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Criminological Highlights

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Criminological Highlights is designed to provide an accessible look at some of the more interesting criminological research that is currently being published. Each issue contains “Headlines and Conclusions” for each of 8 articles, followed by one-page summaries of each article.

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This issue of *Criminological Highlights* addresses the following questions:

1. How do courts teach youths that they should not try to obey the law?
2. How can judges reduce crime in the community?
3. What determines whether a person who violates a condition of parole will have his or her parole revoked?
4. What is the function of the presentence report?
5. Who is likely to think that judges are handing down sentences of appropriate severity?
6. How can schools reduce levels of crime on school property?
7. Can we assume that ‘decriminalizing’ the possession and use of all illicit drugs will lead to increased drug use?
8. Does aggressive drug enforcement drive up drug prices?

Youth courts can affect youths’ perceptions of the legitimacy of the law: keeping people waiting without explanation and general rude behaviour on the part of court personnel lead youths to be more likely to conclude that the courts don’t deserve their respect and that there is no reason to obey the law.

If courts want youths to respect them, it would appear that it is necessary for them to act in a manner that deserves respect. Courts that treat people in a disrespectful manner by starting late, taking “15 minute breaks” that last 45 minutes, and allow court personnel to act rudely to those in court, get the respect that they deserve. More importantly, however, they teach youths that the law and the courts are not worth obeying.

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Community Service Orders are more effective at reducing recidivism than short sentences of imprisonment.

The results are similar to results from other studies (see *Criminological Highlights* 3(4)#4, 11(1)#1, 11(1)#2): sending offenders to prison for the first time for periods of up to six months rather than imposing community service on them appears to increase the likelihood of subsequent offending. “In the short term as well as in the long term, community service is followed by less recidivism than imprisonment... The absolute difference in recidivism after community service and imprisonment is 1.21 convictions after a follow-up period of five years” (p. 346). In 2008, 81% of the 86,717 offenders (or 70,353 offenders) sentenced to prison in Canada received sentences of less than 6 months. Not all of these 70,353 offenders would have met the criteria for this study since some of them had already experienced either imprisonment or a community service order. But these data would suggest that the alternative – up to 240 hours of community service – would have been an effective way (in terms of costs and recidivism) of being tough on crime.

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Parole revocations make a major contribution to prison populations but the decision to send a parolee back to prison is determined by factors above and beyond the nature of their parole violations.

Parole boards obviously exercise a good bit of discretion when deciding how to respond to charges involving new offences and to violations of the conditions of parole. The most important factors for those violating any condition of release appear to be whether a parolee is a registered sex offender or a serious or violent offender. This is especially true if there is an allegation of a new criminal offence. Since these offenders were, at the time, referred automatically to the parole board, it is not surprising that they were, virtually automatically, also sent back to prison. But overall, the fact that parolees were generally more likely to be returned to prison in punitive counties demonstrates that the parole board is concerned about its own local reputation.

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The most important function that pre-sentence reports serve may not be to provide information to the courts. Instead, they may allow legal professionals to process guilty pleas in a manner that allows everyone to believe that individualized decisions concerning the accused have been made.

Pre-sentence reports (PSRs) can be seen as legitimating the summary process (that leads to a guilty plea) by easing the concerns of professionals that defendants should be treated as individual cases and with dignity. In other words, in a court that is processing many cases in quite a ‘routine’ manner, the PSR stands out as the symbol that demonstrates to legal professionals “that they are taking part in a process that is legally just” (p. 256).

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People who have little confidence in the criminal justice system and are most critical of sentences being handed down by the courts are likely to have very little knowledge of the operation of the criminal justice system.

