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## Crime and Punishment: Does Punishment Work?

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Article #1 of 3, Spring, 2007

### **Crime and Punishment: Does Punishment Work?**

Most analyses of punishment seem to assume that it plays a major role in shaping the behavior of people, whether they are children, students, employees, or ordinary citizens in the community. Some people argue that there is no justification for the use of punishment in any setting, even childrearing. A bill debated in the 2007 California state legislature that would make spanking illegal appears to be a move in this direction. Others believe that there are times when punishment is the most effective and timely way to change behavior and without it homes, schools, organizations, and societies would disintegrate. Does punishment work and how can we improve it?

#### **Types of punishment**

The effects of punishment have been studied in several contexts, including child rearing, human resource management, and criminology. Extensive research in the field of psychology has examined the effectiveness of punishment contingencies. A punishment contingency consists of administering a punisher or an aversive stimulus after the response has been made. In animal studies, punishment contingencies are usually created by administering an electrical shock after the animal makes a response. The effect of a punishment contingency is to decrease the probability that the response will be emitted on future occasions.

Punishment contingencies occur frequently in everyday life because people are surrounded by many forms of physical and psychological pain. When children touch things they are not supposed to, their parents slap their hands. When employees make mistakes, their supervisors reprimand them. When drivers change lanes without signaling and checking they may cause accidents or road rage. When pedestrians run on icy sidewalks, they occasionally fall. When thieves are apprehended for shoplifting, they are typically fined or incarcerated.

There are important differences between aversive punishment (inflicting pain) versus withholding positive rewards. Aversive punishment, such as fines, reprimands, and physical pain, may cause unintended detrimental effects, especially when the punishment is severe and unexplained. These potentially serious detrimental effects of punishment typically do not occur when positive rewards are withheld, such as withdrawing privileges or delaying a reward until a task is completed.

Punishment can also be categorized by the consequences that follow it: natural, logical, or contrived. Natural consequences occur when behavior violates the laws of nature or society, such as injuries caused by unsafe work procedures or social rejection caused by cruel behavior. Virtually every form of misbehavior creates some form of undesirable natural consequence, although some consequences are difficult to recognize immediately. Logical consequences refer to punishment that contains a logical relationship to the violated rule. Restitution programs that require teenagers to repair property they have damaged are illustrations of logical consequences. Contrived consequences refer to punishment for wrongdoing where the punishment is unrelated to the misbehavior. Fining motorists for traffic violations illustrates a contrived

punishment. Natural consequences are the ideal form of punishment because no one has to initiate action to create natural consequences, nor can anyone really prevent them from occurring, and they are perceived as reasonable.

### **Criticisms of Punishment**

Learning theorists claim that punishment is not the most effective method of changing behavior. Several reasons have been proposed to explain why punishment might not be effective (Estes, 1944).

1. Punishment is only effective when the threat of punishment is present. If the only reason customers do not steal from stores is because of the presence of security personnel, they are likely to shoplift when they think they will not be observed.
2. Punishment indicates what is wrong but not what is right. One wrong response might be replaced with another wrong response. When students are criticized for coming late to class, they might choose to avoid class all together the next time they are behind schedule. When individuals are criticized for attempting to resolve interpersonal conflicts, they may decide to quit talking, and the interpersonal conflict continues to smolder.
3. Punishment may eliminate both good and bad behavior if both behaviors are tied together. For example, trying to help a bystander might be seen as “getting in the way” and result in punishment. People may feel as if their helpfulness was punished.
4. Punishment may cause frustrated behavior because the individual's thinking becomes fixed on past errors rather than on searching for a correct solution. For example, a driver who kills a pedestrian while intoxicated may be so focused on the charges of vehicle homicide that the mistake of drinking before driving is overlooked.
5. Punishment creates a negative feeling toward the punishing agent, such as parents or the police, and interferes with relationships regarding other issues. When people are highly critical and constantly harass others they tend to create such a negative feeling that even friendly comments and legitimate requests are ignored. Punishment can also drive children to associate with friends who display and encourage the very kinds of misbehavior that the punishment was intended to curtail (Bandura and Walters, 1959).
6. Punishment is sometimes a reward since any form of attention is better than being ignored. Urban police are often surprised to find that rowdy teenagers seem to enjoy being disciplined, because it tends to raise their status in the eyes of their peers.
7. Punishment serves as a negative model for behavior. There is a basic inconsistency in teaching by example when people are killed because they kill others or when children are spanked because they hit others. Studies in childrearing demonstrate that children who experience coercive discipline are inclined to be more physically aggressive toward their peers (Hoffman, 1960; Sweet & Resick, 1979).

