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Can We Learn from America?

We have found it useful to compare England with the United States. It has a similar legal system, a shared cultural heritage and has been conducting many of the same debates about crime, policing and prisons. As Chapter 3 showed, America has a higher rate of gun crime, more murder, and more rape, but American citizens have less chance than the English of being robbed, burgled or having their car stolen. The overall victimisation rate according to the International Crime Victim Survey is 21 per cent in America, compared with 26 per cent in England. If the rate in England had been 21 per cent, then over 2.5 million fewer people would have suffered from crime.

The US Office for Juvenile Justice and Delinquency Prevention (OJJDP) has enunciated five guiding principles for reform:

- **We must strengthen the family** in its primary responsibility to instill moral values and provide guidance and support to children. Where there is no functional family unit, we must establish a family surrogate and assist that entity to guide and nurture the child.

- **We must support core social institutions**—schools, religious institutions, and community organisations—in their roles of developing capable, mature, and responsible youth. A goal of each of these societal institutions should be to ensure that children have the opportunity and support to mature into productive law-abiding citizens.

- **We must promote delinquency prevention** as the most cost-effective approach to reducing juvenile delinquency. Families, schools, religious institutions, and community organisations, including citizen volunteers and the private sector, must be enlisted in the Nation's delinquency prevention efforts.

- **We must intervene immediately and effectively when delin-quent behavior occurs** to successfully prevent delinquent offenders from becoming chronic offenders or progressively committing more serious and violent crimes. Initial intervention efforts, under an umbrella of system authorities (police, intake,

and probation), should be centered in the family and other core societal institutions. Juvenile justice system authorities should ensure that an appropriate response occurs and act quickly and firmly if the need for formal system adjudication and sanctions has been demonstrated.

- **We must identify and control the small group of serious, violent, and chronic juvenile offenders** who have committed felony offenses or have failed to respond to intervention and nonsecure community-based treatment and rehabilitation services offered by the juvenile justice system. Measures to address delinquent offenders who are a threat to community safety may include placement in secure community-based facilities, training schools and other secure juvenile facilities, and, when necessary, waiver or transfer of the most violent or intractable juveniles to the criminal justice system.[1]

These guidelines suggest a society-wide approach to cutting crime, rather than one focused narrowly on what the criminal justice system can accomplish. Would such an approach make sense for England and Wales?

The social science findings and their implications

Since the 1960s, especially in America, longitudinal and cross-sectional surveys have considerably improved our understanding of offending. Two factual claims are almost universally accepted. First, a small proportion of each age group is responsible for a high proportion of crime. Second, many criminal careers begin in childhood. Moreover, the earlier a person starts committing crimes, the longer he is likely to remain a criminal.

Some of the most useful information has been gathered by the US Government since 1986 from studies in Denver, Colorado; Pittsburgh, Pennsylvania; and Rochester, New York. But America also has a long tradition of longitudinal studies. The Philadelphia birth cohort study found that chronic offenders (those with five or more police contacts) were six per cent of the cohort and responsible for 51 per cent of all offences and about two-thirds of violent crimes.[2] A later Philadelphia cohort found that seven per cent of the cohort was responsible for 61 per cent of all offences, 73 per cent of robberies and 75 per cent of forcible rapes. America's National Youth Survey (NYS) found that about five per cent of juveniles (those aged 12-17) at each age level were classified as 'serious

violent offenders'. On average they committed 132 delinquent offences per year.

The English evidence also shows that a small proportion of each age group commits a high proportion of crime. Three per cent of young offenders in the early 1990s committed about 26 per cent of youth crime, and 22 per cent committed about 73 per cent.[3] According to Home Office research, under-18s committed about seven million offences in 1996. In the mid-1990s 10-17 year-olds accounted for 25 per cent of known offenders.[4] A later survey found in 1999 that 12 per cent of males were serious or persistent offenders (defined as those who had committed three or more offences or one serious offence) and that three per cent of males carried out 23 per cent of offences.[5]

American NYS data showed that 45 per cent of those who started committing crimes before age 11 continued violent careers into their 20s. But most careers only lasted one year and only four per cent lasted five years or more.[6] However, more than half of all violent offenders initiated their violent careers between ages 14 and 17.

