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# Guide to Preparing Manuscripts

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- Strengthen the role of research in the development of criminal justice policy and practice
- Empirically assess criminal justice policy or practice, and provide evidence-based support for new, modified, or alternative policies and practices
- Provide more informed dialogue about criminal justice policies and practices and the empirical evidence related to these policies and practices
- Advance the relationship between criminological research and criminal justice policy and practice

The policy focus of the journal requires articles with a slightly different emphasis than is found in most peer-reviewed academic journals. Most academic journals look for papers that have comprehensive literature reviews, provide detailed descriptions of methodology, and draw implications for future research. In contrast, CPP seeks papers that offer literature reviews more targeted to the problem at hand, provide efficient data descriptions, and include a more lengthy discussion of the implications for policy and practice. The preferred paper describes the policy or practice at issue, the significance of the problem being investigated, and the associated policy implications. This introduction is followed by a description and critique of pertinent previous research specific to the question at hand. The methodology is described briefly, referring the reader to other sources if available. The presentation of the results includes only those tables and graphs necessary to make central points (additional descriptive statistics and equations are provided in appendices). The paper concludes with a full discussion of how the study either provides or fails to provide empirical support for current, modified, or new policies or practices. The journal is interdisciplinary, devoted to the study of crime, deviant behavior, and related phenomena, as found in the social and behavioral sciences and in the fields of law, criminal justice, and history. The major emphases are theory, research, historical issues, policy evaluation, and current controversies concerning crime, law, and justice.

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# EDITOR'S PREFACE

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## A SIGNALING PERSPECTIVE ON EMPLOYMENT-BASED REENTRY

### Continuing to Advance Criminology and Public Policy

**Thomas G. Blomberg**

*Florida State University*

In the ongoing effort to increase the influence of criminological research on public policy, this Special Issue of *Criminology and Public Policy (CPP)* was developed for the 2012 Congressional luncheon sponsored by the American Society of Criminology (ASC). On February 15, 2011, ASC sponsored its first Congressional luncheon featuring a Special Issue of *CPP* with the focus upon the lead research article "Imprisonment and crime: Can both be reduced?" by Steven Durlauf and Daniel Nagin (2011).

The luncheon was attended by nearly one hundred congressional and federal justice agency personnel and included a summary of the lead research article, by authors Durlauf and Nagin, followed by policy commentary from former Attorney General and Governor of Pennsylvania, Dick Thornburgh, current Assistant Attorney General for the Office of Justice Programs, Laurie Robinson, and former Los Angeles, New York, and Boston Police Commissioner, William Bratton.

The policy recommendations provided by Robinson and Thornburgh are particularly instructive for the continuing effort to advance the role of criminology on public policy. Robinson, for example, cautions: "It is not enough that proposals for change be carefully reasoned and philosophically sound; they also must be inoculated against the reflexiveness that too often has characterized our nation's crime and justice debates over the decades," (Robinson, 2011: p 85). Thornburgh (2011) specifies that a useful way to help inoculate proposals for change from "difficult to sell politically" to more "politically feasible" is to find "Champions" in the public sector for the change reform in question.

The ASC has been increasing its efforts to identify and work with the very research and policy "Champions" that Thornburgh recommends. Among these efforts has been

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the ASC's support of the yet to be enacted National Criminal Justice Commission Act introduced by Senator Jim Webb in 2009. Shortly after the introduction of the bill, the ASC Board unanimously voted to formally support the pending legislation. This was the first time in its history that ASC had supported pending legislation. The bill called for the creation of a bipartisan blue ribbon commission to conduct a comprehensive study of America's criminal justice system and to provide a series of reform recommendations. The bill was reintroduced by Senator Webb in early 2011. After its first introduction in 2009, the bill was approved by the Senate Judiciary Committee in January 2010 and was passed by the U.S. House of Representatives in July 2010. But despite strong bipartisan support, the bill was ultimately blocked in the Senate. Nonetheless, and while immediate prospects for the bill's passage remain uncertain, it continues to generate discussion among members of Congress about the need and value of assessing and reforming the country's criminal justice system. With continued persistence, we hope the bill will ultimately be approved.

Beyond ASC's efforts to support the National Criminal Justice Commission Act, in 2009 the ASC, with assistance from the Raben Group, formed a consortium with the Academy of Criminal Justice Sciences and the Association of Doctoral Programs in Criminology and Criminal Justice that represents approximately 4,000 criminologists and related behavioral scientists and nearly 40 doctoral programs located across the country. The consortium has established a strong research presence in national crime and justice policy. For example, a major initiative by the consortium was directed at increasing the independence of the grants-making and publication processes of the National Institute of Justice (NIJ), the Bureau of Justice Statistics (BJS) and the Office of Juvenile Justice and Delinquency Prevention (OJJDP). The independence of these agencies had been reduced during the previous Presidential administration. Ultimately, the consortium's efforts were successful, and each of the three agencies did receive more independence in awarding grants and making publication decisions. Additionally, the consortium recommended that the new directors of NIJ and BJS be individuals with strong expertise in research and statistics. With the subsequent appointments of criminologists John Laub as head of NIJ and James Lynch as head of BJS, the consortium's recommendation was realized.

Despite these unprecedented and successful efforts in increasing criminology's role and influence on public policy and the associated growing prominence of *CPP* among academics and justice policy makers and practitioners alike, challenges remain. Prominent among these challenges is to address and resolve the following question: Can criminologists responsibly integrate their research and science roles with public policy? Some criminologists believe that because our discipline's research and knowledge is not causally certain, they should not and cannot responsibly inform public policy and, in fact, may do more harm than good by applying incomplete research and knowledge to public policy. Still, for other criminologists who are actively engaged in research and public policy, there is an underlying assumption that "the pursuit of perfect may be the enemy of the pursuit of good." The issue, then, is whether or not criminologists should and can effectively pursue their research, science and

causality related functions while simultaneously providing contributions to public policy that are based upon “best available knowledge.”

The research/science/causality and public policy issue in criminology is one of the foremost challenges facing our discipline and in recognition of its importance, *CPP* will devote a Special Issue in 2013 concerning this challenge titled “Criminology, Causality and Public Policy.” Further, ASC plans to continue sponsoring annual Congressional luncheons featuring Special Issues of *CPP* dealing with timely policy questions in the ongoing effort to advance the role of criminology’s research on policy making.

We are pleased that this current Special Issue will be featured at the ASC-sponsored second Congressional luncheon in 2012. The discipline of criminology is, indeed, on an upward trajectory where serious and important questioning, changes and advances in research and policy will continue.

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### **Statute Cited**

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# EDITORIAL INTRODUCTION

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## A SIGNALING PERSPECTIVE ON EMPLOYMENT-BASED REENTRY

### Prisoner Reentry, Employment, Signaling, and the Better Identification of Desisters

#### Introduction to the Special Issue

**Daniel P. Mears**

**Julie Mestre**

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Prisoner reentry remains one of the most critical social problems confronting America, one that brings with it many social and economic costs. The mass incarceration that has occurred in recent decades (Clear, 2007; Gottschalk, 2010; Pratt, 2009) has created a situation in which more than 1.6 million individuals currently are in state and federal prisons (West, 2010) and approximately 730,000 inmates are released annually (West, Sabol, and Greenman, 2010: 4). Estimates suggest that more than two thirds will be rearrested within 3 years of release (Langan and Levin, 2002). That, however, only skims the surface of the potential problems associated with reentry. Recidivism estimates based on official records data invariably understate the true amount of offending committed by ex-prisoners. In addition, recidivism constitutes but one dimension of relevance. Others include unemployment, homelessness, drug abuse, physical illness, and mental disorders (Mears and Barnes, 2010; Petersilia, 2003). Regardless of one's political leanings, the fact that ex-prisoners face challenges upon release that contribute to these adverse outcomes creates substantial cause for concern for the well-being of these individuals and, even more so, for the communities to which they return (Clear, 2007; Lattimore, Steffey, and Visher, 2010; Travis, 2005).

Over the past decade, policy makers and researchers have responded to the problem through a plethora of new policies and programs and through an increasingly large body of

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research on prisoner reentry. There is cause for being optimistic. Today, more is known about the characteristics of ex-prisoners, their experiences after release, and the types of programs and policies that may improve the likelihood of successful reentry (see, e.g., Cullen and Gendreau, 2000; Lattimore et al., 2010; Mears, 2010; Travis, 2005; see, generally, Wilson and Petersilia, 2011, and the recent special 2011 issue of the *Prison Journal*). Even so, many basic questions remain. There is, for example, the overarching question of whether incarceration, or lengthier incarceration, reduces recidivism or crime rates (Blumstein and Wallman, 2006; Cullen, Jonson, and Nagin, 2011; Nagin, Cullen, and Jonson, 2009). There also are important questions about the “black box” of prison experiences and their salience for the transition to society (Lattimore et al., 2010; Mears, 2008). What, for example, happens to inmates in prison and upon release, and how do these experiences affect reentry outcomes?

Successful efforts to promote large-scale improvements in prisoner reentry no doubt require more information about effective programs and policies. However, such efforts depend heavily on accurate information about the factors that give rise to the types of successful reentry experiences that benefit ex-prisoners and, in turn, society. It is here, the identification of what happens in prison and after and what it can tell us about the prospects for successful reentry (Visher and Travis, 2003), where there exists considerable room for advances. As but one example, despite the potentially central role of inmate social ties to families, friends, and others in their home communities, there are few rigorous assessments of inmate visitation during and after incarceration (Bales and Mears, 2008; Berg and Huebner, 2011; Hochstetler, DeLisi, and Pratt, 2010).

Prior scholarship points to a great deal of heterogeneity in the inmate experience and how it may influence inmate behavior (Adams, 1992; Bottoms, 1999; Maruna, 2001; Mooney and Daffern, 2011). In addition, desistance scholarship (see, e.g., Maruna, 2001; Piquero, Farrington, and Blumstein, 2003), many nuanced accounts of offending (e.g., Laub and Sampson, 2003), and research on criminogenic risks, inmate needs, and treatment responsiveness (Andrews, Bonta, and Wormith, 2011) all underscore the notion that a diverse array of factors may contribute to the recidivism of any particular individual. To make matters even more complicated, there is also the potential for family and community contexts of various types to influence recidivism and other reentry outcomes (Kubrin and Stewart, 2006).

Against this backdrop, there is a clear and compelling need for developing a better understanding of who is likely to have a successful reentry experience, who is not, and why. Risk and needs prediction efforts have improved greatly in recent years, but there is much room for more progress, both in predicting recidivism and other outcomes. To be clear, better predictions can only take us so far. But without them, programs and policies will be less able to target scarce resources in as cost-efficient a manner as they otherwise might.

## The Importance of the Special Issue Topic

The lead policy article by Bushway and Apel (2012, this issue) constitutes a new and interesting way to think about predicting future offending among released prisoners. Of course, many approaches arguably pass the test of being “interesting.” Their article, however, provides a potentially helpful way to advance efforts aimed at understanding reentry and, more important for the journal, *Criminology & Public Policy*, to inform discussions about specific ways that reentry can be improved.

Their central argument is that individuals, while in prison or upon release, issue “signals” that let us know that they are unlikely to recidivate. They focus on ex-prisoner employment program participation as a useful signal. But, as noted in the subsequent discussion, there are others that may work as well. No doubt, there is good reason to perhaps wax skeptical about some parts of the Bushway and Apel (2012) argument. At the same time, their article raises questions that should be relevant to scholars and policy makers alike. In this introduction, we detail some of the reasons for viewing the article as an important point of departure for reentry discussions and policy.