While empirical research has not always been consistent (Andrews & Bonta, 1994), much evidence suggests that the use of punishment to deter crime is largely ineffective and can even be damaging (Cullen & Gendreau, 2000; McGuire, 1995).

Many studies suggest that a penalty such as prison time actually increases recidivism (Gendreau et al., 1999; McGuire, 1995). Overall, meta-analytic studies (Lipsey, 1992a, 1992b) have found that punitive measures have a net destructive effect and tend to worsen recidivism rates: on average, punishment-based programs increased re-offense rates by twenty-five percent over control groups. In Lipsey and Wilson's (1998) study of programs for serious, violent youth, punishment-based programs raised recidivism three percentage points. In Andrews et al. (1990), sanctioning interventions without service treatment increased recidivism seven percentage points.

Punishment-based programs are especially destructive when used with low-risk offenders. Harsher sanctions for low-risk offenders serve to increase recidivism rates compared to employing minimal supervision (Taylor, 1998). In deed, some studies have found that all treatment and rehabilitation programs that are aimed at low-risk offenders seem to make conditions worse and increase recidivism (Lipsey, 1995; Whitehead & Lab, 1989). In short, as they are currently used in the criminal justice system punitive sanctions, such as imprisonment, fines, and electronic monitoring, do not reduce criminal behavior or serve as an effective deterrent to crime.

If punishment is so ineffective, why do we do it? The next article will explain four purposes for punishment and a later article will explain how punishment can be used more effectively, especially in families and organizations.

### **Article #2 of 3, Summer, 2007** **Crime and Punishment: Why Do We Punish?**

Some of the most common forms of punishment that are used to prevent crime include capital punishment, corporal punishment, incarceration, probation, intensive supervision, community service and work programs, fines, restitution to the victims, and forced participation in treatment programs. But, what are the reasons for these sanctions? What are we trying to accomplish with them?

#### **Punishment philosophies**

Four philosophies or purposes have been used to justify punishment (Reid, 2003):  
*Retribution:* Sometimes we punish people because we think they deserve it. Punishment serves the purpose of retribution when it simply retaliates (or gets even) by inflicting pain or discomfort proportionate to the offense. This purpose is also referred to as revenge, or administering one's "just deserts", or an "eye-for-an-eye and tooth-for-a-tooth". For the most part, punishment serves this purpose well.

*Incapacitation:* Sometimes we want to protect ourselves and make sure they cannot do it again. Punishment serves the purpose of incapacitation when it prevents offenders from being able to repeat an offense. The most popular form of incapacitation today is incarceration; although in earlier years convicts had their hands cut off or they were transported to distant places, such as Australia or the American Colonies. Obviously, capital punishment is the best way to ensure that it won't happen again.

*Deterrence:* Punishment serves the purpose of deterrence when it causes offenders to refrain from committing offenses again (individual deterrence) or when it serves as an example that keeps others from committing criminal acts (general deterrence).

Deterrence theory is based on the assumption that appropriate punishments deter criminal activity because rational people will not choose behavior that brings more pain than pleasure. Punishment does not need to be experienced personally in order to change behavior. Just as we learn vicariously from observing others what will be rewarding, we also learn through vicarious punishment what we should avoid. We are less likely to imitate those behaviors for which we see others punished. Studies of punishment have shown that individuals who have observed others being punished change their behavior almost as much as those who were actually punished (Benton, 1967).

