Coercion and control: a dangerous and costly cul-de-sac

James McGuire says the evidence in favour of harsh sentences simply doesn't add up.

There is a common presumption that if you want to stop someone doing something which society considers objectionable, the best way of achieving it is to introduce some unpleasantness. Make the consequences negative, increase the cost, administer some pain, and soon enough he or she will desist. In a nutshell, that is what the doctrine of deterrence is based upon, and it is the core idea influencing how criminal justice operates. Taken at face value, it sounds eminently plausible: it appeals to what is widely called 'common sense'. Many discussions of what to do about crime and other social problems draw on that corpus of hand-me-down colloquialisms as their source.

There is a major problem however. With reference to criminal conduct, this approach simply does not work. In fact if anything, on balance it is more likely to make things worse. People's expectations about this are based on an everyday analogy. When we do something and it hurts, we rapidly stop doing it. Of course the actions of those who jump into freezing lakes in midwinter for sport defy this somewhat, but we see their behaviour as belonging in a different category of events.

Like the famous 'British-economy-as-kitchen-cupboard' metaphor, grounding a national criminal justice policy in simple-minded anecdote and homespun wisdom does not bear any more than superficial examination. We cannot always extrapolate from what is immediate, familiar, and mundane to the workings of large and complex systems. When applied as it is in the criminal justice context, punishment operates differently from how we experience it at a personal level.

For punitive measures to work well, it is crucial for them to be virtually unavoidable, to happen fast, and to be severe. Producing meaningful changes in these dimensions is close to being unrealisable in an intricate, multi-stage process like the operation of 'law and order'. Criminal justice research shows conclusively that changing severity alone without altering the other parameters is particularly unlikely to have any impact. Yet most frequently, when governments alter sentences in an attempt to improve their effects, it is the severity dimension they most commonly try to manipulate. There is a prevalent belief, fuelled by an often myopic media, that this is what the public wants.

But the obstinate pursuit of policies based on increasing coercion and control is proving to be a dangerous and costly cul-de-sac. It is not only our adult prison population that continues its relentless rise. Here in the UK we lock up a higher proportion of under-18-year-olds than any of our counterparts in Europe (Aebi and Delgrande, 2009). The proportion of under 18s among prisoners as a whole is twice the average for Europe overall and is one of the highest in the world. In parallel, the numbers of children age 10-14 in custody has risen at an alarming rate. Yet the trend towards greater harshness has demonstrably failed. One experiment after another in the move to 'punish smarter' or 'turn up the heat' on those who break the law has proven to be an abject failure. Perhaps most spectacularly, the enactment of 'three strikes' statutes in places such as California, which implemented it from 1994, has brought the opposite of what was promised. The counties that used this law the least often recorded the largest declines in the violent crime rate. By contrast, the counties where it was used most unbendingly obtained the smallest impact on their figures for violent crime (Center on Juvenile and Criminal Justice, 2008).

Recently, voices from several quarters have called for a halt to this regressive and self-defeating state of affairs, and for a substantial re-think of how criminal justice is organised and implemented, drawing upon, amongst other sources, the now considerable evidence on what is most likely to achieve its overall objectives. In January this year the House of Commons Justice Committee (2010) called for a sizeable re-investment in how we organise and deliver criminal justice. Noting that the system at present is facing 'a crisis of sustainability' (p. 5), the Committee pointed towards the need for re-investment in a network of localised, community based services and a greatly reduced use of incarceration as the preferred route to follow. In February, the Centre for Crime and Justice Studies outlined proposals for escaping from the destructive spiral of coercion, control, and containment of young people (McGuire, 2010). The present paper provides a brief summary of the latter document.

The research evidence that underpins the arguments in these reports is both extensive and compelling. It runs completely counter to the apparently widespread presupposition that the only way to deal with those who persistently offend is through harsher penalties, and the supposedly ubiquitous desire for policies that enact that to the letter. There are many more positive, constructive things we can do that are capable of yielding sizeable, statistically significant, and practically meaningful reductions in re-offending. Evidence concerning this has been steadily accumulating over a 30-year period and systematic

reviews of it have generated relatively consistent findings on the kinds of approaches that are more likely to be effective in reducing the risks of re-offending by young people (McGuire, 2008). The methods so identified can incorporate work on several levels, used separately or in combination. At the individual level they are designed to increase young people's skills for dealing with others, for solving problems in more flexible ways, or for improving their capacities to manage strong emotions. At a family level they entail strategies for parent training, or acquiring skills in negotiation and conflict resolution. On a community level they involve investment in economically deprived neighbourhoods and delivering improvements in health and education.