*First*, it draws attention to the need to improve predictive accuracy when attempting to identify individuals who are most at risk of misconduct while incarcerated and of recidivism while in society at large. Considered in this light, the significance of signaling is not just for reentry efforts; it may be useful to officials who wish to run safer and more orderly prison systems.

*Second*, it highlights that risk prediction can help us to allocate resources in ways that may be more effective. Armed with information about individuals most at risk, we can, for example, focus more attention on those who would benefit from some type of intervention. At the same time, Bushway and Apel (2012) underscore that even under the best prediction scenario there will be substantial error, including many false positives (e.g., individuals identified as high risk who are not) and many false negatives (e.g., individuals identified as low risk who in fact are high risk). This point is, as Gottfredson and Moriarty (2006) and Rhodes (2011) have emphasized, central to discussions of how we identify individuals for interventions. Yet it frequently seems to be omitted from research and policy discussions.

*Third*, the article raises the possibility of being able to have and use real-time information about recidivism risk, including changes in this risk. Individuals may participate in and complete employment programming, perhaps sending a signal that some change has occurred that makes them less likely to offend. Suppose, though, that they change again and stop working; that may signal a greater likelihood of recidivism. Also, in prisons, individuals may participate in different programs and do so to varying degrees. Having such information may signal their current likelihood of misconduct. Signaling, too, can be used to monitor changes in the likelihood of such misconduct. These possibilities are especially important given that collecting information about program participation on a regular per-inmate, by

month, basis need not cost a great deal. By contrast, conducting frequent risk and needs assessments on inmates would be costly.

*Fourth*, the article by Bushway and Apel (2012) makes a compelling argument for using information about postrelease employment program participation to assess recidivism risk. This idea alone is intriguing, regardless of the other benefits of the article. Of course, the idea of funding employment programs solely to create a mechanism by which ex-prisoners can issue signals about potential desistance may seem to defy common sense. We want employment programming to do more than that. As the essayists in this issue and prior scholarship suggests, there seem to be potential recidivism-reducing benefits of employment programming. Even so, as Bushway and Apel note, the record based on extant studies creates pause for concern. Regardless, the relevance of their idea does not hinge on their focus on employment programming. There may be many other signals that may be “stronger.” Perhaps, for example, how inmates behave in prison, or whether and to what extent they participate in various voluntary (e.g., educational or vocational) programs, may predict better the likelihood of recidivism. Inmates who choose to refrain from misconduct or to choose to participate in nonmandatory programs, especially those that require considerable effort (a central prerequisite for a good signal), may be sending a message that they have changed. In turn, that change may signal that they will continue to engage in prosocial behavior upon release from prison (Mooney and Daffern, 2011).

The inmate visitation example discussed can illustrate the situation. Few inmates are visited, and those who are typically must have acted in ways that require substantial effort (e.g., refraining from the many opportunities to engage in misconduct). Accordingly, it may be that visitation serves as a rough proxy for an inmate’s decision to act in ways that may reflect a diminished likelihood of offending. Only empirical research ultimately will be able to adjudicate the matter (see, e.g., Mears, Cochran, Siennick, and Bales, in press). The point is that the idea of signals provides a strategic method with which to identify the need to improve risk prediction efforts and, concomitantly, to show how to do so (e.g., exploring a range of potential signals).

*Fifth*, Bushway and Apel’s (2012) article indirectly draws attention to the need for the study of factors that, *at the moment of release*, reflect the likelihood of offending and, in a related vein, the study of factors that, *at any given time postrelease*, reflect the likelihood of offending. For example, inmate visitation or participation in programming may provide strong signals of the likelihood of offending in the days, weeks, and months after release. But they would be “dated” quickly if inmates underwent changes that contributed to a reduced likelihood of offending. Signals such as participation in postrelease programming may be better because they provide “real-time” measures of potential changes in individuals. In short, there is, as the study’s argument implies, a need for systematic investigation of in-prison signals and postrelease signals of the likelihood of offending. Whether, as the authors contend, these signals differ fundamentally from various types of risk factors, is in our view less important than the emphasis—from either a signaling or a risk factors

perspective—on better identification of individuals who are most likely to offend at any given period in time.

It seems to us that there are many cost-effective opportunities to advance the understanding of how in-prison and postrelease experiences may provide information about the risk of offending. Consider, for example, what happens at some amusement parks. You take a ride, and during it, you answer a series of questions about, say, your personal preferences and wishes for the future. (Admittedly, this experience is unlikely at some older amusement parks.) At the end of the ride, you receive a printout that customizes a future that you might experience based on your answers. Thousands of people take this ride each day, and yet this real-time information can be collected, analyzed, and a prediction provided almost instantaneously.

It seems reasonable to expect that administrators of jails, prisons, and community supervision be allocated resources to compile information from inmates and those who are under supervision about standard risk and needs information and, more broadly, a range of questions that speak to in-jail, in-prison, postrelease behaviors, experiences, and program participation and performance. All of this information might provide insight into the likelihood of recidivism. It also could be used in a real-time manner to adjust for recent behaviors, experiences, and programming that might be predictive. Put differently, it seems imminently possible to create a real-time system of updated prediction that includes signaling data, information now collected and used in validated risk and needs instruments, and information reflecting real-time assessments of an individual's behavior, experiences, and program participation and performance while in prison and after release. The latter information would be especially important for capturing up-to-the-minute assessments of the likelihood of offending. These types of information could be compiled using information that inmates, prison officers, parole officers, and treatment providers provide, perhaps averaging the different sources of information to adjust for potentially distorted perceptions about a particular individual.

The point is that the notion of signaling underscores the need to improve our ability to predict recidivism and other prison and reentry outcomes and that improvements can be made on many fronts. Bushway and Apel's (2012) article is directly relevant, of course, to discussions about employment programs. However, as we have argued here, the broader relevance is the call to arms to improve the prediction of recidivism and other reentry outcomes and to make predictions reflect, to the extent possible, the real-time likelihood of these outcomes among ex-prisoners. That in turn requires collecting data on an ongoing basis during the postrelease period that can allow for detecting potential changes in the likelihood of offending. From this perspective, then, and notwithstanding Bushway and Apel's use of the term "desistance," the focus turns to real-time monitoring of an individual's risk of offending, whether toward or away from such behavior and regardless of past behavior.

Any such monitoring raises with it attendant ethical concerns. For example, the information might be used to extend the formal social control of the state without in any

clear way reducing the recidivism of the individual. Here, again, more accurate information about the full range of factors that contribute to an individual's offending—including the extent to which prisons are operated in ways conducive to rehabilitation; the extent to which community supervision is undertaken in a way that would promote deterrence and, at the same time, linkages to available services; and the extent to which the communities to which individuals return are equipped to facilitate successful reentry—would be helpful. In addition, we would want information on the types of approaches that would most cost-effectively improve outcomes among those who are at risk. Whether such approaches consist of more incarceration or of any of a variety of interventions is another question (see, generally, Cullen et al., 2011; Travis, 2005).

### **The Essays in this Special Issue**

The essays in this special issue examine the signaling argument from different perspectives. Collectively, they provide a coherent and comprehensive assessment of the argument and of its implications for research and policy.

In his policy essay, Alex Piquero (2012, this issue) aims to situate signaling within the broader context of literature on reentry and desistance. Piquero argues that ex-prisoners should be taught to transition gradually back into employment and mainstream society by placing an emphasis on prevention strategies that teach these individuals to respect and obey the law. He and Tim Brennan (2012, this issue) note that it remains unclear the extent to which a signaling approach differs from a risk and need factor approach. Piquero and Brennan also emphasize that there is considerable heterogeneity in employment programming, that there are potentially differential effects of various types of programming, and as Edward Latessa (2012, this issue) observes, that there also may be differential effects depending on the degree to which employment programming is used for the “right” types of ex-prisoners.

Brennan (2012) further underscores the importance of targeting inmates for employment programs. According to Brennan, not all inmates will benefit from employment programs in the same way. He argues strongly that substantial questions exist about the extent to which current research on employment programming is sufficient for drawing conclusions about its ineffectiveness. A central policy issue raised by Brennan and echoed by Latessa (2012) is that we need better ways of identifying target populations to improve the assignment of cases to appropriate programs. More broadly, we need to be able to identify better what types of employment programming work for what kind of ex-prisoners and under what circumstances.

In his essay, Shadd Maruna (2012, this issue) compares the signaling argument to symbolic interactionism and labeling theory and argues that signaling can place rehabilitation in the hands of the inmate by focusing on factors that they can control. He views this partial empowerment of ex-prisoners as potentially helpful in achieving reductions in offending. Maruna highlights the problems inmates' face in understanding

and accepting the traditional risk assessment process. Many feel as though they are being assessed on factors outside of their control and find it difficult to show people they have changed. According to Maruna, signaling may help ex-prisoners make an invisible quality, such as a commitment to “going straight,” visible. At the same time, Maruna draws attention to the conceptual challenges in defining and discussing desistance.

Edward Latessa (2012) acknowledges that although many empirical studies find that work and employment programs do not reduce recidivism, the programs should not be ignored and can be potentially important catalysts for desistance. He argues that work can create feelings of self-worth and dignity within an individual; these changes in turn may reduce recidivism. Latessa believes that employment success is more likely if the individuals’ attitude about work changes and they learn the skills necessary to be successful in the given job at the same time. He emphasizes that employment programming, whether it serves as a signal or not, stands as a type of effort that may or may not be effective, and that the central issue, which flows from a large body of research, is “that well-implemented correctional programs that target the right offenders, target criminogenic needs, and teach offenders new skills and behaviors can have an appreciable effect on recidivism.”

Essayist Dan Bloom (2012, this issue), like the other essayists, finds Bushway and Apel’s (2012) argument compelling in many respects. At the same time, he raises questions that need addressing. What kind of information about employment programming participation or performance, for example, would be most helpful to employers as a signal? Among his many observations, Bloom notes that the transitional job experience may benefit the individual through a process similar to signaling. Transitional jobs are temporary positions that allow the individual to learn to work while on the job. Employers may be more willing to hire people who have demonstrated they can handle a job. Bloom acknowledges that more research is needed, but he believes that signaling may be especially important in an era when an increasing number of employers routinely conduct background checks on job applicants.

As Commissioner of the New York City Department of Correction, Dora Schriro (2012, this issue) offers a unique perspective on the policy implications of signaling programs. In an effort to reduce recidivism and the need for increased prison capacity, states have begun to offer some form of relief from the collateral consequences of a criminal conviction, many in the form of an employment certificate. Schriro agrees that the certificate can be used as a signal to prospective employers by validating the inmates’ efforts toward rehabilitation. The certificate does not obligate the employer to hire the ex-prisoner; it just must be viewed as evidence of rehabilitation. Schriro also highlights the importance of agencies using signaling programs in jails as well as in prisons. She, like Latessa (2012) and Brennan (2012), observes that employment programming may be effective for some inmates. She goes on to emphasize that it is not advisable to focus employment training solely on prisons because more individuals are sent to local jails than to state prisons and many are released directly back into the community. To overlook rehabilitation in jails,

Schriro argues, is to miss an opportunity to protect the public. Schriro also draws our attention to the potential importance of employment programming for other outcomes, such as housing, that can contribute to and, on their own, constitute successful reentry. Not least, she points to the importance of a multifaceted approach to improving reentry outcomes and, as part of such an approach, the central role that signaling-based efforts may have.