*Rehabilitation:* The purpose of rehabilitation is to change offenders through proper treatment; here the focus is on treatment rather than on punishment. This ideal was incorporated into statutes, proclaimed by courts, and supported by the 1967 President's Commission on Crime and the Administration of Justice. A key element of rehabilitation is indeterminate sentences that specify minimum and maximum terms for each offense as established by legislatures. Rather than specifying definite terms of incarceration, judges defer to administrators, such as parole boards, to evaluate offenders and decide what treatment each should receive and when they can be safely released.

Although rehabilitation was the dominant theory of punishment in the United States during most of the twentieth century, in the past two decades many jurisdictions have rejected it in favor of a policy of retribution coupled with an emphasis on deterrence (Reid, 2003). This rejection has largely resulted from the failure of treatment programs to demonstrate solid empirical support.

Due to changing political forces, the focus of the criminal justice system has shifted from rehabilitation to retribution through more severe penalties. This shift can be seen in the increasing length of prison sentences, mandatory sentence guidelines, intensive supervision, electronic monitoring, curfews, fines, and harsher sanctions like the "three-strike" program. Research examining the effectiveness of severe punishment, however, fails to demonstrate that these programs are useful forms of treatment for creating lasting change in the lives of offenders. An important question is whether any of these negative sanctions reduce criminal behavior and improve moral character, or are they simply forms of retribution and revenge.

### **Restraints on Behavior**

Misbehavior can be controlled by three very different types of sanctions: legal, social, and personal (Bandura, 1986, p. 273). The effectiveness of legal sanctions depends on the belief that criminal acts will be detected and punished. However, the actual risks of punishment are remarkably low since it has been estimated that only one percent of all the crimes committed result in prison sentences (Zimring and Hawkins, 1973). Only half of the crimes that are committed are ever reported to enforcement agencies and only a fraction of these lead to an arrest. Of those arrested, only a fraction are prosecuted because of insufficient evidence and many cases are dismissed or reduced through plea bargaining. Of those who are convicted, only a small percent receive prison sentences while others receive other forms of punishment. Therefore, the impact of legal sanctions on controlling misbehavior is not very great unless people perceive a much larger threat than actually exists.

Social sanctions refer to the embarrassment and shame associated with criminal conduct. The social costs of being charged and convicted of a crime are generally much

more powerful than legal sanctions for deterring crime, especially for people who enjoy a favorable social status. For example, the fine for shoplifting may be quite trivial to high-status people, but a criminal conviction for shoplifting could have devastating social consequences that could ruin their careers. Therefore, many people avoid misbehavior because of the pervasive social consequences that would come from public knowledge of a criminal offense.

Personal sanctions depend on internalizing moral standards and operate through anticipatory self-censure of one's conduct. Although young children rely on the guidance and direction of others to regulate their behavior, they gradually begin to adopt internal standards of behavior that serve as guides and deterrents for their actions. People who have internal restraints resist performing acts that are contrary to their standards, even when their behavior is unlikely to be detected. When they do temporarily yield to strong inducements to misbehave, they react with self-reprimands.

Legal sanctions appear to have very limited value other than as they contribute to the creation of social and personal sanctions. For example, legal restrictions against bribing foreign officials may effectively reduce such conduct, not because of the fines and penalties imposed on violators, but because of the social stigma attached to them and executives' own sense of moral obligation to abide by the law. Furthermore, personal and social restraints are the most effective because they do not depend on external monitoring and administration.

An examination of the deterrent effects of moral commitment, fear of social disapproval, and fear of legal punishment found that all three forms of sanctions were important inhibitors of illegal behavior. The researchers noted that people who internalize norms behave in legal ways not because they fear punishment but because they believe this is the proper way to behave. For these people, internalization of norms is a more effective form of social control than is fear of legal apprehension and punishment. They concluded, however, that the perceived threat of punishment is somewhat effective at all levels of moral commitment (Grasmick & Green, 1980, 1981).

### **Article #3, Fall, 2007**

#### **Crime and Punishment: Using Punishment Effectively**

Punishment can serve two useful functions: an educative function and a deterrent function. By itself, punishment does not serve an educative function; incarceration will do little good unless it causes people to re-evaluate what they did wrong. But when it is used properly and combined with reasonable explanations, punishment can teach offenders better ways to behave and deter them and others from engaging in crime.