It would appear that part of the lack of confidence that people have about the operation of the criminal justice system comes from a general lack of knowledge about how it operates. The impact of knowledge is large and appears to exist when other factors were held constant. For example, of those people in their 40s, who were less than university educated, earned less than the median income, and had low knowledge about crime and justice, only 4% thought that sentences were about right in their level of severity. About 60% of identically placed respondents with high knowledge thought that sentences were about right. It is not terribly surprising that there is a general lack of knowledge about the criminal justice process and that many people lack confidence in this public institution: much public discourse about crime and criminal justice appears to be ill-informed and, therefore, the public can hardly be held responsible for their lack of knowledge. But clearly judgments about the operation of the criminal justice system from those who know how it operates are likely to be very different from those who express views but do not know how it actually operates.

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Serious crime in schools in the US is declining. Schools can reduce crime even more by changing the manner in which they are managed.

School officials would be well advised to examine carefully recommendations that have been made to deal with crime in school. Some experiments (e.g., with certain kinds of peer counseling) have been shown to increase crime; many very popular interventions (e.g., bringing more police into the schools) have not been shown to be effective. At the same time, some more challenging and fundamental interventions related to the way in which schools are managed and the manner in which misbehaviour is responded to have been demonstrated to be effective in reducing the amount of misbehaviour in school.

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What happens when illicit drug use is decriminalized? The evidence from Portugal’s decision in 2000 to decriminalize the use of drugs and possession for personal use suggests that not much changed.

Portugal’s experience with decriminalizing simple drug possession in 2001 suggests that “contrary to some predictions, decriminalization does not inevitably lead to rises in drug use” (p. 1016). What is notable about Portugal, of course, is that the change in law related to the response to *all* drugs, not cannabis alone. Though it is impossible to know for certain what the impact was of the change in drug policy, it is quite clear that “there are no signs of mass expansion of the drug market in Portugal” (p. 1017).

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Intensive enforcement of drug laws appears to be an ineffective way of increasing the price of illicit drugs.

It would appear that a certain level of drug enforcement can keep a market from developing in locations where there is, essentially, no existing market. And if a market is expanding toward a high level of use, some enforcement may help delay that expansion. But in locations with high and stable rates of drug incarceration, reducing the number of prisoners could be carried out without any adverse effects on drug use. “Dramatic reductions in incarceration are possible without entering uncharted waters of permissiveness, and the expansion of today’s unprecedented levels of incarceration seems to have made little contribution to the reduction in US drug problems” (p. 261).

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Youth courts can affect youths' perceptions of the legitimacy of the law: keeping people waiting without explanation and general rude behaviour on the part of court personnel lead youths to be more likely to conclude that the courts don't deserve their respect and that there is no reason to obey the law.

Courts in Canada have rules that appear to be designed to induce respect. Courts can order people to appear before them even if nothing is likely to happen at the court hearing. They can punish people who are late to court. They typically require people to stand up when a judicial officer enters the room to demonstrate, one assumes, respect for the judicial officer. And they require people to behave in particular ways (e.g., removing hats or caps) that are not normally required. This study examines the manner in which courts undermine their own legitimacy and lead youths to believe - among other things - that they should not try to obey the laws.

Researchers in a large youth court in Toronto systematically observed, during a 9-month period, the 'atmosphere' in a 'first appearance' court, presided over by a Justice of the Peace. The ordinary events on each day were coded as being 'standard' or 'sub-standard'. A standard rating would involve such things as the court starting on time, no confusion about the court process, court personnel having the appropriate documents for the case that was called, "the justice of the peace clearly and courteously [explaining] the court process and/or issues in the case to the youth and/or the parents" (p. 534).

Events which would contribute to the day being described as 'substandard' would include an extremely late court starting time, delays caused by the absence of court staff when court was in session, "justice of the peace makes humiliating comments about the attire worn by the youth", "Crown attorney rolls eyes and impatiently sighs at youth when the youth is trying to explain an issue" or "court clerks yell out into the body of the court making excessive comments about what is allowed when court is already in session." As such, the observed phenomenon - court atmosphere - was neither elicited by, nor necessarily directed at, any particular accused

youth. It was simply that there were some 'good' and some 'bad' days in court. Youths, then, were exposed to a 'good' or 'bad' day in court essentially randomly. This study then examined the impact of good vs. bad days in court on youths.