## Conclusion

For the indefinite future, communities across America will remain in need of programs and policies that can promote public safety and, most importantly, that can do so in a cost-efficient manner. Criminology can point to many advances to help achieve that goal. The identification of principles of effective intervention (Cullen and Gendreau, 2000) alone, for example, provides broad-based guidance on how correctional systems can promote successful reentry. In addition, the many reentry initiatives undertaken during recent presidential administrations, including those of presidents Clinton, George W. Bush, and Obama, hold much promise (Lattimore et al., 2010). Even so, there remains a strong and compelling need to understand better the factors, both in prison and after release, that can facilitate successful reentry.

Prediction efforts using signaling approaches may well be one approach that contributes to this broader goal. There is also the intriguing notion of empowering individuals while they are in prison and after they return to society to provide demonstrable evidence that they will refrain from offending. In this regard, the proposed certificates of rehabilitation stand out as an approach worth serious consideration. Perhaps such an approach would foster better prediction and, concomitantly, a better ability to target interventions toward the “harder” cases. As the essayists in this issue point out, such certificates are not unproblematic, and so the use of them would need to be undertaken with considerable care. Policy makers may want to consider federal funding to support pilot testing the idea, along with support for rigorous research that assesses the design of such certificates as well as their implementation, impact, and cost-efficiency.

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# EXECUTIVE SUMMARY

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## A SIGNALING PERSPECTIVE ON EMPLOYMENT-BASED REENTRY

### Overview of: “A Signaling Perspective on Employment-Based Reentry Programming: Training Completion as a Desistance Signal”

**Shawn D. Bushway**

*University at Albany*

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#### **Research Summary**

*This study argues that employment programs for individuals exiting prison can benefit society even if they do not directly reduce recidivism, by helping to identify quickly and efficiently those desisters who are ready to work. We make the following basic claims:*

- 1. Individuals exiting prison have poor work experience, low levels of education, and generally qualify for only low-skill, entry-level jobs. Moreover, the majority will recidivate within 3 years. Employment training programs are designed to ameliorate these deficits, but to date, they have demonstrated only limited potential to improve employment prospects and recidivism risk.*
- 2. Despite a poor track record for employment-based reentry programming, a substantial minority of individuals exiting prison has desisted from crime and has the capacity to maintain stable employment.*
- 3. Growing evidence suggests that this desistance process occurs quickly—almost instantaneously—and is driven by decisions on the part of the individual to change.*
- 4. This type of instantaneous, agent-based change is difficult to predict using static risk prediction tools. As a result, desistance is fundamentally unobservable to employers and others who might wish to identify good employees from the group of people who have criminal history records. In lieu of additional information, one’s*

*true desistance state will only be revealed through time. This situation is a classic case of a market with asymmetric information.*

5. *Although growing numbers of employers refuse to hire individuals with criminal history records, some are in fact willing to hire from this pool of workers. More might be willing to do so if they could reliably identify desisters. The current legal environment is increasingly hostile to across-the-board bans on hiring individuals with criminal history records without documentation of business necessity.*
6. *Program participation, completion, and endorsement from a training organization can provide a reliable signal to employers that a given individual has desisted and is prepared to be a productive employee, as long as the cost to program completion is high for those who have not desisted, and low for those who have desisted. Effective signals must be voluntary. Requiring program completion, or graduating all participants, renders the signal useless.*
7. *Existing evidence demonstrates that program participants (or program completers) do in fact recidivate less often and have better employment outcomes than program nonparticipants (or program dropouts), even in cases where the program does not seem to “work” in a causal sense. This evidence can be taken to suggest that program completion provides valuable information—a signal—to the labor market.*
8. *Limited anecdotal evidence suggests that some employers—among those willing to hire individuals with a criminal history record—may already be using completion of employment training programs to identify “good employees” among the pool of low-skill labor.*
9. *The development of effective signals could create a net gain to society if, in the absence of signals, employers will largely avoid hiring individuals with criminal history records. Evidence suggests that individuals with prison records are exiting the labor market at higher rates than in the past.*
10. *The signaling approach is different than risk prediction because it relies on actions taken by individuals to reveal information about them that is, by definition, unobservable. Information about program completion can be valuable even if the program has not caused individuals to change.*
11. *Other actions besides completion of employment training programs also could function as useful signals in domains other than employment.*

### **Policy Implications**

*Reframing the problem of reentry as a case of asymmetric information could potentially have dramatic implications for policy makers struggling to deal with the growing number of individuals with criminal history records, who are increasingly disconnected from the labor market. This disconnection occurs, at least in part, because this group is more readily identifiable through the use of criminal background checks. Although restricting the use of background checks may be infeasible in the current legal climate,*

*policy makers are actively working to create standards for hiring individuals with criminal history records. For example, the Equal Employment Opportunity Commission is currently revising its guidance for hiring individuals with criminal history records. It is hard to overstate the level of interest, by both advocates and employers, in these ongoing discussions. Research insight could be incorporated into government statutes that currently bar individuals with criminal history records from certain types of employment. Indirectly, such guidelines also would help individuals with criminal history records trying to identify themselves to employers as “good bets.” Key elements of a research plan needed to develop this idea further include:*

- 1. Formalizing the argument with a theoretical model that can be explicitly parameterized. Key elements of the argument depend crucially on factors such as the size of the desisting population, the outcome in the absence of effective signals, and the magnitude of the correlation between the cost of the signal and desistance. Proper specification of the requirements for effective signals in this context could then inform empirical tests of the model.*
- 2. Empirical testing for evidence that employers are already using factors such as program completion as signals. This testing can include surveys of employers who hire individuals with criminal history records to develop some idea of how they discriminate between individuals with criminal history records. Other potential methods include attempts to compare labor market outcomes of individuals with otherwise similar skill levels, one who has identifiably completed a program and one who has not. Empirical research testing the strength of the link between the concept of crime desistance and work productivity also would be valuable.*
- 3. Calculating the relative costs of programs that provide signals with more traditional risk prediction tools that take advantage of currently available information. Creating these programs to generate signals only can be justified if the additional information generates savings over and above what can be gained by more passive methods.*
- 4. Better understanding the trade-offs between maintaining voluntary programs to generate signals and creating mandatory programs, like Project HOPE, that might enhance rehabilitation. Although signaling and rehabilitation are not competing concepts, the requirement that signals be voluntarily acquired could potentially conflict with mandatory rehabilitation programs.*

*In the short term, it might not be necessary to wait for the completion of this research before policy makers can make progress in this area. We are aware of one set of programs, often called Certificates of Relief, Rehabilitation, or Good Conduct, by which policy makers explicitly identify individuals with criminal history records who have met certain requirements, including program completion. In the strongest cases, these certificates carry with them explicit removal of statutory restrictions on individuals*

*with criminal history records. In our view, these government-run programs are an attempt to create an explicit signal for employers that these individuals have desisted from crime. However, we are not aware of attempts to validate the standards used to qualify individuals for these certificates, nor are we aware of attempts to verify whether these signals work to create better opportunities for the involved individuals. We urge those involved in these programs to redouble their efforts to validate these promising programs.*

**Keywords**

*Signaling; Prisoner reentry; Desistance; Employment programs*



# RESEARCH ARTICLE

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## A SIGNALING PERSPECTIVE ON EMPLOYMENT-BASED REENTRY

# A Signaling Perspective on Employment-Based Reentry Programming

## Training Completion as a Desistance Signal

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**A** criminal history is an undeniably excellent predictor of future criminal behavior (Gendreau, Little, and Goggin, 1996). Yet despite stability in offending over time, most offenders, even those with serious criminal histories, eventually desist from crime (Brame, Bushway, and Paternoster, 2003; Kurlychek, Brame, and Bushway, 2006, 2007, in press; Langan and Levin, 2002; Maruna, 2001). Employment-based reentry programs are designed and evaluated with an eye toward hastening the desistance process for individuals with criminal history records (Drake, Aos, and Miller, 2009). In other words, these programs rely on employment and training to causally lower an individual's likelihood of recidivism.

Employment is an obvious starting point in the reentry process because it is the major "routine activity" of most adults, and individuals who are exiting prison look to work as their major source of legitimate income (Bucklen and Zajac, 2009; LeBel, Burnett, Maruna, and Bushway, 2008). Yet the most recent meta-analysis of experimental evaluations of noncustodial employment programs for individuals with a criminal history finds that

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none of the programs has a causal impact on employment or rearrest (Visher, Winterfield, and Coggeshall, 2005). Ongoing, high-quality evaluations of employment-based reentry programs like the Center for Employment Opportunities and Safer Foundation provide only a slightly more optimistic conclusion. If these evaluations continue to report null or inconclusive findings, evidence-oriented policy makers may justifiably conclude that employment-based reentry programs do not merit further investment.

We support evidence-based practices, and we applaud the use of the experimental methodology to study the effectiveness of work programs at causing desistance. In this article, however, we consider an alternative justification for employment-based reentry programs. We use a well-developed theory from labor economics called signaling theory (Spence, 1973) to argue that these programs still serve an important role in the reentry process, *even if* they do not have a causal impact on employment and recidivism.

This idea begins with the well-known fact that graduates of employment training programs recidivate at lower rates than nongraduates, and they perform better in the labor market (Wilson, Gallagher, and MacKenzie, 2000). For example, in the experimental evaluation of the Center for Employment Opportunities (CEO) program discussed later in this article, the evaluators at the Manpower Demonstration Research Corporation (MDRC) found that CEO participants who were employed for the first four quarters and placed in an unsubsidized job had a 10% recidivism rate during that first year (arrest, conviction, or incarceration). In contrast, CEO participants who did not successfully complete the program had a 44% recidivism rate during the first year.<sup>1</sup> The evidence-based mentality that dominates program evaluation rightly discounts this finding. Comparing graduates with nongraduates in a nonrandomized setting will lead to biased inferences if one is solely interested in the causal impact of the program on desistance. But this same comparison is a valid, and powerful, demonstration of the potential function of program completion as a desistance signal during reentry.

We are not interested, in this context, in the causal impact of CEO on recidivism. Rather, we are interested in using the information conveyed by successful completion of a challenging program to differentiate between individuals with the same level of involvement in the criminal justice system. Information that can differentiate between those with criminal histories is all the more important, now that criminal histories are regularly used to bar individuals from employment (Pager, 2003, 2007) at the same time that antidiscrimination policies are pushing employers to avoid across-the-board bans on employment for those with criminal history records (Equal Employment Opportunity Commission, 1987; Goode, 2011).

The seeds of this idea have been presented before. Bushway and Reuter (2004) recognized that nonexperimental comparisons of program participants and nonparticipants

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1. The results were provided by Cindy Redcross in a series of personal communications with the authors.

highlight the importance of motivation for desistance, given that these comparisons show that those who participate in programs are different in fundamental but unobservable ways from nonparticipants. Freeman (2008) also argued for the active use of additional information to identify low-risk individuals among the group of individuals with criminal history records. In this article, we formalize this idea by describing the mechanism by which successful completion of an employment-based reentry program can identify good employees, or even more broadly, crime desisters, in a world where these characteristics are unobservable by employers seeking to make good hires in real time.