A popular guideline for administering punishment is called the "hot stove rule." A hot stove with its radiating heat provides a warning that it should not be touched. Those who ignore the warning and touch it are assured of being burned. The punishment, in this case the burn, is immediate and directly associated with violating the rule. Like the hot stove which immediately burns anyone who touches it, established rules should be consistently enforced and should apply to all. The pain of a hot stove is administered in a rigid and impersonal way to everyone who touches it.

While this guideline seems reasonable for most situations, it also can be criticized as being too rigid because it ignores circumstances and motives that ought to mitigate the

severity of the consequences. Administering punishment in ways that are fair and reasonable requires a careful consideration of the person, the situation, the person's previous conduct, and the seriousness of the misdeed.

Although punishment has been criticized as a means of changing behavior, there are appropriate times when punishment should be used, and there is considerable evidence that punishment can be an effective tool if the conditions are right. Seven conditions have been proposed for the effective use of punishment.

1. Punishment is more effective when it is administered immediately after an undesirable response. The longer the delay in administering punishment, the more likely the punishment will be perceived as arbitrary, unfair, and unrelated to the undesired behavior. Prompt punishment at the moment an act is initiated is more effective than if nothing is said until after the misbehavior has occurred (Bandura, 1986, p. 264).
2. Punishment should be unpleasant but not severe. If it is too mild, the punishment will be ignored; but if it is too severe, those who are punished will think too much about the pain and discomfort and not enough about how they need to change their behavior to avoid it in the future. Self perception theory (Lepper, 1981) suggests that self control is best developed by using the minimum social pressure needed to gain compliance. Severe punishment, conversely, has been found to create behavioral inflexibility that prevents people from performing behaviors that were once prohibited but are now appropriate, such as marital intimacy or working together on group exams (Whiting & Mower, 1943).
3. Punishment should focus on a specific act, not on the person or on general behavior patterns. Punishment should not be a means of revenge or a way of venting frustrations. Instead, it should be tied to a specific act that can be described.
4. Punishment should be consistent across persons and across time. Whether or not punishment is administered should not depend upon who misbehaved, who they are related to, or whether things are running smoothly or otherwise.
5. Punishment should be administered in a way that informs people what they did wrong and also how they must change to do it right. Simply knowing that what they did was wrong without knowing how to change can be very frustrating. An important benefit of restitution programs is that they help people see what they have done wrong and the damage they have caused. Furthermore, the punishment appears just. Restitution programs have produced rapid and enduring reductions in misbehavior (Foxx & Bechtel, 1982; Foxx and Azrin, 1972).
6. Punishment is most effective when it occurs in the context of a loving and nurturing relationship. Since punishment naturally creates a negative emotional feeling toward the punishing agent, it is essential that on other occasions a warm and supportive relationship be developed to withstand the strain of punishment. When the relationship between a person and the punishing agent is strained or distant, the punishment tends to be

perceived as a personal attack that creates a feeling of hatred rather than an indication of a wrongdoing that needs to be changed.

7. Punishment should not be followed by undeserved rewards. Although greater efforts should be made after punishment to reestablish an interpersonal relationship, these efforts should not include showering the person with undeserved rewards, thereby encouraging them to misbehave again.

There are numerous reasons why punishment cannot be administered as quickly or as intensely in the criminal justice system as the theory would recommend. Many illegal behaviors cannot be punished as immediately or as severely as the hot stove rule recommends. In families and organizations, however, rules that are supported by reasonable sanctions can be an effective means of influencing behavior. Reasonable rules that are clearly communicated to all members can effectively guide behavior. If they are properly administered people will gradually internalize them as moral restraints.

Since punishment is often delayed, it is important for the person administering punishment to explain the importance of the rules and provide what is called cognitive structuring. Evidence has shown that clear and reasonable explanations for punishment significantly increase the effectiveness of punishment and produce desired behavior. Reasonable explanations help people understand why their behavior was wrong and how it needs to change in the future.



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