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# \*\*ORGANIZED STRATEGY [3:30]\*\*

## CP CORE

#### The counterplan text is that the United States criminal justice system will value retribution over rehabilitation, consistent with the confinement model of punishment as advocated by Logan and Gaes. I reserve the right to clarify. Logan and Gaes explain:

Logan and Gaes 93, Charles H. Logan and Gerald G. Gaes [Federal Bureau of Prisons], “META-ANALYSIS AND THE REHABILITATION OF PUNISHMENT”, JUSTICE QUARTERLY, Vol. 10 No. 2, June 1993.

Another way to preserve treatment programs for prisoners would be to justify them on grounds that would be relevant even if rehabilitation were not an official goal of the system. Many programs currently offered in prisons could be separated from the context and vocabulary of "rehabilitation," and could be justified instead in the context and with the vocabulary of "confinement." Despite a decline in official endorsement¶ of the rehabilitative ideal, many corrections officials continue to endorse programs because of their normalizing effect on the prison environment, not because they believe in effecting a change in the inmates. In addition, many corrections officials endorse the view that some programs work for some inmates in the sense that those who want to change should receive the opportunity to change. Both of these goals— time spent constructively and the opportunity to acquire skills— still can be pursued without the baggage of the rehabilitative ideal. John DiIulio (1991:114) notes that most prison and jail administrators view correctional programs from what he calls an "institutional perspective." That is, they "evaluate programs not mainly in terms of what they do to reduce the likelihood of recidivism or otherwise affect inmates' post-release behavior but as institutional management tools.” DiIulio also suggests that programs can be defended in less utilitarian terms simply as part of what we mean by humane conditions of confinement. A "confinement model" of imprisonment (Logan 1991: ch. 1) would be a follow-up to the "justice model" of sentencing. The confinement model, like the justice model, is based on a purely retributive philosophy of punishment. In this philosophy, the essential purpose of imprisonment is to punish offenders–fairly and justly–through lengths of confinement proportionate to the seriousness of their crimes. Although confinement may serve other purposes in addition to justice and punishment, those are the necessary and sufficient conditions for justifying it. Thus the term confinement model may be regarded as a shorthand for a clumsier but more explicit label: the doing-justice-through-confinement-as-a-form-of-punishment model. Under the confinement model, offenders are sent to prison as punishment, not for punishment. Thus, prisons operated on this model need not be harsh or internally punitive, nor would they be [or] insensitive to the welfare of prisoners. Coercive confinement carries an obligation to meet prisoners' basic needs at a reasonable standard of decency, so measures of health care, safety, sanitation, nutrition, and other aspects of basic living conditions are relevant. Furthermore, confinement must meet constitutional standards of fairness and due process, so not only effectiveness and efficiency, but also the procedural justice with which confinement is imposed, are important. In addition–and most relevant to this discussion–programmatic activities such as education, recreation, and work can be viewed as part of the conditions of confinement, regardless of their alleged effects on rehabilitation. In short, confinement is much more than merely warehousing. Here is a mission statement for a prison under the confinement model: The mission of a prison is to keep prisoners–to keep them in, keep them safe, keep them in line, keep them healthy, and keep them busy–and to do it with fairness, without undue suffering, and as efficiently as possible. Many inmate programs currently offered in prisons–such as work, training, education, arid recreation-can be justified under the heading of constructive activity ("keep them busy"). "Constructive" activity is not defined here as "contributing to the betterment of inmates" but as activity that is, on its face, consistent with the orderly, safe, secure, and humane operation of a prison. Idleness and boredom can be viewed as wrong from a work ethic standpoint, or as unnatural because human beings are not meant to be idle, or as so fundamentally related to mischief as to be undesirable for that reason. In any case, prison programs can be defended as forms of constructive and meaningful activity and as antidotes to idleness, without invoking claims of rehabilitative effectiveness. This is not to say that it does not matter whether the programs have any rehabilitative effects; it would be fine if they did so. But when we say that the primary purpose of prison is to punish through confinement, we become more interested in the operation of these programs inside the prison gates and less concerned about their effects beyond.

#### The implication is that the CP is mutually exclusive with the aff because it explicitly rejects the rehabilitative philosophy and justifies treatment programs under retributive confinement. There are no perms—my evidence is incredibly explicit and comparative.

#### This also nullifies the aff offense – their evidence says rehabilitation is effective, but that can be implemented within a generally retributive system so their offense isn’t a reason to prefer a rehabilitative paradigm. Their solvency advocates are actually mine; their studies study instances of the status quo, which uses small cases of rehabilitation within a generally retributive system.

#### The CP also competes through net benefits: Emphasizing retribution preserves accountability and the force of law. Logan and Gaes 2:

As punishment, imprisonment conveys an important cultural message, but if the official mission of a prison is defined simultaneously as both punishment and rehabilitation conflicting and confusing messages are transmitted both inside and outside the prison walls. Inside the walls, such a definition conveys a message of rights without responsibility. When a prison system is mandated in its mission statement to attempt rehabilitation, or even merely to provide opportunities and resources for self-improvement, that mandate creates for inmates a legitimate claim (a right) to personally beneficial services. At the same time, it undermines inmates' accountability by defining them, like children, as insufficiently developed and disadvantaged persons for whose future behavior society must take some responsibility. Whereas imprisonment as punishment defines inmates as responsible for their past behavior, and whereas discipline within prison defines inmates as accountable for their current behavior, rehabilitation as a goal of the system defines inmates as not fully responsible for their future behavior. Outside the walls, linking imprisonment with rehabilitation conveys a confusing message to the general public. As punishment, the message of imprisonment is "Felonies are very wrong acts, and those who commit them will be held to account." But the message of the rehabilitation ethic is "Felonies are the result of personal deficiencies (of knowledge, skills, habits, values, temperament, motivation, personality, and so on) on the part of the individual; [that] society must attempt to correct those personal deficiencies." That is not an appropriate message for society to construct through its institutions of punishment. Such a message depicts criminal behavior in deterministic terms and portrays offenders as objects in need of adjustment, rather than as responsible human beings who must accept the consequences of their actions. It may not actually excuse their crimes, but it conflicts with and weakens the punishment message.

## LEGITIMACY

#### A retributive theory inspires respect for the law. Robinson:

Robinson, Paul H. and John M. Darley “The Utility of Desert.” Northwestern University Law Review, Vol. 91, No. 2. 1997.

Our central point is this: The criminal law’s power in nurturing and communicating societal norms and its power to have people defer to it in unanalyzed cases is directly proportional to have people defer to it in unanalyzed cases is directly proportional to criminal law’s moral credibility. If criminalization or conviction (or decriminalization or refusal to convict) is to have an effect in the norm-nurturing process, it will be because the criminal law has a reputation for criminalizing and punishing only that which deserves moral condemnation, and for decriminalizing and not punishing that, which does not. If, instead, the criminal law’s reputation is one simply of a collection of rules, which do[es] not necessarily reflect the community’s perceptions of moral blameworthiness, then there would be little reason to expect the criminal law to be relevant to the societal debate over what is and is not condemnable and little reason to defer to it as a moral authority. What then are the requirements for a criminal law system to gain this credibility? How can this credibility be lost? Enhancing the criminal law’s moral credibility requires, more than anything, that the criminal law make clear to the public that its overriding concern is doing justice. Therefore, the most important reforms for establishing the criminal law’s moral credibility may be those that concern the rules by which criminal liability and punishment are distributed. The criminal law must earn a reputation for (1) punishing those who deserve it under rules perceived as just, (2) protecting from punishment those who do not deserve it, and (3) where punishment is deserved, imposing the amount of punishment deserved, no more, no less. Thus, for example, the criminal law ought to maintain a viable insanity defense that excuses those who are perceived as not responsible for their offense, ought to avoid the use of strict liability (imposing liability in the absence of a culpable state of mind), and ought to limit the use of non-exculpatory defenses. In other words, it ought to adopt rules that distribute liability and punishment according to desert, even if a non-desert distribution appears in the short-run to offer the possibility of reduc[e]ing crime. The point is that every deviation from a desert distribution can incrementally undercut the criminal law’s moral credibility, which in turn can undercut its ability to help in the creation and internalization of norms and its power to gain compliance by its moral authority. Thus, contrary to the apparent assumptions of past utilitarian debates, such deviations from desert are not cost free, and their cost must be included in the calculation when determining which distribution of liability will most effectively reduce crime.

#### That is essential for compliance with the law.

Paul Robinson. [“Mercy, Crime Control & Moral Credibility” Public Law and Legal Theory Research Paper Series Research Paper No. #10-32] AT

As to these norms, the criminal law builds and maintains societal norms in several ways. First, the criminal law enforcement and adjudication activities send[s] daily messages[.] to all who read or hear about them. Every time criminal liability is imposed, it reminds us of the norm prohibiting the offender’s conduct and confirms the condemnable nature of the conduct. At the same time, the [Second,] public condemnation supports and encourages the efforts of those who have remained [the] law-abiding. Having avoided breaking that law, people can feel good about themselves, which in turn reinforces their commitment to the norm expressed in the offense.

## DETERRENCE – Abrams

#### A confinement system also gets to claim the advantages of deterrence.

James Rachels. [“Punishment and Desert” Ethics in Practice 1997. Pp 470-479] AT

To these reasons a third may be added. Morality includes (some would say it consists in) how we choose to treat other people in our myriad interactions with them. But if reciprocity could not be expected, the morality of treating others well would come to occupy a less important place in people’s lives. In a system that respects deserts, someone who treats others well may expect to be treated well in return, while someone who treats others badly cannot [expect to be treated well]. If this aspect of moral life were eliminated, morality would have no reward, and immorality would have no bad consequences; so there would be less reason for one to be concerned with it. If people were perfectly benevolent, of course, such incentives would not be needed. But for imperfectly benevolent beings such as ourselves the acknowledgment of deserts provides the reason for being moral that is required for the whole system to be effective.

#### Deterrence works. The fact that add-on gun laws reduce crime prove that severity of sentencing has a deterrent effect.

