Public Safety Canada / Sécurité publique Canada

ARCHIVED - Archiving Content

ARCHIVÉE - Contenu archivé

Archived Content

Information identified as archived is provided for reference, research or recordkeeping purposes. It is not subject to the Government of Canada Web Standards and has not been altered or updated since it was archived. Please contact us to request a format other than those available.

Contenu archivé

L'information dont il est indiqué qu'elle est archivée est fournie à des fins de référence, de recherche ou de tenue de documents. Elle n'est pas assujettie aux normes Web du gouvernement du Canada et elle n'a pas été modifiée ou mise à jour depuis son archivage. Pour obtenir cette information dans un autre format, veuillez communiquer avec nous.

This document is archival in nature and is intended for those who wish to consult archival documents made available from the collection of Public Safety Canada.

Some of these documents are available in only one official language. Translation, to be provided by Public Safety Canada, is available upon request.

Le présent document a une valeur archivistique et fait partie des documents d'archives rendus disponibles par Sécurité publique Canada à ceux qui souhaitent consulter ces documents issus de sa collection.

Certains de ces documents ne sont disponibles que dans une langue officielle. Sécurité publique Canada fournira une traduction sur demande.

Canada

Centre for Criminology & Sociolegal Studies
UNIVERSITY OF TORONTO

Criminological Highlights

The Centre for Criminology and Sociolegal Studies, University of Toronto, gratefully acknowledges the Ontario Ministry of the Attorney General for funding this project.

Volume 13, Number 4 **June 2013**

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.

Criminological Highlights is prepared by Anthony Doob, Rosemary Gartner, John Beattie, Scot Wortley, Luca Berardi, Holly Campeau, Tom Finlay, Maria Jung, Alexandra Lysova, Natasha Madon, Katharina Maier, Voula Marinos, Nicole Myers, Holly Pelvin, Andrea Shier, Jane Sprott, Sara Thompson, and Kimberly Varma.

Criminological Highlights is available at www.criminology.utoronto.ca and directly by email.

Views – expressed or implied – in this publication are not necessarily those of the Ontario Ministry of the Attorney General.

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

1. How can courts get people to appear for court hearings when required?
2. Why do youths confess to crimes?
3. Who escapes mandatory sentences?
4. Do tough judges protect the community or are they just tough?
5. How is religion used to justify crime?
6. Can corrections programs make things worse?
7. Are special 'human trafficking' laws really necessary?
8. Why do the Nordic countries have low imprisonment rates?

© Centre for Criminology and Sociolegal Studies, University of Toronto, Toronto, Ontario, Canada M5S 3K9
Telephone: 416.978.6438 x230 (Doob) x235 (Gartner) Fax: 416.978.4195
Email: anthony.doob@utoronto.ca rosemary.gartner@utoronto.ca
Courier Address: 14 Queen's Park Crescent West

Those who invoke criminal sanctions for accused people who don't show up on time for court might take a lesson from North American dentists and send out reminder cards.

It appears that simple reminders to those charged with criminal offences combined with educational material about the consequences of failing to appear for court can significantly reduce the rate of failures to appear. The benefits, of course, accrue not only to the police and court system but also to accused people who otherwise might not appear in court. The results suggest, therefore, that courts can contribute to 'crime control' by simply adopting the business model of some dentists.

.... Page 4

Legally required warnings to youths about the consequences of making statements to the police do little if anything to protect youths' rights.

Statements from youths were rarely excluded from court hearings. "Police [in these interrogations] acted professionally and complied with *Miranda's* protocol – there is no ambiguity about warnings and waivers. In addition, most juveniles confess and tapes provide unimpeachable evidence of their statements" (p. 23). However, "*Miranda's* assumption that a warning would enable suspects to resist the compulsive pressures of interrogation is demonstrably wrong" (p. 24). Youths, like adults, may understand the words in the warning, but they "lack ability to understand and competence to exercise rights" (p. 24). This article suggests youths be required to consult a lawyer before waiving their rights, because if they "cannot understand and exercise rights without legal assistance, then to treat them as if they do denies fundamental fairness and enables the state to exploit their vulnerability" (p. 26).

.... Page 5

Prosecutors allow departures from "mandatory" sentences for drug offenders who appear to be 'good' people.