In the case of CEO, most reentering prisoners are minority men with extensive criminal history records, as well as with limited education and employment experience. Not surprisingly, research has shown that it is impossible to predict at the time of release, with great accuracy, who among the ex-prisoners are going to be stable employees (e.g., Visher, Debus-Sherrill, and Yahner, 2011).<sup>2</sup> Yet statistics from the MDRC show that CEO program completers—as identified at the end of year one—have much better employment outcomes than CEO noncompleters in years two and three of the follow-up period. For example, among individuals who did not recidivate in the first year, 42% of the CEO completers worked six or more consecutive quarters during years two and three, compared with only 17% of the CEO noncompleters.<sup>3</sup> Or, in contrast, only 9% of the CEO completers had no formal employment in years two and three, whereas 45% of the CEO noncompleters had no formal employment in that period.

A very large and statistically significant difference in employment outcomes is found for a group of individuals who had access to the same reentry services and resided in the same New York City labor market. Although we cannot know for certain, it seems to us that this difference is consequential enough to inform hiring decisions by potential employers, with respect to the level of crime risk and work productivity. To the extent this assumption is true, program completion may serve as a strong signal for employers seeking to identify good employees. Although research on employer decision making is limited, it was reported in one focus group study of employers that knowing that a “candidate successfully completed a transitional program after release from prison and has built a positive employment record” would favorably impact the hiring decision for 90% of the employers (Fahey, Roberts, and Engel, 2006: 13). No other proposed intervention had a similar impact on employers’ self-report hiring decisions. Successful completion of a voluntary, employment-based program is thus a viable signal for potential employers, although in truth, any demanding treatment

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2. We say “not surprisingly” because the concerns about selection bias are based, fundamentally, on the belief that evaluators cannot fully observe the differences between participants and nonparticipants. If all differences were observable, then evaluators could in fact predict success conditional on all of the relevant observables—and there would thus be no major concerns about selection bias.

3. MDRC calculated employment rates from unemployment insurance records in New York State.

program that requires overt effort on the part of participants also may be a reasonable candidate.<sup>4</sup>

On the surface, signaling seems very similar to “dynamic risk assessment.” Signals, like dynamic risk factors, are observable characteristics of an individual that are subject to change. However, program completion is a signal not because it changes, but because it is subject to manipulation by the individual in question (Spence, 1973). Moreover, signals are observable characteristics that reveal previously unobserved information about a person. No change in one’s underlying state is assumed or required. In contrast, dynamic risk factors are included in risk prediction tools to capture new information about the changes in a person’s risks and needs as they proceed through the criminal justice system or the reentry process (Andrews, Bonta, and Wormith, 2006). In contrast, from the standpoint of signaling, efforts to acquire the signal should impose different costs on individuals in a manner that is correlated with the unobserved information that employers (or other stakeholders) wish to know. Although we believe the concept of signaling is complementary to the concept of rehabilitation that motivates most reentry programming, the signaling model is not complementary to the risk–needs–responsivity approach. It is based on a different theoretical perspective and carries with it different policy implications. After we provide the first detailed description of the signaling model in criminology, we will return to the differences between this approach and the risk–needs–responsivity approach in the conclusion.

We start with a brief review of the literature on employment-based reentry programs, focusing on the most recent experimental evaluations. We then provide a discussion of recent studies of criminal recidivism and “redemption,” followed by studies that illustrate sorting or selection mechanisms (long used to justify randomization) in the evaluation of work programs. We use these two research strands to develop an argument for using the completion of voluntary work programs as an informative signal for employers.

### **Employment-Based Reentry Programs as a Cause of Desistance**

The most recent meta-analysis of experimental evaluations of noncustodial employment programs concludes that none of the programs has an impact on employment or rearrest (Visher et al., 2005). Drake et al. (2009) reached a slightly less negative conclusion in their meta-analysis when they considered employment programs encompassing broader offender populations than ex-prisoners. Relying on both experimental and nonexperimental evaluations of community-based employment and job training, they reported an average

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4. Anonymous referees and the issue’s Senior Editor, Daniel Mears, have all correctly observed that many other programs in correctional settings also could function as valid desistance signals, and for audiences other than employers. We agree, although for the sake of focus we will concentrate on employers and employment-based programs in the bulk of this article. We emphasize the generality of the concept in the conclusion.

decline of 4.6% in the likelihood of recidivism. Because these programs cost less than \$500 a participant, they concluded that these policies may be worthwhile from a cost/benefit perspective. Raphael (2010) also reached a more positive conclusion in his review of programs intended for high-risk populations other than ex-prisoners, most notably, Job Corps and JOBSTART. Following his nonsystematic review, he concluded that “there is some evidence that income support, transitional employment and human capital investments in former and potential future inmates may reduce criminal behavior and recidivism” (p. 44). The programs Raphael highlighted, however, are considerably more expensive than the job search and soft skill programs reviewed by Drake and colleagues.

Visher et al. (2005) noted in their meta-analysis that most existing evaluations are quite old (the most recent was from 1994), and they do not adequately reflect current thinking about the best practices in the correctional field, including transitional employment. Transitional employment is subsidized employment made available immediately after a person exits prison, often accompanied by soft skills training and job search assistance. The exemplar for this type of program is the Center for Employment Opportunities (CEO) in New York City, a high-profile, well-respected, and relatively intensive (and expensive) transitional jobs program that serves more than 2,000 parolees annually. The CEO program begins with a 4-day preemployment life skills class, followed by a transitional job with a job coach for 4 days a week, and office-based job coaching on the 5th day, when participants are not assigned to work the transitional job. When the program participant is considered job ready, he is assigned to a job developer who tries to find him a permanent job. Then, when the parolee transitions to a permanent job, he is eligible for ongoing incentives for stable employment. Parenting services and advice about personal matters also are available.

The CEO program has been subjected to a rigorous, randomized evaluation for which the 3-year employment and recidivism results have recently been released (Redcross, 2010). CEO serves a high-need, mostly minority male population in their 30s—an age group that other experimental research shows is particularly amenable to employment intervention (see Uggen, 2000). Forty-three percent of the participant pool has neither a GED nor a high-school diploma, and they have an average of seven prior convictions, with an average prison term of 5 years. The control group, which looks very similar to the treatment group, only receives some life skills training and job search assistance from CEO, but it has access to other employment services from other agencies. The program itself was well implemented, with 80% of the treatment group completing the life skills class, 73% working in a transitional job, and 34% transitioning into an unsubsidized job found by CEO, with approximately 40% moving into unsubsidized work overall.

Despite this very intensive intervention, the 3-year follow-up found no differences in employment between the treatment and control groups after the transitional job ended. By the end of the first year, only a third of the combined treatment and control groups had any employment that is part of the unemployment insurance (UI) program (sometimes called “pay stub jobs”). This employment rate is consistent with what researchers typically find for

ex-prisoners, both before and after their prison spell (Pettit and Lyons, 2007; Sabol, 2007; Tyler and Kling, 2007).

Surprisingly, given the lackluster employment results, the evaluation finds that CEO reduces the probability of reconviction by 12% (43% vs. 49%) and reduces the probability of reincarceration by 11% (58% vs. 65%). These results are apparently driven by the 40% of the sample who enter CEO within 90 days of their release from prison. This group, which is higher risk than those who come to CEO later, experiences a 17% reduction in rearrest (49% vs. 59%), a 22% reduction in reconviction (44% vs. 57%), and a 15% difference in reincarceration (60% vs. 71%). These results are sizeable and impressive. However, they also are puzzling. As observed by Zweig, Yahner, and Redcross (2010: 14), “it is unclear how the CEO program actually works to reduce recidivism.”

A reasonable hypothesis is that crime reduction comes from the extensive coaching and positive caseworker support provided by CEO, over and above the employment assistance. For example, the CEO treatment group members are 25% more likely to report that they have someone to whom they can turn for support with personal or family matters. This conclusion—that recidivism reduction stems from caseworker support—is buttressed by the 1-year findings from the Transitional Jobs Reentry Demonstration (TJRD), an experimental evaluation of four transitional jobs programs (Redcross et al., 2010).

TJRD is targeted at a population that resembles the population in CEO and is made up entirely of offenders who are within 90 days of their release from prison—the population that the CEO results suggest benefits the most because of their higher risk. The program was implemented well, with 85% of the treatment group moving to a transitional job. Again, the control group receives substantial job search assistance and some life skills coaching. Unlike CEO, the transitional jobs are not small work crews with supervisors from CEO who can provide direct coaching. Instead, participants are employed in workplaces like Goodwill stores and a garbage recycling facility where they are supervised as if they are regular employees.

The employment results from TJRD are less positive than CEO, with 28% of the sample in unsubsidized, UI-covered work at the end of the 1st year (compared with 33% in CEO). However, as in CEO, no detectable difference in postprogram employment exists between treatment and control groups. Moreover, no difference in recidivism outcomes exists between the TJRD treatment and control groups. By the end of the 1st year, roughly 55% of both groups are arrested, convicted, or incarcerated at least once. A reasonable conclusion from the experience with TJRD and CEO, then, is that it is not transitional employment itself that leads to the recidivism decline observed in CEO. Rather, it is the on-job coaching or other services that are part of the transitional jobs program at CEO.

### *Why “Work Doesn’t Work”*

The apparent failure of work programs to improve consistently and substantially the employment and offending experiences of their participants begs an obvious

question: “Why?” The theoretical literature is sufficiently well developed that it comes as a bit of a surprise, at least at first glance, that the work programs to date have produced such disappointing results. At least four plausible reasons exist.

First, implementation problems tend to plague field experiments of this sort. Specifically, participants often fail to comply with program conditions. Individuals assigned to a control condition can seek nonprogram assistance or training on their own, whereas individuals assigned to an experimental condition can refuse to show up for training or subsidized employment. Plenty of evidence of this sort of noncompliance in social experiments exists (see Heckman, Hohmann, Smith, and Khoo, 2000). Noncompliance is problematic for evaluation of the “treatment effect” of subsidized work, skills training, and search assistance. The problem originates because the causal estimand in these studies is the “intention to treat” (ITT), that is, the causal impact of randomized offers to participate in a work program. When substantial noncompliance with the program conditions occurs, the ITT can be attenuated—often substantially so—relative to the “average treatment effect on the treated” (ATT), or the causal impact of actual participation in a work program.

Second, individuals with a criminal history have well-documented employment problems. The brutal truth is that many such individuals have difficulty holding onto jobs; providing them with a job probably does little to improve their “employability” (Bushway and Reuter, 2004). Bloom (2006: 3) cogently observed that “many people enter the criminal justice system hard to employ and leave it even harder to employ.” Among the individuals with a criminal history in the National Supported Work Demonstration, for example, 33% were fired from their program job, and another 20% were terminated for other negative reasons such as reinstitutionalization (MDRC, 1980). Although almost two thirds (65%) of the individuals with a criminal history in the Returning Home study were employed at some point during the eight months after their release from prison, less than half (45%) were currently employed (Visher, Debus, and Yahner, 2008). And the employment problems experienced by these individuals tend to be longstanding. For example, Apel and Sweeten (2010) demonstrated that young people who experience their first incarceration spell exhibit unstable work histories well before they are convicted, compared with young people who also are convicted but are not incarcerated. For example, they are less likely to have been employed at any point in the year prior to their conviction (60% vs. 67%), and they work fewer weeks when they are employed (29 weeks vs. 33 weeks). To-be-incarcerated youth also exhibit weaker attachment to legal work, as indicated by their higher probability of labor force nonparticipation at any point during the year prior to the conviction that led to their confinement (76% vs. 69%).

