

# Encyclopedia of Criminal Justice Ethics

## Rehabilitation

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There are four main philosophies of punishment: (1) retribution, (2) deterrence, (3) incapacitation, and (4) rehabilitation. A historical review of the correctional system demonstrates that the popularity of the goals come and go with changing times and changing sociopolitical landscapes. Despite this, the goal of rehabilitation was reaffirmed in the 1980s and continues to be a leading philosophy of corrections. The goal of rehabilitation is utilitarian and argues that the purpose of punishment is to change the offender, reduce recidivism, and ultimately increase public safety.

The rehabilitative ideal rests on the notion that individualized treatment should be used to deal with criminal offenders because the causes of crime are many and are likely to be different for different offenders. The goal of rehabilitation is to intervene and change the factors that cause the offender to break the law. Findings consistently show that rehabilitation and early prevention programs are so much a part of the American culture that F. T. Cullen et al. in 2007 referred to these practices as a “habit of the heart.”

With rehabilitation largely favored as the purpose of punishment, the correctional system is faced with two major ethical concerns. The key ethical issue is that rehabilitation is done under the auspices of state power. If rehabilitation is not done humanely and effectively, then offenders are being “coerced” for no justifiable reason. The other concern is that despite pursuing rehabilitative efforts in good conscience, in the course of delivery rehabilitation has the potential to be subverted into tools of convenience in response to various administrative, bureaucratic, management, and organizational survival imperatives. Second, if rehabilitation is made voluntary or eliminated, then the state is not obligated to provide offenders with the assistance they need to live noncriminal lives. This harms not only the offender, but also the public. Also, if a system gets too punitive, then there are ethical concerns that the absence of rehabilitation can create gratuitously harsh conditions.

## The Rehabilitative Ideal

The presiding philosophy of the first part of the 20th century was rehabilitation. The Progressive era (1900–20) was known for being a time of diverse social and governmental reforms. The Progressives believed that states could be trusted to help

solve a wide range of social problems—including crime. At the core of the Progressive model is the rehabilitative ideal, which rests on the notion that individualized treatment should be used to deal with criminal offenders because the [p. 784 ↓ ] causes of crime are many and are likely to be different for different offenders. The use of indeterminate sentences allowed authorities the ability to diagnose and treat offenders with the objective of intervening and changing the factors that cause the offender to break the law. The assumption was made that crime was caused by these factors, so the focus was on the offender and not the offense. This ideology stood in stark contrast to the classical view of crime that maintained punishment should focus on the offense, and not the offender.

There were two concerns related to individualized treatment: (1) it assumed judges and corrections officials had the expertise to administer the system, and (2) it assumed officials' discretion would be used only to advance the cause of rehabilitation. While the rehabilitative ideal was strong throughout the first half of the 20th century, the latter half saw a different story. Specifically, during the 1960s and 1970s the rehabilitative ideal came under attack by liberals and conservatives alike. Furthermore, the attack on rehabilitation was not surprising given the sociopolitical context of the time.

*A demonstrator demands President Richard Nixon's impeachment in October 1973. Nixon resigned the office of the presidency on 1974 in the light of the loss of all political support and the near certainty of impeachment.*



# The Attack on Rehabilitation

During the 1960s and 1970s the United States faced extreme inner turmoil. Americans were faced with the Civil Rights movement, the Vietnam War, urban riots and political protests, the Watergate scandal, and increasing crime rates. The criminal justice system was not immune to this chaos and disorder. During this time, many correctional institutions experienced prisoner riots including Attica and the New Mexico Penitentiary. It was in this social context that the criminal justice system came under careful scrutiny by both the liberals and conservatives alike, albeit for different reasons.

The liberals argued that since the government could not be trusted to advance civil rights, be truthful about why the nation was at war, or act with integrity while in office, it should not be trusted to rehabilitate offenders. The liberal view was that rehabilitation was a source of injustice and coercion. For example, judges were administering unequal justice and parole boards were using their power to compel compliance with institutional rules, not to reform offenders. The liberal belief was that this abuse of power resulted in gross inequalities of justice; therefore, the liberal solution was to reduce the amount of official discretion, in an effort to increase fairness, through determinate sentencing.

The conservatives also argued for less discretion among criminal justice professionals, but for very different reasons. The conservatives believed that the criminal justice system was coddling offenders and treating them too leniently. For example, judges were too lenient and put dangerous offenders in the community, and parole boards released dangerous offenders prematurely from prison. The conservatives believed that punishment should also be retributive. They argued [p. 785 ↓ ] for a punitive model of criminal justice, suggesting that the rehabilitative ideal failed and that the only answer was to stiffen the penalties associated with engaging in crime.

A major part of the attack on rehabilitation involved the belief that there was no empirical support for correctional programs. At the head of this argument was an essay that was published in *The Public Interest* in 1974. This essay would come to be known as the “Nothing Works” doctrine. In this review of the correctional treatment literature, Robert Martinson concluded that “with few and isolated exceptions, the rehabilitative

efforts that have been undertaken so far have had no appreciable effect on recidivism.” While other works during this time stated similar conclusions, this report would be used most often as the “scientific evidence” that rehabilitation did not work.

Although liberals and conservatives both agreed that discretion should be reduced, the two sides disagreed considerably in how severe sentences should be. Liberals wanted less and conservatives wanted more. Backed by Martinson's 1974 study, the conservatives eventually won this debate, and the “get-tough” model emerged during the 1980s and 1990s. The get-tough movement was based on the theories of deterrence and incapacitation.

