, all of whom were imprisoned. Because being imprisoned is, in general, harmful to employment and income prospects, it is possible that the difference between the wages earned by Black and White Americans would decrease, since both groups would be, as a result of imprisonment, equally stigmatized. Alternatively, there could be a multiplicative effect: being Black *and* being an ex-prisoner may be more harmful than would be expected if the two effects had independent negative impacts on wages.

This study looked at the wages earned in legitimate work by Black and White residents of the State of Washington before and after they were incarcerated. Specifically, wages (the average hourly wage when the person was working) for at least two years prior to incarceration in a Washington prison and for two years after release from prison were examined. Data were derived from state employment records. If an offender was re-incarcerated, wages only to that point were examined.

During the two years prior to incarceration, Blacks tended to earn less than Whites. After incarceration, however, the gap between Black hourly wages and White hourly wages not only still existed; it increased over time. This effect – a widening gap between the hourly wages of Black and White workers after incarceration – occurred even when various other factors were controlled (e.g., employment history, education, offence type, length of incarceration, age). For example, work history prior to incarceration has an impact on wages, but the difference between Black and White workers remains. Interestingly, however, the impact of work history on wages (for both Black and White workers) is less after incarceration than before, suggesting that a favourable work history does not help those who have been incarcerated as much as it does those who have not been imprisoned.

Conclusion: As people get older, their earnings tend to increase. However, "after release from prison, … the rate of growth is slight, and post-release wage growth is even slower for Blacks than for Whites. Black wages increase, on average, about 21 percent slower than Whites each quarter after release" (p. 273). The exact reasons for this could not be discerned from this study. Clearly, however, incarceration – especially for Black Americans – "inhibits labour market prospects and other life-course transitions… [This study] points to the *compound* disadvantage faced by Black relative to White ex-inmates" (p. 273).

Reference: Lyons, Christopher J. and Becky Pettit (2011). Compounded Disadvantage: Race, Incarceration, and Wage Growth. *Social Problems, 58* (2), 257-280.

.

Providing work opportunities to heavy drug users reduces their offending, but does little to reduce cocaine and heroin use.

Providing work opportunities to offenders or those involved in drugs is always controversial, especially in periods of relatively high unemployment. Programs that provide jobs to those seen as undeserving – drug offenders for example – may need to justify themselves by providing evidence that they reduce crime. The question raised by this paper is whether providing jobs to recently incarcerated, unemployed, heavy drug users reduces crime and drug use.

Work might reduce people's involvement in crime as a result of a number of different factors. Those receiving jobs may have less time to engage in criminal activities. Work may increase informal social controls, by strengthening the social ties that those who are given jobs have with non-offenders. However, while some studies show favourable impacts of work programs, the effect is not uniform for all groups (see *Criminological Highlights 4*(3)#6, *6*(3)#6, *6*(5)#7).

This study uses data that were collected in the 1970s. Members of a group of drug-involved offenders were randomly assigned to an experimental group who were offered "supported work", or subsidized jobs (typically in construction or manufacturing). They, and the control group that were not offered jobs, were also involved in drug treatment programs. All participants had been incarcerated and all were unemployed.

More than half of both groups completed the three year follow-up period without using drugs. However, the proportions of the two groups that reported using drugs during this three year follow-up were similar. In other words, the supported work program "had little effect on relapse to cocaine or heroin use" (p. 113).

However, the 'supported work' group was significantly less likely to be arrested for any crime, including robbery or burglary. Differences in arrest rates showed up after about 9 months and the size of the difference increased over time. At the end of the 18 month period (during which the members of one group were guaranteed jobs under the supported work program) 26% of those offered subsidized jobs had been arrested for any crime compared to 32% of the control group. Only 7% of those who received subsidized jobs were arrested for robbery or burglary compared to 13% in the control group. The difference between the two groups continued to the end of the 3-year follow-up period. Other analyses suggest that the difference is, in large part, due to the difference in the income available to members of the two groups.

Although the data suggest that providing jobs reduced offending, the jobs program had little impact on drug use. Data from another more contemporary study using interviews with drug users suggested that combining drug use with work was very difficult. However, even though it was difficult, work was seen as necessary to keep from returning to a life of selling and using drugs. What may have happened is that "the basic controls and structure provided by the supported work program may in fact have held drug use in check, while the income provided by the program curtailed involvement in systematic economic crime" (p. 122).

Conclusion: Clearly the long term success of any transitional job program such as this one depends in large part on the ability of the labour market to absorb the workers at the end of the program. What is notable about this program, however, is that "it provides strong evidence for a causal relationship between work and arrest" (p. 124): arrests for robbery and burglary were reduced significantly. "The program accomplished these reductions by providing income that would not otherwise be available through legitimate channels" (p. 124). The results support a harm reduction approach that gauges success beyond simple abstinence from all drugs. "Supported employment programs for heavy substance users represent a promising model for reducing predatory crimes such as robbery or burglary" (p. 125).

Reference: Uggen, Christopher and Sarah K. S. Shannon (2014). Productive Addicts and Harm Reduction: How Work Reduces Crime – But Not Drug Use. *Social Problems 61*(1), 105-130.

Getting offenders jobs after they are released from prison contributes to lower recidivism.

"A wide range of theoretical approaches assumes a crime-preventative effect of employment" (p. 630). However, it is well known that those released from prison, like those with criminal records generally, have a great deal of difficulty getting a job (e.g. *Criminological Highlights* V6N3#2). Given that prisoners tend to have lower levels of education and fewer job skills than other members of the community, it is not surprising that many do not have jobs even months after their release from prison.

This study, carried out in Norway, takes advantage of the fact that in Norway, each person has a unique numerical identifier which allows researchers to track (legal) employment, the receipt of social assistance, job training programs, education, and arrests of those released from prison. The study tracked all 7,476 individuals who were released from prison in 2003 in Norway after serving a sentence. For those who served more than one sentence during that year, the first sentence was used as the focus of attention. These offenders were then tracked until the end of 2006. 54% re-offended by the end of 2006 and 44% had obtained some amount of legal employment before re-offending or coming to the end of the follow-up period.

Various controls were included in the analysis including age, sex, number of months at risk after release from prison, sentence length and the type of offence they had been imprisoned for as well as various other 'control variables' (drug use, education, immigrant background, income in the year prior to being sentenced, marital and family status, and education). These former prisoners were followed from their release until the date of their first subsequent offence. Some inmates took a long time to find any employment, and employment was not necessarily consistent after ex-prisoners started working.

Without controls, it is not surprising that those who had employment at some point subsequent to their release were less likely to reoffend than those who never were gainfully employed. The size of this effect decreased – but was still statistically significant – after the numerous controls (e.g. their previous employment income) were included in the model.

Reoffending was reduced for those who had some form of employment even if the amount that they earned was relatively little. Similarly the impact of having some employment could be seen across all types of offenders (drug, economic, violence, property crimes and driving) though there was some indication that the effects were larger for those originally sentenced for property and economic offences.

Conclusion: Obviously it is possible that the relationship between having some kind of employment and reduced reoffending could be, at least in part, due to self-selection: those motivated and able to get jobs may be less likely to reoffend not because of the job but because of other unmeasured factors. The analysis shows that some of the variation in reoffending rates is due to these selection effects. However, the extensive controls that were included in the model would support the conclusion that having some employment after being released from prison had some causal impact in reducing reoffending. The findings underline, therefore, the importance of reducing barriers to employment for those being released from prison.