It seems unlikely that all of the 41% of offenders in this sample who received downward departures offered the prosecutors substantial assistance. They would all have needed to possess useful information to exchange for a lower sentence. Similarly, it seems unlikely that women, citizens, those with some college or university education, and those not in custody at the time of sentence would have more information to trade than men, non-citizens, less educated defendants, and those in custody at the time of their sentencing. Instead, those who received substantial assistance offers from the prosecutors and less harsh sentences from the judges probably were not seen to be as serious offenders as others. More generally, since the Supreme Court decisions shifting the guidelines from 'mandatory' to 'advisory' appeared to have little overall impact on sentencing patterns (see *Criminological Highlights* V12N6#6), these findings suggest that those 'given a break' from harsh sentencing regimes may simply be those seen by the prosecutor and/or the judge as sympathetic offenders.

.... Page 6

Imprisonment does not reduce the likelihood of reoffending.

It appears that variation in the use of prison had no effect on reoffending; nor did it have any impact on ordinary employment five years after sentencing. Instead, "these results reinforce the perspective that prisons function primarily as custodial institutions – interrupting but not fundamentally altering, the average life-course trajectory of their temporary inhabitants" (p. 157).

.... Page7

Traditional religious beliefs may be used by serious street offenders to justify – rather than question – their offending.

Many of these offenders "actively referenced religious doctrine to justify past offences and to excuse the continuation of serious criminal conduct" (p. 62). But it should not be thought that "this criminogenic effect accrues from the content of religious doctrine per se. Rather it appears to be the result of either an imperfect or purposefully distorted understanding of [religious] doctrine, applied by the offender to their decision-making process" (p. 62). The offenders, then, were able "to reconcile their belief in God with their serious predatory offending. They frequently employed elaborate and creative rationalizations in the process and actively exploited religious doctrine to justify their crimes…. There is reason to believe that these rationalizations and justifications may play a criminogenic role in their decision making" (p. 62).

.... Page 8

Some corrections programs can reduce reoffending, but some 'corrections' programs can increase offending.

Programs to reduce offending – whether aimed at custodial populations or non-custodial populations – cannot be assumed to work just because they look as if they might. The examples of programs that make matters worse remind us of the admonition that program designers should ensure they "First do no harm." Harm, of course, can be measured in various ways: increasing offending by those who receive the programs, or harming those people or communities associated with those receiving the program.

.... Page 9

Human trafficking may be a cause for concern, but Canada's experience with its 2005 legislation suggests that its attempt to criminalize the issue is problematic and has accomplished little.

By removing the 'transportation' component of 'human trafficking,' Canadian law has removed the critical distinction between 'human trafficking' and other related offences. But in addition, although it is often alleged that 'human trafficking' involves 'organized crime', the prosecutions, thus far, have not demonstrated that link. The law also, then, may be little more than the "re-labelling [of] offences [that] can have serious implications for those involved, as it also undermines the severity of human trafficking by equating it with very small-scale 'pimping' and misdirects police attention, preventing them from uncovering situations of true human trafficking" (p. 40-41).

.... Page 10

The low imprisonment rates of the Nordic countries are rooted in their cultural and political traditions.

Low imprisonment rates in the Nordic countries didn't "just happen." They are low because of policy choices that were made to keep them low. But in addition, legislated sentencing structures provide only broad guidance and leave individual decisions to judges, a practice which "seems to be less vulnerable to short-sighted and ill-founded political interventions…" (p. 106). Nevertheless, there are differences; Swedish legislators, for example, are "more willing to act quickly and pass 'single-problem solutions' [to crime problems]" (p. 107). More generally, however, "the future of Nordic penal policy is very much the future of the Nordic welfare model" (p. 107).

.... Page 11

Those who invoke criminal sanctions for accused people who don't show up on time for court might take a lesson from North American dentists and send out reminder cards.

Many North American dentists, who often make regular dental appointments weeks or months in advance of the scheduled appointment, send out postcards reminding their patients to show up for their appointments. Some even mention that there will be penalties for those who don't show up. This study examines whether courts could learn from the experience of dentists. It examines whether sending out reminder cards to those required to come to court reduces the 'failure to appear' rate.