Youths were asked - by a researcher who was not responsible for the coding of 'court atmosphere' - about two aspects of their experience. First they were asked about procedural justice (see *Criminological Highlights* 4(4)#1, 7(1)#4) - how they felt they, themselves, were treated by their own lawyer, the Crown attorney, and the Justice of the Peace presiding over the court. Second, they were asked about the legitimacy of the justice system by assessing their agreement with statements such as "In general, our laws make Canada a better place", "People are treated fairly by the Canadian courts", "People should support the decisions made within the Canadian courts", "I try to obey the laws" (p. 536).

Not surprisingly, the youths' ratings of their own treatment affected their views of the legitimacy of the court: those who didn't think that they were treated fairly rated the legitimacy of the court lower than those who thought that their treatment was fair. However, both for youths who

thought that they themselves were treated fairly and for youths who did not, experiencing a 'substandard' court day reduced significantly the rating of the legitimacy of the court. In other words, compared to those youths who were in court on a 'good day', youths who experienced 'bad days' in court were more likely to indicate that they saw no reason to obey the law or support the decisions of the court. Said differently, when courts misbehave, youths are less likely to believe that they should respect the law or the courts.

Conclusion: If courts want youths to respect them, it would appear that it is necessary for them to act in a manner that deserves respect. Courts that treat people in a disrespectful manner by starting late, taking "15 minute breaks" that last 45 minutes, and allow court personnel to act rudely to those in court, get the respect that they deserve. More importantly, however, they teach youths that the law and the courts are not worth obeying.

Reference: Greene, Carolyn, Jane B. Sprott, Natasha S. Madon, and Maria Jung (2010). Punishing Processes in Youth Court: Procedural Justice, Court Atmosphere and Youths' Views of the Legitimacy of the Justice System. *Canadian Journal of Criminology and Criminal Justice*, 52(5), 527-544.

Community Service Orders are more effective at reducing recidivism than short sentences of imprisonment.

In The Netherlands, community service has been an increasingly popular alternative to prison sentences of less than 6 months. Dutch law initially allowed community service to be substituted for short prison sentences, and subsequently encouraged its use as a sanction in its own right. Simple comparisons of the recidivism rates of those who received prison sentences and those who received community service orders suggest that being sent to prison increases recidivism. This paper improves on this previous research by creating comparable groups of offenders, half of whom were sentenced to prison and half of whom received sentences of community service.

The challenge in a study of this kind is to create two groups of people who are as similar as possible on all characteristics except for the sentence they received. Often this is done by finding pairs of people who, on variables known to relate to recidivism, are identical except for the fact that one went to prison and the other was sentenced to community service. An alternative approach is to create an overall measure of the likelihood of receiving community service (using all of the background information that is available) and then matching on this 'propensity score' those who actually received community service with those who were sent to prison. This study did both, using offenders sentenced in The Netherlands in 1997. In other words, they took pairs of people whose backgrounds would appear to make them equally likely to have received community service, but only one actually did. In addition, they matched on age, sex, and the relative length of the sentence (in hours of community service and months of imprisonment). Offenders could receive up to 240 hours of community service or 6 months in prison. Only those offenders who had never before been sentenced to either community service or prison were

included in the study to ensure that there could be no 'carry over' effects from previous experience with either of these sanctions.

Recidivism measures – mean yearly conviction rates – were calculated for periods of time of 1, 3, 5, and 8 years (correcting statistically for the portion of each follow-up period that the offender was actually 'at risk' in the community). The results are easy to describe: those who were sentenced to prison had higher recidivism rates (average annual rate of convictions) at each of the four time intervals. This pattern – higher recidivism for those sent to prison – was found for all crime, and separately for property crimes and violent crimes. For example, looking at the five year follow-up period, those sentenced to prison were convicted of an average of 0.52 offences per year, whereas those sentenced to community service were convicted of only 0.28 offences per year.