Reference: Skardhamar, Torbjørn and Kjetil Telle (2012). Post-release Employment and Recidivism in Norway. *Journal of Quantitative Criminology, 28*, 629-649.

Focusing resources on helping former prisoners locate, gain, and retain reasonably paid employment can reduce subsequent offending.

Although work programs for ex-prisoners are often believed to be useful for reducing subsequent offending, the data suggest that they may not reduce offending for some groups. This paper looks at an unusual employment assistance program for prisoners: one that begins in prison but provides a full year of community support after the prisoner is released.

In this program, prisoners who have voluntarily acquired work experience and skills in Minnesota's state prison industry programs and who have a clean discipline record meet with a job training specialist for at least 16 hours prior to release. One week before release, a specialist begins searching for jobs that meet the prisoner's skills and are in the location where he is expected to live. The potential employer is informed of the prisoner's criminal background. When the prisoner is released, a job retention specialist meets with him, helps him with job leads (and helps the former prisoner with transportation costs to the interviews and obtaining appropriate clothing). Regular meetings are scheduled thereafter throughout the year.

The program ran between July 2006 and December 2008. In order to create a comparable group of prisoners who had not participated in the program, propensity score matching was used. This technique matches those who did and did not participate on the basis of a statistical prediction of whether a person is likely to be in the program. In other words, prisoners were located who – using a wide range of predictors – look similar to those who participated in the employment program. The predictors included 26 variables such as LSI-R scores (a risk assessment tool), the LSI education/employment score, sex, race, age, time employed in prison, prior convictions, prior supervision failures, offence type, institutional discipline record, education, length of stay in prison. There were 232 prisoners who participated in the program who had adequate data for the matching procedure. Matches were found for them from the 3959 prisoners who had participated in prison work but not in the employment program.

The main dependent variables were rearrest, reconviction, reincarceration or revocation for a violation of a condition of release. Those who participated in the program had lower rates of recidivism on all four of these measures. The data show that they reoffended less, and were in the community longer before reoffending than those who were equivalent but had not participated in the employment program. Not surprisingly, those who participated in the program were also more likely to be employed than those who were released at roughly the same time but did not participate in the program. Those in the special program worked more hours, but their hourly wage (when employed) did not differ from those who did not participate in the program.

Conclusion: This employment program may have worked to reduce reoffending by those released from prison because "providing a continuum of care from prison to community is critical in helping [former prisoners] successfully re-enter society…. [The program] provides post release employment assistance to offenders while they are in the institution but also during the first year after they get released from prison" (p. 582). In addition, of course, the positive results could reflect the fact that a non-trivial amount of focused time was spent attempting to help former prisoners reintegrate effectively.

Reference: Duwe, Grant (2015). The Benefits of Keeping Idle Hands Busy: An Outcome Evaluation of a Prisoner Reentry Employment Program. *Crime & Delinquency, 61*(4), 559-586.

Whether or not men released from prison 'go straight' depends on the types of social obstacles and the disadvantages that they face in the community as well as their mindset as they leave prison.

Most persistent offenders eventually stop offending (*Criminological Highlights,* V6N4#3). There is little disagreement about the static predictors of recidivism among persistent offenders released from prison: e.g., age, gender, criminal history, and various family background factors. Less is known about the importance of factors that are amenable to change when the offender reaches the community. These have often been categorized as being of two types: social factors (such as employment, addictions) and subjective factors (e.g., cognitive factors relating to choices, goals, values, motivations, etc.).

A major focus of this study was on the manner in which men, about to be released from prison, viewed their life chances in the community. A total of 130 male 'career' offenders in the UK were interviewed just before they were released from prison. The interview focused on their "aspirations and expectations for life after prison and what they saw as the chief stumbling blocks to desistance from further offending" (p. 140). They were questioned on such matters as whether they thought they could go straight, their regret about their past involvement in crime, whether they expected to find social prejudice in the community against ex-convicts, and whether they thought they could contribute positively to their families. Four to six months after being released, the former inmates were re-interviewed. This time the focus of the interview was on the problems they were experiencing in the community (e.g., being homeless or unemployed). Ten years later, 126 of the 127 men who were still alive were successfully traced through a variety of records to determine if they had been reconvicted or re-imprisoned.

Those who, before being released, thought that they did not have the ability to go straight were more likely to experience large numbers of social problems 4-6 months after release from prison. The number of social problems (housing, employment, finances, relationships with partner/family, alcohol, drugs) that the offender was experiencing shortly after release from prison was a fairly robust predictor of re-offending and re-imprisonment. But so also was the offender's view, before being released, that society was prejudiced against ex-convicts and that this would make it difficult for him to go straight. "Regret for one's past involvement in crime and self-identification as a 'family man' [seemed also] to contribute positively to the desistance process" (p. 154).

"The accumulation of [social problems such as homelessness and addiction]… seems to have a direct and powerful influence over one's ability to go straight… [But in addition] measures of the mindset of men about to leave prison are at least marginally significant predictors of post-imprisonment outcomes as well" (p. 154).

Conclusion: "The findings provide some support for the importance of individual cognitions and meaning systems prior to release from prison…. [suggesting] that subjective changes may precede life-changing structural events and, to that extent, individuals can act as agents of their own change" (p. 155). Although social factors such as employment and housing had the strongest relationships with reconviction or re-imprisonment, "individual cognitions and meaning systems prior to release from prison" are clearly important.

Reference: Lebel, Thomas P., Ros Burnett, Shadd Maruna, and Shawn Bushway (2008). The 'Chicken and Egg' of Subjective and Social Factors in Desistance from Crime. *European Journal of Criminology, 5*(2), 131-159.

Employment for young adults reduces crime largely because previously delinquent youths not only come into contact with prosocial peers in the context of their job but also stop associating with those who supported their delinquent activities.

Background. Various life events – such as employment or marriage – appear to be related to reductions in criminal behaviour among young adults. There are at least two possible explanations for the effect of these changes. First, they may be associated with "an extensive set of obligations, expectations, and interdependent networks that can facilitate social control" (p.184). Alternatively, "prosocial work relations may restructure friendship networks by diminishing contact with delinquent peers" (p.185). More specifically, "entrance into a job introduces an employee to a new set of peers… [and the] quality and content of the relationships that occur between coworkers, not necessarily with an employer or the institution of work, may determine [the impact on crime]" (p.187). This latter explanation would be consistent with findings demonstrating that employment is often associated with an increased risk of offending for adolescents as youth coworkers are, themselves, not frequently committed to conventional values.

This study used data from the U.S. National Youth Survey. In addition to various measures of the youth's commitment to work, the survey included a measure of the respondent's assessment of the degree of disapproval that would be felt by his/her coworkers upon discovering that he/she was engaging in any criminal behaviour. The main dependent variable was a self-report measure of offending. Youths were interviewed when they were 15-21 years old and again three years later when they were young adults (ages 18-24). When the researchers controlled for the level of offending at the first interview, they found that having "prosocial co-workers" and having a long period of stable employment were associated with lower levels of involvement in crime. Similar results were found with respect to drug use. More specifically, reduced rates of drug use were shown to be related to having prosocial coworkers, and especially, having stable employment with prosocial coworkers.