In Rochester it was found that, of those who began violent offending at age nine or younger, 39 per cent became chronic violent offenders during adolescence. A study of Denver found that, of those who initiated violent offending at age nine or younger, 62 per cent became chronic violent offenders.[7] These US findings suggest that a blend of innate characteristics and early socialisation play a fundamental part in determining criminal behaviour.

In England 60 per cent of males born in 1953 who were first convicted of a standard list offence at age 15 were re-convicted within five years. If first convicted at age 20, the proportion was 31 per cent. If born in 1978, 70 per cent of offenders first convicted at 15 went on to be re-convicted within five years.[8]

But, like America, many criminal careers (measured by convictions) were short. An English study of those born between 1953 and 1978 found that almost 55 per cent of offenders had careers of less than a year in length and two thirds with a criminal career less than five years in length. Most offenders with a criminal career of less than one year had only one court appearance. Almost a quarter of offenders had a criminal career of at least ten years. One in ten had a criminal career of at least 20 years.[9]

Risk factors and protective factors: a basis for policy?

Surveys have also identified the personal characteristics and social circumstances (such as family breakdown) that are statistically

associated with crime. These links are not necessarily causal connections but they can be viewed as 'risk factors'. The surveys also identify 'protective factors' which counteract 'risk factors'. Again, these are statistical associations and not necessarily causal connections. Does this new understanding provide a basis for improving policy?

Risk factors

From the 1998/99 Youth Lifestyles Survey, Flood-Page and colleagues identified risk factors for serious and persistent offenders. They were: being male, living in the inner city, low social class, having lone or step parents, having criminal parents, poor parental supervision, delinquent friends, bullying, truancy, exclusion from school, low achievement, and regular drinking.[10]

The survey found that, of those aged 12-17, only four per cent became serious or persistent offenders if they were associated with no risk factors. But if they were associated with four risk factors, 57 per cent became serious or persistent offenders.[11]

The 1995 *Guide for Implementing the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders*, published by the US OJJDP, identifies a similar list of risk factors under four headings: community, family, school and individual/peer group. It is worth elaborating on them to highlight the importance of the wider social context.

Community risk factors

- Availability of drugs and firearms. When drugs are easily available, drug abuse is more likely. Similarly, the easy availability of firearms can escalate an 'exchange of angry words and fists into an exchange of gunfire'.

- Community laws and norms favouring drug use, firearms, and crime. The attitudes of a community towards drug use, violence, and crime are reflected in laws, informal social practices, the media, and the expectations of parents, teachers, and others. If they are favourable to a law-abiding life, young people are more likely to behave accordingly.[12]

- Media portrayals of violence. The OJJDP accepts that there is growing evidence that media violence can influence community acceptance of violence and rates of violent or aggressive behaviour.

- Mobility. When children move from one school to another, significant increases in the rates of drug use, school dropout and antisocial behaviour have been observed. Communities with high rates of mobility appear to have increased drug and crime problems.

- Low neighbourhood attachment and community disorganisation. Higher rates of juvenile drug problems, crime, and delinquency, as well as higher rates of adult crime and drug trafficking, occur in neighbourhoods where people have little attachment to the community, where the rates of vandalism are high, and where there is low surveillance of public places.[13]

- Extreme economic and social deprivation. The report refers only to 'extreme' deprivation and concedes little to determinists who present the poor as powerless victims of economic circumstance. But it acknowledges that children who live in deteriorating neighbourhoods characterised by extreme poverty and high unemployment are more likely to be delinquents, and are more likely to engage in violence toward others during adolescence and adulthood.

Family risk factors

- Family history of high-risk behaviour. Children raised in a family with a history of addiction to alcohol or other drugs are at increased risk of having alcohol or other drug problems, and children born or raised in a family with a history of criminal activity are at increased risk of delinquency. Similarly, children born to a teenage mother are more likely to be teenage parents, and children of school dropouts are more likely to drop out of school themselves.

- Family management problems. Poor family management practices are defined as not having clear expectations for behaviour, failing to supervise and monitor children, and excessively severe, harsh, or inconsistent punishment. Children exposed to these practices are at higher risk of developing health and behavioural problems.