Conclusion: The results are similar to results from other studies (see *Criminological Highlights* 3(4)#4, 11(1)#1, 11(1)#2): sending offenders to prison for the first time for periods of up to six months rather than

imposing community service on them appears to increase the likelihood of subsequent offending. "In the short term as well as in the long term, community service is followed by less recidivism than imprisonment... The absolute difference in recidivism after community service and imprisonment is 1.21 convictions after a follow-up period of five years" (p. 346). In 2008, 81% of the 86,717 offenders (or 70,353 offenders) sentenced to prison in Canada received sentences of less than 6 months. Not all of these 70,353 offenders would have met the criteria for this study since some of them had already experienced either imprisonment or a community service order. But these data would suggest that the alternative – up to 240 hours of community service – would have been an effective way (in terms of costs and recidivism) of being tough on crime.

Reference: Wermink, Hilde, Arjan Blokland, Paul Nieuwebeerta, Daniel Nagin, and Nikolaj Tollenaar (2010). Comparing the Effects of Community Service and Short-Term Imprisonment on Recidivism: A Matched Samples Approach. *Journal of Experimental Criminology*, 6, 325-349.

Parole revocations make a major contribution to prison populations but the decision to send a parolee back to prison is determined by factors above and beyond the nature of their parole violations.

The size of a prison population is obviously a function of the number of people admitted to prison, the length of the sentence, and decisions on when to release offenders (e.g., on parole). But prison populations are also affected by decisions by parole boards to return parolees to prison, often for technical violations. In California, there are more parolees *readmitted* to prison each year than there are new felon admissions.

This study examines the determinants of parole board decisions to return parolees to prison in 2003 and 2004 in California. Three different types of cases are examined: cases in which there was an allegation of a criminal offence but either the case was not referred to court or the parolee was not convicted but the case was, nevertheless, referred to the parole board; cases in which there was a technical violation of a condition of release; and cases in which the accused absconded from parole supervision. Overall 72% of the cases resulted in an order to return to prison (69% in criminal cases, 82% in the case of technical violations, and 83% in absconding cases).

Three different sets of explanatory variables were examined: characteristics of the offender (and offence history), the occupancy rate of the California state prison reception centre in the month that the parole board was making its decision about a parolee, and an index of the 'punitiveness' of the county in which the parolee lived. This last measure was calculated from political party membership and voting patterns on two ballot propositions (in 2000 and 2004) related to criminal sanctioning. The effects of various 'case' factors were controlled

statistically in all analyses. These other factors included the seriousness of the criminal and technical violation, how many times the offender had been previously returned to prison, the original offence and the parolee's age when first imprisoned.

Above and beyond the various controls and the seriousness of the violations, those charged with technical violations or criminal offences were more likely to be returned if they had been labelled as a serious violent offender or they were a registered sex offender. This appears to reflect the fact that it is not just what the parolee did, but also 'who' he was. But independent of this effect, parolees who were being considered when the prison 'reception centre' was crowded were less likely to be returned. Parolees charged with technical violations or who had absconded from supervision in punitive counties were out of luck: they were more likely to be returned than if they lived in more 'liberal' communities. In addition, serious or violent offenders who lived in punitive counties had an increased likelihood of being returned to prison if charged with (but not convicted of) a criminal offence. Blacks and Hispanics charged with (but not convicted of) criminal

offences were more likely than Whites to find themselves being ordered back to prison by the parole board.

Conclusion: Parole boards obviously exercise a good bit of discretion when deciding how to respond to charges involving new offences and to violations of the conditions of parole. The most important factors for those violating any condition of release appear to be whether a parolee is a registered sex offender or a serious or violent offender. This is especially true if there is an allegation of a new criminal offence. Since these offenders were, at the time, referred automatically to the parole board, it is not surprising that they were, virtually automatically, also sent back to prison. But overall, the fact that parolees were generally more likely to be returned to prison in punitive counties demonstrates that the parole board is concerned about its own local reputation.