David S. Abrams 2011. [“Estimating the Deterrent Effect of Incarceration using Sentencing Enhancements” University of Pennsylvania December, 2011]

In this paper, I use the introduction of add-on gun laws to isolate the deterrent effect of incarceration. Since defendants sentenced under add-on gun laws receive sentences of several years for their underlying crime, any impact on crime within the first several years of an add-on gun law may be interpreted as due solely to its deterrent effect. I find that this effect on gun robberies is significant, with a per-capita reduction of 5% within three years of the law’s effective date. This reduction in gun robberies does not seem to come at substantial expense from criminals substituting to other types of crime. Non-gun robberies and larcenies display a weaker response to add-on laws, but in the same direction, supporting the notion that add-on gun laws may [also] have positive, not negative spillovers. While it is difficult completely rule out that passage of add-on gun laws is endogenous, or that contemporaneous policy changes may be responsible for some of the findings, I present substantial evidence addressing these concerns. Numerous alternate specifications are explored to attempt to verify the robustness of the central findings. Contemporary newspaper data suggests that legislative action is often spurred by idiosyncratic crimes. Triple differences and an analysis of related and unrelated crimes reinforce the central finding of deterrence and point toward generalist career criminals. Previous research into deterrence has often been limited to single jurisdictions or has been unable to make use of natural experiments to establish a causal relationship. This paper should help solidify our evidence for deterrence from incarceration. While the jurisdictions vary, it is useful to compare the magnitude of the estimates found in this paper with others. The 5% three year decline in this paper is close in magnitude to the 8% drop found by Kessler and Levitt (1999). Since the magnitude of sentence enhancements in that paper are similar to gun add-ons, this is an encouraging result. Other papers use sentencing changes that are substantially different from those in this paper, and so a comparison of elasticities is more illuminating. A quick back of the envelope calculation yields an elasticity of approximately -.10 in the current paper. This magnitude is consistent with that found by [and] Lee and McCrary (2011). They bound allowable elasticities consistent with their data and model to have a magnitude no greater than -.13, although their preferred parameter values yield elasticities close to 0. The largest recent empirical elasticity estimates come from Drago, et al. (2009) using Italian data, where they find a magnitude of -.74 for 7 months. This may be an indication that the substantially lower incarceration rate in Italy makes it difficult to extrapolate to the United States. A back of the envelope calculation using Helland and Tabarrok’s (2007) results from examining three strikes induced change yields an elasticity around -.07. The main finding in this paper is of a robust deterrent effect of incarceration. As the preceding discussion illustrates, the magnitude of the effect found here is consistent with some prior results from individual jurisdictions, although there is a wide range of estimates. In looking toward future research and implications for policy, one must recognize that the magnitude of deterrence, and not just its existence, is paramount.

#### This study’s findings are applicable across the US at all times.

Abrams 2

The strategy in this paper for estimating the impact of increased sentence length follows similar lines to some of the aforementioned studies, but makes several advances. Unlike previous studies that focus on an individual state, the fact that add-on gun laws were passed in a majority of states allows for more easily generalizable results of the analysis. The sample in this study is extremely representative of the country as a whole, since most states passed an add-on gun law at some point in the period investigated. It also uses a time series almost 40 years long, which lends strength to the belief that the [so] findings are not location and time specific.

## DETERRENCE – Meta-Study

#### Here’s another meta-study that goes my way: focused deterrence strategies have a large and statistically significant effect on reducing crime rates.

Anthony A. Braga and David L. Weisburd 2012. [“The Effects of Focused Deterrence Strategies on Crime : A Systematic Review and Meta-Analysis of the Empirical Evidence.” Journal of Research in Crime and Delinquency. Sage Publications. September 13, 2011. Revised July 23, 2012. AJ.]

Of the eleven evaluations of focused deterrence strategies, 10 reported note- worthy crime reduction effects associated with the approach (Table 1). Only the evaluation of Newark’s Operation Ceasefire did not report any significant crime prevention benefits generated by the violence reduction strategy. Two of the three studies that measured possible crime displacement and diffusion effects reported noteworthy diffusion of crime control benefits **associated with** the focused **deterrence** intervention; none reported significant crime displacement effects. To test the statistical significance of the observed vote counting distribution of crime reduction effects reported by the 11 eligible studies, we used an application of the binomial distribution known as the sign test (Blalock 1979). This simple test examines the probabilities of getting an observed proportion of successes from a popula- tion of equal proportions of successes and failures. Of the 11 studies, 10 (90.9 percent) reported noteworthy crime reductions associated with the focused deterrence approach. According to the sign test, this result was statistically significant **(exact binomial two-tailed probability 1⁄4 .0117).**

#### They continue:

At the same time, the effects observed in the studies reviewed were often very large, and such effect sizes are evidenced as well in those studies using strong comparison groups (e.g., Papachristos et al. 2007) and in the sole ran- domized controlled trial (Hawken and Kleiman 2009). Our review provides strong empirical evidence for the crime prevention effectiveness of focused deterrence strategies. Even if we assume **that the effects observed contain** some **degree of** upward bias, it appears that the overall impact of such pro- grams is noteworthy. **These findings are certainly encouraging and point to the promises of this approach.**

#### Prefer because:

#### It prioritizes outcomes based on their strength to make an accurate determination of whether deterrence works. Studies that don’t are inaccurate – for example, a meta-analysis of two studies that find a tiny effect of rehab and one that found a huge effect of deterrence would normally conclude in favor of rehab, but it’s more accurate to prioritize outcomes to say the strength of one conclusion means deterrence works.

#### It is very selective of the data – none of the studies will have methodological flaws because they were screened out carefully.

#### They picked studies of areas that naturally provide control groups where the criminal law changed quickly, so it avoids the problems of correlational data by using a control group.

## EXTINCTION WEIGHING

#### Systemic impacts should come first – focus on existential risk causes policy paralysis which prevents us from accessing impacts in the first place.

Rescher 83 [Nicholas Rescher, University of Pittsburgh Professor of Philosophy, “Risk: A Philosophical Introduction to the Theory of Risk Evaluation and Management” 1983].

The stakes are high, the potential benefits enormous. (And so are the costs - for instance cancer research and, in particular, the multi-million dollar gamble on interferon.) But there is no turning back the clock. The processes at issue are irreversible. Only through the shrewd deployment of science and technology can we resolve the problems that science and technology themselves have brought upon us. America seems to have backed off from its traditional entrepreneurial spirit and become a risk-aversive, slow investing economy whose (real-resource) support for technological and scientific innovation has been declining for some time. In our yearning for the risk-free society we may well create a social system that makes risk-taking innovation next to impossible. The critical thing is to have a policy that strikes a proper balance between malfunctions and missed opportunities - a balance whose "propriety" must be geared to a realistic appraisal of the hazards and opportunities at issue. Man is a creature condemned to live in a twilight zone of risk and opportunity. And so we are led back to Aaron Wildavski's thesis that flight from risk is the greatest risk of all, "because a total avoidance of risks means that society will become paralyzed, depleting its resources in preventive action, and denying future generations opportunities and technologies needed for improving the quality of life. By all means let us calculate our risks with painstaking care, and by all means let us manage them with prudent conservatism. But in life as in warfare there is truth in H. H. Frost's maxim that "every mistake in war is excusable except inactivity and refusal to take risks" (though, obviously, it is needful to discriminate between a good risk and a bad one). The price of absolute security is absolute stultification.

#### We should disregard enormous impacts regardless of their probability because of prior life experience proves.

Holden Karnofsky. “Why We Can't Take Expected Value Estimates Literally (Even When They're Unbiased)”. 18 August 2011. Co-Founder of GiveWell, a non-profit charity evaluator (decides whom to give money) Harvard ’03. “An EEV approach…of life experience.” DT.

An EEV [explicit] [expected-value] approach to this situation might say, "Even if there's a 99.99% chance that the estimate is completely wrong and that the value of Action A is 0, there's still an 0.01% probability that Action A has a value of X. Thus, overall Action A has an expected value of at least 0.0001X; the greater X is, the greater this value is, and if X is great enough then, then you should take Action A unless you're willing to bet at enormous odds that the framework is wrong."¶ However, the same formula discussed above indicates that Action X actually has an expected value - after the Bayesian adjustment - of X/(X^2+1), or just under 1/X. In this framework, the greater X is, the lower the expected value of Action A. This syncs well with my intuitions: if someone threatened to harm one person unless you gave them $10, this ought to carry more weight (because it is more plausible in the face of the "prior" of life experience) than if they threatened to harm 100 people, which in turn ought to carry more weight than if they threatened to harm 3^^^3 people (I'm using 3^^^3 here as a representation of an unimaginably huge number). The point at which a threat or proposal starts to be called "Pascal's Mugging" can be thought of as the point at which the claimed value of Action A is wildly outside the prior set by life experience (which may cause the feeling that [is when] common sense is being violated). If someone claims that giving him/her $10 will accomplish 3^^^3 times as much as a 1-standard-deviation life action from the appropriate reference class, then the actual post-adjustment expected value of Action A will be just under (1/3^^^3) (in standard deviation terms) - only trivially higher than the value of an average action, and likely lower than other actions one could take with the same resources. This is true without applying any particular probability that the person's framework is wrong - it is simply a function of the fact that their estimate has such enormous possible error. An ungrounded estimate making an extravagant claim ought to be more or less discarded in the face of the "prior distribution" of life experience.

# \*\*CONFINEMENT MODEL\*\*

#### The counterplan text is that the United States criminal justice system will value retribution over rehabilitation, consistent with the confinement model of punishment as advocated by Logan and Gaes. I reserve the right to clarify. Logan and Gaes explain:

Logan and Gaes 93, Charles H. Logan [Visiting Fellow at the Federal Bureau of Prisons, Office of Research and Evaluation] and Gerald G. Gaes [Federal Bureau of Prisons], “META-ANALYSIS AND THE REHABILITATION OF PUNISHMENT”, JUSTICE QUARTERLY, Vol. 10 No. 2, June 1993.