Conclusion. Contrary to the view "that employment builds informal social control by establishing [successful association] with employers" (p.198), these results suggest that "employment may set in motion a process that reduces offending by affecting *peer* networks" (p.198). For these young adults, stable employment - on its own - was associated with reduced levels of criminal activity. However, the presence of prosocial coworkers was also directly related to lower rates of offending and drug use. Therefore, it would appear that employment alone may not be a central factor in the reduction of crime as much as is employment in settings in which coworkers are not likely to be involved in, or approve of, crime.

Reference: Wright, John Paul, and Francis T. Cullen (2004). Employment, Peers, and Life-Course Transitions. *Justice Quarterly, 21,* 183-201.

For young people who were incarcerated as youths, gaining employment as adults reduces involvement in crime.

The transition from adolescence into the adult workforce is particularly difficult for those with criminal records. This study attempts to understand the apparent reduction in crime that often takes place for those who do manage to find employment. Simply put, is it the financial support that is critical or is the reduction in crime due to other aspects of the employment relationship?

The study examines the lives of 270 boys and 270 girls who experienced an average of about 21 months in a juvenile justice institution in the Netherlands. Their employment and criminal justice involvement were then followed until age 32. The goal was to understand the impact of employment and other forms of income support on offending. Under the Dutch system, income support could be in the form of payments while the person was unemployed, public assistance, or payments because of a disability. Hence, for 14 years (from age 18 to age 32), the effect of employment and income support on offending could be estimated for each individual. In addition, controlling for various other personal and demographic factors, the effect of employment differences on involvement in crime across individuals could be estimated.

During this 14 year period, 75% of the men and 40% of the women were convicted of at least one offence. Most (about 85%) were employed at least once, though typically for about a quarter of each year. For two types of analysis (the effect of different levels of employment *across* individuals and the effect of changes in employment on offending *within* individual), being employed was associated with decreased offending. This was equally true for both men and women. For men – but not for women – receiving public assistance appeared to reduce offending. When property offending was examined alone, it appears, once again, that the impact of employment was consistent across statistical models and gender. Income support, once again, only seems to reduce property offending for men. In addition, when looking across individuals, it appeared that the length of employment for men was associated with reduced violent offending.

Employment, in general, was more strongly associated with reduction in offending than was income support suggesting that in addition to "merely receiving an income, the nonmonetary aspect of work, such as social control or reduced opportunity to engage in crime because of changes in daily routine activities, are important in reducing criminal behaviour" (p. 563).

Conclusion: The findings suggest that "informal social control that [is a normal part of] employment is important in explaining the reduced offending rates for both men and women, even though [Dutch] women are more likely to work part-time and might attach less value to work than men" (p. 563). More generally, however, findings such as these suggest that programs for those returning to the community from prison may have an importance and impact that is larger than one would expect simply from the effects of providing additional support.

Reference: Verbruggen, Janna, Robert Apel, Victor R. Van Der Geest, and Arjan A. J. Blokland (2015). Work, Income Support, and Crime in the Dutch Welfare State: A Longitudinal Study Following Vulnerable Youth into Adulthood. *Criminology, 52*(4), 545-570.

Regular – but not temporary – employment or receiving public assistance can reduce property offending by youths released from a treatment facility at age 18.

The effect of employment on crime is not straightforward. Although it might be logical to assume that crime – especially property crime – would be less frequent if a person was employed, this relationship is not as simple or universal as some might think (see *Criminological Highlights, 4*(3)#6, *6*(4)#5, *8*(6)#4, *10*(2)#3, *13*(3)#5, *14*(2)#7, *14*(5)#7, *15*(3)#3, *15*(5)#3).

The analysis in this study allows one to estimate not only the effect of employment on crime (property and violent), but also the effect of engaging in crime on subsequent employment. In addition, it allows one to separate out the effect of third variables that might lead to both unemployment and crime, for example "individual preferences and abilities that select individuals into offending [and] … into unemployment" (p. 183). Such preferences and ability could suggest, spuriously, that there was a causal relationship between unemployment and crime.

In this study, 270 male youths who spent at least 2 months in a 'judicial treatment institution' in The Netherlands were followed from age 18 to 32. 92% had committed at least one offence prior to age 18. Monthly data were collected from government files on temporary or continuing employment, as well as unemployment insurance, disability insurance and public assistance (a welfare payment providing the minimum income needed for subsistence). Offending was measured as convictions for offences (identified by month of the offence) that took place during this 14 year period. Controls were included for whether the person was incarcerated, married, or a parent.

As with other 'high risk' offenders, this group had a relatively low employment rate: on average only 31% were employed in any given month, with about 74% of those who had any employment having regular employment. In the sample as a whole, property crime declined with age; violent crime did not.

Regular employment (where a person was on the payroll of an employer) significantly reduced a person's subsequent property offending. Temporary employment had no effect on a person's subsequent property offending. Neither regular nor temporary employment had an effect on violent offending.

Whether or not a person received *any* type of social welfare (unemployment insurance, disability insurance, or public assistance) had no overall effect on subsequent property or violent offending. However, receiving public assistance – subsistence payments requiring no proof other than need – did appear to reduce subsequent property offending.

Conclusion: It is possible that the stability that regular employment demands in a person's life explains why regular, but not temporary, employment appears to reduce property crime. That apparent stability did not carry over to violent crime: employment of any kind had no impact on violent crime. Receiving public assistance – a form of social welfare provided to the most disadvantaged residents of The Netherlands where this study was carried out – did reduce property offending. However, the fact that no type of social welfare program or employment affected violent offending suggests that violent offending is largely a function of factors other than a person's financial circumstances.

Reference: Mesters, G., V. van der Geest, C. Bijleveld (2016). Crime, Employment, and Social Welfare: An Individual–Level Study on Disadvantaged Males. *Journal of Quantitative Criminology, 32*, 159-190.

Does providing offenders with a job on their release from prison reduce recidivism? It does, but only for those who are relatively mature (at least 27 years old). Arranging employment for younger offenders seems to do little.

Background. It is often assumed that getting a job is a crucial life event which marks the transition from adolescence to adulthood and accounts for the cessation of offending. The only problem with this hypothesis is that the data do not support it. On the contrary, "[m]ost experimental efforts to reduce crime through employment have had null or disappointingly small treatment effects" (p. 530). These findings would seem to suggest that it is not work alone, but work in combination with some other variable(s), that is important.

This study re-examines the data from a large experimental program in the U.S. to which 3000 people were referred by criminal justice, social service or job-training agencies. These individuals were randomly assigned to experimental or control conditions. Those in the experimental (treatment) condition were offered minimum wage jobs (in construction or service industries). The participants in the experiment had been incarcerated in the previous 6 months, had participated in a drug treatment program, or, in the case of a youth, often had an official delinquency or criminal record. The experiment was run in nine cities. About ¾ of the participants had at least one previous property offence.

The results are simple: Six months after assignment to the guaranteed job (or to the control group in which no employment was offered) differences began to emerge between the treatment group and the control group ***but only for those who were age 27 or older***. Further, the "older" individuals in the treatment group were less likely than those in the control group to have been arrested from the six-month point onwards. Three years after the initial assignment, approximately 47% of the (age 27+) control group had not been arrested. In contrast, approximately 58% of the (age 27+) treatment group had gone without any arrests. The results were similar for "illegal earnings". Almost immediately after assignment to treatment or control, differences existed on whether or not the men reported illegal earnings. Those individuals in the treatment group who were aged 27+ were less likely to report illegal earnings than similar aged people who had been assigned to the control group.