Reference: Lin, Jeffrey, Ryken Grattet, and Joan Petersilia (2010). "Back-end Sentencing" and Reimprisonment: Individual, Organizational, and Community Predictors of Parole Sanctioning Decisions. *Criminology*, 48(3), 759-760.

The most important function that pre-sentence reports serve may *not* be to provide information to the courts. Instead, they may allow legal professionals to process guilty pleas in a manner that allows everyone to believe that individualized decisions concerning the accused have been made.

Officially, the pre-sentence report (PSR) is designed to provide sentencing judges with the information necessary to sentence an accused person. In jurisdictions without strict sentencing guidelines, PSRs, theoretically, help inform the court about the character of the accused so that an ‘individualized’ sentence can be imposed. This paper suggests that their real function is more complex than simply providing information to the court.

The study used a variety of methods to try to understand the use of PSRs – interviews, focus groups, observation of the production of PSRs and their use in court, and ‘moot’ sentencing hearings combined with interviews with the judges and lawyers involved in these hearings. PSRs are typically written so as to provide the reader with detailed information about the background and personal and social circumstances of accused people. However, in this study (in Scotland) it was determined that sentencers (and other court professionals) see this information as being of marginal importance. Judges and defence counsel were also highly critical of PSRs that focused largely on offending. Defence counsel, however, often used PSRs “as a tool to build rapport with and win the confidence of clients” (p. 264). PSRs are seen “as a way to demonstrate clearly to clients that they are treated as unique individuals” (p. 247). Such a view of the process is particularly important given that most cases in (most) lower courts are resolved by way of a guilty plea with relatively little information being brought to the court in the form of formal evidence.

Given, therefore, that ‘guilt’ is rarely an issue in the lower courts, but sentencing is, the PSR can serve to have the appearance of giving responsibility for the outcome of the case back to the accused person. Even though judges indicated that they often skimmed PSRs, they reported that the PSR gave them a holistic and ‘objective’ account of the offender and the offence.

The individualizing features of PSRs “assist in the expeditious disposal of cases” in four different ways. First, they assist defence counsel in convincing their clients to plead guilty, given that the offenders can then, via the PSR, communicate their account of their lives and their offences. Second, they provide ‘facts’ to the court. These ‘facts’ are then used, by all sides, to create a coherent and unique account of the case. Third, PSRs can be seen as providing the court with an insight into the ‘moral character’ (p. 256) of the accused. Finally, “Reports provide legal professionals with a way of smoothing over the felt discomfort about the ‘gap problem’ between what is claimed for the law and the daily reality. Thus, reports are not simply a matter of ‘empty ceremony’, but [they are] vital to the ability to dispose of

cases in a way that does not appear to be contrary to justice. The ‘efficient’ production of guilty pleas depends on the ability of legal professionals to explain their actions not only to defendants, and to each other, but most crucially to themselves.... ‘Efficiency’ *depends on* legal professionals’ sense that individualization is not a complete fiction, but something demonstrable and real. In this way, the operation of ‘individualization’ enables the ‘efficient’ disposal of cases” (p. 256).

Conclusion: Pre-sentence reports (PSRs) can be seen as legitimating the summary process (that leads to a guilty plea) by easing the concerns of professionals that defendants should be treated as individual cases and with dignity. In other words, in a court that is processing many cases in quite a ‘routine’ manner, the PSR stands out as the symbol that demonstrates to legal professionals “that they are taking part in a process that is legally just” (p. 256).

Reference: Tata, Cyrus (2010). A Sense of Justice: The Role of Pre-sentence Reports in the Production (and Disruption) of Guilt and Guilty Pleas. *Punishment & Society*, 12(3), 239-261.

People who have little confidence in the criminal justice system and are most critical of sentences being handed down by the courts are likely to have very little knowledge of the operation of the criminal justice system.