- Family conflict. Children whose parents are divorced have higher rates of delinquency and substance abuse. However, the authors argue that it is not the divorce itself that contributes to delinquent behaviour. Rather, conflict between family members appears to be more important in predicting delinquency than family

structure. They cite Rutter and Giller (1983) as the authority for this claim. This section of the report is contrary to the findings of the English Youth Lifestyles Survey which records family structure as a risk factor, especially lone parenthood and step parenthood.[14]

School risk factors

- Early and persistent antisocial behaviour. Boys who are aggressive in grades K–3 (ages 5-8) or who have trouble controlling their impulses are at higher risk for substance abuse, delinquency and violent behaviour.

- Academic failure beginning in late primary school.

- Lack of commitment to school. Children who are not committed to their school are more likely to be delinquents.

Individual and peer-group risk factors

- Rebelliousness. Young people who feel they are not part of society and not bound by its rules, who do not believe in trying to be successful or responsible, or who adopt an actively rebellious stance are at higher risk of drug abuse, delinquency, and truancy.

- Friends who engage in problem behaviours. Young people who associate with peers who engage in problem behaviours —delinquency, substance abuse, violent activity or truancy— are much more likely to engage in the same behaviours. According to the OJJDP report, this association is one of the most consistent predictors that research has identified. Even when young people come from well-managed families and are not exposed to other risk factors, simply spending time with delinquent friends greatly increases the risk of developing similar problems. However, there is much controversy about causation and it has long been debated whether delinquents seek out like-minded people ('birds of a feather flock together') or associating with delinquents itself encourages a greater degree of wrongdoing.

- Early initiation of problem behaviours. The earlier young people drop out of school, begin using drugs, and commit crimes, the greater the likelihood that they will have chronic problems with these behaviours later in life.

- Constitutional factors. Innate characteristics such as sensation seeking or impulsiveness.

Protective factors

The 'social engineering' approach to social problems is inclined to use social science to identify risk factors and then to call for public policies to reduce or eliminate them. For example, the Home Office Youth Lifestyles Survey identified exclusion from school as a risk factor for crime. For the social engineer, the logical next step is to reduce school exclusions as if they were the cause of crime, when in reality exclusion from school may reflect an underlying anti-social attitude which was the cause of both the exclusion and criminal conduct.[15] Indeed, when the Blair Government recently instructed schools to reduce school exclusions, the outcome was often an increase in disruptive behaviour in schools by youths who previously would have been expelled. Central government pressure on schools to reduce exclusions was subsequently relaxed.

The OJJDP does not over-value the social-engineering approach. It acknowledges that simple awareness of risk factors does not alone help to understand how to reduce crime. It is also necessary to understand protective factors, which they divide into three groups: those inherent in the individual; factors relating to social bonding; and social expectations, especially 'healthy beliefs and clear standards for behaviour'.[16]

Individual qualities

According to the report, individual protective factors include female gender, high intelligence, a positive social orientation, and a 'resilient temperament that helps a child bounce back in adverse circumstances'.

Social bonds

One of the most effective ways to protect young people from risk, says the report, is to strengthen their social bonds. Studies of children who avoid problem behaviour despite living in high-risk situations show that 'strong bonds with an adult' can decrease the likelihood of delinquent behaviour. Good parents are the ideal, but when they are ineffective or a bad influence, substitute adult mentors can make a difference, including other family members, teachers, sports coaches or any community member.

Social expectations

The report emphasised that social expectations are important:

> When families, schools, and communities have clearly stated policies and expectations for young people's behaviour, children are less likely to become involved in crime and delinquency. Healthy beliefs and clear standards, communicated consistently by the significant individuals and social groups to whom the child is bonded, build a web of protection for young people exposed to risk.[17]

It gives the example of the 1980's 'Just Say No' campaign. Along with the War on Drugs, and Drug-Free Zones, it advocated clear rules and had an important impact on community standards. At the same time, studies reported the negative health consequences of tobacco, alcohol, and other drug use. Subsequently, there have been public health campaigns against smoking and high-fat diets.[18]

The merits of the OJJDP strategy

Can the insights gained from the social sciences help to devise an effective crime-reduction strategy? We conclude that the OJJDP guidelines point in the right direction, for four main reasons.