Conclusion. "Work appears to be a turning point in the life course of criminal offenders over 26 years old. [Older] offenders [age 27+] who are provided even marginal employment opportunities are less likely to reoffend than those not provided such opportunities" (p. 542). The impact of these programs is age related. In other words, no effects were found for those aged 26 and younger. Because these findings came from a true (random assignment) experiment, it is unlikely that the employment effect is caused by other factors. The findings suggest that "the conditions that stop crime in adulthood are not simply the reverse of those that caused it in adolescence… Whereas parents, peers and neighbourhoods are inarguably among the initial causes of crime… work and family factors take precedence in explaining [the cessation of offending]" (p. 543).

Reference: Uggen, Christopher. Work as a Turning Point in the Life Course of Criminals: A Duration Model of Age, Employment, and Recidivism. ***American Journal of Sociology***, 2000, ***67***, 529-547.

Expungement of criminal records leads to increased employment.

Canadian data (*Criminological Highlights 15*(2)#6) suggest that the majority of those applying for pardons in Canada do so for reasons related to employment. This study examines the actual effects of the sealing of criminal records in Michigan on the employment of those whose records were sealed.

At least 36 of the 50 US states have provisions that allow records of adult convictions to be sealed, set aside, or expunged. The laws generally give the person the right to answer "No" to questions about criminal records from employers and landlords. The details of these provisions (e.g., in terms of which offences are covered by the legislation) vary widely as do the waiting periods. In some cases, employers or landlords who might know, independently, of a (pardoned) criminal conviction, are prohibited from using that information in their decisions. Perhaps the most interesting statute is Pennsylvania's 2018 law, which received broad legislative and citizen support. It created an *automatic* computerized process for sealing certain eligible records after a specified period of time without a subsequent conviction. However, it applies only to minor offences.

Between 1983 and 2011, Michigan's law allowed applicants to apply to have a single criminal conviction 'set aside' after 5 crime-free years. Though the breadth of crimes covered by the law is wide (including most violent felonies), only people with one conviction were allowed to apply. About 5%-6% of eligible people applied for and received pardons within 5 years of eligibility (10 years after conviction) under this law. This is not dramatically different from Canadian experience where it is estimated that around 10% of those with criminal records have received pardons (at *any* point in their lives). The reasons for the low uptake rate in Michigan appear to relate to six factors: lack of information about the possibility of getting one's record 'set aside', the enormous administrative hassle in gathering the relevant documentation for the application, the $50 fee (Canada's fee is C$631), distrust of the criminal justice system, lack of access to lawyers to answer questions, and low motivation to remove the criminal record. Uptake of the set-aside provision was highest among women, people convicted when young, those with a non-violent felony, public order, or drug conviction, and those who had not been incarcerated.

By linking criminal record data with employment data, the researchers were able to investigate the relationship between having one's criminal record 'set aside' and the employment and income rates. Those who were employed in the quarter immediately before the application were more likely to apply than those who were not employed. But in addition, those who had suffered at least at 20% wage loss in the previous year were also more likely to apply.

As is the case in Canada, very few people who had their records set aside were subsequently convicted of a new offence (4.2% overall, 1% for a felony) and almost nobody (0.6%) was subsequently convicted of a violent offence. Immediately after having their criminal records set aside, people experienced a jump in employment rates and in wages. It appears that the increase in wages is largely the result of previously minimally employed people working more or getting higher wages.

Conclusion: The findings "strongly support the increased availability of expungement [of criminal records] and particularly efforts to make them automatic, or at least procedurally easy to obtain" (p. 53). Expungement of records has no identified risks to public safety and clearly it has personal and societal benefits in terms of employment. Said differently, removing, as much as possible, the stigma of having a criminal conviction appears to have value both for the person with a record of offending and society more generally.

Reference: Prescott, J.J. and Sonja B. Starr (2019) Expungement of Criminal Convictions: An Empirical Study. *Harvard Law Review* 133 (in press).

Allowing people with criminal records to work in jobs that are presumptively restricted to those without criminal records reduces the likelihood that they will re-offend.

There is a substantial amount of information suggesting that people with criminal records have a difficult time getting employment and housing. Obtaining employment is one of the reasons that people attempt to have their criminal records suppressed (*Criminological Highlights 6*(3)#2, *15*(3)#5, *15*(2)#6, *16*(3)#2). This paper examines the question of whether allowing people to avoid the negative impact of a criminal record on obtaining employment reduces subsequent re-offending.

Specifically, the paper examines the impact of waiving a normal prohibition against hiring people with criminal records (i.e., arrests or convictions). It focuses on a specific type of employment in which many job applicants have criminal records: Low wage jobs in the health care industry for which people do not need a specific license (such as those required of doctors or nurses), but do have contact with patients. These were generally unskilled jobs in facilities such as nursing homes, assisted living residences, etc. 71% of the applicants were women; 50% were Black.

The criminal background check for those wishing to be employed in these jobs in New York State involved a two stage process. A person could apply for the position, and then, if they had no record (only 48% of all applicants), they would be cleared for the job. Alternatively, a person with a record would normally be *initially and tentatively* denied the position, but would be invited to provide evidence of rehabilitation to reverse the proposed denial. "About 59% of those with criminal records did submit evidence of rehabilitation. 52% of those who submitted evidence of rehabilitation were cleared for employment. Those who had criminal records but did not submit evidence of rehabilitation were automatically denied the possibility of employment.

Information on criminal justice involvement of all job applicants was collected for the 3 years after the application was submitted. Only about 9% of the job applicants with criminal records reoffended, though this rate was, not surprisingly, considerably higher for men than for women (approximately 11.2% for men and 7.1% for women). Older job applicants were less likely to reoffend.

There was a 4% reduction in reoffending over the 3-year period for those cleared for work. In the context of a reoffending rate of around 10%, this reduction is obviously quite substantial. Given their higher base rate of offending, it is not surprising that the beneficial effect of being cleared for work was larger for men than for women. There was essentially no impact on being cleared for work for older women, a finding that also isn't surprising, given that they had low reoffending rates overall, whether cleared for employment or not.

Most, but not all, of those cleared for work did, in fact, get jobs. It appears that the large reduction in reoffending by men who were cleared for employment "can be explained by increased employment opportunities in the health-care industry that would otherwise be unavailable" (p. 196).

Conclusion: Enabling those with criminal records to obtain employment that would otherwise be unavailable to them appears to reduce subsequent offending. The job applicants in this study were, on average, about 39 years old. Previous research (*Criminological Highlights 4*(3)#6) has suggested that employment for those over age 27 is particularly likely to reduce reoffending. It would appear that there are advantages to both those who have offended and society more generally to reducing the barriers to employment for those once arrested or convicted.

Reference: Denver, Megan, Garima Siwach, and Shawn D. Bushway (2017). A New Look at the Employment and Recidivism Relationship Through the Lens of a Criminal Background Check. *Criminology, 55*(1), 174-204.

Having a criminal record directly impacts the ability of people to obtain housing, even when those with records are forthright and tell potential landlords about their backgrounds.

It is well established that men – especially black men – with prison records in America will have considerably more difficulty in obtaining entry level jobs than will those who have never been incarcerated. In fact, records of arrests by police *not* leading to convictions also make it difficult to get a job. (*Criminological Highlights 6*(3)#2, *15*(1)#7). Getting a job is not the only difficulty facing those who have had contact with the criminal justice system.