A wide range of studies carried out in a number of countries have found that most people think that sentences in their countries are too lenient. Previous research would suggest that when people say this, they are thinking about unusual cases, often cases involving extreme violence. At the same time, it is well known that people have very little information about sentencing practices in court (*Criminological Highlights* 4(1)#5). When they do get adequate information about sentencing and the sentencing process, it appears that they are often quite likely to differ very little from the courts in the sentences they prefer (*Criminological Highlights*, 9(4)#2, 6(2)#6, 8(6)#1, 3(3)#4).

This study looks at the relationship, in a sample of ordinary people, between public confidence in the (Australian) criminal justice system and the public's knowledge about crime and criminal justice. Confidence in the criminal justice system was assessed on the basis of people's answers to questions in five areas: sentence severity, bringing offenders to justice, meeting the needs of victims, treating accused people fairly, and respecting the rights of those accused of crimes.

Knowledge was assessed with six questions about local crime and justice: changes in the level of property crime (actual: a decrease); the proportion of reported crime involving violence (actual=7%); the proportion of burglars brought to court who were convicted (actual = 73%); proportion of those brought to court for assault who were convicted (actual = 74%); proportion of those convicted of home burglary who were imprisoned (actual =61%); and the imprisonment rate for assault (14%). Responses were categorized according to how far (in either direction) they were from the correct answer.

After controlling statistically for education, age, income, and whether the respondent lived in a metropolitan area, high levels of knowledge of these dimensions tended to predict people's confidence in the criminal justice system. For example, those who knew that property crime had decreased and that violence constituted only a small portion of all crime reported to the police, and those who were accurate about assault and burglary conviction rates and burglary imprisonment rates were most likely to think that the severity of sentences was 'about right' even when controlling for demographic variables. This finding also held when factors such as whether the respondent was university educated were controlled for statistically.

Conclusion: It would appear that part of the lack of confidence that people have about the operation of the criminal justice system comes from a general lack of knowledge about how it operates. The impact of knowledge is large and appears to exist when other factors were held constant. For example, of those people in their 40s, who were less

than university educated, earned less than the median income, and had low knowledge about crime and justice, only 4% thought that sentences were about right in their level of severity. About 60% of identically placed respondents with high knowledge thought that sentences were about right. It is not terribly surprising that there is a general lack of knowledge about the criminal justice process and that many people lack confidence in this public institution: much public discourse about crime and criminal justice appears to be ill-informed and, therefore, the public can hardly be held responsible for their lack of knowledge. But clearly judgments about the operation of the criminal justice system from those who know how it operates are likely to be very different from those who express views but do not know how it actually operates.

Reference: Jones, Craig and Don Weatherburn (2010). Public Confidence in the NSW Criminal Justice System: A Survey of the NSW Public. *The Australian and New Zealand Journal of Criminology*, 43(3), 506-525.

Serious crime in schools in the US is declining. Schools can reduce crime even more by changing the manner in which they are managed.

It is not surprising that schools are seen as places where crime occurs: schools bring youths together at a stage in their lives when they are especially likely to be committing crimes and to be victimized by other youths. In the US since 1993, there has been a downward trend in school crime that parallels overall youth victimization. Nevertheless, there has been an increase, in the past 20 years, in surveillance systems and metal detectors in school, even though there are no data suggesting that these 'target hardening' techniques have any effect on crime in school.

Even though youths spend only about 20% of their waking hours in school, their victimization rates in school are similar to their rates away from school. This can hardly be seen as surprising since schools, by definition, put potential young offenders and victims in close proximity to one another. The exception is for murder. In the US, only about 1% of murders of school-age youths take place in schools.