Third, individuals with criminal history records face inequality in the job search process. This discrimination is, in part, because they tend to be unskilled and poorly educated—qualities that make them unattractive to potential employers. For example, slightly more than one quarter (27%) of the individuals in the Supported Work evaluation

had at least 12 years of schooling (MDRC, 1980). Nationally, just 35% of jail and prison inmates have at least a high-school diploma, compared with 82% of the general population (Harlow, 2003). In this respect, then, individuals with criminal history records resemble other hard-to-employ populations—among them, welfare recipients and high-school dropouts—who lack some of the credentials valued by potential employers. In addition to their severe human capital deficiencies, however, evidence is mounting that a criminal history stigmatizes individuals in the marketplace. Pager (2003), for example, reported 50% lower callback rates among job applicants who report a prison sentence on their application (see also Holzer, Raphael, and Stoll, 2004; Pager, 2007; Raphael, 2010; Stoll and Bushway, 2008). She concluded that “criminal records close doors in employment situations” (p. 956). Many individuals with criminal history records invariably discover this from their own job search experience, reporting overwhelmingly that they feel their criminal record has hindered their ability to find a job (Visher et al., 2008). This finding does not bode well for modern prisoner reentry, as the use of criminal history records as part of the hiring process has increased substantially over the last 20 years (SEARCH, 2005).

Fourth, the level of improvement observed in intermediate outcomes like work may be insufficient to lead to observable reductions in recidivism. Following Lattimore, Steffey, and Visher (2010), suppose that an employment program can increase employment by 20%, such that the treated population has an employment rate of 60% compared with a 50% baseline among the untreated. Now suppose that employment reduces recidivism by 20%, again a sizeable treatment effect, such that the recidivism rate for the employed is 40% (compared with a 50% baseline among the unemployed). In a sample of 100 treated offenders, the employment program will only result in one fewer rearrest, and the overall impact of the program, which can increase employment by a substantial 20%, will be a 2.2% reduction in recidivism. The fundamental challenge of decreasing recidivism indirectly through these types of programs also is highlighted by Raphael and Weiman (2007).

To summarize, the most defensible conclusion from experimental evaluations of work programs is that the programs have a dismal record of jointly improving employment outcomes and of lowering recidivism probabilities among the individuals who participate in them (for similar conclusions, see the meta-analysis of Visher et al., 2005). Some programs have exhibited modest success for some groups of individuals with criminal history records, but these seem to be the exception rather than the rule. Yet the fact that “work doesn’t work” as a policy lever (in a causal sense) does not mean that work programs for individuals with criminal history records should be abandoned. Instead, individuals who successfully complete work programs might be sending a pronounced “signal” that can be exploited during the reentry process, even if the program itself has no causal impact on recidivism.



## Criminal Records and Redemption

It is a criminological fact that most individuals who commit crime will desist or stop committing crime (Barnett, Blumstein, and Farrington, 1989; Laub and Sampson, 2001; Maruna, 1999). Although there is some debate about whether everyone ultimately desists (Blokland, Nagin, and Nieuwebeerta, 2005; Sampson and Laub, 2003), there is no doubt that most people who engage in crime eventually do so. In a random collection of recently convicted individuals, a sizeable subset—between 20% and 30%—of these “offenders” will never be arrested again (Brame et al., 2003; Kurlychek et al., in press; Schmidt and Witte, 1988). Comparisons of hazard models have repeatedly shown that split-population models, which allow for “instantaneous desistance,” substantially outperform models that assume that individuals with a criminal history continue to offend at a constant rate (Kurlychek et al., in press; Schmidt and Witte, 1988). Ethnographic work similarly shows that even serious, serial offenders will choose to exit offending (Baskin and Sommers, 1998; Maruna, 1999).<sup>5</sup>

Although there is no debate about the existence of desisters, there is a considerable amount of debate about the ability to distinguish prospectively between desisters and persisters. For example, John Laub stated in his Sutherland address to the American Society of Criminology that “human agency induces an apparent instability or random component into life-course turning points making neat prediction—even from adult factors—inherently a difficult if not impossible endeavor” (2006: 244).

Recent empirical research on long-term recidivism hazards has begun to test the limits of this claim (Blumstein and Nakamura, 2009; Bushway, Nieuwebeerta, and Blokland, 2011; Kurlychek et al., 2006, 2007; Soothill and Francis, 2009). Using hazard models, this research has shown definitively that individuals who have not offended for a very long time—between 7 and 10 years—have a very small probability of offending in the next year. In fact, they often seem to have the same level of risk as individuals without a criminal history.<sup>6</sup> This line of research has thus established that it *is possible* to distinguish risk levels

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5. There are two basic approaches to modeling hazard rates. The first approach is to assume that all offenders have a constant probability of recidivism or “failure” in any given period—an assumption that characterizes traditional criminal career models (see Barnett et al., 1989). The logic underlying this approach is that all offenders will eventually recidivate, if only they can be followed for a long period of time. In practice, many failure times are “censored” because of death or insufficient follow-up length. The second approach is to assume a “split population” comprising one group of offenders who will eventually recidivate, and a second group of offenders who have effectively desisted and will never recidivate, and are thus never at risk of experiencing failure. The latter are considered instantaneous desisters.
  6. Most of this work has been done with first-time offenders, which does not accurately characterize people exiting prison. Bushway et al. (2011) used individuals with serious criminal histories and found similarly dramatic reductions in risk, although the risk may not decline to that of nonoffenders.

among individuals with criminal histories, although in this case it takes at least 7 years of waiting before the desisters reveal themselves.

Some scholars in criminology are very comfortable with the idea of prospectively identifying risk levels and of using these predictions in policy (see Andrews et al., 2006). However, these more contemporaneous risk tools have a limited ability to make risk distinctions (Rhodes, 2011). An individual's criminal propensity can only be known within fairly wide confidence limits (Bushway, Sweeten, and Nieuwbeerta, 2009), and any risk prediction exercise will necessarily involve considerable error (Gottfredson and Moriarty, 2006).<sup>7</sup> At the same time, we do know that there are individuals, even in high-risk categories, who have desisted from crime.

The question of how to identify the desisters is particularly salient within the context of prisoner reentry. By any measure, the individuals studied in recent evaluations of employment-based reentry programs are high risk. For example, the CEO participants have on average seven prior convictions and have spent 5 years in prison, with very low levels of education and prior work experience. Nonetheless, the research seems to show that a sizeable minority ceases offending as soon as they are released from prison. For example, Kurlychek et al. (in press) used 18 years of follow-up data on individuals convicted of felonies in New Jersey to estimate that 25% of the population of convicted felons desists, more or less instantaneously. Can individuals exiting prison who have nonetheless desisted be identified as low risk without waiting 7–10 years or more?

### **The Signaling Framework**

This section develops the concept of signaling and explores ways in which the reentry discussion could benefit from a focus on allowing individuals to identify themselves credibly as desisters, rather than on trying to “cause” desistance explicitly. This approach is not risk prediction in the traditional sense. Risk prediction uses observable characteristics that are correlated with recidivism to assign offenders to risk categories. A large quantity, even the majority, of the available information about risk is unobservable, meaning that risk predictions based on observables will be made with considerable error. For a signaling model, on the other hand, we are looking for behaviors, in real time, that can flag individuals who possess characteristics that are, fundamentally, unobservable.

A good point of departure to explain signaling is to recast the problem as one of asymmetric information. The person reentering the community from prison may know that he or she has desisted from crime or that he or she is a good employee—but no one else does. Moreover, she now belongs to an observable group (ex-prisoners) that is known to have poor employment outcomes and high recidivism rates. Are there ways that the desister can signal to the employer her true identity?

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7. The relative costs of type I and type II errors, which are context specific, drive whether a prediction exercise is justifiable from a policy perspective (Berk, 2011; Bushway, 2011).

The notion of signaling has been formalized in labor economics. Because potential employers make hiring decisions and wage offers in the absence of perfect information about applicants' true productivity, they may resort to what they regard as reliable indicators of that productivity. Among these indicators are job market "signals," which are observable attributes that convey information about an individual's productivity (see Spence, 1973). Importantly, the acquisition of signals should be a matter of individual choice, and good signals must impose opportunity costs on the signal sender. Costless signals would easily be adopted by any rational individual who wishes to achieve the benefit of the signal, such as a well-paying job, whether or not he is truly a productive worker.

A good signal is also one for which the costs of acquiring it vary inversely with the unobserved variable (e.g., crime desistance and work productivity) about which the observers wish to learn (Spence, 1973). In the labor market context, education is a very good signal. Setting aside monetary costs, obtaining a college degree is not as costly for an overachieving student who does not need to devote much time and effort to studying, and at any rate has the ability and motivation to fulfill the requirements for the degree. Coincidentally, by virtue of the same underlying qualities, employers have learned that such individuals are likely to be "productive workers" when they are hired. On the other hand, obtaining a college degree is costly for an underachieving student who has to make more sacrifices with respect to time and effort to complete the degree requirements and, consequently, has a lower probability of going to college (or matriculating if he or she does go to college). Employers have therefore learned that a college degree sends a strong signal about how productive and successful a potential employee will be if hired, even if college has absolutely no causal impact on work productivity.

A simple empirical example, inspired by Spence (1973), can make this idea clearer. Suppose we have two groups of workers: Group A and Group B. Individuals in Group A produce 10 units for every period in the labor market, and individuals in Group B produce 20 units. Group B is therefore more productive. However, although these two groups of workers have differential underlying productivity, this is not visible to the potential employer. An employer who hires randomly from this pool will obtain a very mixed overall level of productivity. Clearly, employers would prefer to hire as many individuals from Group B as possible, and Group B workers would like to be able to reliably signal their heightened productivity to employers.

Furthermore, suppose the (opportunity) cost of acquiring a signal, such as completing high school or college, is 10 units for members of Group A and 5 units for Group B. In other words, gaining the signal is twice as costly for members of Group A. An employer, who cannot otherwise distinguish between Groups A and B, can nonetheless allow Group B to signal its membership by paying 10 units to applicants without the signal and 20 units to those with the signal. Members of Group A will earn 10 units either way (they get paid 10 without the signal and 20 with the signal, for which they have to pay 10), and they are therefore better off not acquiring the signal at all. Members of Group B, however, are better off investing in the signal because they will get 10 units without the signal and

15 units (20–5) when they invest in the signal. In this case, even though the signal adds absolutely no productivity to society—it is not causally related to productivity, or at least it need not be—it serves a useful function by allowing Group B members to self-identify as high-productivity workers. Note that this example hinges on the fact that acquiring the signal costs the high-productivity group less than the low-productivity group. The intuition no longer holds if the cost is the same for both groups.

This example also can support some other useful insights, which are relevant for prisoner reentry. First, in the absence of a signal, employers would just pay the two groups the same wage that reflects their average productivity. That average will depend on the relative size of the two groups. (The unconditional wage gets higher as Group B gets proportionally larger.) That means members of Group A are worse off when signaling occurs. The only case where this is not true is if the productivity of Group A is lower than the minimum wage, and the productivity of Group B is not high enough to bring the average over that level. Second, although we will not do the math here, Spence (1973) showed that Group B will ultimately do better in a world with signaling, as long as Group B is a comparatively small group. Although the precise meaning of “small” depends on the relative magnitude of the productivity difference, the key insight here is that signaling benefits people the most when the size of the high-productivity group is relatively small.