Accused people are punished for not appearing, when required, for court appearances on the assumption that – like most criminal offences – the act of not appearing for court is a motivated one. The alternative perspective is that people may simply forget, or do not realize that showing up for court is seen, by courts, to be a serious matter. If either of these is the case, then reminding them of their obligation to appear and explaining the consequences of failing to appear in court might be a way of reducing the number of failures to appear. Studies suggest that many defendants "lead disorganized lives, forget, lose the citation [the written notice they receive from the police] and do not know whom to contact to find out when to appear, fear the justice system and/or its consequences, do not understand the seriousness of missing court, have transportation difficulties, language barriers, are scheduled to work, have childcare responsibilities, or other reasons…" (p. 178).

This study, carried out in 14 counties in Nebraska, randomly assigned 7,865 accused adults who were charged with non-traffic misdemeanour offences to one of four experimental conditions. One group was treated normally (and not given a reminder). A second group was sent a post-card simply reminding them of their hearing date, time, and place. The third group was given the reminder and was told that there could be serious criminal consequences of not appearing. The fourth group got the reminder and the explanation of sanctions but was also told that the courts try to treat people fairly.

The results were simple. All reminders worked, but explaining the sanctions that could be imposed for a failure to appear (with or without the 'justice' message) worked better. The proportion of failures to appear were as follows:

No reminder:	12.6%
Reminder only:	10.9%
Reminder & sanction:	9.1%

These findings would suggest that there could be substantially fewer failures to appear if simple reminders were sent out that included the time and place of the court hearing and warnings about the criminal consequences of failing to appear. For example, if 1000 reminders were sent out in these jurisdictions, a reminder containing an explanation of the penalties for failure to appear in court would reduce the number of these 'failures' from 126 (with no reminder) to 91 (with this reminder and message). Whether this is cost effective depends on how various cost estimates are made. For example, using the actual data on the effect of the reminder, one could compare the cost of mailing 1000 reminders to the savings (criminal justice and social) from having 35 fewer failures to appear within this group of 1000 people.

Conclusion: It appears that simple reminders to those charged with criminal offences combined with educational material about the consequences of failing to appear for court can significantly reduce the rate of failures to appear. The benefits, of course, accrue not only to the police and court system but also to accused people who otherwise might not appear in court. The results suggest, therefore, that courts can contribute to 'crime control' by simply adopting the business model of some dentists.

Reference: Rosenbaum, David I., Nicole Hutsell, Alan J. Tomkins, Brian H. Bornstein, Mitchel N. Herian and Elizabeth M. Neeley. (2012) Court Date Reminder Cards. *Judicature, 95*(4), 177-187.

Legally required warnings to youths about the consequences of making statements to the police do little if anything to protect youths' rights.

Many jurisdictions have special procedures to warn youths about the consequences of making statements to the police (e.g., the U.S. *Miranda* warning). Developmental psychology suggests, however, that although youths may understand the meaning of the words they are told, they may lack the judgment and maturity to appreciate the purpose and importance of the rights they are being asked to waive.

To understand the interrogation of youths, this study examined records of 307 interrogations of 16- and 17-year-olds charged with felonies in four Minnesota counties. All were completed cases and constituted all formal police interrogations of 16-17 year-olds that took place in these counties between 2003 and 2006. The data examined included recordings of these interrogations (which were required by the state courts), the police reports related to the cases, as well as court records. Most of the youths (69%) had been arrested prior to the incident in which they were interrogated and most (57%) had been to court before. Their charges varied considerably.

To get youths to waive their rights, police used 'standard' interrogation techniques, including "communicating the value of talking – 'telling her story' – and telling the truth before they gave a *Miranda* warning" (p. 10-11). When speaking to the youths, police sometimes referred to the warning as a formality or a bureaucratic exercise, but were careful to ensure that youths indicated that they understood the warning. 93% of the youths who were interviewed waived their rights to silence and to counsel. Those youths with prior felony arrests were somewhat less likely to waive their rights (87%) than were those with no prior felony arrests (95%). But even 'experienced' youths were largely willing to talk to the police.