The amount of crime in a school cannot be predicted by looking at "the sum of criminal propensities of the enrolled students" (p. 317) nor do simple structural variables (e.g., school size) account for much of the variability in school-crime rates. Though obviously the characteristics of students and the communities they come from have effects on the amount of crime in a school, the variables that are under the control of schools – how the school is managed, and how discipline is imposed on youths – also have effects (see also *Criminological Highlights* 4(2)#4, 4(5)#5). Students in schools react to their environment: Youths who (on a random basis) were given the opportunity to move into

more 'high performing' schools were less likely to be involved in crime than their classmates who, as a result of a lottery, were not able to move to better, less crime-prone, schools. The division within a school district between primary and middle school was not, however, important in predicting levels of violence in schools (*Criminological Highlights* 10(4)#4).

Not surprisingly, schools with low achieving youths tend to have more crime. More interesting are the findings from experimental and quasi-experimental studies showing that interventions that improve academic performance have an important side effect: problem behaviours decrease. School policies also make a difference: "When schools monitor students and control access to the campus, and when students perceive that school rules are fair and consistently enforced, schools experience lower levels of problem behaviour" (p. 369). On the other hand, "severity of sanctions [imposed by schools] is not related to reduction in problem behaviours" (p. 369).

Conclusion: School officials would be well advised to examine carefully recommendations that have been made to deal with crime in school. Some experiments (e.g., with certain kinds of peer counseling) have been shown to increase crime; many very popular interventions (e.g., bringing more police into the schools) have not been shown to be effective. At the same time, some more challenging and fundamental interventions related to the way in which schools are managed and the manner in which misbehaviour is responded to have been demonstrated to be effective in reducing the amount of misbehaviour in school.

Reference: Cook, Philip J., Denise C. Gottfredson, and Chongmin Na. (2010). School Crime Control and Prevention. In Tonry, Michael (editor) *Crime and Justice: A Review of Research* (Volume 39)

What happens when illicit drug use is decriminalized? The evidence from Portugal's decision in 2000 to decriminalize the use of drugs and possession for personal use suggests that not much changed.

In various countries, drug laws or drug law enforcement have been liberalized. In The Netherlands, for example (*Criminological Highlights* 11(2)#5) the selling of small amounts of marijuana and its personal use is tolerated under certain circumstances. In South Australia, cannabis use was decriminalized. Portugal is especially interesting to examine because in 2001, the government decriminalized the possession of *all* drugs for personal use. A key rationale was to provide a more health-oriented response to drug use based on treatment of those who were drug dependent. In theory, those apprehended for drug possession were to be referred to Commissions for the Dissuasion of Drug Addiction for assessment, sanctioning, or access to treatment.

Portugal appears to be a 'transition nation' for various drugs with a disproportionate amount of drug seizures in Europe taking place. Hence although drugs are available in the country, with the exception of heroin use in the late 1980s and 1990s, drug use appears generally to have been relatively low compared to other European countries. This paper looks primarily at the small amount of data that are available on the use of drugs during the period after the personal use of drugs was decriminalized. The focus is on a simple question: what effects did decriminalization have on drug use. Unfortunately, there were no population surveys of drug use prior to the change in law. However, there are some data that can be used to examine the impact of the decriminalization decision.

Between 2001 (when the law changed) and 2007 there were very small increases in the prevalence of illicit drug use in Portugal among adults (age 15-64) who were surveyed. However, the 2007 rates in Portugal were lower than those in Italy and Spain and the increase in rates that

did take place in Portugal were small and were generally lower than in these other two countries.

For high school youths, there were some data collected prior to the law change in 2001. Again, there were some increases in Portugal between 1999 and 2003 (which then dropped off by 2007). However, these increases in drug use by high school youths in Portugal were comparable to the increases elsewhere in Europe and, after 6 years' experience with the changed law, rates of drug use in Portugal were still lower than in Italy and elsewhere in the European Union.

Drug trafficking offences (which were never decriminalized) did not increase after 2001 in Portugal. Drug prices decreased during this time, though it is hard to understand exactly why. Drug related deaths dropped steadily between 1999 and 2003. In Italy and Spain, drug related deaths also dropped but were generally higher than in Portugal.