Third, there is no one equilibrium signal cost in this case (but see Riley, 2001). Group B will attain the signal for any signal cost that is greater than 10 units and less than 15 units. Once the signal costs 15 units, Group B will be better off not acquiring the signal and accepting a wage offer of 10 units. Neither the employer nor the worker benefits from having a signal that costs more than 10 units. More generally, it makes sense to try and find the least costly signal that will allow members of Group B to self-identify as high-productivity workers. Fourth, this system will create feedback loops in equilibrium. The employer starts out with conditional beliefs about productivity and offers a wage schedule as a function of the signals. Potential employees get to make signaling decisions that will maximize their return, net of signal costs. Employers then get to hire and see the relationship between the productivity of the worker and the signal in real time, with the chance to modify the wage schedule as necessary.

Fifth and finally, there is no indication in this system that the signal does anything to increase productivity. In the economics of education, the human capital effect is sometimes called the “sheepskin” effect. One of the major challenges to empirically verifying the signaling effect is that the human capital theory of education and the signaling theory of education make very similar predictions—they both predict that wages will increase with education (Bedard, 2001). Empirical attempts to verify signaling have in part been focused on identifying situations where the two theories generate different predictions.<sup>8</sup> For

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8. Tyler et al. (2000) provided supporting evidence for this last proposition by finding situations where two people with the same test score do not get the same certificate. They arguably have the same human

example, Lang and Kropp (1986) observed that making education mandatory will eliminate the signaling value of a high-school diploma. Although human capital theory predicts that changes to the mandatory nature of high-school completion should not affect the behavior of high-school completers, signaling theory predicts that high-school completers will invest in college to further differentiate themselves.

### **Signaling in the Reentry Process**

The situation for the recently released prisoner is similar to the problem posed by Spence (1973). There is information asymmetry—desisters may know who they are, but no one else does.<sup>9</sup> Employers are only truly going to learn about individuals with criminal history records after making the decision to hire them. This is not a repeat game, so individuals do not have the ability or incentive to acquire a “reputation” for crime desistance or work productivity. Yet individuals who have desisted pose less cost than individuals who remain embedded in crime. Therefore, at least in principle, this is a context where a signaling process could be beneficial.

We are suggesting that policy makers identify explicit mechanisms that will allow the 20% to 30% of returning prisoners who have desisted from crime to self-identify to employers or other decision makers as soon as they step beyond the prison walls, or very shortly after release from prison. Such mechanisms would substantially shorten the 7–10 years that are currently required to identify them reliably. In hypothesizing about potential “desistance signals,” recall that good signals must be voluntary, they must be attainable by a comparatively small proportion of the population of interest, and they must have opportunity costs for the individual that vary inversely with desistance probabilities or work productivity. In light of these requirements, voluntary enrollment, active participation, and successful completion of prison- and community-based employment programs—at a minimum—are excellent candidates for desistance signals.<sup>10</sup>

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capital; yet empirically, the person with the certificate gets a higher wage. The additional importance of this study is that the authors detected a signaling benefit for a GED. Some scholars have hypothesized that signaling only has value in higher skill segments of the labor market (Riley, 2001). On the contrary, Tyler and colleagues provided evidence of signaling even in the secondary (low-skill) labor market—the market most likely to hire individuals with criminal history records. Tyler et al. also found evidence that making the GED mandatory would weaken its value as a signal.

9. An anonymous reviewer expressed concern about the assumption that individuals “know” they are desisters. Indeed, research has shown that many returning prisoners are overly optimistic about their ability to refrain from crime (LeBel et al., 2008). However, signaling has value even if individuals are not consciously aware of their status, provided they know their costs for engaging in signaling behavior. Therefore, we will assume that individuals with criminal history records know the costs of enrolling in employment-based programs, even if they do not consciously “know” whether they are desisters.
10. An anonymous reviewer helpfully brought to our attention some conceptual parallels with the health services literature, with its concepts of initiation (voluntary enrollment), engagement (active participation), and retention (successful completion).

The signaling model actually exploits the fact that individuals with criminal history records sort themselves into different institutional arrangements and recidivism likelihoods. To elaborate on the model's utility for prisoner reentry, we restrict our attention to employment-based programs. Specifically, individuals who voluntarily enroll in, actively participate in, and successfully complete employment training programs differ from those who refuse to participate or drop out, mostly in ways that are difficult to measure and are independent of program effects on behavior. Such individuals possess unobservable characteristics—motivation and ability, among other intangibles—which can result in overly optimistic assessments of the benefits of work programs on employment and crime. Highly motivated individuals will experience better employment and recidivism outcomes for reasons that have nothing to do with the program itself. Individuals therefore sort themselves into recidivism risk levels, inadvertently, on the basis of their successful completion of voluntary work programs. This well-known “selection problem,” in fact, is the impetus for conducting experimental evaluations of the causal impact of work programs on employment and recidivism.

From the perspective of program evaluation, differential sorting or selection is truly problematic. Consider an example from the Returning Home study. Visher et al. (2008) reported that individuals with a criminal history who held a job while in prison, or who participated in job training classes, had substantially lower rearrest and reincarceration probabilities by the 8th month after release from prison. If our interest were strictly limited to program evaluation—“does the program work?”—we would regard this study with justifiable skepticism about the capacity of vocational programs and prison work to positively change inmates' “dynamic needs,” or otherwise causally reduce their propensity to recidivate. After all, Returning Home subjects were allowed to self-select into the “treatment regimen” of training and work that they underwent while in prison. Thus, whatever the “it” is that compelled these inmates to enroll in prison-based training and work, “it” also is probably responsible for their much lower recidivism risk after their return to the community.

From a signaling perspective, however, the differential sorting of individuals into program participants (or completers) versus nonparticipants (or dropouts) is essential. In order for program participation and completion to be good signals, we must verify that the requirements are less costly for desisters to meet than for nondesisters. Research has shown that former prisoners who admit a willingness to continue crime or drug use before release are, not surprisingly, less likely to desist, as well as less likely to work or complete work-related programs successfully (Lattimore et al., 2010). Individuals who are cynical about the legal system are more likely to continue crime and are less likely to work (Sampson and Bartusch, 1998). Drug abuse and mental health problems are correlated with both desistance and employment (Greifinger, 2006). A reasonable assertion is that the requirements of work programs, and employment more generally, are simply more costly to individuals who are not yet ready to give up criminal offending or to earn income

legitimately. Note that this assertion does not refer to monetary cost, but to an opportunity cost, or a psychic or emotional cost. Showing up on time and following the rules might be costly to a legally cynical person who possesses an oppositional view toward the legitimate world, or adopts an identity as a “gang banger” or street tough (LeBel et al., 2008). However, these same program requirements should be less costly to someone who has become committed to life as a “family man” or other more conventional identity (Bucklen and Zajac, 2009).<sup>11</sup>

The Returning Home example provides evidence that participants in work programs do indeed differ from nonparticipants in a way that can make participation a reliable desistance signal. Additionally, among individuals who participate in work programs, those who remain actively involved in and complete work programs differ from those who have irregular attendance or who drop out. In the reanalysis of Supported Work by Uggen (2000), a “participation” model yielded much stronger evidence for the desistance potential of subsidized work than an “assignment” model (see his Table 2, Models 1 and 3, p. 540). For the purpose of this discussion, we ignore the models in which Supported Work is interacted with age. On the one hand, individuals who are randomly assigned to subsidized work have an odds of arrest that is only 3% lower than the controls (Model 1:  $\exp(-.03) - 1$ ), an “intention to treat” effect that is not statistically significant. On the other hand, the subset of the assigned individuals who are actively employed in a subsidized job, in any given month, have an odds of arrest that is 26% lower than their counterparts who are not so employed (Model 3:  $\exp(-.30) - 1$ ), which includes the controls as well as the experimental subjects who have dropped out of the subsidized job. If one jointly considers participation and program completion—specifically, an individual who is actively employed in a subsidized job for the duration of the program—the odds of rearrest in any given month are 34% lower (Model 3:  $\exp(-.30 - .11) - 1$ ). In this case, the contrast comprises the controls, the experimental subjects who have already dropped out of the subsidized job, and the experimental subjects who will drop out of the subsidized job before completing the program.

Although the program effects calculated from Uggen’s (2000) participation and completion models are clearly biased by selection—recall MDRC’s (1980) finding that one third of the individuals with a criminal history in Supported Work were fired from their program job, arguably for reasons that are correlated with recidivism—they nicely illustrate the signaling function that program participation and completion have during the reentry period. A 34% difference in recidivism risk is substantively large, and it might translate

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11. Consider the following anecdote from Project RIO. When asked what happens to referred parolees who do not participate in the program, a parole officer related the following (Finn, 1998: 9): “While some of these clients get jobs on their own, most of them are incorrigible releasees from the get-go—they won’t take courses, go to substance abuse treatment, or find work. So sooner or later they violate the conditions of release and are returned to court.”

into meaningful differences in performance for employers willing to hire from the pool of individuals with criminal history records.

We therefore seek to turn the problem of selection onto its head, and to identify program completion as a signal to be exploited by employers trying to differentiate individuals with criminal history records who are “good bets” from those who are not. Consistent with our argument, completion of the Supported Work program is correlated with lower arrest risk, not necessarily because Supported Work causes lower risk among individuals with a criminal history record—it might, although probably only for older individuals (see Uggen, 2000)—but because program completion serves as a meaningful signal of which individuals with a criminal history have lower recidivism risk in the first place.

A nonexperimental evaluation of a prison work release program (Adult Transition Center, or ATC) in Cook County, IL, similarly illustrates the sorting and selection processes at work during the reentry period. Jung (2010) reported that participation in ATC was positively correlated with the probability of UI-covered employment for up to 8 years after release from prison, compared with male ex-prisoners released from minimum security prisons. However, individuals who completed the program (40% of the men who participated) experienced far better employment and recidivism outcomes than those who dropped out (as a result of rule violation). Their employment probabilities were approximately 10 percentage points higher, and their recidivism probabilities were almost 10 percentage points lower (see his Figures 3 and 4). This same pattern can be found in the more recent evaluation of CEO discussed in the introduction. Less than half of the subjects in the treatment group who make it through life skills training are placed in an unsubsidized job, in part because of failure to abide by the rules of the program. Of those placed in an unsubsidized job, just one third are employed for all four quarters of the 1st year (14% of the total sample of CEO participants). The recidivism rates of these individuals after the 1st year are less than one quarter of the recidivism rates of those individuals who do not complete the program. Moreover, the formal employment rate of the CEO graduates remains much higher compared with those who did not complete the requirements of the program. Independent of the causal impact of CEO on recidivism, then, people who fully complete CEO are sending a signal that they are lower risk than those who do not, and they have much better employment prospects.

Indeed, the improved employment prospects of the CEO graduates might be a reflection of the fact that employers are already using CEO graduation as a signal of better employability. Although very little direct study of this question has taken place, we are aware of one study (Fahey et al., 2006) that asked employers in a focus group if successful participation in a transitional jobs program would help an individual who had recently exited prison find employment. Ninety percent of the employers felt that it would, which made this the most effective program of any of the 12 interventions tested by the researchers. However, the sample size was very small ( $N = 20$ ), and these results were not statistically significant.