Most interrogations were very short: 77% took 15 minutes or less. Only 10% took more than 30 minutes. Most youths (80%) were cooperative with the police. It appeared that "most juveniles did not require a lot of persuasion or intimidation to cooperate" (p. 14). The police used a variety of 'standard' interrogation techniques that are used with adults. In 69% of the cases they used one or more 'maximization' techniques which are designed to "convey the interrogator's rock-solid belief that the suspect is guilty and that all denials will fail" (p. 5). These included confronting the youth with evidence such as statements from witnesses or co-accused (54% of cases). In 33% of the cases the police accused the youth of lying and in about 30% they urged the youth to tell the truth. Another set of techniques involved "minimizing tactics [on the part of the police officer which] offer face-saving excuses or moral justifications that reduce a crime's seriousness, provide a less odious motivation or shift blame…" (p. 15). As with adults, these were used less frequently than 'maximization techniques' (17% of cases). Most youths (59%) "confessed within a few minutes of waiving *Miranda* and did not require prompting by police" (p. 17). Only 12% did not make incriminating admissions.

Conclusion: Statements from youths were rarely excluded from court hearings. "Police [in these interrogations] acted professionally and complied with *Miranda's* protocol – there is no ambiguity about warnings and waivers. In addition, most juveniles confess and tapes provide unimpeachable evidence of their statements" (p. 23). However, "*Miranda's* assumption that a warning would enable suspects to resist the compulsive pressures of interrogation is demonstrably wrong" (p. 24). Youths, like adults, may understand the words in the warning, but they "lack ability to understand and competence to exercise rights" (p. 24). This article suggests youths be required to consult a lawyer before waiving their rights, because if they "cannot understand and exercise rights without legal assistance, then to treat them as if they do denies fundamental fairness and enables the state to exploit their vulnerability" (p. 26).

Reference: Feld, Barry C. (2013). Real Interrogation: What Actually Happens When Cops Question Kids. *Law & Society Review, 47* (1), 1-35.

Prosecutors allow departures from "mandatory" sentences for drug offenders who appear to be 'good' people.

Mandatory sentencing systems are most likely to be criticized because at times they require the imposition of disproportionate sentences. Many European 'mandatory' minimum sentences allow judges to depart if the sentence would otherwise be inappropriate and reasons are given for the departure. When such principled approaches are not available, decision makers may find alternative ways of mitigating the impact of rigid and harsh sentencing systems.

The United States Sentencing Commission guidelines, before 2005, made it almost impossible for judges to depart from the prescribed guideline sentence. The most important way of departing (downwards) was the prosecutor's request for a departure from the judge for "substantial assistance" given by the convicted person to the prosecutor. The judge would then determine the size of the departure (if any). Drug sentences under these guidelines are determined almost completely by the type and weight of the drug and the offender's criminal record. As a consequence, substantial assistance departures were important because they constituted almost the only way less-than-normal sentences could be imposed.

This study, carried out in three mid-western US judicial districts, examined which drug offenders (in 1515 cases) received substantial assistance departures. 41% of these cases received such departures. If a case received a departure, the reduction in sentence averaged about 50% (a reduction of over 5 years).

Departures were more likely to be given for three types of offenders: women, those with some post-secondary education, and those who were US citizens. In addition, the 35% of offenders who had not been held in pretrial custody were more likely than those who were in custody to receive a departure. Those whose most serious offence was a conspiracy charge were more likely to receive a departure than those facing an ordinary drug charge (e.g., trafficking). There were differences across the three districts, with substantial assistance departures more prevalent in Nebraska and Minnesota than in the Southern District of Iowa. In addition, when they were given, departures were larger in Nebraska and Minnesota than they were in Southern Iowa.

Neither drug type nor race was a significant predictor of substantial assistance departures. However, because those convicted of offences related to 'crack cocaine' are disproportionately black, it is hardly surprising that race did not have an additional simple effect. The offender's role in the offence (minor, aggravated or normal) did not have an impact on the likelihood of receiving a 'substantial assistance' departure, perhaps because this was one of the factors that had already been taken into account in sentencing.