First, they emphasise the importance of the early socialisation of children in the family. In England 27 per cent of prisoners had been in care and 47 per cent had run away from home as a child.[19] The YLS found that lone parents and step parents were risk factors for crime. If there were less family breakdown there would be less crime. However, family breakdown is not the only family-related cause of crime: 43 per cent of prisoners had family members who had been convicted and 35 per cent a family member who had been in jail.[20] In such cases their family was a bad influence. Public policies can only achieve so much, but we urgently need a public debate to encourage a new consensus about the family, parenting and marriage.

Second, one of the most important features of the OJJDP report is its emphasis on the impact of the wider society on the expectations we have of each other and, in particular, the influence of the media and all those who contribute to opinion formation through writing and broadcasting. It reminds us that we all have a responsibility to play our part in upholding shared standards of right and wrong, and that the obligation is especially strong on people who reach wider audiences through the media of mass communication. It also reminds us that we have been going through a 'culture war' in which many of our primary institutions have been attacked, not least the family based on marriage.

Public opinion can be divided in various ways. One possibility is a division between elite opinion (those able to express their opinions

through the mass media) and public opinion (those without such access). Élite opinion has been hostile to the family based on marriage for at least 30 years. A recent defence of marriage by a *Sunday Times* columnist, Ferdinand Mount, for instance, found it necessary to be apologetic about the 'M-word'.[21]

Schools also play an important role in socialising youngsters, but we have also come through a period when élite opinion among educators has been inclined to be hostile to the moral influence traditionally exerted by schools. They aimed to liberate pupils from 'conformism', which prepared them to be nothing more than the zombie employees of the powers that be. We also need a public debate about the purposes of education, in the hope of reaching a more workable consensus.

The OJJDP report admits that:

> The United States is just beginning a discussion about healthy beliefs and clear standards in response to violence in families, neighbourhoods, and communities. Responsible adults must, through words and deeds, show the Nation's youth that fighting does not solve problems and that the violent behaviour portrayed in the entertainment media does not provide a good model for real life. We need to set clear standards about acceptable, nonviolent behaviour.

A sense of community, it says, must be re-created in America:

> Each year thousands of young people in the United States begin to use tobacco, alcohol, marijuana, cocaine, and other drugs. Many of these youth do not identify with individuals or groups that communicate healthy beliefs and clear standards about drugs.[22]

Third, the report highlights the important influence on crime of local communities. Where there is strong local attachment and mutual confidence that neighbours will support one another, crime is much diminished. It allows youngsters to be guided by other adults in the locality without heavy-handed controls and in a spirit of 're-integrative shaming'. Such communities cannot easily be created, but programmes have been devised to encourage their emergence, including *Communities That Care*.[23]

Fourth, the report does not avoid tough questions about what should be done with recalcitrant offenders. Many crime reformers have a utopian or romantic view of human nature and emphasise the importance of rehabilitation and early prevention. To focus on early socialisation is fully justified, but it is necessary to face the fact that such strategies do not work in all cases. The OJJDP makes it clear that persistent offenders should be removed from the community and placed in secure facilities to prevent further harm to

the public and so that a sustained effort can be made to help them reintegrate into society as law-abiding people.

Rehabilitation, punishment and prevention

Before turning to specifics, one final set of preliminary remarks is necessary. Most commentators who are against prison are usually in favour of two other approaches: the rehabilitation of existing offenders, and preventive measures to discourage young people from turning to crime in the first place.

We are strongly in favour of a renewed focus on early socialisation. However, punishment and rehabilitation are often discussed as if they are mutually exclusive, when they are not. First, it is unrealistic to expect to be able to change the personality or attitudes of an offender without maintaining clear social standards, and such standards cannot be maintained without showing that the society means what it says. Reintegration back into the community of law-abiding people is a legitimate aim of sentencing but clear moral messages must be sent. Letting criminals get away with offending gives the wrong impression and undermines efforts to rehabilitate convicted offenders. Without clear standards, the task of parents, teachers and child protection officials is inevitably much harder.