Another way to preserve treatment programs for prisoners would be to justify them on grounds that would be relevant even if rehabilitation were not an official goal of the system. Many programs currently offered in prisons could be separated from the context and vocabulary of "rehabilitation," and could be justified instead in the context and with the vocabulary of "confinement." Despite a decline in official endorsement¶ of the rehabilitative ideal, many corrections officials continue to endorse programs because of their normalizing effect on the prison environment, not because they believe in effecting a change in the inmates. In addition, many corrections officials endorse the view that some programs work for some inmates in the sense that those who want to change should receive the opportunity to change. Both of these goals— time spent constructively and the opportunity to acquire skills— still can be pursued without the baggage of the rehabilitative ideal. John DiIulio (1991:114) notes that most prison and jail administrators view correctional programs from what he calls an "institutional perspective." That is, they "evaluate programs not mainly in terms of what they do to reduce the likelihood of recidivism or otherwise affect inmates' post-release behavior but as institutional management tools.” DiIulio also suggests that programs can be defended in less utilitarian terms simply as part of what we mean by humane conditions of confinement. A "confinement model" of imprisonment (Logan 1991: ch. 1) would be a follow-up to the "justice model" of sentencing. The confinement model, like the justice model, is based on a purely retributive philosophy of punishment. In this philosophy, the essential purpose of imprisonment is to punish offenders–fairly and justly–through lengths of confinement proportionate to the seriousness of their crimes. Although confinement may serve other purposes in addition to justice and punishment, those are the necessary and sufficient conditions for justifying it. Thus the term confinement model may be regarded as a shorthand for a clumsier but more explicit label: the doing-justice-through-confinement-as-a-form-of-punishment model. Under the confinement model, offenders are sent to prison as punishment, not for punishment. Thus, prisons operated on this model need not be harsh or internally punitive, nor would they be insensitive to the welfare of prisoners. Coercive confinement carries an obligation to meet prisoners' basic needs at a reasonable standard of decency, so measures of health care, safety, sanitation, nutrition, and other aspects of basic living conditions are relevant. Furthermore, confinement must meet constitutional standards of fairness and due process, so not only effectiveness and efficiency, but also the procedural justice with which confinement is imposed, are important. In addition–and most relevant to this discussion–programmatic activities such as education, recreation, and work can be viewed as part of the conditions of confinement, regardless of their alleged effects on rehabilitation. In short, confinement is much more than merely warehousing. Here is a mission statement for a prison under the confinement model: The mission of a prison is to keep prisoners–to keep them in, keep them safe, keep them in line, keep them healthy, and keep them busy–and to do it with fairness, without undue suffering, and as efficiently as possible. Many inmate programs currently offered in prisons–such as work, training, education, arid recreation-can be justified under the heading of constructive activity ("keep them busy"). "Constructive" activity is not defined here as "contributing to the betterment of inmates" but as activity that is, on its face, consistent with the orderly, safe, secure, and humane operation of a prison. Idleness and boredom can be viewed as wrong from a work ethic standpoint, or as unnatural because human beings are not meant to be idle, or as so fundamentally related to mischief as to be undesirable for that reason. In any case, prison programs can be defended as forms of constructive and meaningful activity and as antidotes to idleness, without invoking claims of rehabilitative effectiveness. This is not to say that it does not matter whether the programs have any rehabilitative effects; it would be fine if they did so. But when we say that the primary purpose of prison is to punish through confinement, we become more interested in the operation of these programs inside the prison gates and less concerned about their effects beyond.

#### The implication is that the CP is mutually exclusive with the aff because it explicitly rejects the rehabilitative philosophy and justifies treatment programs under retributive confinement. There are no perms—my evidence is incredibly explicit and comparative.

#### This also nullifies the aff offense – their polls say people want rehabilitation but that can be implemented within a generally retributive system so their offense isn’t a reason to prefer a rehabilitative paradigm.

#### The CP also competes through net benefits: Emphasizing retribution preserves accountability and the force of law. Logan and Gaes 2:

As punishment, imprisonment conveys an important cultural message, but if the official mission of a prison is defined simultaneously as both punishment and rehabilitation conflicting and confusing messages are transmitted both inside and outside the prison walls. Inside the walls, such a definition conveys a message of rights without responsibility. When a prison system is mandated in its mission statement to attempt rehabilitation, or even merely to provide opportunities and resources for self-improvement, that mandate creates for inmates a legitimate claim (a right) to personally beneficial services. At the same time, it undermines inmates' accountability by defining them, like children, as insufficiently developed and disadvantaged persons for whose future behavior society must take some responsibility. Whereas imprisonment as punishment defines inmates as responsible for their past behavior, and whereas discipline within prison defines inmates as accountable for their current behavior, rehabilitation as a goal of the system defines inmates as not fully responsible for their future behavior. Outside the walls, linking imprisonment with rehabilitation conveys a confusing message to the general public. As punishment, the message of imprisonment is "Felonies are very wrong acts, and those who commit them will be held to account." But the message of the rehabilitation ethic is "Felonies are the result of personal deficiencies (of knowledge, skills, habits, values, temperament, motivation, personality, and so on) on the part of the individual; [that] society must attempt to correct those personal deficiencies." That is not an appropriate message for society to construct through its institutions of punishment. Such a message depicts criminal behavior in deterministic terms and portrays offenders as objects in need of adjustment, rather than as responsible human beings who must accept the consequences of their actions. It may not actually excuse their crimes, but it conflicts with and weakens the punishment message.

## LEGAL LEGITIMACY

#### A retributive theory inspires respect for the law. Robinson:

Robinson, Paul H. and John M. Darley “The Utility of Desert.” Northwestern University Law Review, Vol. 91, No. 2. 1997.

Our central point is this: The criminal law’s power in nurturing and communicating societal norms and its power to have people defer to it in unanalyzed cases is directly proportional to have people defer to it in unanalyzed cases is directly proportional to criminal law’s moral credibility. If criminalization or conviction (or decriminalization or refusal to convict) is to have an effect in the norm-nurturing process, it will be because the criminal law has a reputation for criminalizing and punishing only that which deserves moral condemnation, and for decriminalizing and not punishing that, which does not. If, instead, the criminal law’s reputation is one simply of a collection of rules, which do[es] not necessarily reflect the community’s perceptions of moral blameworthiness, then there would be little reason to expect the criminal law to be relevant to the societal debate over what is and is not condemnable and little reason to defer to it as a moral authority. What then are the requirements for a criminal law system to gain this credibility? How can this credibility be lost? Enhancing the criminal law’s moral credibility requires, more than anything, that the criminal law make clear to the public that its overriding concern is doing justice. Therefore, the most important reforms for establishing the criminal law’s moral credibility may be those that concern the rules by which criminal liability and punishment are distributed. The criminal law must earn a reputation for (1) punishing those who deserve it under rules perceived as just, (2) protecting from punishment those who do not deserve it, and (3) where punishment is deserved, imposing the amount of punishment deserved, no more, no less. Thus, for example, the criminal law ought to maintain a viable insanity defense that excuses those who are perceived as not responsible for their offense, ought to avoid the use of strict liability (imposing liability in the absence of a culpable state of mind), and ought to limit the use of non-exculpatory defenses. In other words, it ought to adopt rules that distribute liability and punishment according to desert, even if a non-desert distribution appears in the short-run to offer the possibility of reduc[e]ing crime. The point is that every deviation from a desert distribution can incrementally undercut the criminal law’s moral credibility, which in turn can undercut its ability to help in the creation and internalization of norms and its power to gain compliance by its moral authority. Thus, contrary to the apparent assumptions of past utilitarian debates, such deviations from desert are not cost free, and their cost must be included in the calculation when determining which distribution of liability will most effectively reduce crime.

#### And, this legal legitimacy is key to introduce social norms that reduce crime.

Paul Robinson. [“Mercy, Crime Control & Moral Credibility” Public Law and Legal Theory Research Paper Series Research Paper No. #10-32] AT

Perhaps the greatest utility of empirical desert comes through I more subtle but potentially more inﬂuential mechanism. The real power to gain compliance with society’s rules of prescribed conduct lies not in the threat of ofﬁcial criminal sanction, but in the influence of the intertwined forces of social and individual moral control. The networks of interpersonal relationships in which people ﬁnd themselves, the social norms and prohibitions shared among those relationships and transmitted through those social networks, and the internalized representations of those norms and moral precepts control people’s conduct. The law is not irrelevant to these social and personal forces. Criminal law, in particular, plays a central role in creating and maintaining the social consensus necessary for sustaining moral norms; in fact, in a society as diverse as ours, the criminal law may be the only societywide mechanism that [by] transcend[ing]s cultural and ethnic differences. Thus, the criminal law's most important realworld effect may be [is] its ability to assist in the building, shaping and maintaining of these norms and moral principles. It can contribute to and harness the compliance-producing power of interpersonal relationships and personal morality, but it will be effective in doing so only if it has sufﬁcient credibility.

Robinson continues

As to these norms, the criminal law builds and maintains societal norms in several ways. First, the criminal law enforcement and adjudication activities send[s] daily messages[.] to all who read or hear about them. Every time criminal liability is imposed, it reminds us of the norm prohibiting the offender’s conduct and confirms the condemnable nature of the conduct. At the same time, the [Second,] public condemnation supports and encourages the efforts of those who have remained [the] law-abiding. Having avoided breaking that law, people can feel good about themselves, which in turn reinforces their commitment to the norm expressed in the offense.

## INDETERMINATE SENTENCING BAD – Rehab

#### Indeterminate sentencing mentally harms prisoners and creates resentment

Anushka Asthana. 2010 [“Prisoners on indeterminate sentences 'left in limbo' over parole dates” The Guardian 30 October 2010] AT

Peter Lodder QC, chairman-elect of the Bar Council, said there were fears prisoners could face a "Kafkaesque" situation where they had no idea when they would be released. He warned that the [For] growing numbers placed on indeterminate sentences threatened the "contract" between prison staff and inmates that ensured the smooth running of jails. "One can see how for prisoners in this situation, where there is no light at the end of the tunnel, there is little incentive and a great deal of frustration, and that is what leads to the [which] harm[s] to emotional and mental wellbeing," Lodder said. "If you have an ordinary sentence – a determinate sentence – then one-half of that sentence will not be served upon the basis that you are well behaved. That is an understanding – a contract – that makes sure prisons run smoothly. On these [indeterminate] sentences, there is no such provision." Lodder, who will take over leadership of the Bar Council in January, added: "When you disenfranchise people to such a significant extent… you are bound to create a resentment."

#### That is empirically verified

Asthana 2

"The government needs to accelerate the parole reviews for prisoners in this situation. [It] needs to consider whether once these prisoners have served the minimum term they can be released, and what appropriate and speedy mechanism there can be to facilitate that," he said. He appreciated there would be concern if those who were released reoffended, "but what should not happen is that there is a disproportionate fear of one of these prisoners reoffending or a disproportionate reaction when one of them does. In other words, [the government] need[s] political nerve." One of the problems was [There is] a "risk-averse culture" on parole boards, Lodder said, because of the difficulty in proving that someone was no longer a danger. Others warned that prisoners were suffering from mental health issues as a result of uncertainty over their sentences. A report by the Sainsbury Centre for Mental Health found that more than half of IPP prisoners have problems with "emotional wellbeing" and almost one in five receive psychiatric treatment. Many told researchers the lack of a release date to work towards had damaged relationships with family and friends.