Conclusion. It seems unlikely that all of the 41% of offenders in this sample who received downward departures offered the prosecutors substantial assistance. They would all have needed to possess useful information to exchange for a lower sentence. Similarly, it seems unlikely that women, citizens, those with some college or university education, and those not in custody at the time of sentence would have more information to trade than men, non-citizens, less educated defendants, and those in custody at the time of their sentencing. Instead, those who received substantial assistance offers from the prosecutors and less harsh sentences from the judges probably were not seen to be as serious offenders as others. More generally, since the Supreme Court decisions shifting the guidelines from 'mandatory' to 'advisory' appeared to have little overall impact on sentencing patterns (see *Criminological Highlights* V12N6#6), these findings suggest that those 'given a break' from harsh sentencing regimes may simply be those seen by the prosecutor and/or the judge as sympathetic offenders.

Reference: Cano, Mario V. and Cassia Spohn (2012). Circumventing the Penalty for Offenders Facing Mandatory Minimums. *Criminal Justice and Behavior, 39* (3), 308-322.

Imprisonment does not reduce the likelihood of reoffending.

One of the traditional justifications for imprisonment is that it will increase the likelihood that offenders will stop offending and become reintegrated into society (e.g., by getting a job). The theory is that through one or more mechanisms – specific deterrence, rehabilitation, job training, separating the offender from a criminogenic community, or simply 'breaking the cycle' of offending – imprisonment will help them stop offending.

The data do not support this view. Research comparing those sent to prison (as compared to those receiving community sanctions) suggests that prison is more likely to increase future offending than it is to decrease it (*Criminological Highlights*¸ V11N1#1, V11N1#2, V11N5#2, V11N6#4, V13N2#3). This finding also appears to hold for youths (V10N6#1, V11N4#3, V12N5#7). In addition to studies using advanced statistical techniques to create comparable groups who are sentenced to prison or not, studies in which offenders are essentially randomly assigned to receive a prison or non-prison sanction (V3N4#4, V11N4#2) show the same effect: experiencing prison does not reduce reoffending.

This paper takes advantage of the fact that in the state courts in Chicago, criminal cases are randomly assigned to the judges. Each judge hears a wide variety of cases including violent offences such as sexual offences and robbery (10% of the cases), property offences such as burglary or theft (29%), weapons offences (8%) and drug offences (53%). This study shows that the judges varied in the punitiveness of their sentences. Overall, about 35% of offenders were incarcerated. However, the least punitive judge sent only 26% of those found guilty to prison, whereas the most punitive judge sentenced 47% to prison. The study looked at relatively low level felony convictions to ensure that offenders would be released fairly soon after conviction if they were incarcerated. Though not the focus of this study, reoffending, not surprisingly, was related to race, age, the number of prior arrests, and offence.

Typically, of course, judges tend to imprison the 'worst' offenders – usually those with the longest criminal records. This normally makes it difficult to see whether there is an actual *causal* effect of imprisonment on offending. However, in this study, because judges varied in their punitiveness, and cases were randomly assigned to judges, there was an opportunity to see whether punitiveness of the sentences handed down *above and beyond the characteristics of the case* had an impact on recidivism.

Recidivism for this group of offenders was relatively high: the 5-year recidivism rates for those offenders who were sentenced by the 25 judges varied between about 60% and 70%. Most importantly, however, there was *no* relationship between the punitiveness of the judge and the recidivism rate for offenders sentenced by each judge. Said differently, the most punitive judges were no more successful in stopping crime than the least punitive judges. Judges, it would appear, aren't responsible for crime.

About half of these offenders had been convicted previously of an offence, and about 80% had previously been arrested. In other words, many had a history of involvement in the criminal justice system. Five years after the conviction and sentencing examined in this study, fewer than 20% were involved in employment that could be tracked through deductions from their pay for social security purposes. Most importantly in terms of the purpose of this study, the rate of employment (based on this measure) at five years after sentencing did not vary for those dealt with by the most punitive compared to the least punitive judges.

Conclusion: It appears that variation in the use of prison had no effect on reoffending; nor did it have any impact on ordinary employment five years after sentencing. Instead, "these results reinforce the perspective that prisons function primarily as custodial institutions – interrupting but not fundamentally altering, the average life-course trajectory of their temporary inhabitants" (p. 157).

Reference: Loeffler, Charles E. (2013). Does Imprisonment Alter the Life Course? Evidence on Crime and Employment from a Natural Experiment. *Criminology, 51*(1), 137-166.

Traditional religious beliefs may be used by serious street offenders to justify – rather than question – their offending.