If we understand crime as very largely a form of learned behaviour, a position supported by a sizeable volume of evidence from longitudinal studies of human growth, this leads naturally to a proposal that it is neither inevitable nor immutable and is susceptible to change through education, counselling and other learning processes. This has led to the design of specific forms of working that now have a demonstrable track record in enabling young people to acquire and develop skills for addressing problems they encounter, while acting in socially accepted and constructive ways that respect the rights of others, while safeguarding their own (Garrido and Morales, 2007). These types of activity can have a behavioural emphasis, focused for example on enhancement of interaction skills, or they can involve structured individual counselling that will enable individuals to review how they think of themselves, their difficulties and their relationships with others. The methods used within these approaches are often assembled in formats that can render them reproducible on successive occasions or at different sites, leading to the emergence of structured offending behaviour programmes. Based on what is known as the cognitive-behavioural model, this approach displays many variants including anger management, behaviour modification, cognitive restructuring, cognitive skills training, moral reasoning, relapse prevention, social skills training, and victim impact work (Wikström and Treiber, 2008).

It is widely acknowledged that the family is the most powerful agent of socialisation in child and adolescent development and not surprisingly the roots of delinquency are often found in the patterns of interactions in that setting. Conversely, family based interventions in which parents and young people identify points of conflict and learn procedures for negotiating through them have also been shown to reduce rates of juvenile offending. Where the family has become a dysfunctional or non-viable unit, there is considerable evidence of positive outcomes through the provision of structured foster care, teaching family homes, or other arrangements which can provide stability and opportunities for new learning and thinking less supportive of delinquent lifestyles.

For some young people who manifest troubled and troubling behaviour from an early age, by the time they reach adolescence they may be defiant and resistant to efforts to work with them. Often they are relegated to the most controlling institutional regimes, usually with little prospect of a favourable outcome. Research at the Mendota Juvenile Treatment Centre in Wisconsin has however shown that by using a non-oppressive approach (in a model known as 'decompression'), combined with constructive activities, this group can be reached, and meaningful change engendered, including decreased recidivism after discharge (Caldwell and Van Rybroek, 2005).

Put together, the scale of positive findings in this area is now such that, if it existed in other areas of public policy, it would be seen as offering clear guidance regarding how to embark in new directions and implement new practices with the prospect of significant all-round benefits. The types of interventions briefly surveyed here have been shown not only to result in positive outcomes for participants, but to be relatively cost-effective, such that the sums invested in them are saved, sometimes several times over, through reduced usage of criminal justice services and other community resources (Aos et al., 2004).

Despite this amassed knowledge, the language of 'feral youth' predominates, and induces self-defeating dread. Driven by these concerns, government reacts in ways that all too often are the least helpful. The lesson of the debate on classification of cannabis and the official reaction to statements by Professor David Nutt, former chair of the Advisory Council on the Misuse of Drugs, is a clear demonstration that the government finds it more difficult to absorb messages from research when they are believed to have a social-order dimension than is the case in other spheres of activity. It is very difficult to escape the impression that there is a pervasive fear of adverse media comment, and that the agenda on these items is set by unelected, poorly informed, yet very powerful interest groups. But the record of following what is presumed to be the populist route to addressing these issues shows amply that the net outcome is not to resolve but to magnify the problem, at significant human and monetary expense. There is a repeated failure to be proactive, to take the initiative and advance the arguments and evidence for moving in a new direction that can be simultaneously more effective, humane, and cost-efficient. Why does it remain so seemingly difficult to see that 'the way out is via the door'? ■

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Comparing coercive and non-coercive interventions

The incidence of imprisonment for under-18s in England and Wales is one of the highest in the world. Professor James McGuire examines the evidence that shows resorting to incarceration and strict control has little or no benefit in reducing reconviction. He questions the use of policies that consistently favour coercive measures over more constructive initiatives such as counselling, skills training, family support and community regeneration.

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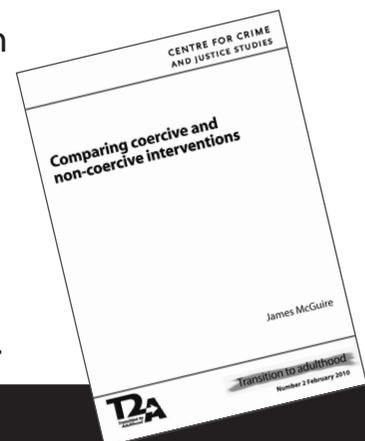
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