#### That directly turns the aff – indeterminate sentencing isn’t a good environment for rehabilitation because it degrades their mental health.

#### And, family relationships are key to reducing crime.

Charkoudian et al [“The Role of Family and Pro-Social Relationships in Reducing Recidivism” Lorig Charkoudian, Bonita L. Cosgrove, Dennis P. Ferrell and Shawn M. Flower] AT

Family can be a critical component in assisting individuals transitioning from incarceration because family members provide both social control and social support, 2 which inhibit criminal activity. 3 Family members and other supportive individuals “facilitate informal social controls — those interpersonal bonds which link ex-inmates to churches, law-abiding neighbors, families and communities.” 4 This, in turn, provides offenders opportunities for housing, employment, [and] education and training that they may not be successful in obtaining otherwise. In contrast, those without positive supportive relationships are more likely to engage in criminal behavior. 5

# \*\*INDIVIDUAL STUDIES\*\*

## ABRAMS STUDY

#### The fact that add-on gun laws reduce crime prove that severity of sentencing has a deterrent effect.

David S. Abrams 2011. [“Estimating the Deterrent Effect of Incarceration using Sentencing Enhancements” University of Pennsylvania December, 2011]

In this paper, I use the introduction of add-on gun laws to isolate the deterrent effect of incarceration. Since defendants sentenced under add-on gun laws receive sentences of several years for their underlying crime, any impact on crime within the first several years of an add-on gun law may be interpreted as due solely to its deterrent effect. I find that this effect on gun robberies is significant, with a per-capita reduction of 5% within three years of the law’s effective date. This reduction in gun robberies does not seem to come at substantial expense from criminals substituting to other types of crime. Non-gun robberies and larcenies display a weaker response to add-on laws, but in the same direction, supporting the notion that add-on gun laws may [also] have positive, not negative spillovers. While it is difficult completely rule out that passage of add-on gun laws is endogenous, or that contemporaneous policy changes may be responsible for some of the findings, I present substantial evidence addressing these concerns. Numerous alternate specifications are explored to attempt to verify the robustness of the central findings. Contemporary newspaper data suggests that legislative action is often spurred by idiosyncratic crimes. Triple differences and an analysis of related and unrelated crimes reinforce the central finding of deterrence and point toward generalist career criminals. Previous research into deterrence has often been limited to single jurisdictions or has been unable to make use of natural experiments to establish a causal relationship. This paper should help solidify our evidence for deterrence from incarceration. While the jurisdictions vary, it is useful to compare the magnitude of the estimates found in this paper with others. The 5% three year decline in this paper is close in magnitude to the 8% drop found by Kessler and Levitt (1999). Since the magnitude of sentence enhancements in that paper are similar to gun add-ons, this is an encouraging result. Other papers use sentencing changes that are substantially different from those in this paper, and so a comparison of elasticities is more illuminating. A quick back of the envelope calculation yields an elasticity of approximately -.10 in the current paper. This magnitude is consistent with that found by [and] Lee and McCrary (2011). They bound allowable elasticities consistent with their data and model to have a magnitude no greater than -.13, although their preferred parameter values yield elasticities close to 0. The largest recent empirical elasticity estimates come from Drago, et al. (2009) using Italian data, where they find a magnitude of -.74 for 7 months. This may be an indication that the substantially lower incarceration rate in Italy makes it difficult to extrapolate to the United States. A back of the envelope calculation using Helland and Tabarrok’s (2007) results from examining three strikes induced change yields an elasticity around -.07. The main finding in this paper is of a robust deterrent effect of incarceration. As the preceding discussion illustrates, the magnitude of the effect found here is consistent with some prior results from individual jurisdictions, although there is a wide range of estimates. In looking toward future research and implications for policy, one must recognize that the magnitude of deterrence, and not just its existence, is paramount.

#### 3 Reasons to prefer:

#### 1. This study’s findings are applicable across the US at all times.

Abrams 2

The strategy in this paper for estimating the impact of increased sentence length follows similar lines to some of the aforementioned studies, but makes several advances. Unlike previous studies that focus on an individual state, the fact that add-on gun laws were passed in a majority of states allows for more easily generalizable results of the analysis. The sample in this study is extremely representative of the country as a whole, since most states passed an add-on gun law at some point in the period investigated. It also uses a time series almost 40 years long, which lends strength to the belief that the [so] findings are not location and time specific.

#### 2. My study uses TONS of checks to ensure that the conclusions are a result of deterrence, not data errors or other factors whereas other studies don’t.

Abrams 3

The substantial previous literature on deterrence has come to mixed conclusions.2 Part of this may be due to the fact that there are well-known data errors in the most commonly used crime data, the Uniform Crime Reports (Maltz and Targonski 2004). [so] This study makes use of hand-cleaned data to address this problem. In addition, a number of alternate specifications are reported in the web appendix to attempt to fully explore the sensitivity of the findings to choices of specification.3 The additional specifications and robustness checks are all consistent with the main finding of evidence of a deterrent effect of sentence enhancements. The preferred specification yields a statistically significant point estimate of a 5% reduction in gun robberies within 3 years of the add-ons. In order to account for potential contemporaneous law enforcement changes that occur with add-on gun laws, I run a triple difference specification, which supports the main finding. I also [and also] examine the impact of add-on laws on other crimes besides gun robberies. Gun assaults show a small and statistically insignificant effect of the add-on laws. This is in keeping with some findings that assaults tend to be less about pecuniary motives and perhaps less subject to deterrence (Gould 2002; Silverman 2004).

#### 3. It also uses a regression model, where researchers study all the possible causes and find the one that best explains the results – deterrence fit the data the best, so this study uniquely proves that one effect causes another, whereas your studies don’t.

## LEVITT STUDY

[NEED TO ADD]

# \*\*META-STUDIES\*\*

## REHAB BAD

#### TURN: The majority of meta-analyses show that rehab simply doesn’t work for low-risk offenders.

Christopher T. **Lowenkamp and**, Assistant Director, The Corrections Institute, University of Cincinnati and Edward J. **Latessa 2004**, Professor and Head, Division of Criminal Justice, University of Cincinnati [Understanding the Risk Principle: How and Why Correctional Interventions Can Harm Low-Risk Offenders, Topics in Community Corrections – 2004]

**Meta-analysis after meta-analysis has revealed a similar trend** when the risk principle is empirically investigated. Table 1, page 4, shows the results of seven meta-analyses conducted on juvenile and adult offenders in correctional programs or school-aged youth in school-based intervention programs.

While Table 1 provides plenty of support for the risk principle, **a** recent **study** [by] that Lowenkamp and Latessa (2002) conducted in Ohio **[that] offers even more evidence**. This study **is the largest [study] ever conducted of** community-based **correctional treatment facilities.** The authors **track[ing]**ed **[over 13,000]** a total of 13,221 **offenders [and conducting]** who were placed in one of 38 halfway houses and 15 community-based correctional facilities throughout the state. **[a] 2-year follow-up** was conducted on all offenders, and recidivism measures included new arrests and incarceration in state penal institutions. Treatments effects were calculated, which represent the difference in recidivism rates for the treatment group (those offenders with a residential placement) and the comparison group (those offenders that received just supervision with no residential placement). Figure 1 shows the effect for low-risk offenders, using incarceration as the outcome measure. The negative numbers show the programs that were associated with increases in recidivism rates for low-risk offenders. The positive numbers show the few programs that were actually associated with reductions in recidivism for low-risk offenders. As you can see from this figure, **[In another study] the majority of programs** in this study **were associated with increases in the failure rates** for low-risk offenders. Only a handful of programs reduced recidivism for this group, **and the largest reduction was 9%.** Figure 2 shows the results [F]or high-risk offenders. [n]ot only were most programs associated with reductions in recidivism for this group, but there were also eight programs that reduced recidivism over 20% and three programs that reduced recidivism over 30%. (Note that there were some programs in Ohio that did not reduce recidivism at any level of risk. This is likely related to program integrity. See Lowenkamp and Latessa 2004.) When taken all **together, these meta-analyses** and individual studies **provide inconvertible evidence that** more intense correctional interventions are more effective when delivered to higher-risk offenders. A related finding is that **these interventions** can **increase the failure rates of low-risk offenders.** Recall the metaanalyses and the Ohio study, as well as also see Hanley (2003) and Bonta, Wallace-Capretta, and Rooney (2000), which both found that intensive supervision reduces recidivism for higher-risk offenders but increases the recidivism rates of lower-risk offenders.

#### Prefer because

#### It’s specific to involuntary rehabilitation programs which is what the aff advocate. This is important because that changes whether people will respond to rehabilitation; they are more likely to resent treatment if they were forced to, and studies that only study voluntary treatment only study offenders who want to change.

#### It has a quantified huge sample size whereas your study doesn’t – we don’t actually know how big your study is so err my way.

## DETERRENCE WORKS

#### Here’s another meta-study that goes my way: focused deterrence strategies have a large and statistically significant effect on reducing crime rates.

Anthony A. Braga and David L. Weisburd 2012. [“The Effects of Focused Deterrence Strategies on Crime : A Systematic Review and Meta-Analysis of the Empirical Evidence.” Journal of Research in Crime and Delinquency. Sage Publications. September 13, 2011. Revised July 23, 2012. AJ.]

Of the eleven evaluations of focused deterrence strategies, 10 reported note- worthy crime reduction effects associated with the approach (Table 1). Only the evaluation of Newark’s Operation Ceasefire did not report any significant crime prevention benefits generated by the violence reduction strategy. Two of the three studies that measured possible crime displacement and diffusion effects reported noteworthy diffusion of crime control benefits **associated with** the focused **deterrence** intervention; none reported significant crime displacement effects. To test the statistical significance of the observed vote counting distribution of crime reduction effects reported by the 11 eligible studies, we used an application of the binomial distribution known as the sign test (Blalock 1979). This simple test examines the probabilities of getting an observed proportion of successes from a popula- tion of equal proportions of successes and failures. Of the 11 studies, 10 (90.9 percent) reported noteworthy crime reductions associated with the focused deterrence approach. According to the sign test, this result was statistically significant (exact binomial two-tailed probability 1⁄4 .0117).