Most traditional criminological theory would suggest that holding religious beliefs should strengthen the bonds between potential offenders and society. Stronger bonds with traditional values should, in turn, reduce offending because of the incongruity between offending and traditional religious beliefs. For example, "In western society the notion of punishment in the afterlife is assumed to be a powerful deterrent of deviance and is the bedrock of how many religions seek to control human behaviour" (p. 50).

On the other hand, for specific groups of people – those involved in serious street crimes, for example – religion may play a very different role. Many serious offenders experience a "heightened sense of futurelessness… [and] with no future prospects, [they] have little to lose by engaging in crime and violence…" (p. 52). In this context, religious beliefs might have quite a different relationship to offending.

In this study, 48 (6 females, 42 males) non-institutionalized Black residents of Atlanta, Georgia, who were actively involved in serious offences (drug dealing, robbery, carjacking, burglary) were interviewed in their own high crime neighbourhoods. Most (45 of the 48) reported being adherents of a specific religion (Christianity, for 44 of those interviewed). Most (40 of the 48) anticipated dying early as a result of their criminal behaviour.

Within this group of 48 offenders, religious doctrine was seen as supporting or facilitating crime in three ways. First, the offender's God was seen as a forgiving God: "God has to forgive everyone, even if they don't believe in him" (p. 59), explained one respondent. Another explained that everyone was fighting to get to heaven because "we already in Hell, you know" (p. 59).

Second, some offenders had unconventional views of traditional religion. Thus, for example, one respondent noted that "Jesus knows I ain't have no choice… He know I'm stuck in the hood and just doing what I gotta do to survive. But you know if you [poking the interviewer in the chest] rob somebody, then you might get punished because you going to the Perly Gates and Jesus going to be like, why you robbing motherfuckers when I gave you a nice job and a nice life already?" (p. 60). It appears that such interpretations of religion "served offenders well in justifying their behaviour" (p. 60).

Finally, some argued that their criminal behaviour was either permissible or condoned: "If God wasn't forgiving, I wouldn't be living… he's probably protecting you…." (p. 61). Continued offending "was often viewed as 'part of God's plan'" (p. 61).

Conclusion: Many of these offenders "actively referenced religious doctrine to justify past offences and to excuse the continuation of serious criminal conduct" (p. 62). But it should not be thought that "this criminogenic effect accrues from the content of religious doctrine per se. Rather it appears to be the result of either an imperfect or purposefully distorted understanding of [religious] doctrine, applied by the offender to their decision-making process" (p. 62). The offenders, then, were able "to reconcile their belief in God with their serious predatory offending. They frequently employed elaborate and creative rationalizations in the process and actively exploited religious doctrine to justify their crimes…. There is reason to believe that these rationalizations and justifications may play a criminogenic role in their decision making" (p. 62).

Reference: Topalli, Volkan, Timothy Brezina and Mindy Berhardt (2012). With God on My Side: The Paradoxical Relationship Between Religious Belief and Criminality Among Hardcore Street Offenders. *Theoretical Criminology, 17* (1), 49-69.

Some corrections programs can reduce reoffending, but some 'corrections' programs can increase offending.

The idea that 'corrections' programs, at worst, will have no impact has been shown to be wrong. One of the most famous examples of this was a random assignment study starting in 1939 in which youths in Massachusetts who received intensive social and psychological interventions were compared, 30 years later, to an equivalent group who received no special treatment. Those who *received* the intensive intervention fared worse 30 years later (*Criminological Highlights* V5N4#1). Similarly, a 'quick fix' prevention program, Scared Straight, also increased offending by youths exposed to it (*Criminological Highlights*, V6N2#4).

On the other hand, certain kinds of rehabilitation programs – properly administered to the appropriate people – can reduce offending. Generally speaking, programs that address individual deficits associated with criminal behaviour which – at least in theory – are modifiable can be effective. These programs may reduce the likelihood of future offending because they "are capable of creating a cognitive change in criminal thinking [or] criminogenic attitudes" (p. 10).