People released from prison often need, almost immediately, to find a stable place to live. For some offenders – most notably sex offenders – society often imposes special residence restrictions on where they can live that cannot be justified empirically (*Criminological Highlights 8*(6)#5, *11*(4)#7, *7*(4)#4, *12*(2)#5). This study extends the investigation of the special hurdles facing those with criminal records in finding a place to live.

Advertisements for apartment rentals in New York state with listed rents of $1500 or less were located on internet sites such as Craigslist. An attempt was made to choose only those where the telephone contact person was the landlord or owner rather than a real estate broker. Each landlord was called twice. One call was from a person who did not mention having a criminal record. In the other call (the order of the calls was random), the person mentioned being on parole and that their parole officer required them to mention that they had a criminal record. The criminal record was described as being for child molestation, statutory rape or drug trafficking. The tester than asked the landlord, in those conditions in which the tester had said that he or she had a criminal record, "Would my conviction be a problem for renting the apartment? Would you still be able to show me the apartment?" (p. 29). In the other condition, the tester simply asked whether they could make an appointment to see the apartment.

Prospective tenants without a criminal record received agreement from 96% of the landlords to view the apartment. Those with a criminal record were only able to get the landlord to agree to show them the apartment in 43% of the cases. The criminal record had similar effects for both male and female testers. Landlords rejected those with criminal records either directly (e.g., by mentioning that there were children nearby) or by simply saying that they would have to check with others. Follow-up calls from the tester to these landlords went unanswered.

Landlords were equally willing to follow up and consider the rental request with male and female testers who did not have criminal records. However, of those with a criminal record, males were less likely than females to have the landlord say that they could see the apartment (39% of the cases with a male tester with a criminal record received a positive reply compared to 48% for females). Testers who said that their criminal conviction was for child molestation were less likely than those who described their convictions as either drug trafficking or statutory rape to be offered an opportunity to view the apartment. Male landlords were more likely to show an apartment to a potential tenant with a criminal record than were female landlords.

Conclusion: It is clear that people with criminal records face special challenges in renting apartments, whether their record is for a drug offence or a sexual offence. In fact, having a criminal record cut by half the likelihood that a person applying to rent an apartment would even get a chance to see the apartment. Given that people released from prison have to live somewhere, and given the evidence that recidivism rates are lower if they do not return to the neighbourhoods they lived in before being sent to prison (*Criminological Highlights 10*(5)#1), it would appear that restrictions are, from a public safety perspective, counterproductive.

Reference: Evans, Douglas N., and Jeremy R. Porter (2015). Criminal History and Landlord Rental Decisions: A New York Quasi-Experimental Study. *Journal of Experimental Criminology, 11*, 21-42.

The effect of a conviction for marijuana possession on obtaining rental housing depends on how old the conviction is, whether the government says it should be ignored in employment situations, and whether the conviction was for a felony or a misdemeanor.

Having a criminal record has been shown to decrease the likelihood that a person will find employment (*Criminological Highlights 6*(3)#2, *15*(1)#7). But having a record almost certainly interferes with ordinary life in other ways. This paper looks at the manner in which different kinds of criminal records – apparently received for similar offences – affect an important aspect of integrating into society: obtaining rental housing.

Some earlier research has demonstrated that having a criminal record reduces the likelihood that a landlord will consider renting to prospective tenants. This paper compares the effects of *different kinds* of records. The experiment described in this paper was carried out by making telephone calls under the name "Matthew O'Brien" to rental property managers who had advertised housing for US$1200/month or less (modal rent: $700) in 20 neighbourhoods in Columbus, Ohio. Previous studies have shown that almost everyone *without* a criminal record is considered for tenancy, Therefore, because this study was interested in the effects of different types of records, the 'applicant' always identified himself as having a criminal record.

The 'baseline' criminal record was described by the 'applicant' as follows: "I have a felony drug conviction for marijuana possession that is one year old… I don't have any other convictions or anything else pending." 64% of the property managers turned the applicant down on the basis of that information. Each of the other descriptions of criminal record led to increased success in being accepted as a possible tenant. If the criminal record was described as a misdemeanor, only 16% turned the applicant down. If the record was a 'ten year old felony' 44% turned the applicant down. As time since the conviction increased, the impact of the record on obtaining housing declined somewhat. But it is interesting to note that a ten year old felony conviction (with no subsequent convictions) is, from the perspective of getting housing, more of an impediment than a 1-year old misdemeanor conviction for the same basic offence.

Perhaps the most interesting finding is that if the applicant with a one year old felony conviction reported that he had a "Certificate of Qualification for Employment" (CQE) from the state government, only 32% turned him down (compared to 64% without a CQE). A CQE "was designed to demonstrate rehabilitation to employers, remove automatic licensing bars, and protect employers from negligent hiring claims" (p. 528). The findings in this study show that being certified by the state to be employable made those with convictions more eligible for housing. However, the applicant with a 1-year old felony and the CQE was still more likely to be turned down than the applicant with a 1-year old misdemeanor.

Conclusion: Having a recent conviction and a felony (rather than a misdemeanor) criminal record makes it more difficult to obtain one of the fundamental requirements for successful reintegration into society – housing. However, even though criminal records may be public in some jurisdictions and even though it may not be possible to ban landlords and property managers from asking potential tenants about criminal records, it seems that formal state processes that deem the person to be no longer deserving of special (negative) treatment because of their past behaviour can have a significant effect on lessening the effect of this stigma.

Reference: Leasure, Peter and Tara Martin (2017). Criminal Records and Housing: An Experimental Study. *Journal of Experimental Criminology, 13,* 527-535.

Many US post-secondary educational institutions require criminal history information from those applying for admission. In an experimental study examining actual admissions decisions, applicants with criminal records applying to 4-year colleges were more likely to be rejected than equivalent applicants without records.

There is substantial evidence that those with criminal records are disadvantaged when seeking employment and housing (e.g., *Criminological Highlights 17*(2)#6, *18*(3)#6). Given that "Higher education has long been considered an instrument of social mobility and social cohesion" (p. 157) it is important to examine whether those with criminal records are being excluded from these opportunities.

Studies of youths typically demonstrate that most youths have committed what are considered to be criminal offences. Because most are never convicted, most of these 'offences' do not affect their later lives. However, many US colleges – especially the most competitive institutions – require applicants to disclose their criminal records. Over 80% of the top third of US colleges on 'competitiveness' ask criminal history questions on their applications, ostensibly because of concerns related to violence, drug use, and other crime. There is, however, no evidence that having "criminal history questions on college applications are effective tools for reducing campus crime" (p. 161).

People were recruited to participate in this study as applicants to 4-year US colleges. Their actual high school transcripts, test scores, and criminal records were used. Other materials were produced as needed for the different applications. Those with criminal records had a single felony conviction (for aiding and abetting robbery or for burglary). The applicants with records were matched with a young person without a record such that the person with the criminal record was always slightly better qualified academically. Two pairs of male testers were used. When applying to a particular college, both testers described themselves as either Black/African American or White. Criminal record was conveyed to the college only when it was asked for. The colleges that were tested were ones in which admission was plausible; the most competitive colleges were not included. 280 pairs of applications (one with a record, the other not) were completed and sent to each college. The pairs clearly were comparable: the two members of each pair (one with a record, one without) were admitted at equal rates at colleges without questions about criminal records.