Not surprisingly, the number of people arrested for drug offences dropped dramatically, from about 14,000

criminal drug offences in 2000 to an average of about 5000-5500 after the change in law. However, the number of people detected for drug use under the new law for drug use/possession remained fairly constant during the first decade of this century.

Conclusion: Portugal's experience with decriminalizing simple drug possession in 2001 suggests that "contrary to some predictions, decriminalization does not inevitably lead to rises in drug use" (p. 1016). What is notable about Portugal, of course, is that the change in law related to the response to *all* drugs, not cannabis alone. Though it is impossible to know for certain what the impact was of the change in drug policy, it is quite clear that "there are no signs of mass expansion of the drug market in Portugal" (p. 1017).

Reference: Hughes, Caitlin Elizabeth and Alex Stevens (2010). What Can We Learn From the Portuguese Decriminalization of Illicit Drugs? *British Journal of Criminology*, 50, 999-1022.

Intensive enforcement of drug laws appears to be an ineffective way of increasing the price of illicit drugs.

Each year in the US hundreds of thousands of people are incarcerated for drug offences. The primary focus of 'drug strategies' in some countries is on enforcement rather than 'demand-side' programs of prevention and treatment. Between 1980 and 2010, incarceration rates in the US for drug offenders increased almost 10-fold, while prices for cocaine and heroin in the US fell substantially.

It appears that simple 'risk-price' models do not fit the data related to drug offences. Control over the supply of drugs – and arrests and incarceration for long periods of time of those in the drug business – should push prices up since the 'cost' of doing business has increased. The theory would then suggest that higher prices of drugs (the result of the high expected cost of doing business) should reduce consumption. The data do not support this simple economic model. In the US, arrests for cocaine and heroin have been fairly stable since the late 1980s, but the number of people in prison has gone up dramatically. Prices (in 2007 dollars) for cocaine dropped dramatically in the 1980s during a period of apparent market expansion, were steady in the 1990s, and dropped again, between 2000 and 2007 by about 25%. But even though the price went down, total consumption did not go up.

One problem in 'modeling' the effect of enforcement efforts on drug use is that the effects on two different types of users – hard core dependent users who are typically a minority in number but who consume the majority of drugs, and non-dependent users – may be very different. One estimate suggests that

a small number of cocaine and heroin users account for 84-93% of total spending on the drugs. It is possible that enforcement efforts can minimize the number of people who become hard core drug users *in the beginning* of a drug 'epidemic' in a community by restricting access to drugs. On the other hand, committing significant resources to drug enforcement may have little impact after drug use is widely established.

The challenge for law enforcement approaches is that the large number of dealers present in a city means that even huge numbers of arrests would be expected to have little impact. It is estimated that in a city of about a million people in the US, there would be approximately 3300 cocaine dealers. The simultaneous arrest of several hundred would therefore hardly touch the selling process.

At the same time, it is clear that drug prohibition (as compared to complete legalization) does increase the price of drugs. However, "for most established markets, expanding enforcement beyond a [simple] base level is a very expensive way to purchase further increments in price. Overall, the US is far into the region of diminishing returns; toughness could be cut

with modest effects on prices and use. Alternatively, toughness could be focused on the forms of dealing that are most violent or otherwise noxious...." (p. 259).

Conclusion: It would appear that a certain level of drug enforcement can keep a market from developing in locations where there is, essentially, no existing market. And if a market is expanding toward a high level of use, some enforcement may help delay that expansion. But in locations with high and stable rates of drug incarceration, reducing the number of prisoners could be carried out without any adverse effects on drug use. "Dramatic reductions in incarceration are possible without entering uncharted waters of permissiveness, and the expansion of today's unprecedented levels of incarceration seems to have made little contribution to the reduction in US drug problems" (p. 261).

Reference: Caulkins, Jonathan P. and Peter Reuter (2010). How Drug Enforcement Affects Drug Prices. In Tonry, Michael (ed.) *Crime and Justice: A Review of Research*, Volume 39. University of Chicago Press.