However, this does not mean that such programs are automatically successful. A person must be ready to change and have an opportunity to change (e.g., through employment or marriage) before a change in self-concept occurs and previous lifestyles are no longer seen as attractive. This article suggests that for treatment to be effective, the participants must "visualize a different and rewarding noncriminal future" (p. 12). "When programs appropriately adhere to the principles of risk, need, and responsivity, they can effectively reduce recidivism. [However,] many programs do not follow these principles" (p. 15). But in addition, little is known about "how to ensure that these [therapeutic] programs are delivered with fidelity and/or therapeutic integrity, or the extent to which interventions conform to the manner of service intended by the developers of the service" (p. 14). Simply put, programs motivated by good intentions and which sound good, may not work.

On the other hand, some programs are known to be ineffective. Increasing punishment severity or control of adult or young offenders does not appear to reduce crime. At the same time, other programs that *may* be very effective at making ex-offenders better citizens do not necessarily reduce offending for all types of offenders. Employment programs, for example, do not appear to be effective unless the offender is ready to change (*Criminological Highlights*, V4N3#6, V12N4#8). These results do not mean that employment programs for offenders should be abandoned. Instead, they should, perhaps, be evaluated — *just as they are for non-offender groups* — in terms of whether they help people get and maintain employment.

Conclusion: Programs to reduce offending – whether aimed at custodial populations or non-custodial populations – cannot be assumed to work just because they look as if they might. The examples of programs that make matters worse remind us of the admonition that program designers should ensure they "First do no harm." Harm, of course, can be measured in various ways: increasing offending by those who receive the programs, or harming those people or communities associated with those receiving the program.

Reference: MacKenzie, Doris Layton (2013). First Do No Harm: A Look at Correctional Policies and Programs Today. *Journal of Experimental Criminology, 9*, 1-17.

Human trafficking may be a cause for concern, but Canada's experience with its 2005 legislation suggests that its attempt to criminalize the issue is problematic and has accomplished little.

Human trafficking is usually defined as involving the transportation of people across borders with "the use of threats, force, coercion or fraud, resulting in conditions of servitude, slavery or commercial sexual exploitation of an individual" (p. 22).

Recently, there has been increased concern about the problem, notwithstanding the fact that it is impossible to know how large a problem it actually is. However, "feminist organizations have played a key role in human trafficking campaigns from the beginning of the 20th century to the present day" (p. 24). These campaigns have been based on two main perspectives. The first argues that human trafficking is "modern day slavery" (p. 24). The opposing view, "represented by sex workers' rights activists," … "argues that not every prostitute and migrant sex worker is forced or coerced into their situation" (p. 24).

The current international anti-trafficking convention, known as the Palermo Protocol (implemented by the U.N. in 2000), "specifies that in order to uncover trafficking networks, it is crucial to treat trafficked individuals as victims and not perpetrators of crime" (p 28). Further it states that the prohibited conduct – recruitment, transportation, etc., of persons through coercion, threats, etc., for the purposes of exploitation (sexual exploitation, forced labour, etc.) – should be criminalized. In 2005 Canada did that by making it an offence to recruit, transport, etc., a person, or exercise control, etc., over them for the purpose of exploiting them. Those who knowingly receive a benefit from these activities have also committed an offence.

Canada's law, although referred to as involving the '*trafficking* in persons', does *not* require that the victim actually be moved. What is critical is the exploitation. One of the key factors that distinguishes human trafficking from other forms of exploitation is the inability of the victim to consent to being trafficked, since consent obtained under deception, control, threats, and so on, is not valid (p. 24). Yet, this definition of 'exploitation' has allowed for the victim's consent to the prostitution-related activities to be ignored, since the conditions in which the consent was given fall under suspicion. Exploitation can be broader than just prostitution, but, where it involves prostitution, it becomes almost impossible to distinguish 'trafficking' from what is commonly referred to as 'pimping.'

Canada's first prosecution under this legislation clearly could have come under pre-existing laws relating to the "living off of the avails of prostitution" in that the convicted man had been charged in relation to his involvement in the prostitution of two underage girls. In fact, one girl apparently gave evidence that she did not fear for her safety. The accused was convicted of living off the avails of juvenile prostitution for one girl and for 'human trafficking' with respect to the other. In another case, a man was charged with 'human trafficking' in Toronto in relation to a woman from another Canadian city whom he assaulted after she tried to leave. He was found guilty of assault. "In several convicted cases of trafficking in Canada, there was clear indication of some romantic involvement between the accused and the alleged victims" (p. 40), which is not uncommon for those classified as pimps and prostitutes.