#### They continue:

At the same time, the effects observed in the studies reviewed were often very large, and such effect sizes are evidenced as well in those studies using strong comparison groups (e.g., Papachristos et al. 2007) and in the sole ran- domized controlled trial (Hawken and Kleiman 2009). Our review provides strong empirical evidence for the crime prevention effectiveness of focused deterrence strategies. Even if we assume **that the effects observed contain** some **degree of** upward bias, it appears that the overall impact of such pro- grams is noteworthy. **These findings are certainly encouraging and point to the promises of this approach.**

#### It prioritizes outcomes based on their strength to make an accurate determination of whether deterrence works. Studies that don’t are inaccurate – for example, a meta-analysis two studies that find a tiny effect of rehab and one that found a huge effect of deterrence would normally conclude in favor of rehab, but it’s more accurate to prioritize outcomes to say the strength of one conclusion means deterrence works.

#### It is very selective of the data – none of the studies will have methodological flaws because they were screened out carefully.

#### They picked studies of areas that naturally provide control groups where the criminal law changed quickly, so it avoids the problems of correlational data by using a control group.

## META-STUDIES BAD

#### Selection bias is present in meta-analyses.

Latimer et al 2005. [The Prison Journal. Jeff Latimer, Craig Dowden and Danielle Muise The Prison Journal 2005; 85; 127 DOI: 10.1177/0032885505276969. [http://tpj.sagepub.com](http://tpj.sagepub.com" \t "_blank) The Effectiveness of Restorative Justice Practices: A Meta-Analysis. AJ]

Critics argue that one of the major limitations of meta-analytic techniques is that the sampling procedures are biased in favor of including predominantly [to] published studies. It is surmised that the probability of publishing a study is increased by the statistical significance of the results so that pub- lished studies are [This is] not actually representative of the entire body of **research** that has been conducted in that area. Consequently, a calculated effect size, based exclusively on published studies, may be overestimating the relation- ship. Coined the “file drawer problem” (Rosenthal, 1991, p. 103), this suggests that if unpublished studies were included in the meta-analysis, the effect size estimate would be smaller. A preliminary meta-analysis of programs that contained elements of restorative justice was conducted by Bonta et al. (1998) and exclusively focused on their role in reducing offender recidivism. The results revealed that these programs yielded mild reductions in reoffending (+.08). However, the authors used a very broad operational definition of restorative justice as they included court-ordered restitution and community service programs. This definition is somewhat problematic as it fails to incorporate some of the fundamental principles of restorative justice—namely, the voluntary nature of offender and victim participation and the face-to-face encounter. A need, therefore, existed to quantitatively aggregate the findings of the literature using a more precise definition of restorative justice.

#### The fact that meta-studies’ methodologies can be manipulated means that they are very susceptible to bias. This is proven by the fact that two different meta-analyses of the same exact data set can lead to two different conclusions.

Jacob Stegenga 2011. [“Is meta-analysis the platinum standard of evidence?” *Studies in History and Philosophy of Biological and Biomedical Sciences*] AT

Epidemiologists have recently noted that multiple meta-analyses on the same hypotheses, performed by different analysts, can reach contradictory conclusions. For example, there have been numerous inconsistent studies on [dialysis] the beneﬁts and harms of a newer synthetic dialysis membrane versus an older cellulose membrane for patients with acute renal failure: one recent meta-analysis of these studies found greater survival of such patients using the newer synthetic membrane compared with those using the older cellulose membranes (Subramanian, Venkataraman, & Kellum, 2002), while another meta-analysis reached the opposite conclusion (Jaber et al., 2002). Here is another example. Two meta-analyses published in the same issue of the British Medical Journal came to contradictory conclusions regarding whether or not an association exists between the use of selective serotonin reuptake inhibitors (SSRI, a common class of antidepressant) and suicide attempts. In the meta-analysis reported by Gunnell, Saperia, and Ashby (2005), there was no association between SSRI use and suicide attempts, and only a weak association between SSRI use and risk of self harm. In contrast, in the meta-analysis reported by Fergusson et al. (2005), there was a relatively strong association between SSRI use and suicide attempts. Similarly, contradictory conclusions have been reached from meta-analyses on the beneﬁts of acupuncture and homeopathy, mammography for women under ﬁfty, and the use of antibiotics to treat otitis (see e.g. Linde & Willich, 2003). There is good reason to think that differential outcomes between contradictory meta-analyses are associated with the analysts’ professional or ﬁnancial afﬁliations. Several meta-analyses have recently been published which amalgamate evidence testing if formaldehyde exposure causes leukemia. Bachand, Mundt, Mundt, and Montgomery (2010) and Collins and Lineker (2004) conclude that formaldehyde exposure does not cause leukemia. In contrast, Bosetti, McLaughlin, Tarone, Pira, and La Vecchia (2008) found a modest elevation of risk of developing leukemia in professionals who work with formaldehyde, such as pathologists and embalmers. Zhang, Steinmaus, Eastmond, Xin, and Smith (2009) found an even higher risk of developing leukemia among professionals who work with formaldehyde. The meta-analyses which concluded that formaldehyde exposure is not associated with leukemia were performed by employees of private consulting companies. 7 In contrast, the authors of the two meta-analyses that found some evidence for a causal link between formaldehyde exposure and leukemia worked in academic and government institutions. 8 Lest readers think this is a crude ad hominem anecdote regarding an isolated example, consider the following similar cases. Barnes and Bero (1998) performed a quantitative [An] assessment of multiple meta-analyses which reached contradictory conclusions regarding the same hypothesis, and found a correlation between the outcomes of the meta-analyses and the analysts’ relationships to industry. They analyzed 106 review papers on the health effects of passive smoking: thirty-nine of these reviews concluded that passive smoking is not harmful to health, and the remaining 67 concluded that there is at least some adverse health effect associated with passive smoking. Of the variables investigated, the only signiﬁcant difference between the analyses that showed adverse health effects versus those that did not was the analysts’ relationship to the tobacco industry: analysts who had received funding from the tobacco industry were 88 times more likely to conclude that passive smoking has no adverse health effects compared with analysts who had not received tobacco funding.

## A2 CULLEN AND GENDREAU:

#### First, they need to apply these to their meta-analysis. Just because meta-analyses are *capable* of doing this, doesn’t mean their study *actually* did this – the fact that they don’t prove this severs the link to all the potential advantages of meta-studies.

#### Off the number 1 – he says single studies miss other effects

#### one thorough study does the same thing because it would also isolate every variable responsible for different effects – a meta-analysis is not uniquely necessary as long as a study is thorough.

#### It’s not relevant to the topic *why* rehab works – only how it compares to deterrence. In this context, missing a variable is not important or relevant.

#### Off the number 2 and 3 warrant – he says multivariate analyses are good

#### TURNS: Single studies do multivariate analyses better because the author can pick several result measurements to use and be consistent with them, whereas a meta-analysis will have studies that used different variables, making it impossible to coordinate them.

#### the only outcomes that are relevant are the ones that are impacted in the round – or, crime. A multivariate analysis contributes nothing to determining how it will effect the only relevant outcome.

#### Off the number 4 warrant – he says meta-analyses can determine the chance of future studies going the other way

#### It is never possible to predict what future studies will be published because they don’t exist. New technologies can always reverse this trend.

#### TURN: My studies are the best – a few good studies are better than a bunch of mediocre ones, even if it’s unlikely that new future studies will contradict the meta-analysis.

#### Off the number 5 warrant – he says you can replicate the results

#### mine is also from a peer-reviewed journal, so it is equally open to re-interpretation using the same data set the author used.

#### TURN: My study is more accessible because different literature searches can yield different articles – the next time they searched for these same articles on a different search engine they could have come up with completely different results.

#### Off the number 6 warrant – he says it’s more precise than a narrative review

#### 1. TURN: Generalizing from author conclusions is better because it allows the study to compare the different studies’ qualities and make a comprehensive conclusion from them.

## META-STUDY GOOD

#### Prefer meta-analyses on empirical questions. Multiple warrants,

Francis T. Cullen and Paul Gendreau 2000 [“Assessing Correctional Rehabilitation: Policy, Practice, and Prospects.” POLICIES, PROCESSES, AND DECISIONS OF THE CRIMINAL JUSTICE SYSTEM VOLUME 3. Francis T. Cullen is Distinguished Research Professor of Criminal Justice with the University of Cincinnati. Paul Gendreau is Director, Centre for Criminal Justice Studies, and Professor of Psychology with the University of New Brunswick at Saint John.]

There are, however, advantages to using the meta-analytic technique to organize research findings. First, meta-analysis can detect effects that **traditional narrative or ballot box reviews** [single articles] fail to capture. Because the statistical power of many evaluation studies is low due to use of small sample sizes [in single studies], real effects are often missed as studies are counted one by one (Schmidt 1996). By summing effect sizes across a sample of studies regardless of their statistical significance, however, meta-analysis avoids this problem.¶ Second, it is possible to assess whether methodological factors (e.g., the quality of the research design) influence the size of a treatment effect by introducing them into **a multivariate analysis.** If a treatment **[ensures the] effect is robust** after these factors are taken into account, then **confidence is increased that the effect is real** and not a methodological artifact. Third, and relatedly, through a multivariate analysis, it also is possible to assess whether the magnitude of a treatment effect is conditioned by substantively important “moderating factors,” such as the risk level of offenders or the type of treatment modality employed. Fourth**[Third], various statistical procedures** (e.g., “fail safe N”) have been developed to **provide guidance on the likelihood that the findings** of a meta-analysis are, or **are not**, **vulnerable to being reversed as unpublished studies are uncovered** and future evaluation studies are conducted (Orwin 1983; Rosnow and Rosenthal 1993). **No such statistics**, of course, **exist for traditional reviews.** Fifth**[Fourth],** any given meta-analysis is open to replication by other scholars, either on the same data set or on a different **data** set. In this way, **coding** **decisions or the sample of studies chosen for review** [and] can be assessed independently. Again, if a treatment effect is sustained in these replications, then we can have confidence that we have found that something does indeed work to reduce recidivism. Sixth, and perhaps most noteworthy, [Fifth] by presenting information in a precise, parsimonious way, meta-analysis facilitates the process of constructing knowledge about a topic, such as correctional treatment. Narrative [Other] reviews are unwieldy and tend to permit only broad generalizations. In contrast, meta-analysis is better able to convey information that shows, in a more delimited and clear way (e.g., listing effect sizes and their confidence intervals in a table), what does not work, what does work[s], and **(as noted)** what factors moderate what works. **Let us hasten to say that these data** **do not allow definitive answers; nonetheless, they do illuminate what we currently know from the existing body of research and what data need to be collected to advance our knowledge base. They also provide clearer guidance on what factors effective programs have in common and, in turn, on what empirically based features correctional personnel should consider including in the treatment interventions they initiate.**

# \*\*CAUSAL EVIDENCE\*\*

## DETERRENCE CORE

#### All theories about the source of crime have one agreeing point – that punishment deters crime; it’s just a question of how much. Economic theory proves deterrence.