At colleges with questions about criminal records, 10% of people without criminal records were rejected compared to 25% of people with criminal records and slightly stronger applications. The presence of a criminal record disadvantaged both Black and White applicants. The effect of a criminal record appeared to be a bigger disadvantage at colleges in higher crime locations. In addition, it was discovered in the process of carrying out the study that "it was far more difficult to *complete* applications that requested criminal history information" (p. 179) because of the need to file additional information. Other studies suggest, not surprisingly, that those with criminal records are likely to drop out of the application process in part because of the extra required information and effort.

Conclusion: It is clear that 4-year colleges discriminate on the basis of criminal records for both Black and White applicants. Applicants – both Black and White – with criminal records are more likely to be rejected than those without criminal records, even though they are equally, or perhaps slightly more, qualified for admission and the records had no obvious relevance to higher education. Given that the presence of a criminal record is not equally distributed across groups, it means that certain groups are excluded from this opportunity to succeed in modern society.

Reference: Stewart, Robert and Christopher Uggen (2020). Criminal Records and College Admissions: A Modified Experimental Audit. *Criminology, 58,* 156-188.

People who are sent to prison are less likely to participate fully in their communities and in civic life after they are released.

It is well established that prisons have harmful effects both on those imprisoned and on their families (see *The Effects of Imprisonment: Specific Deterrence and Collateral Effects. Research Summaries Compiled from Criminological Highlights* on our website). This paper extends that work and examines the impact of contact with the criminal justice system – and imprisonment in particular – on political participation and trust in government. "For many citizens, their most frequent, visible, and direct contact with government may be through a prison, court, or police station, rather than a welfare office, state capital, or city hall" (p. 818). Given the number of people around the world who have been imprisoned, it is important to consider whether the lessons they learn from that experience are not ones that serve the community at large.

There is evidence that people see government as "one big system" (p. 819) and may not differentiate among departments or agencies. If that is the case, then negative experiences with one arm of the government may be generalized to other parts of the government which, in turn, may affect one's willingness to be civically engaged. Those who have been imprisoned are likely to feel rejected by society in both subtle and obvious ways. Imprisonment can communicate to people that they are not full members of the community. For example, in some states, convicted felons are not allowed to vote (*Criminological Highlights* 5(5)#1), and in many more they are prohibited from voting while in prison or while serving sentences in the community.

This study used data from two different longitudinal surveys to classify people according to their highest level of contact with the criminal justice system: No encounters with the police, stopped by police, charged, convicted, spent time in prison, or spent a year or more in prison. People were also asked about their political involvement (registering to vote, voting, involved in civic or political organizations). Respondents were also asked questions measuring their trust in government.

Various sophisticated methods were used to group respondents who were similar on all dimensions except that of primary interest to the researchers: involvement with the criminal justice system. These groups were then compared on their civic engagement and trust in the government. Before controls were imposed, the data are clear: the higher the involvement in the criminal justice system, the less likely it is that people registered to vote, voted, or participated in some civic or political activity, and the less likely that people had trust in federal, state, or local government. More important, even when race, age, education, income, unemployment, drug use, and other variables were controlled, the results were the same. Furthermore, those sent to prison, especially for a long time, were least likely to trust government or be involved in civic activities when they had an opportunity to do so.

There are strong reasons to believe that these effects are causal. One analysis, for example, took advantage of the longitudinal nature of the data to identify people who at the time of the first interview had not had any contact with the criminal justice system. The next time they were interviewed, at Time 2, those who had experienced criminal justice contact were compared with those who had not. At Time 1, the political attitudes and behaviours of the two groups were identical. At Time 2 – after one group had experienced contact with the criminal justice system – the two groups differed. Contact reduced trust and reduced involvement in political activities.

Conclusion: The negative impacts of imprisonment on civic involvement (e.g., voting) or trust in government are large. "The effect of being incarcerated [on political involvement]… is larger in size than having a college-educated parent, being in the military, receiving welfare and being black…. It is not just that custodial populations come from disadvantaged backgrounds or are prevented from voting due to felon exclusions; the results point to the large independent effect of punitive encounters that does not depend on pre-existing characteristics…." (p. 827).

Reference: Weaver, Vesla M. and Amy E. Lerman (2010). Political Consequences of the Carceral State. *American Political Science Review* 104(4), 1-17.

Ordinary citizens who are fully informed about the sentences that are handed down in criminal cases are likely to be relatively content with those sentences.

Survey data collected in Great Britain, Canada, and Australia, among other countries, suggest that a majority of ordinary citizens think that criminal sentences are too lenient. Though these surveys undoubtedly suggest real dissatisfaction on the part of citizens with the sentences of the court, the reasons for this dissatisfaction are not clear. Previous research shows quite clearly that people do not know much about sentencing principles, sentencing practices, or the various factors that traditionally are part of judges' decisions on the appropriate sentence. Nevertheless, British and Australian survey evidence suggests that a substantial portion of people think that judges are out of touch with the views of the public.

In this study, carried out in Victoria, Australia, actual cases were presented to ordinary members of the public by the judge who handed down the sentence. Cases were chosen that involved serious offending (an armed robbery with minimal violence with an unloaded gun, rape at knifepoint by a neighbour of the victim, multiple stabbings, and a theft of a million dollars worth of goods from a company by two employees).

Employees in 32 workplaces participated by attending two sessions, typically a week apart. In the first, the employees listened to a 70-minute general talk about sentencing. In the second, the judge presented his sentencing judgement which included the facts of the case, the circumstances of the offender, and information about the law and current sentencing practice. The judge did not point to a particular sentence or possible range of sentence. Participants were told that they were not bound by sentencing law or practice.

In three of the four cases, the median of the sentences imposed by over 100 participants per case was *less* than the court's actual sentence. In these three cases between 63% and 86% of the respondents would have handed down a sentence more lenient than the sentence of the court. In the fourth case (in which only 35% suggested a sentence more lenient than the actual sentence) the median sentence recommended by ordinary people was 3.2 years compared to the court's sentence of 3 years. There was huge variation among the participants as to what the appropriate sentence was. In addition, many participants wanted offenders with personality disorders to receive a program of treatment along with a custodial sentence. "The community does rely on offender factors favouring leniency, not only offence seriousness" (p. 777).

Conclusion: "The results cast doubt on the populist view of judicial sentencing as lenient, and, hence, the wisdom of increasing the severity of sentences to satisfy what was believed to be a harsher public…. What the present study also says about the move to harsher sentencing [in many countries] at least for certain types of offence, is that it may not represent the general public's sense of justice" (p. 779).

Reference: Lovegrove, Austin (October 2007). Public Opinion, Sentencing and Lenience: An Empirical Study Involving Judges Consulting the Community. *Criminal Law Review*, 769-781.

People who have served on juries do not think that judges are out of touch with the public on sentencing. When they see the sentence that the judge handed down in 'their' case, they are even less likely to think that judges are out of touch.

Previous research has demonstrated that jurors who thought that sentences generally were too lenient were quite likely to approve of the sentence handed down in cases in which they determined the finding of guilt (*Criminological Highlights 11*(6)#2). This study looks in more detail at whether jurors think that sentencing judges, generally, are out of touch with public opinion on sentencing.

Jurors from 162 trials in Tasmania, Australia, in which a verdict of guilty was returned were asked – after they had rendered their verdict but before they heard the sentence that the judge imposed in the case they had heard – "How in touch do you think judges are with public opinion on sentencing?" (p. 732). In clear contrast to surveys of ordinary Australians that show the most Australians believe that judges are not in touch with what ordinary people think about sentencing, 71% of Tasmanian jurors thought that judges are very (12.4%) or somewhat (58.2%) in touch with public opinion on sentencing.