Other cases are similar: other charges (e.g., assault, living off the avails of prostitution, forcible confinement, kidnapping) could have been laid instead of 'trafficking', and are more likely to lead to conviction than the original trafficking charges. The cases in the first 3-4 years of the law "demonstrate police inclination toward laying human trafficking charges despite vague evidence" (p.35-36).

Conclusion: By removing the 'transportation' component of 'human trafficking,' Canadian law has removed the critical distinction between 'human trafficking' and other related offences. But in addition, although it is often alleged that 'human trafficking' involves 'organized crime', the prosecutions, thus far, have not demonstrated that link. The law also, then, may be little more than the "re-labelling [of] offences [that] can have serious implications for those involved, as it also undermines the severity of human trafficking by equating it with very small-scale 'pimping' and misdirects police attention, preventing them from uncovering situations of true human trafficking" (p. 40-41).

Reference: Roots, Katrin (2013). Trafficking or Pimping: An Analysis of Canada's Human Trafficking Legislation and its Implications. *Canadian Journal of Law and Society, 28*(1) 21-41.

The low imprisonment rates of the Nordic countries are rooted in their cultural and political traditions.

Unlike many countries, Denmark, Finland, Norway and Sweden have for at least four decades based penal policies on research findings. It was well established decades ago that most people have broken laws; hence there was never much support in these countries for the belief that 'offenders' were abnormal and needed intensive treatment or punishment. Throughout the second half of the 20th century, punishment generally and imprisonment in particular, were not seen in any of these countries as an adequate solution to crime.

When it became clear in the early 1950s that Finland had an imprisonment rate three times that of its Scandinavian neighbours, the decision was made to reduce imprisonment even though during this same period reported crime was increasing in all four countries. The increase in crime in Finland was very similar to that in the three other Scandinavian countries (which had relatively stable imprisonment rates throughout this period), supporting the conclusion that crime and imprisonment rates are fairly independent of one another.

A wide range of different policies account for Finland's success in reducing imprisonment, including a 'harm reduction' approach to drugs rather than a goal to eradicate all drug use. On the other hand, there were some changes in maximum penalties for certain (largely violent) offences. Not until the 1990s (in Sweden) did crime policy become an election issue in this region. In Finland in 1998, crime became a political issue as it did in Denmark after 2001. However, the political talk about crime did not translate into increased imprisonment. The result is that the Nordic countries (Denmark, Norway, Sweden, Finland, and Iceland) have an average imprisonment rate in 2012 that is lower than all other regions of Europe (Nordic rate per 100,000 residents: 65; Western Europe: 88; Southern Europe: 123; Britain and Ireland: 135; Canada: 117; Australia: 129, New Zealand 190; USA: 730). Most of the difference between the Nordic countries and the rest of Europe can be traced to shorter sentences in the former, though some of the difference relates to fewer sentences of imprisonment in that region than elsewhere.

Social attitudes and policies in other areas are also likely to be relevant to understanding rates of imprisonment in the Nordic countries. Compared to residents in other European countries, residents of the Nordic countries appear to show more trust in people generally and in the police, courts, and the justice system. Compared to the rest of Europe, the Nordic countries have less economic inequality and more public expenditures on social programs. This article suggests that "by providing workable alternatives to imprisonment…[and] by indirectly promoting social and economic equality and security…" (p. 105) imprisonment rates can be kept relatively low.

Conclusion: Low imprisonment rates in the Nordic countries didn't "just happen." They are low because of policy choices that were made to keep them low. But in addition, legislated sentencing structures provide only broad guidance and leave individual decisions to judges, a practice which "seems to be less vulnerable to short-sighted and ill-founded political interventions…" (p. 106). Nevertheless, there are differences; Swedish legislators, for example, are "more willing to act quickly and pass 'single-problem solutions' [to crime problems]" (p. 107). More generally, however, "the future of Nordic penal policy is very much the future of the Nordic welfare model" (p. 107).

Reference: Lappi-Seppälä, Tapio (2012). Penal Policies in the Nordic Countries, 1960-2010. *Journal of Scandinavian Studies in Criminology and Crime Prevention, 13*, 83-111.