Gary S. Becker. 1974. [“Crime and Punishment: An Economic Approach” *Essays in the Economics of Crime and Punishment, Ed by Becker and W. Landes. Pp 1-54*] AT

Theories about the determinants of the number of offenses differ greatly, from emphasis on skull types and biological inheritance to family upbringing and disenchantment with society. Practically all the diverse theories agree, however, that when other variables are held constant, an increase in a person's probability of conviction or punishment if convicted would generally decrease, perhaps substantially, perhaps negligibly, the number of offenses[.] he commits. In addition, a common generalization by persons with judicial experience is that a change in the probability has a greater effect on the number of offenses than a change in the punishment,'2 although, as far as I can tell, none of the prominent theories shed any light on this relation. The approach taken here follows the economists' usual analysis of choice and assumes that a person commits an offense if the expected utility to him exceeds the utility he could get by using his time and other resources at other activities. Some persons become "criminals," therefore, not because their basic motivation differs from that of other persons, but because their benefits and costs differ. I cannot pause to discuss the many general implications of this approach,'3 except to remark that criminal behavior becomes part of a much more general theory and does not require ad hoc concepts of differential association, anomie, and the like,'4 nor does it assume perfect knowledge, lightning-fast calculation, or any of the other caricatures of economic theory. This approach implies that there is a function relating the number of offenses by any person to his probability of conviction, to his punishment if convicted, and to other variables, such as the income available to him in legal and other illegal activities, the frequency of nuisance arrests, and his willingness to commit an illegal act. This can be represented as O3(p3, f,, U3), (12) where is the number of offenses he would commit during a particu1ar period, p3 his probability of conviction per offense, f, his punishment per offense, and u3 a portnianteau variable representing all these other influences.'5 Since only convicted offenders are punished, in effect there is "price discrimination" and uncertainty: if convicted, he pays f per convicted offense, while otherwise he does not. An increase in either p, orf3 [punishment] would reduce the utility expected from [of] an offense and thus would tend to reduce the number of offenses because either the probability of "paying" the higher "price" or the "price" itself would increase.'6

#### And, people can be deterred – they realistically judge risk, try to avoid detection, and care about being caught.

Loughran et al 2011. [THOMAS A. LOUGHRAN. RAYMOND PATERNOSTER¶ Department of Criminology and Criminal Justice University of Maryland—College Park¶ ALEX R. PIQUERO Program in Criminology University of Texas at Dallas¶ GREG POGARSKY¶ School of Criminal Justice¶ University at Albany, State University of New York. “ON AMBIGUITY IN PERCEPTIONS OF RISK: IMPLICATIONS FOR CRIMINAL DECISION MAKING AND DETERRENCE.” 2011 American Society of Criminology. CRIMINOLOGY Volume 49 Number 4 2011 1029. AJ]

Some researchers argue that perhaps offenders forego a deliberative process before committing crimes and, at most, rely on crude pieces of immediately available information. In defense of our conceptualization, we note that the body of qualitative literature on offender decision making provides much support for offenders’ weighing of risks/rewards and that many take active and rational steps toward avoiding detection for many crimes. For example, Wright and Decker’s study of residential burglars showed that most [burglars] “generally possessed a more realistic basis on which to judge risk than is commonly imagined” (1994: 101–2), that more than one third of their subjects said that “they usually did think about the possibility of being apprehended during their residential burglaries” (1994: 131), and that the threat of detection continued with many of them as [burglars] they were “**unwilling to remain in**side **[the house]** for long, **foregoing** the possibility of greater **rewards** in favor of reducing the risk of being discovered” (1994: 163).9 In his recent overview of deterrence/deterrability, Jacobs (2010: 421–2) commented that many active offenders “showed conduct that would be considered responsive to detection concerns. They consulted funeral announcements to identify suitable targets and absent guardians; they contacted prospective homes by telephone before entering to make sure no one was inside; they engaged in multiple other ‘occupancy probes’ to minimize the risk of detection and identification; and they selected targets that provided easy access, low defensibility, and minimal natural surveillance.” Importantly, Jacobs’ (2010) summary was drawn from a series of qualitative narratives among serious active street offenders—including burglars, crack dealers, carjackers, and robbers—and provided the important finding that these offenders do indeed consider the costs and rewards of their offending (Piquero and Rengert, 1999; Wright and Decker, 1994, 1997) and actively take steps to minimize their detection (Jacobs, 1996a, 1996b; Shover, 1996; Topalli, 2005). Jacobs’s (1996a, 1996b) own research with active crack sellers clearly shows that dealers use various techniques while engaging in street sales to defy detection, obscure illicit activity, and prevent apprehension. This body of qualitative work and the abundant quantitative literature on perceived sanction threats (see Nagin, 1998; Paternoster, 1987; Pogarsky, 2009) suggest that offenders at least rudimentarily think about the risk of apprehension and punishment before deciding to commit an offense. The issue we wish to address here is whether any ambiguity around that perception is important for offender decision making. We do not propose a two-step process by which offenders first consider the level of risk they might confront should they commit a crime and then, subsequently, con- sider the ambiguity about that level. Instead we merely suggest that people have uncertainty (even doubt) when estimating the risk of punishment for committing crimes.

#### Prefer this evidence because a) it speaks to how people actually behave rather than psychological evidence because psychology is an unknown field – there are too many factors to make accurate predictions without knowing how people actually behave, and b) it is a literature overview so it corrects for any single skews.

## DEATH PENALTY

#### And, the fact that people can be deterred is empirically proven by the fact that harsher punishments conclusively reduce crime. 13 studies using panel data all found that the death penalty does deter crime.

Joanna Shepherd 2007. [Capital Punishment Does in Fact Deter Crime. Joanna M. Shepherd. Current Controversies: Capital Punishment. Paul Connors. Detroit: Greenhaven Press, 2007. From Opposing Viewpoints Resource Center.]

Panel data are data from several units like the 50 States or all U.S. counties over several years. Panel data techniques fix many of the problems associated with the data that early studies used. Now let's talk about the modern studies. 13 economic studies on capital punishment's deterrent effect have been conducted in the past decade. Most use new improved [using] panel data and modern statistical techniques. They all use [and] multivariate regression analysis to separate the effect on murder, of executions, demographics, economic factors, et cetera. [find that] All categories of murder are deterred by the death penalty, even so-called crimes of passion. The studies are unanimous. All 13 [studies] of them find a deterrent effect. I have conducted three of these studies. My first study used 20 years of data from all U.S. counties to measure the effect of county differences on murder. My second paper used monthly data from all U.S. States for 22 years to measure the short-term effect of capital punishment. This paper also looks at different categories of murder to determine which kinds of murder are deterred by executions. The third study looks at the effect on murders of the 1970's Supreme Court moratorium on executions. All of my papers find a deterrent effect. Moreover, I find that all categories of murder are deterred by the death penalty, even so-called crimes of passion. My results predict that each execution deters somewhere between 3 and [to] 18 murders. The other 10 modern economics papers used different methods and different data than my own, but all [and still] find a significant deterrent effect.

#### Prefer this study because it uses panel data, a multivariate model, and is a meta-study.

#### Panel data ensure causality

#### Their large time span proves that the effects are not the result of temporary trends, but only because of the death penalty because the effect was consistent over long periods of time

#### They take data from multiple areas, ensuring that effects are the result of the death penalty, not local factors that might only hold in certain conditions.

#### Multivariate models also ensure that the effect is consistent across all possible outcomes, proving that deterrence does affect people’s behavior; no other explanation can account for the fact that executions decrease multiple bad outcomes.

#### 3. It uses a total of 13 different data sets and methodologies, proving that the outcome was not the result of a methodological flaw or an outlier in the data, but that deterrence is consistently caused by the death penalty.

## A2 UNDERESTIMATE RISK OF BEING CAUGHT

#### Other studies underestimate the perceived likelihood of being caught – in reality it’s much higher because the risk is unknown to offenders. This means that higher penalties will deter because offenders do perceive being caught as a real risk.

Loughran et al 2011. [THOMAS A. LOUGHRAN. RAYMOND PATERNOSTER¶ Department of Criminology and Criminal Justice University of Maryland—College Park¶ ALEX R. PIQUERO Program in Criminology University of Texas at Dallas¶ GREG POGARSKY¶ School of Criminal Justice¶ University at Albany, State University of New York. “ON AMBIGUITY IN PERCEPTIONS OF RISK: IMPLICATIONS FOR CRIMINAL DECISION MAKING AND DETERRENCE.” 2011 American Society of Criminology. CRIMINOLOGY Volume 49 Number 4 2011 1029. AJ]

To illustrate further, recall our [Suppose] two would-be burglars introduced at the beginning of this article who each agreed that the probability of punishment for a given crime was p(.40). As p [which] cannot be known with certainty, both burglars estimate p with some uncertainty. There is, then, a subjective probability distribution around each individual’s respective point estimate, p. In this case, pburglar#1 = pburglar#2; i.e., both think that the probability of getting apprehended should they commit the offense is .40. We also noted that burglar #2 was much less sure of his estimate of the risk of punishment than was burglar #1. Would-be burglar #2’s estimate was drawn from a distribution that contained possible values from .20 to .60, whereas would- be burglar #1’s ranged only from .30 to .50 such that σ2 > σ12. Although the expected value of sanction certainty is equivalent for both (p = .40), burglar #2’s estimate has more variability and is more ambiguous; this greater ambiguity in the risk of punishment is expressed in terms of a greater variance.7¶ Nearly all of the extant perceptual deterrence literature ignores the concept of a subjective risk distribution (which, like any distribution, has variance) in favor of a summary point estimate of risk (i.e., the mean of this distribution). Doing so implicitly treats perceived risk as entirely unambiguous. Yet as Manski (2004) recently observed, even though re- spondents generally respond to survey questions about uncertain events with point estimates, individuals do not necessarily rely exclusively on such point estimates in their decision processes.8 Manski (2004: 1369) noted, “[w]hat the empirical evidence does show is that, however they think and act, **people** are willing and able to **report their beliefs in multiple forms**— **as point predictions**, verbal assessments of likelihood, **or probabilistic expectations.** Studies of ambiguity maintain that beliefs have some but not all of the structure of a probability distribution.” He (2004: 1370) added that “the single distributions that we now elicit from survey respondents are probabilistic summaries of ambiguity, much as point predictions are deterministic summaries of uncertainty. To enable persons to express am- biguity, survey researchers could elicit ranges of probabilities rather than precise probabilities for events of interest.” Thus, focusing exclusively on point estimates of risk while ignoring other components of a would-be offender’s subjective risk distribution can provide an incomplete picture of crime decision making. The kinds of expectations questions alluded to by Manski (2004) are substantively similar to probability judgments in perceptual deterrence research. We think we can learn something by exam- ining the variability as well as the reported point estimate of the perceived probability of punishment.¶ Frisch and Baron (1988) theorized about why ambiguity might affect de- cisions involving uncertainty and risk. One theme from their research is that when a probability judgment involves ambiguous information, an opponent or adversary may possess superior information to the decision maker, giving the adversary an inherent advantage. A would-be offender’s “adversary” is law enforcement. Thus, ambiguity might make an individual reticent to offend for fear that law enforcement has an inherent advantage. Second, ambiguity might make an offender hesitant to act because by waiting the offender may obtain more and better information about the apprehension risks, and then he or she may make a better informed decision at a later time.