After the sentence was handed down in the case that they heard, jurors were sent a package of material including the sentence and the judge's comments about the sentence as well as information about crime and sentencing. They were then asked to fill out and return a second questionnaire. This questionnaire included the same question concerning their views of whether judges were out of touch with the public on sentencing. 82% of the jurors, in this second round of questioning, thought that judges were very (26%) or somewhat (56%) in touch with the public on sentencing. In other words, after the experience of jury service, more people overall (82% vs. 71%) thought that judges were in touch with the public on sentencing, and about twice as many (26% vs 12%)thought that judges were very in touch with the public on sentencing matters.

Both before they knew the actual sentence and after they heard about the sentence in the case they had heard, they were asked whether they thought that sentences were generally too lenient for four categories of offences (sex, violence, property, and drugs). Respondents were less likely to think that sentences for all four types of cases were too lenient after they had heard the judge's sentence in 'their' case than before. However, this effect appeared to be determined largely by those who thought that judges were in touch with ordinary people's views on sentencing. Not surprisingly, those who thought that judges were out of touch with ordinary people's views on sentencing were more likely to think that sentences were too lenient.

Conclusion: Jurors, generally, made favourable comments about the judges, though many differentiated their experience with 'their' particular judge from what they believed to be the case for judges generally. Clearly jurors from the 162 trials believed that the judge presiding over their trial not only handed down an appropriate sentence, but was in touch with what the public thought about sentencing. This study, along with other findings on public opinion toward sentencing, suggests that before the public's stated view that 'sentences are too lenient' is blindly followed, it should be remembered that it is the public that is not 'in touch' with what is actually going on in court. In large part, ordinary members of the public seldom have the kind of information about cases that jurors are exposed to.

Reference: Warner, Kate, Julia Davis, Maggie Walter, and Caroline Spiranovic (2014). Are Judges Out of Touch? *Current Issues in Criminal Justice, 25*, 729-743.

Those citizens – jury members – who have intimate knowledge of specific criminal cases are quite content with sentences imposed by judges in those cases.

Public opinion polls in most western countries suggest that the vast majority of people – typically about 70-80% – say that sentences, in general, are too lenient. Extensive research carried out in many countries suggests that the answers to such questions reflect a belief based on inadequate knowledge of cases and the sentences actually handed down. Instead, the answers that people give to questions about 'sentence severity' appear to be based on people's *beliefs* about sentences or the sentencing process rather than being carefully considered conclusions based on evidence of what goes on in court.

This study – carried out at the suggestion of the Chief Justice of the High Court of Australia – examines how sentences, as handed down by the courts, are perceived by a group of ordinary citizens who have extensive knowledge of a single case: jurors in the Australian state of Tasmania who decided on the guilt of the accused in criminal trials. Before the judge handed down the sentences in 138 trials in which there was a guilty verdict, jurors were asked to indicate the sentence they thought should be imposed. Overall 52% chose a sentence that was more lenient than the sentence actually imposed by the judge, 44% chose a more severe sentence, and 4% gave exactly the same sentence as the judge. There was some variation across offence types but in all cases about half or more of the jurors recommended the same or a more lenient sentence than did the judge. Ninety percent thought that the actual sentence handed down by the judge was very or fairly appropriate.

Those whose preferred sentence was more lenient than the sentence actually handed down by the judge were significantly more likely to say that the judge's actual sentence was very appropriate than were those who had selected a more severe sentence than the judge. "In other words, jurors who were more punitive were less tolerant of the judge's sentence and less malleable in their views than the more lenient jurors" (p. 5).

The responses of the jurors in this study to questions about sentencing *generally* were typical of those who answer such questions on public opinion polls. These jurors were asked their opinion about sentences in general. The majority thought that, in general, sentences were too lenient for all offence types, most notably for sex and violence where 80% and 76%, respectively, thought sentences were too lenient. Though jurors were slightly less likely to say that sentences *generally* were "much too lenient" after they heard the judge's sentence in "their" case, the majority of jurors still believed that, in general, judges' sentences are too lenient. Hence it would seem that this one exposure to a 'complete' case did not have a dramatic impact on jurors' overall views of sentencing. Apparently, in general, the 698 jurors who participated in the study saw their case as being exceptional in the sense that the judge handed down an appropriate sentence.

As in other studies, those jurors who thought that sentences, generally, were too lenient were more likely to think that crime in their state had increased (when, in fact, it had decreased in recent years). Thinking that sentences were too lenient was also correlated with overestimating the proportion of crime that involves violence and underestimating the likelihood of imprisonment for those convicted of rape.

Conclusion: The basic findings – that jurors are *not* more punitive than judges in recommending sentences for actual cases when jurors and judges have the same information – are consistent with other findings on public attitudes to sentencing. These findings underline the importance of responding sensibly to public opinion on sentencing. Most citizens have little if any information about the details of criminal cases. Hence their view that sentences are too lenient is best thought of as a 'belief' rather than an attitude based on a careful assessment of information.

Reference: Warner, Kate, Julia Davis, Maggie Walter, Rebecca Bradfield, and Rachel Vermey (2011). Public Judgement on Sentencing: Final Results from the Tasmanian Jury Sentencing Study. Australian Institute of Criminology: *Trends & Issues in Crime and Justice,* No. 407.

An Australian study demonstrates that ordinary citizens who are intimately aware of the details of a specific criminal case are much more likely to agree with the sentence handed down by the court than public opinion surveys would suggest.

Research in many countries suggests that ordinary citizens believe that sentences handed down in criminal courts are too lenient. The irony of this view, of course, is that few people have enough detailed information about criminal cases to evaluate whether the 'sentence fits the crime.' They typically have little information about the details of the crime or about the offender.

Previous research, including one prior Australian study (*Criminological Highlights, 11*(6)#2, 14(1)#6), has found that jurors who have found an accused guilty are much more content with the sentence handed down in the case they heard than public opinion surveys would suggest. Indeed, in many cases, jurors' preferred sentences were more lenient than that imposed by the judge. Jurors, as representatives of the public at large, then, do not differ much from judges in their views of appropriate sentences.

This study, replicating the earlier Australian study, was carried out in the state of Victoria. It used data from 987 jurors who served on juries in 124 trials. Most of the principal offences for which the accused was found guilty were sex offences (39%) or violent offences (32%). Jurors were invited by the trial judge to participate in the study in trials where a guilty verdict was returned but before the offender had been sentenced. Those who voluntarily participated were then asked if they would be willing to participate in a second survey (after the judge had sentenced the offender).

For 62% of the jurors, the preferred sentence – suggested by the jurors before the offender was actually sentenced – was more lenient than the sentence that was subsequently imposed by the judge. In 2% it was the same and for 36% of the jurors their preferred sentence was more severe than the sentence imposed by the judge. Not surprisingly, the jurors who filled out the follow-up questionnaire thought that the judge's sentence was either very appropriate (55%) or fairly appropriate (32%). In cases where offenders were sentenced to prison, jurors who thought a prison sentence was appropriate recommended a prison sentence that was, on average, 12 months shorter than that imposed by the judge.

The exception to this general finding was that for sex crimes, jurors tended to equally split between those who wanted a more lenient and those who wanted a harsher sentence than that imposed by the judge. In particular, jurors tended to be harsher than judges for sex offences involving victims under 12 years old. This effect was similar to that found in the earlier Australian study.