Anecdotally, it is not hard to find human resource professionals who advise employers that are willing to hire ex-offenders to look not only at the nature of the criminal record but also to look at “what these individuals accomplished behind bars or since they’ve been released—did they obtain a GED, enroll in college or complete anger management, drug rehabilitation, correspondence or vocational training program?” (Patton, 2008: 86). Holzer, Raphael, and Stoll (2002) reported that employers often are willing to hire individuals with criminal history records who come from trusted intermediaries—that is, reentry workforce developers—who have prescreened and prepared qualified applicants. However, the reality is that very little direct evidence exists that employers use program completion as a way to identify productive employees once they have decided to hire individuals with criminal history records.

Some limited evidence is available that program providers recognize that their primary job is to identify good employees, rather than solely to develop new skills. Reviewers such as Holzer et al. (2002) emphasized the screening role of intermediary agencies. More anecdotally, the director of Project RIO in Texas justified the decision not to colocate Project RIO’s programs in the same office as parole for the following reason: “[W]hile we lose some clients because they won’t travel from the parole office to a RIO office, forcing them to make the trip helps us screen them for motivation” (Finn, 1998: 12). A recent story on the National Public Radio broadcast, *This American Life*, described the main activity of an employment program in Rochester, NY, for individuals with a criminal history record as “weeding people out.” A staff member stated that, “if you can’t behave correctly in this class, we won’t recommend you for a job” (Davidson, 2011). Only 45 of the 170 people (26%) who started the program were placed in a subsidized job.

On the policy front, there is a small and growing movement toward “Certificates of Relief” or “Certificates of Good Conduct.” Unlike sealing or expungement, these certificates provide a positive statement of rehabilitation based on behavior that carries with it a removal of restrictions that are created by the criminal history record. The rehabilitation certificates in New York State are statutorily among the strongest, carrying with them the elimination of any statutory exclusions based on the criminal history record. In addition to a 3- or 5-year waiting period, the parole board offering the certificate requires that individuals offer information on employment history and means of support, proof of payment of income taxes for the last 3 years, and proof of payment of any fines or restitution. In effect, the parole board is using these factors, together with a mandatory waiting period, to certify desisters and eliminate explicit barriers to employment.

Rehabilitation certificates are consistent with the idea of desistance signaling developed in this article. Although no statistical evaluation is provided of the risk associated with them, it will be very hard for a nondesister to acquire the signals required by these standards, and the standards actually speed up the process over and above what would be required by simply waiting for an extended period of nonoffending. These types of certificates also are consistent with Freeman’s (2008) assertion that the government can marshal evidence

about desistance probabilities, which can then be used by other stakeholders to differentiate effectively among individuals with criminal histories. From this perspective, these certificates do not cause “desistance” but function purely as signals.

## Conclusions

### *Summary*

There has been a growing focus on employment-based reentry programs, especially transitional job programs. Also, there has been an exciting trend toward rigorous evaluations of these programs after almost a 15-year period with no experimental evaluations of these types of programs. We began this article with a review of these evaluations. Visher et al.’s meta-analysis from 2005 suggests that there is no evidence these programs work. The recent evaluations of CEO are slightly more optimistic (Redcross, 2010) because they find evidence of substantial drops in recidivism for CEO participants who enroll at CEO within 3 months of exiting prison. However, these results also are puzzling because the recidivism gains seem to occur without the gains in employment that are thought to “cause” a decline in recidivism. A reasonable hypothesis is that the recidivism decline is not caused by employment per se, but rather by the extensive wrap-around services delivered by CEO through work crew supervisors and office-based support. This hypothesis is partially supported by first-year findings from the Transitional Jobs Reentry Demonstration (Redcross et al., 2010), where the transitional jobs more closely resemble traditional jobs with standard supervision. The evaluation of TJRD after 1 year found neither an increase in employment nor a decrease in recidivism.

The idea that transitional jobs provide a useful platform for the delivery of needed services that lower recidivism risk, even if employment is unaffected, is an intriguing idea that deserves further exploration. Ongoing evaluations will continue to explore this idea, and we encourage continued efforts to find ways to both increase employment and decrease recidivism in a causal way among this hard-to-serve population.

However, we also lay out some reasons why both policy makers and researchers should maintain healthy skepticism about the potential for these programs to have a large, causal impact on recidivism. As suggested by the ongoing evaluations, the mechanism linking changes in employment to declines in recidivism has become increasingly questioned. The reduction in recidivism is indirectly caused by an increase in employment. Therefore, even a sizeable 20% increase in employment will cause a small, indirect decrease in recidivism (Lattimore et al., 2010; Raphael and Weiman, 2007). More generally, this population has many needs, and many of these needs, like substance abuse and mental health concerns, might be antecedents to employment. As suggested by Edward Latessa (2011: 2), “work is much more than just getting someone a job—it involves how work is viewed, the satisfaction one derives from work, how one gets along with co-workers and supervisors, and other work related aspects linked to attitudes and skills.” Other work by Bucklen and Zajac (2009) has found that the major contributors to failure among recent parolees was not difficulty in

getting a job, but rather antisocial attitudes, unrealistic expectations, and poor coping and problem-solving skills. Employment programs that do not address these other problems will likely have little impact.

Yet the implementation of multidimensional programs is difficult, particularly in correctional settings. Service providers have the potential to be confused with “the system,” an outcome that is likely to discourage the positive attitudes needed for success (Buck, 2000). The problem is compounded by the ever growing use of criminal history record screening by employers (Pager, 2007; SEARCH, 2005). Individuals with criminal history records have become a marginalized class that faces heightened discrimination. Although some evidence exists that this screening is becoming more nuanced as a result of legal pressures linked to concerns about racial discrimination (Equal Employment Opportunity Commission, 1987; SEARCH, 2005), it is undoubtedly the case that individuals with criminal history records face more difficulty finding jobs now than they did even 10 years ago.

Several reviewers found our conclusions about the rehabilitation prospects for this population to be needlessly pessimistic. We believe we have been realistic about the available evidence; yet we also make no claim that we are providing a complete review of rehabilitation in general. We also strongly encourage continued rigorous experimental evaluation of carefully planned employment-based reentry programs, which are faithful to modern ideas about “what works” in correctional rehabilitation.

That being said, we believe that we have articulated an additional function for employment-based reentry programs, in addition to rehabilitation and recidivism reduction. Not all individuals with criminal history records are equally risky—and in fact, evidence is growing that a sizeable minority of this population desists soon after their latest conviction (Kurlychek et al., in press). The problem is that it is difficult for employers to reliably identify these individuals. One avenue to take toward this problem is actuarial, which would involve the use of observable characteristics to predict levels of risk, and to study employment outcomes for different types of individuals with criminal history records (Visher et al., 2011). Although clearly possible, this kind of exercise is limited, especially for a relatively homogenous population like returning ex-prisoners. The very characteristics (like motivation) that are likely to determine success in this respect are, by definition, hard to observe. As noted by employer John Shegerian, in a panel discussion about hiring individuals with criminal history records:

The other thing is, you can't really tell what's in a man or woman's heart until they actually start working for you. You can use other indicators, but once they start working for you, you'll know where they really want their future to be based on the effort that they give you. If it's the typical 130% effort, which people who have a chip on their shoulder, who want to turn their life around, typically do, then they're going to make it. Others who really don't have an interest in turning their life around or really just showed up for the job

because family members, their mother, loved ones pushed them into it, will self-terminate on their own. (2010: 7)

This problem is a classic example of information asymmetry. The necessary information for effective risk assessment is simply not available. Economists have proposed that potential employees in this situation can nevertheless emit signals that can be used to identify the substantial minority of people who will be the most productive workers. This article has presented the first formal argument that employment-based reentry programs can provide useful signals about crime desistance and work productivity for those who have recently been released from prison. Employers and other decision makers may be able to reliably identify individuals who have very low risk of recidivism, based on their successful completion of voluntary employment training programs. The key requirement of a successful signal is that the cost of acquiring it must be negatively correlated with the characteristic of interest—in this case, crime desistance or work productivity.

Our position represents a departure from the traditional view that employment and employment-based programs must help “cause” desistance in order to have a useful function during the reentry process. Our view is that a signaling perspective is a complement to, rather than a substitute for, this notion. Indeed, on the one hand, it is not problematic if employment training programs cause desistance; it is an added bonus if they do. On the other hand, it also is not necessary for these programs to have a rehabilitative impact for signaling to have value. Nonexperimental comparisons of program participants (graduates) to nonparticipants (dropouts), which routinely produce sizeable differences in employment and crime outcomes, are considered a major *faux pas* for causal analysis of the impact of work programs on employment and crime. We cannot overemphasize the point that signaling is not about cause and effect. It is about showing that people with the signal (program graduates) are different than those without the signal (program nongraduates), both now and in the future. This fact, which is what leads to selection bias in causal analysis, is also what generates value as a signal. Signaling therefore exploits the sorting and selection processes that are at work.

### *Limitations*

This article builds on ideas that were mentioned briefly in two previous papers (Bushway and Reuter, 2004; Freeman, 2008) by explicitly introducing and developing the theory of signaling in the context of prisoner reentry.<sup>12</sup> As such, this study represents a major advance over what was essentially speculation. However, although we believe that we have provided systematic evidence that employment programs meet the criteria for effective signals, we do not have systematic evidence that these programs are being used in this manner. In

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12. Signaling in the face of asymmetric information is a well-developed idea in economics, and it has been recognized with the 2001 Nobel Prize, awarded to George Akerlof, Michael Spence, and Joseph Stiglitz.

the words of one anonymous reviewer, our treatment of desistance signaling has reached the level of “informed speculation.” It therefore remains the case that these ideas require additional development, both conceptually and empirically. We will present some ideas for how this development can proceed in the next section.

The boundaries of desistance signaling also deserve further exploration. As explained in the beginning of the article, we believe that signaling is different from risk assessment. On the one hand, risk assessment concerns the use of observable characteristics to predict future behavior, some of which are static and others of which are dynamic (i.e., changeable). Signaling, on the other hand, is focused on conveying information about unobservable characteristics by exploiting correlations between observable characteristics and the opportunity costs imposed by acquisition of the signal. In this context, once we have identified the relevant class of people, such as individuals with criminal history records, only information about the signal(s) is needed to make good decisions.

In a very real sense, signaling and risk assessment are related, but competing, perspectives. Risk assessments, although not costless, are cheaper than government-funded employment programs that exist simply to provide signals.<sup>13</sup> Although we are convinced that the signaling model has both theoretical and empirical merit, especially in the employment context, we cannot say that justifying programs for no other reason than to provide signals is “better” from a cost/benefit perspective than using all available information to generate risk assessments.

Another potential concern with the idea of signaling is that it will redistribute who benefits—desisters “win” because they can be reliably identified, whereas nondesisters “lose” for the same reason—but it will not actually increase the overall benefit to society. In the standard signaling model, individuals in a world without screening get the “default,” unconditional value of their marginal product and as a result signaling leads to redistribution and no net benefit. But what if that default value is zero or negative because of the high costs related to the risk to hiring individuals who subsequently offend? The default condition for a group of people with serious criminal history records may be that no one gets hired and individuals exit the labor market (Apel and Sweeten, 2010). A more efficient signaling mechanism has the potential to put substantial numbers of these ex-prisoners back “on the grid” with respect to the labor market. In a world where only 30% of individuals exiting prison have pay stub jobs in any given year, even an increase of 10 percentage points in employment would be a substantial increase in overall welfare.