## CAUSALITY FIRST

#### Even if they win the empirics debate, vote neg if I win that deterrence would logically work – that is, that people are deterrable. This is true because:

#### No study can ever decisively prove that one factor caused another – there is no statistical test for that. Empirics merely prove correlation, so there has to be a logical reason *why* the effects occurred. For example, there is a statistically significant relationship with the number of pirates and global temperatures[[1]](#footnote-1), but obviously pirates do not prevent global warming.

#### Studies with great methodologies always go both ways – that’s why both of us are reading empirics. It’s impossible to know which side is actually right absent an evaluation of the mechanisms causing those results to occur.

#### Empirics can never prove one side of the resolution because it is always up for interpretation. Your results might just mean that we ought to take a *harsher* stance because it doesn’t deter enough, but we won’t know unless we determine whether or not people are deterrable.

# \*\*LEGAL LEGITIMACY\*\*

## LEGAL LEGITIMACY

#### A retributive theory inspires respect for the law. Robinson:

Robinson, Paul H. and John M. Darley “The Utility of Desert.” Northwestern University Law Review, Vol. 91, No. 2. 1997.

Our central point is this: The criminal law’s power in nurturing and communicating societal norms and its power to have people defer to it in unanalyzed cases is directly proportional to have people defer to it in unanalyzed cases is directly proportional to criminal law’s moral credibility. If criminalization or conviction (or decriminalization or refusal to convict) is to have an effect in the norm-nurturing process, it will be because the criminal law has a reputation for criminalizing and punishing only that which deserves moral condemnation, and for decriminalizing and not punishing that, which does not. If, instead, the criminal law’s reputation is one simply of a collection of rules, which do not necessarily reflect the community’s perceptions of moral blameworthiness, then there would be little reason to expect the criminal law to be relevant to the societal debate over what is and is not condemnable and little reason to defer to it as a moral authority. What then are the requirements for a criminal law system to gain this credibility? How can this credibility be lost? Enhancing the criminal law’s moral credibility requires, more than anything, that the criminal law make clear to the public that its overriding concern is doing justice. Therefore, the most important reforms for establishing the criminal law’s moral credibility may be those that concern the rules by which criminal liability and punishment are distributed. The criminal law must earn a reputation for (1) punishing those who deserve it under rules perceived as just, (2) protecting from punishment those who do not deserve it, and (3) where punishment is deserved, imposing the amount of punishment deserved, no more, no less. Thus, for example, the criminal law ought to maintain a viable insanity defense that excuses those who are perceived as not responsible for their offense, ought to avoid the use of strict liability (imposing liability in the absence of a culpable state of mind), and ought to limit the use of non-exculpatory defenses. In other words, it ought to adopt rules that distribute liability and punishment according to desert, even if a non-desert distribution appears in the short-run to offer the possibility of reduc[e]ing crime. The point is that every deviation from a desert distribution can incrementally undercut the criminal law’s moral credibility, which in turn can undercut its ability to help in the creation and internalization of norms and its power to gain compliance by its moral authority. Thus, contrary to the apparent assumptions of past utilitarian debates, such deviations from desert are not cost free, and their cost must be included in the calculation when determining which distribution of liability will most effectively reduce crime.

#### And, this legal legitimacy is key to introduce social norms that reduce crime.

Paul Robinson. [“Mercy, Crime Control & Moral Credibility” Public Law and Legal Theory Research Paper Series Research Paper No. #10-32] AT

Perhaps the greatest utility of empirical desert comes through I more subtle but potentially more inﬂuential mechanism. The real power to gain compliance with society’s rules of prescribed conduct lies not in the threat of ofﬁcial criminal sanction, but in the influence of the intertwined forces of social and individual moral control. The networks of interpersonal relationships in which people ﬁnd themselves, the social norms and prohibitions shared among those relationships and transmitted through those social networks, and the internalized representations of those norms and moral precepts control people’s conduct. The law is not irrelevant to these social and personal forces. Criminal law, in particular, plays a central role in creating and maintaining the social consensus necessary for sustaining moral norms; in fact, in a society as diverse as ours, the criminal law may be the only societywide mechanism that transcends cultural and ethnic differences. Thus, the criminal law's most important realworld effect may be [is] its ability to assist in the building, shaping and maintaining of these norms and moral principles. It can contribute to and harness the compliance-producing power of interpersonal relationships and personal morality, but it will be effective in doing so only if it has sufﬁcient credibility.

Robinson continues

As to these norms, the criminal law builds and maintains societal norms in several ways. First, the criminal law enforcement and adjudication activities send[s] daily messages to all who read or hear about them. Every time criminal liability is imposed, it reminds us of the norm prohibiting the offender’s conduct and confirms the condemnable nature of the conduct. At the same time, the [Second,] public condemnation supports and encourages the efforts of those who have remained [the] law-abiding. Having avoided breaking that law, people can feel good about themselves, which in turn reinforces their commitment to the norm expressed in the offense.

### **WEIGHING: PREFER LEGAL LEGITIMACY**

#### Legal legitimacy accesses causality since it analyzes the incentives behind crime – prefer causality over generic empirics since it isn’t dependent on situational factors or methodological flaws.

#### 2.

## MOTIVATION (RACHELS)

#### Retributive sanctions are necessary to preserve the normative force of moral codes – confinement model is KEY to reduce crime.

James Rachels. [“Punishment and Desert” Ethics in Practice 1997. Pp 470-479] AT

To these reasons a third may be added. Morality includes (some would say it consists in) how we choose to treat other people in our myriad interactions with them. But if reciprocity could not be expected, the morality of treating others well would come to occupy a less important place in people’s lives. In a system that respects deserts, someone who treats others well may expect to be treated well in return, while someone who treats others badly cannot. If this aspect of moral life were eliminated, morality would have no reward, and immorality would have no bad consequences; so there would be less reason for one to be concerned with it. If people were perfectly benevolent, of course, such incentives would not be needed. But for imperfectly benevolent beings such as ourselves the acknowledgment of deserts provides the reason for being moral that is required for the whole system to be effective.

# \*\*GENERAL\*\*

## EMPIRICS FIRST

#### Trying to predict what will happen without empirics is impossible because we can never account for every environmental factor, especially in criminology human psychology is largely unknown. Only determining how things actually happen can account for how each of these factors affects real-world outcomes.

#### As long as there is *some* causal explanation for an event, empirics can be trusted because they establish that one event often coincides with another, and that there is an explanation for it, proving that the event likely caused the other. There are always competing predictions that go either way – empirics are a necessary test of which one is right.

## DETERRENCE OUTWEIGHS

#### Deterrence generally outweighs recidivism.

#### If people never commit crime in the first place, they can never recidivate because they have not entered the system to begin with. This means my arguments prevent all of your impacts better than you can – recidivism rates cannot become zero, so only deterrence can keep people from becoming career criminals.

#### Evolution dictates that it’s basic human nature to minimize one’s own pain – it’s endemic to everyone. This means deterrence can deter everyone, whereas different people have different personalities, making rehabilitation ineffective for some people.

#### Deterrence just requires harsh punishments, whereas rehabilitation requires instituting the right kind of therapies, making it harder to implement. This decreases the chance that any jurisdiction would implement the policy ineffectively, which could negate a significant portion of their impacts.

## REHAB WON’T WORK

#### Finally, rehab is unlikely to work for the most important offenders:

#### Depends on community – if they’re in a gang, for example, their whole life is built around that community so their ties are strong and not likely to be broken. And, their gang is likely to convince them to continue committing crime.

#### These offenders are higher risk because they are likely to commit crimes in groups. Abandoning retributive, harsh policies in favor of rehabilitation for those who aren’t in gangs and don’t pose as large of a threat is comparatively worse because it targets less dangerous groups. Thus, even if rehab is more effective for low risk offenders the marginal cost incurred in terms of gangs outweighs the marginal benefit.

## CERTAINTY ADD-ON

#### Proving that severity of punishment fails is not enough – most authors concede that certainty is also a huge factor that does work. Punishment is more certain in my system because it is a punitive system where the purpose is to punish. This is especially true in terms of perception – people will perceive rehabilitation as not a form of punishment at all.

# \*\*JUVENILES\*\*

## JUVENILES OFFENSE – Age of Majority

#### More severe punishment empirically deters juvenile crime.

Yahya, Moin A, quoting Levitt. [“Deterring Roper's Juveniles: Using a Law and Economics Approach to Show that the Logic of Roper Implies that Juveniles Require the Death Penalty More Than Adults.” Dickinson School of Law, Penn State Law Review. Summer 2006.