When asked about sentences generally, however, the results were quite different. These jurors thought that sentences in their state were, on average, too lenient for all categories of offences.

Conclusion: The method used in this study – asking jurors about their views of the sentence they thought should be imposed in the case they heard – "confirms earlier findings suggesting that top-of-the-head surveys showing dissatisfaction about judicial leniency cannot be taken at face value and reveal that the community is not as uniformly punitive as polls suggest" (p. 198). Jurors, it seems, are quite happy to give their views of what should happen to the person they just found guilty and a substantial portion of them are willing to give their views of the judge's sentence when it was handed down. They generally are fairly content with actual sentences in the case they heard. Interestingly, however, jurors do not appear to generalize from their own experiences to sentences across the board: they still believed that most sentences are too lenient.

Reference: Warner, Kate, Julia Davis, Caroline Spiranovic, Helen Cockburn, and Arie Freiberg (2017). Measuring Jurors' Views on Sentencing: Results from the Second Australian Jury Sentencing Study. *Punishment & Society, 19*(2), 180-202.

Residents of England and Wales want judges to have discretion in the sentencing of murderers.

In England and Wales (referred to hereafter as England), as in Canada, judges typically have a good deal of discretion in the sentencing of offenders. The exception in both England and Canada is murder for which the mandatory sentence of life in prison is the only legal sentence. The argument has been made that anything less than a life sentence would undermine public confidence.

Simplistic public opinion polls have suggested that the public would prefer life without parole or the death penalty for murder, even though there are strong arguments against its use (see *Criminological Highlights 9*(1)#7). When asked, in 2007, which penalty they preferred for someone who killed a stranger 34% preferred the death penalty, 44% preferred life without parole, and only 19% preferred 'a long prison sentence with a chance of parole.' As has been shown previously in a study of life without parole for youths, those favouring life without parole may be doing so because they don't think about possible alternative sentences (see *Criminological Highlights 12*(2)#3).

This paper examines public knowledge of sentencing for murder and explores whether, for 1027 respondents to a 2010 survey, life sentences are truly the preferred option. Most respondents were unaware of the fact that homicide rates in England had decreased somewhat in the previous decade. 64% of respondents thought, incorrectly, that the rate had increased. 48% of respondents were reasonably accurate on how long murderers actually spend in prison, but 42% underestimated the actual time whereas only 10% overestimated the actual time spent in prison. In focus groups, it became clear that people knew that a 'life sentence' didn't mean life without the possibility of release, but they didn't have a clear idea what a 'life sentence' meant. When asked to estimate the percentage of life prisoners who had been released to the community and were subsequently returned to prison for an offence (the actual percent is about 2%), 74% of the respondents thought that the correct answer was 10% or more. Only 9% were unsure and didn't venture a guess and 17% guessed 5% or less.

Respondents were given 10 specific scenarios describing actual cases in which people were convicted of murder. They were then asked which of 5 alternatives they would prefer as the sentence: up to 9 years in prison, 10-19 years in prison, 20-29 years in prison, 30 years or more in prison with release at some stage, or imprisonment for the offender's natural life. There was huge variation in preferences across the descriptions of the different murders. For example, for the most severe alternative (imprisonment for life without release), the percent favouring this alternative ranged from 4% to 52% with an average, across scenarios, of 26%. In other words, for all but one scenario, most respondents favoured a sentence with a definite ending. But equally importantly, their preferences for the length of murder sentences varied considerably with the facts of the case.

Over 80% of respondents thought that sentences (or sentences in murder cases) were too lenient, with at least half of these indicating that sentencing was *much* too lenient. Those who were less well informed about the facts related to homicide in England were more critical of sentencing in general, and were more punitive in their preferred sentences in the murder scenarios.

Conclusion: When asked general questions, people say that they favour life without parole (or death) sentences for murder, but when asked about actual cases, they opt for less severe sentences and, more importantly, their preferred sentences reflect the specific facts of the case. Mandatory 'life sentences' are preferred in some cases, but not in others. A sentencing scheme for murder that reflected the values of a public informed about the cases and the alternatives that are possible would, then, be much more flexible than the current structure that exists in England and in Canada.

Reference: Mitchell, Barry and Julian V. Roberts (2012). Sentencing for Murder: Exploring Public Knowledge and Public Opinion in England and Wales. *British Journal of Criminology, 52*, 141-158.

Beware of the soundbite question. The picture that one gets of the public's views of mandatory sentencing laws depends on the questions which are asked. Simple, general questions tend to portray the public as harsh and vengeful. In contrast, specific questions about particular cases demonstrate a more thoughtful and nuanced set of public attitudes.

Background. Most western nations have at least some mandatory sentencing laws. This legislation has typically been created for political reasons rather than as a result of a careful assessment of justice needs. Indeed, given that public opinion polls in many countries indicate that people perceive sentences to be too lenient (p.486), it could be argued that mandatory sentencing laws – which invariably seem to be *harsh* in nature – are consistent with public wishes. Further, this type of legislation promises certainty and severity - two sentencing principles apparently favoured by the public.

This paper examines the public's views of mandatory sentencing laws. It begins by noting that people in many countries - including Canada – are not able to identify those offences which carry mandatory minimum sentences. Further, opinion polls do not typically ask people to consider the actual or opportunity costs of these sanctions or the fact that many mandatory laws violate the principle of proportionality in sentencing. In addition, survey respondents are rarely given a choice between mandatory sentences and the obvious alternative (*i.e.* allowing judges to determine sanctions).

These initial observations are particularly relevant in light of the fact that some of the support for this type of legislation may come from those who do not consider the implications of mandatory sentences or their alternatives. In one study, it was clear that part of the popular support for 3-strikes sentencing laws is derived from people who only think about this legislation in broad, abstract terms. For instance, 88% of respondents supported the notion of harshly punishing third-time felony offenders. In contrast, only 17% of these same people indicated support for concrete sentences presented to them that would be imposed as a result of 3-strikes laws. Clearly, it would appear that people may not be thinking of actual cases when indicating support for harsh mandatory sentences. As an illustrative example, most people polled in Canada favour the mandatory life sentence for murder. However, approximately three quarters of Canadians also indicated being opposed to this legislation in the Robert Latimer case (*i.e.* an individual charged with killing his severely disabled daughter who was experiencing chronic severe pain). In other words, "[t]he mandatory sentence appeals to the public in principle, but once confronted with actual cases, people quickly [abandon] their position and express a preference for less punitive punishment" (p.501). This phenomenon may be explained – in part – by the fact that consideration of mandatory sentences for individual cases calls attention to violations of proportionality – a principle that the public has been shown to strongly support.

Conclusion. Though "it would be overstating the case to conclude that the public strongly opposes mandatory sentences" (p.505), it would appear that the public responds quite differently to individual cases in which a mandatory sentence might be imposed and to the concept more generally. Given that most members of the public do not immediately consider the full consequences of a mandatory sentencing regime, this apparent inconsistency is not surprising. One might suggest that a legislature which is considering mandatory sentences should go beyond the slogan of being "tough on crime" and take into account both the broader implications of mandatory sentences and the public's response to those cases falling under such a regime.

Reference: Roberts, Julian V. (2003). Public Opinion and Mandatory Sentencing. ***Criminal Justice and Behavior, 30,*** 483-508.