## Punitive-Based Programs

During the get-tough era, the criminal justice system went through a tremendous reformation. The programs and strategies that emerged were intensive supervision programs (ISPs), electronic monitoring (EM), house arrest, drug testing, boot camps, wilderness programs, and most notably mass incarceration. The research evaluating these strategies has been largely unfavorable. In the largest study of intensive supervision programs, Joan Petersilia and Susan Turner found that intensive supervision was not effective in reducing recidivism. In a later large-scale review of correctional interventions, D. L. MacKenzie found several categories of programs that do not work: (1) programs emphasizing specific deterrence, such as shock incarceration or Scared Straight; (2) programs attempting to increase control and surveillance in the community, such as ISPs; and (3) programs emphasizing structure, discipline, and challenge, such as boot camps and wilderness programs. Meta-analytic reviews have found that punitive-based interventions often increase recidivism. The research evidence for the get-tough era is very clear: Punitive-based programs are not effective at reducing recidivism or increasing public safety.

## Reaffirming Rehabilitation

In the time period following Martinson's essay, there grew a movement to “reaffirm rehabilitation.” While many criminologists and practitioners gave up on rehabilitation,

there was a group of Canadian psychiatrists, most notably Don Andrews, James Bonta, and Paul Gendreau, who were insistent on proving rehabilitation could be effective. These researchers insisted Martinson was not correct that “nothing works.”

Perhaps the most famous attempt to challenge Martinson came from Ted Palmer. In a review of Martinson's work, Palmer discovered that 48 percent of the studies Martinson reviewed did in fact show that rehabilitation was effective. Gendreau and R. R. Ross in a large-scale narrative review of the rehabilitation literature discovered many treatment strategies that did work to reduce recidivism, including those that were behaviorally oriented, those that targeted criminogenic needs, and finally those that had strong therapeutic integrity.

The task for the supporters of rehabilitation then became to establish under what conditions offenders can benefit from treatment. In 1990, Andrews et al. tested these conditions and concluded that appropriate treatment programs could achieve reductions in recidivism of between 30 and 50 percent. Appropriate treatment programs were those that were behavioral in nature, targeted high-risk offenders and their criminogenic needs, while being responsive to the unique learning styles of each offender. These researchers put forth these initial principles of effective classification and with the help of Gendreau and others developed the principles of effective intervention.

With the finding that appropriate treatment interventions can reduce recidivism and increase public safety, the correctional treatment literature exploded. M. W. Lipsey conducted a meta-analysis of juvenile delinquency programs and was [p. 786 ↓] able to replicate the finding of Andrews et al. In particular, behavioral programs demonstrated the greatest reductions in recidivism. Even in studies of intermediate sanctions one could find evidence of the importance and effectiveness of treatment. For example, in the RAND study conducted by Petersilia and Turner, ISP programs that incorporated treatment saw reductions in recidivism of 10 percent.

## Public Support for Rehabilitation

Despite falling out of favor in the 1960s and 1970s, the public support for rehabilitation and the treatment of offenders has stayed strong. Although the American public still



harbors punitive sentiments toward criminals (especially the violent), the public is also very supportive of rehabilitation. In two separate surveys Cullen and colleagues found that the majority of respondents selected rehabilitation as the primary purpose of the criminal justice and juvenile justice systems. These findings suggest the American public has a more balanced view of the purpose of the criminal justice system than many public opinion polls suggest.

## Ethical Concerns of Rehabilitation

With rehabilitation largely favored as the purpose of punishment, the correctional system is faced with two major ethical concerns. First, if rehabilitation is not done humanely and effectively, then offenders are being “coerced”—losing their freedom—for no justifiable reason. The key ethical issue is that rehabilitation is done under the auspices of state power.

When an offender's release from prison or community supervision is tied to his or her progress in rehabilitation, this has the potential for treatment to be corrupted. For example, it could serve the goals of something else, such as rule compliance. The fear is that despite pursuing rehabilitative efforts in good conscience, in the course of delivery, rehabilitation has the potential to be subverted into tools of convenience in response to various administrative, bureaucratic, management, and organizational survival imperatives.

Further, if rehabilitation is made voluntary or eliminated, then the state is not obligated to provide offenders with the assistance they need to live noncriminal lives. Offenders thus are left to their own devices. This harms not only the offender, but also the public—because offenders are released into society without proper treatment to make them less of a threat. Also, if a system gets too punitive, then there are ethical concerns that the absence of rehabilitation can create gratuitously harsh conditions. In order to dispel these ethical concerns, rehabilitation must show that it can meet its intended goals—reducing recidivism and increasing public safety.

## Conclusion

While the public has remained steadfast in its support for rehabilitation, the concerns regarding the ability of correctional programs to change offender behavior should not be dismissed. In fact, ethical considerations should be made around the ability of corrections professionals to deliver quality rehabilitation services. There is mounting evidence that suggests not all treatment approaches are equally effective. Researchers have argued for an evidence-based approach to the choice of correctional interventions. Evidence-based corrections relies on science to drive practices that are effective, rather than on quackery, which relies on approaches that are unproven, ineffective, or even worse, harmful.

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See Also:

- [Deterrence](#)
- [Due Process Rights of Prisoners](#)
- [Incapacitation](#)
- [Intensive Parole and Probation Supervision](#)
- [Offender Treatment](#)
- [Retribution](#)

Further Readings

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