Professor Levitt also investigated another aspect of juvenile crime. He looked at the impact of the relative harshness of adult punishment to juvenile punishment on crimes committed by juveniles who have reached the age of majority. Given that for some states the age of majority is 18 while for others it is 17, this statistical investigation provides us with a look at whether juveniles are rational and able to conduct cost-benefit analysis regardless of whether they are 17 or 18 years of age. In fact, he found that as juveniles transitioned into adulthood, no matter what the age of majority, crimes committed by the new adults were negatively influenced by the relative harshness of adult punishment. In states where adults were punished far more severely than juveniles, when a juvenile reached the age of majority violent and property crimes dropped. In states where a juvenile reaches the age of majority at 17, the new adults committed less violent and property crimes than their 17 year old counterparts in those states where the age of majority was 18. These results belie the claim that juveniles below the age of eighteen are undeterrable and hence less culpable. It also points to the futility of establishing an arbitrary age of eighteen as the age when a person may be sentenced to death. Juveniles react just as rationally to the incentives of punishment as adults do. Juveniles do not lack rationality. What is lacking is punishment as severe as that meted out to adults. Levitt concluded that the decline in the severity of juvenile punishment explains the relative increase in juvenile crime. In fact, he estimated that 60% of the increase in juvenile crime could be attributed to the drop in juvenile punishment. These results show that, by prohibiting the use of the death penalty against juveniles, Roper will be a further hindrance to states in their efforts to combat juvenile crime.

#### 1. Levitt’s study used all 50 US states, so it ensures that the data are consistent across all the different criminal justice systems. Presume studies that aren’t *specifically made applicable* to the whole US are not applicable because US criminal policy varies *widely* between different states; for example, Southern states have more court control and incarceration than Northern states as per the evidence. Studies that don’t account for this aren’t as accurate as mine.

#### 2. Levitt’s study took place over 15 years, from 1978-1993[[2]](#footnote-2), so it ensures that the effect was consistent over time and thus not explainable with any temporary trend, and only with the severity of juvenile punishment.

## JUVENILES OFFENSE - Causality

#### Turn: Juveniles are deterrable – many different areas of their behavior confirm that they are rational.

Yahya, Moin A. [“Deterring Roper's Juveniles: Using a Law and Economics Approach to Show that the Logic of Roper Implies that Juveniles Require the Death Penalty More Than Adults.” Dickinson School of Law, Penn State Law Review. Summer 2006.

Returning to smoking juveniles, a study using experimental methodology that looked at juvenile smoking behavior also confirmed that price will negatively impact their consumption. Marijuana usage by juveniles was also found to be price sensitive. Another study found that cocaine addiction by high school seniors also fit the rational addiction model, as the demand for cocaine was price sensitive, and alcohol consumption by the same group was also found to be price sensitive. Even non-consumption risky behavior was found to be responsive to incentives. Teenage pregnancies, for example, fell as welfare benefits fell (thereby reducing the payoff for an out of wedlock child), but even non-price variables affected risky teenage behavior, as teenage pregnancies declined as the incidence of [and] AIDS grew. Another study found that juveniles did respond to legal variables as minimum legal drinking ages reduced underage teenage drinking. Similarly minimum [and] smoking ages reduced underage teenage smoking, and mandatory seat belt laws reduced vehicle fatalities among youth. In contrast, those activities that did not have an age specific legal restriction, such as smoking marijuana, did not have an age specific pattern for youth. All in all, the econometric evidence points to the proposition that even youth are rational who respond to incentives in a consistent and measurable manner, thereby suggesting that juveniles can be deterred.

## JUVENILES IMPORTANT

#### 1. Juvenile crime causes them to commit more crime as adults:

#### a. They form habits as children because many behaviors that adults exhibit were formed in childhood

#### b. They will be labeled a criminal for the rest of their life because arrests go on their permanent record, which can detract from legal job opportunities, forcing juveniles into illegal ones.

#### 2. We should give more weight to the effect on children because they are the future of society.

David **Archard**, "The Moral and Political Status of Children" Public Policy Research, March-May 2006.

Beyond these issues of social justice there is a general tension between the interests parents have in rearing children and the general or collective [interest] interests we as a society have in our children.  After all, a child is the prospective citizen, worker, artist, soldier, policeman, politician, sportsman, explorer, or whatever.  Any society has a legitimate interest in ensuring its own future security and stability.  In enforcing the compulsory education of children to at  least some basic level the state does not merely serve their interests.  Of course it is in interests of the future adult that he can undertake work, exercise his right to vote, and make informed life choices and to this end it is imperative that he is, as a child, provided with at minimum a basic education .  But it is also in the interests of future society that its present children grow up to play their part in its continued reproduction.

## JUVENILES NOT IMPORTANT

#### Juveniles have changing personalities during adolescents, so whether or not they commit crimes as children is unlikely to affect whether they will commit crimes as adults. Even a delinquent juvenile is likely to morph as they age, possibly into a non-criminal or a criminal who responds to completely different treatment.

#### Juveniles don’t commit serious crimes as frequently.

Charles Puzzanchera and Benjamin Adams 2011. [“Juvenile Arrests 2009” National Report Series, US DOJ, Dec 2011] AT

Most serious juveniles offense Clearance Arrest [Of Violent Crime[s] Index [Juveniles accounted for] 11% 15% [of arrests] Property Crime Index 15 24 Murder 5 9 Forcible rape 11 14 Robbery 15 25 Aggravated assault 10 12 Burglary 15 25 Larceny-theft 18 24 Motor vehicle theft 15 24 Arson 35 44 Data source: Crime in the United States 2009, (Washington, DC: Federal Bureau of Investigation, 2010), tables 28 and 38. Research has shown that juvenile offenders are more easily apprehended than adult offenders; thus, the juvenile [so the] proportion of clearances probably overestimates juveniles’ responsibility for crime. To add to the difficulty in interpreting clearance statistics, the FBI’s reporting guidelines require that clearances involving both ju­ venile and adult offenders be classified as clearances for crimes that adults commit. Because the juvenile clearance propor­ tions include only those clearances in which no adults were involved, they un­ derestimate juvenile involvement in crime. Although these data do not present a de­ finitive picture of juvenile involvement in crime, they are the closest measure generally available of the proportion of crime known to law enforcement that is attributed to persons younger than age 18.

# \*\*IMPACT CALC - HIGH PROBABILITY\*\*

## POLICY PARALYSIS

#### Systemic impacts should come first – focus on existential risk causes policy paralysis which prevents us from accessing impacts in the first place.

Rescher 83 [Nicholas Rescher, University of Pittsburgh Professor of Philosophy, “Risk: A Philosophical Introduction to the Theory of Risk Evaluation and Management” 1983].

The stakes are high, the potential benefits enormous. (And so are the costs - for instance cancer research and, in particular, the multi-million dollar gamble on interferon.) But there is no turning back the clock. The processes at issue are irreversible. Only through the shrewd deployment of science and technology can we resolve the problems that science and technology themselves have brought upon us. America seems to have backed off from its traditional entrepreneurial spirit and become a risk-aversive, slow investing economy whose (real-resource) support for technological and scientific innovation has been declining for some time. In our yearning for the risk-free society we may well create a social system that makes risk-taking innovation next to impossible. The critical thing is to have a policy that strikes a proper balance between malfunctions and missed opportunities - a balance whose "propriety" must be geared to a realistic appraisal of the hazards and opportunities at issue. Man is a creature condemned to live in a twilight zone of risk and opportunity. And so we are led back to Aaron Wildavski's thesis that flight from risk is the greatest risk of all, "because a total avoidance of risks means that society will become paralyzed, depleting its resources in preventive action, and denying future generations opportunities and technologies needed for improving the quality of life. By all means let us calculate our risks with painstaking care, and by all means let us manage them with prudent conservatism. But in life as in warfare there is truth in H. H. Frost's maxim that "every mistake in war is excusable except inactivity and refusal to take risks" (though, obviously, it is needful to discriminate between a good risk and a bad one). The price of absolute security is absolute stultification.

#### *Focusing on existential risks prevents any policy-making that prevents us from taking any future actions - which means at best for them we go extinct anyways since we can’t avoid every scenario.*

#### Prefer the argument:

#### I control the internal link since systemic impacts grow into extinction scenarios if not dealt with – for example, the growth of drug crime leads to destabilization of Mexico and oil shocks.

#### There are always risks of extinction in any argument, so comparison of probabilities is necessary since their impacts don’t occur in a vacuum.

## PRIOR LIFE EXPERIENCE

#### We should disregard enormous impacts regardless of their probability because of prior life experience proves.

Karnofsky 11. Holden Karnofsky. “Why We Can't Take Expected Value Estimates Literally (Even When They're Unbiased)”. 18 August 2011. Co-Founder of GiveWell, a non-profit charity evaluator (decides whom to give money) Harvard ’03. “An EEV approach…of life experience.” DT.

An EEV [explicit] [expected-value] approach to this situation might say, "Even if there's a 99.99% chance that the estimate is completely wrong and that the value of Action A is 0, there's still an 0.01% probability that Action A has a value of X. Thus, overall Action A has an expected value of at least 0.0001X; the greater X is, the greater this value is, and if X is great enough then, then you should take Action A unless you're willing to bet at enormous odds that the framework is wrong."¶ However, the same formula discussed above indicates that Action X actually has an expected value - after the Bayesian adjustment - of X/(X^2+1), or just under 1/X. In this framework, the greater X is, the lower the expected value of Action A. This syncs well with my intuitions: if someone threatened to harm one person unless you gave them $10, this ought to carry more weight (because it is more plausible in the face of the "prior" of life experience) than if they threatened to harm 100 people, which in turn ought to carry more weight than if they threatened to harm 3^^^3 people (I'm using 3^^^3 here as a representation of an unimaginably huge number). The point at which a threat or proposal starts to be called "Pascal's Mugging" can be thought of as the point at which the claimed value of Action A is wildly outside the prior set by life experience (which may cause the feeling that [is when] common sense is being violated). If someone claims that giving him/her $10 will accomplish 3^^^3 times as much as a 1-standard-deviation life action from the appropriate reference class, then the actual post-adjustment expected value of Action A will be just under (1/3^^^3) (in standard deviation terms) - only trivially higher than the value of an average action, and likely lower than other actions one could take with the same resources. This is true without applying any particular probability that the person's framework is wrong - it is simply a function of the fact that their estimate has such enormous possible error. An ungrounded estimate making an extravagant claim ought to be more or less discarded in the face of the "prior distribution" of life experience.

## A2 RISK OF OFFENSE

#### The risk of offense makes no sense since it assumes that your impacts occur in a vacuum – there’s also a risk that my side would prevent the scenario better than you, so at best the impact is non-unique and we just evaluate other arguments.

1. Jessica Anderson. “True Fact: The Lack of Pirates is Causing Global Warming” http://www.forbes.com/sites/erikaandersen/2012/03/23/true-fact-the-lack-of-pirates-is-causing-global-warming/ [↑](#footnote-ref-1)
2. “Equation (2) is estimated using state-level panel data at roughly 2-year intervals over the period 1974-1993.” [↑](#footnote-ref-2)