Second, punishment and rehabilitation have been successfully combined. In fact, the most successful rehabilitation schemes for seriously troubled offenders, those addicted to drugs, have combined punishment and rehabilitation in the form of prison-based therapeutic communities, with sustained follow-through programmes (Chapter 5).

Third, it must also be acknowledged that the threat of punishment often reinforces rehabilitation by encouraging offenders to be ready to change. Bonta (Chapter 4) found that the threat of a return to prison made offenders undergoing community sentences more likely to attend educational courses.

As Chapter 4 showed, despite many decades of experimentation, it has proved very difficult to rehabilitate offenders. We conclude that an effective criminal justice system must be willing to incarcerate serious offenders when rehabilitation has failed. Adult offenders should be treated as if they have exercised a choice to commit crimes and sentenced in accordance with principles of just punishment and in recognition of the need to protect the public. It is generally accepted, however, that a different approach should be

adopted for juveniles, largely because (by definition) they are not fully mature and therefore more likely to change. Nevertheless, recalcitrant juveniles who persist in harming fellow citizens should be punished according to adult principles. Failure to punish a persistent offender is not only harmful in itself, but it also undermines efforts to rehabilitate other offenders by sending the message that the society is not serious about upholding its own standards.

76 Sherman, Strang and Woods, *Recidivism Patterns in the Canberra Reintegrative Shaming Experiments (RISE)*, 2000, p. 8.

77 Sherman, Strang and Woods, *Recidivism Patterns in the Canberra Reintegrative Shaming Experiments (RISE)*, 2000, p. 12 and Figure 1.

78 Sherman, Strang and Woods, *Recidivism Patterns in the Canberra Reintegrative Shaming Experiments (RISE)*, 2000, p. 13 and Figure 3.

79 Sherman, Strang and Woods, *Recidivism Patterns in the Canberra Reintegrative Shaming Experiments (RISE)*, 2000, pp. 14-15 and Figure 7.

80 Sherman, Strang and Woods, *Recidivism Patterns in the Canberra Reintegrative Shaming Experiments (RISE)*, 2000, p. 15 and Figure 9.

81 From:
    http://www.homeoffice.gov.uk/justice/victims/restorative/index.html

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2 Howell and Bilchik, *Guide for Implementing the Comprehensive Strategy for Serious, Violent and Chronic Juvenile Offenders*, 1995, p. 2.

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7 Howell and Bilchik, *Guide for Implementing the Comprehensive Strategy for Serious, Violent and Chronic Juvenile Offenders*, 1995, p. 4.

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11 Flood-Page *et al., Youth Crime,* 2000, Figure 3.7.

12 Howell and Bilchik, *Guide for Implementing the Comprehensive Strategy for Serious, Violent and Chronic Juvenile Offenders*, 1995, p. 18.

13 Howell and Bilchik, *Guide for Implementing the Comprehensive Strategy for Serious, Violent and Chronic Juvenile Offenders*, 1995, p. 20.

14 Flood-Page *et al.*, *Youth Crime,* 2000.

15 Farrington *et al., Evaluation of Two Intensive Regimes for Young Offenders*, 2002 p. 21.

16 Howell and Bilchik, *Guide for Implementing the Comprehensive Strategy for Serious, Violent and Chronic Juvenile Offenders*, 1995, p. 22.

17 Howell and Bilchik, *Guide for Implementing the Comprehensive Strategy for Serious, Violent and Chronic Juvenile Offenders*, 1995, p. 22.

18 Howell and Bilchik, *Guide for Implementing the Comprehensive Strategy for Serious, Violent and Chronic Juvenile Offenders*, 1995, p. 26.

19 *Reducing Reoffending by Ex-prisoners: Social Exclusion Unit report*, London: Social Exclusion Unit, 2002, p. 18.

20 *Reducing Reoffending by Ex-Prisoners*, 2002, p. 18.

21 *Sunday Times*, 16 November 2003.

22 Howell and Bilchik, *Guide for Implementing the Comprehensive Strategy for Serious, Violent and Chronic Juvenile Offenders*, 1995, p. 23.

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