

Looking beyond re-offending: criminal records and poverty

Christopher Stacey argues that rehabilitation for the convicted must mean proper access to opportunities

The aim of prisons in England and Wales is to simultaneously punish and rehabilitate. The same could be said for our criminal justice system as a whole. The system *tries* to measure how much it rehabilitates – primarily through looking at the rates of re-offending.

So does an absence of ‘re-offending’ – in terms of recorded offences – equal rehabilitation? You might look at the re-offending measure and understandably think that once somebody no longer re-offends, then that’s ‘job done’. But what happens when people stop offending, or, as criminologists put it, ‘desist’ from crime, and they leave the formal confines of the criminal justice system? That’s where *Unlock*’s focus is – people with criminal convictions who are trying to lead law-abiding lives. Through this work, it is clear that people with convictions face many years, if not a lifetime, of struggles – in employment, housing, insurance, travel and relationships, to name but a few. That’s why the recent work by the Centre for Crime and Justice Studies (CCJS) is so important – in one sense, it could be seen as establishing a stronger link between the criminal justice system and how it contributes to issues relating to poverty (Grimshaw et al., 2014).

The links between criminal records and poverty

One particularly interesting statistic picked up in the report is that for those previously imprisoned, the stigma of that imprisonment has been linked to a wage gap equivalent to around £60 a month (Dominguez

and Loureiro, 2012). In addition, the wages of former prisoners were still reduced five years after they’d been released, and the negative impact was higher for those with better opportunities before prison. Furthermore, when earnings are put into a long-term perspective over a 20 year period in the USA, it has been found that former prisoners have been more frequently trapped in the lowest quintile of earners than high school dropouts or people with cognitive difficulties (Western and Pettit, 2010).

Nearly ten million people have a criminal record (Home Office, 2014), but less than eight per cent of people sentenced by courts each year end up going to prison. Yet a third of people claiming Jobseekers’ Allowance in 2010 had a criminal record in the previous ten years (Ministry of Justice, 2011). A legitimate question that follows from this is whether it is the conviction or the imprisonment that has the larger impact on poverty. The findings of the CCJS seem to present a mixed picture, but there doesn’t seem to be a huge difference between the two; the common fact being that both groups face significant income penalties.

The causes

What was interesting from the CCJS report was the distinction

between supply side and demand side issues. On the supply side (i.e. issues such as skills and job preparation), this type of support is intended to build the earning capacity of the individual. Sadly, the evidence of effectiveness wasn’t very encouraging, particularly when looking at prison-based work specifically.

Looking at the demand side issues (i.e. issues such as stereotypes, stigma and discrimination) the problem is less clear (statistically), which is why these issues are less explored in the CCJS research. However, with a focus on these broader struggles against stigma and discrimination (particularly in the workplace), anti-poverty strategies will more effectively benefit those

There is overt discrimination towards former prisoners, and people with convictions more generally, meaning that specific policies and approaches are required

disadvantaged by the criminal justice system. A significant proportion of the causes of poverty stem from the availability of work. The evidence demonstrates how, when compared with people without criminal records, those with them

are paid less. This would seem to mean a level of ‘under-employment’.

There are clear cross-overs with other populations. For example, one focus of the CCJS work was in examining the links between prisoners and looked-after children, particularly given that a quarter of prisoners have themselves been looked-after. In many ways, integrating policies for these two groups might be effective, especially where there are common issues. However, care should be taken to ensure that specific issues for each group are properly recognised – for example, there is particularly overt discrimination towards former prisoners, and people with convictions more generally, meaning that specific policies and approaches are required.

All but a very small number of people will be released from prison,

and many of the issues surrounding poverty are long-term social issues – not ones that the criminal justice system can be solely responsible for. The concerns of the criminal justice system stop in relation to ‘offenders’ when they desist from crime. But by broadening out the scope to look at the drivers of poverty, you begin to see a much wider picture.

The solutions

In addressing issues relating to poverty, the evidence shows that many of the prison-based interventions, such as job preparation and employment skills, fail to deliver. This could, in part, be because the causes of poverty amongst former prisoners cannot be wholly alleviated by this type of pre-release work. As a result, policy and practice outside the prison may be a much more effective way, so that people leaving prison can find anchors and support among employers and other organisations in the community. In particular, addressing wider inequalities may have more impact than devising better prison-based programmes.

Looking forward, there are four key areas that are worthy of discussion and further research:

1. As things stand, a criminal record is for life, no matter how old or minor. This is despite knowing that, in particular, people make mistakes when they're young. Ways to properly and fully ‘wipe the slate clean’ for minor offending should be established. Recent measures to ‘filter’ minor disposals for certain types of employment checks do not go far enough. For example, any type of prison sentence will remain on an enhanced check until that person reaches 100 years old.
2. Current mechanisms to prevent

discrimination against people with convictions do not come into play until too far into the future. For example, although recent reforms have seen significant reductions in the ‘rehabilitation period’ that applies, someone who gets sentenced to three years in prison has to wait for seven years from the end of their full sentence before that conviction becomes ‘spent’ under the *Rehabilitation of Offenders Act 1974*. This means that the legislation doesn't help a former prisoner at the most difficult time in their ‘rehabilitation’ – the first couple of years after they're released.

As a result, there should be mechanisms that would allow for somebody to show how they have been rehabilitated, and for steps to be taken which allow the long-term effects of a criminal record

The evidence shows that many of the prison-based interventions, such as job preparation and employment skills, fail to deliver

to be alleviated – well in advance of the ‘automatic’ rehabilitation period. For example, in France, there is a process of ‘judicial deletion’ where a court can decide to delete criminal

records from certain types of vetting records that might be used by employers – this can even happen at the point of release! In addition to this, France also has a system of ‘judicial rehabilitation’ which looks at individual cases and recognises individual rehabilitation by deleting a person's record.

At present, there is little knowledge of how effective these systems are in promoting the rehabilitation of individuals, and to what extent these might be effective measures in mitigating the long-term effects of convictions.

3. Alongside changes in government policy, there's a role for more proactive business practice when

dealing with employment and recruitment. For example, the Ban the Box initiative aims to deal with a common problem amongst mainstream employers – the use of ‘tick boxes’ about convictions on application forms as a way of determining an applicant's suitability. This initiative, led by Business in the Community and supported by organisations like *Unlock*, enables people with convictions to put themselves forward on an equal playing field. Early indications show the potential for such positive practice to be adopted as a matter of routine. A further positive step would be to write this kind of practice into employment law.

4. More broadly, what appears to be glaring by its absence is the existence of a cross-government strategy that looks at people with convictions. Given the multiple areas of ‘disadvantage’ that people with convictions find themselves in, it would seem sensible to look in the round at the role of government policy and to what extent there is scope for a cohesive approach to the problem. ■

Christopher Stacey is Director (Services), *Unlock*, for more information visit: www.unlock.org.uk

References

- Dominguez, A. and Loureiro, M. (2012), ‘Stigma, Ex-convicts and Labour Markets’, *German Economic Review*, 13 (4), pp. 470-86.
- Grimshaw, R., Roberts, R., Bebbington, P., Dowling, M. and Hougham, C. (2014), *Institutional care and poverty: evidence and policy review*, London: Centre for Crime and Justice Studies.
- Home Office (2014), ‘Number of nominal records held on the PNC’, Freedom of Information Response, 13 November.
- Ministry of Justice (2011), *Offending, employment and benefits - emerging findings from the data linkage project*, London: Ministry of Justice.
- Western, B. and Pettit, B. (2010), ‘Incarceration and social inequality’, *Daedalus*, 139 (3), pp. 8-19.