The fact that there is a net benefit to society still does not fully resolve the problem about what to do with the majority of individuals with criminal history records who have not in fact desisted. Although we are confident that a full embrace of the power of signals would increase the overall well-being to society, we do not have an effective solution to the

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13. We thank Greg DeAngelo and Don Vitaliano for this observation.

problem of what to do about the nondesisters who are still embedded in crime, beyond continued efforts to explore ways to foster change. As discussed, rigorous evaluation and exploration of ways to encourage rehabilitation is in its infancy, and further investment is easy to justify.

The good news, however, is that the signaling equilibrium is dynamic, and the groups who benefit need not be fixed. Signaling implies dynamic feedback between signal sender and signal receiver, and the equilibrium conditions allow for change over time in the value of the signal. If offenders learn that program enrollment, participation, and completion are being used to identify instantaneous desisters, offenders who otherwise would not participate might now choose to do so. Conversely, if these desistance signals are ignored by correctional officials, the “good bets” who otherwise would acquire them might instead opt out.

Some empirical justification for this claim exists. For example, Kuziemko (2007) found that program participation in prison dropped after determinate sentencing was adopted. This finding suggests that program participation was being used as a signal by the parole board, and some offenders were only participating to impress the board. Yet if the programs are indeed beneficial from an evaluation standpoint (i.e., if they cause desistance), then added incentives to participate are hardly a bad thing. Kuziemko (2007) also showed an increase in recidivism after this change—indirect evidence that the programs did have a positive impact on behavior over and above their value as signals.

This discussion highlights another potential limitation with our development of desistance signaling. We argue that signaling complements rehabilitation. Yet signals must be voluntary to be of any use as such. And, indeed, many transitional employment programs are voluntary. At the same time, there is empirical evidence to support “mandatory” rehabilitation programs such as Project HOPE, where individuals are forced to participate as a requirement of their supervision (Kleiman, 2009). By definition, these programs will not be effective signals (see also Tyler et al., 2000). Not all rehabilitation programs will provide valuable signals, and the signaling value of certain programs might actually be undermined by forcing compliance.

### *Research Implications*

Research needs to develop along four separate tracks. First, formal models of the information asymmetry problem in the context of prisoner reentry must be developed. A formal model will be able to accommodate the unique features of the problem for individuals with criminal history records, and it can then be parameterized to provide concrete insight into the limits and potential of desistance signaling. Key factors include the returns to employers, the size of the “productive” group, and the costs (and benefits) of the signal to both individuals and society.

More attention also needs to be devoted to clarifying the parallels between crime desistance and work productivity. As used in this article, as a simplifying assumption,

they are essentially the same thing—desisters are productive workers, and nondesisters are unproductive workers. Although some justification for this description exists, it does not necessarily reflect reality. Research should focus on the degree to which these two concepts are interrelated. The weaker the correlation between crime desistance and work productivity, the greater the need to specify more clearly the relevant signals that can be of use to different stakeholders.

Second, empirical testing of the signaling power of program completion needs to be conducted. The classic way to test these ideas is to find people who are otherwise similar in terms of skills, but who are different only in terms of their acquisition of the signal (see Tyler et al., 2000). It is somewhat problematic in labor economics, where signals like a GED and high-school diploma contain at least some human capital value. It might be less problematic in the context of criminal history records, particularly if the finding that transitional work programs have no pronounced causal impact on labor market outcomes continues to hold in future evaluations. In this environment, the task will be to compare labor market outcomes for members of the control group who have similar attributes to program graduates but who did not have access to the “program completion signal.”

Third, so-called certificates of rehabilitation, which are created explicitly as signals, also might be worthwhile areas of research. Individuals who qualify for certificates but have not applied for them for exogenous reasons might be compared with those who do have the certificates. Or outcomes for those with certificates, before and after the awarding of the certificate, also might be compared. Other important empirical efforts could involve more detailed surveys of employer attitudes toward program completion, among the subset of employers who engage with individuals with criminal history records. More explicit consideration of the signaling function within the job development community also might be beneficial.<sup>14</sup>

Finally, elaboration of the signaling framework beyond employment programming might yield important new insights. Several anonymous reviewers of this article immediately jumped to possible extensions. We were most comfortable with the idea within the context of employment, given signaling theory’s origins within labor economics. But it is nonetheless true that the signaling model is quite general, has broad potential, and is transferable to any setting in which there is information asymmetry between two or more parties. For

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14. “Signaling” is sometimes confused with “creaming” among treatment providers. Creaming is a pejorative term in this context that implies that the provider is only providing services to the best and easiest-to-serve group. The notion of creaming, and the hostility it sometimes generates, makes a productive discussion about signaling as a positive function of reentry programming difficult to manage. We believe the hostility emanates from the idea that one intends to help some but not others. But what if, as the experimental evidence suggests, no one is actually being helped directly by the program? Instead, the value added comes from the ability of the program to distinguish, in a constructive way that does not discriminate on the basis of past actions or stable characteristics, between those who have changed and those who have not. The fundamental assertion of this article is that this information is valuable.

example, possible extensions of the model that incorporate other signals that have relevance for the reentry process include educational certification and substance abuse treatment, among other forms of correctional programming. Similar to the graduates of employment programs, graduates of these types of programs are likely to differ from their counterparts in ways that reveal information about risks to the community or the workplace. Additionally, although we focused on community-based employment programs, the signaling model can possibly be extended even further to incorporate prison-based employment programs that, when coupled with the signals acquired from participation in community-based programs, can jointly serve as a powerful signal about underlying risk.

### *Policy Recommendations*

The assertion in this article is that not every reentry program needs to explicitly cause change in order to be cost effective. Some programs in the criminal justice system may be beneficial simply because they provide information about participants that is otherwise unavailable. “Old-fashioned” parole was based on this idea, albeit it in a clinical and not in a particularly systematic way. Concern about the arbitrary nature of parole decisions was one reason behind the determinate sentencing movement (Travis, 2005). But the appeal underlying the problem of information asymmetry and the value of signaling is that allowing people to sort themselves, through their own actions, need not be arbitrary or clinical, particularly if opportunities are universally available and are not limited by class or race.

Such an exercise also need not fall within the confines of risk prediction, which is inevitably driven by a few static factors like age, gender, and criminal history, which are not changeable. Although these factors define the problem, they are not grounded in the reality, highlighted by John Laub (2006), that change is possible, even among the “riskiest” groups of offenders. Acquiring unobservable information about who has changed, even if we cannot directly manipulate that change, is a valuable government function and it is worthy of further investment. A correctional system in which individuals spend a large amount of time incarcerated, without learning more about their potential after release, seems wasteful. A careful reconsideration of how program enrollment, participation, and completion can generate useful and actionable information about crime desistance and work productivity is an important task for criminal justice policy makers and other stakeholders.

The idea of signaling also might be a useful concept for policy makers currently struggling to make intelligent decisions about the employment eligibility of individuals with criminal history records. Currently, statutory bans on such things as employment focus almost exclusively on the nature of the offense and, to a lesser extent, on the time since the last offense. Such a decision framework throws away any and all information that can be learned from the actions of the individual since the time of the last offense. Yet, although we can acknowledge that individuals who committed a certain offense have a certain level of risk, we also can acknowledge that this is not a homogenous group. Concrete actions by individuals to fulfill the obligations of a sentence, obtain employment, pay taxes,



and “graduate” from reentry programs provides real information about their current (and prospective) level of risk. On the one hand, employers and others may simply not have enough information to differentiate between individuals with criminal history records. On the other hand, government policy makers may have this information—but it needs to be organized in such a way that employers can use it.

Policies such as certificates of rehabilitation, like those offered by New York State, have the potential to improve life outcomes drastically for a growing class of individuals at little cost to society. The fact that such certificates exist is encouraging; the lack of systematic research supporting their development is not. This article supports a serious, concerted effort to better understand and expand on these programs, if and when empirical evidence confirms their potential signaling value.

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# POLICY ESSAY

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## A SIGNALING PERSPECTIVE ON EMPLOYMENT-BASED REENTRY

# Obeying Signals and Predicting Future Offending

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“Never make predictions, especially about the future.”

—Casey Stengel

### **Introduction**

Desistance from crime is a central theoretical (Sampson and Laub, 1993), methodological (Bushway, Piquero, Broidy, Cauffman, and Mazerolle, 2001), and policy-relevant (National Research Council, 2008) issue. Research identifying the correlates of desistance (Loeber, Stouthamer-Loeber, Van Kammen, and Farrington, 1991; Maruna, 2001) is especially relevant among experienced offenders for whom little is known (Laub and Sampson, 2001; Piquero, Farrington, and Blumstein, 2003). One presumed correlate of desistance, although not routinely and convincingly demonstrated, is employment.

Within the context of employment training programs, Bushway and Apel (2012, this issue) recommend that “program completion may serve as a strong signal for employers seeking to identify good employees” and that completion of a voluntary work program may provide some important information, that is, a signal, to potential employers with respect to the level of crime risk and work productivity. That a person completes such a program, then, is believed to communicate, in part, their readiness to rejoin society as a productive worker and law-abiding citizen.

This policy essay seeks to situate their thesis within the broad set of literatures on reentry and desistance. In so doing, I will use their term “signaling,” in a slightly different manner, one that I think offers a concrete plan for ensuing conceptualization of the desistance process

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as it relates to correctional/criminal justice decision making. By using red, yellow, and green lights as descriptors, I speak more broadly about a policy effort that uses traffic signal colors as a way to transition offenders gradually back into employment and mainstream society. I close with some important observations about prediction in criminology/criminal justice that bear on Bushway and Apel's (2012) argument.

### **Getting Offenders to Think About Stopping at Red Lights**

On average, offenders have demonstrated their ability at breaking the law, and high recidivism rates (Langan and Levin, 2002) indicate that desistance from crime is unlikely to be quick and easily lasting. Yet evidence suggests that serious youthful offenders tend to become more morally engaged over time and that moral engagement is related to less antisocial behavior (Shulman, Cauffman, Piquero, and Fagan, 2011). It is important, then, that offenders develop a belief in the law, obey the law, and become productive members of society (Fagan and Piquero, 2007; Tyler, 1990). One way to do this would be to develop well-designed prevention and intervention strategies that spur an offender's legitimacy and belief in the law, and then to implement and evaluate evidence-based programs that are resourced well to the appropriate population of offenders. To accomplish this, we need to think about a graduated reentry process that has three phases: phase 1 red light (during supervision and after release), phase 2 yellow light (slowly remove control and supervision, provide continued aftercare and resource deliverables), and phase 3 green light (removal of control and supervision, and hopeful successful reintegration into society). This three-phase consideration essentially boils down to getting offenders to avoid running red lights because they come to believe in—and respect—the law and will follow it closely, to think carefully about speeding through a yellow light, and only to proceed cautiously and appropriately at a green light. Although space constraints prohibit an extended discussion of these phases and all they entail, here I provide some brief comments.

#### **Red Light**

For phase 1, beginning during the offender's supervision and continuing into their immediate release, offenders should be provided requisite programming following the risk–needs–responsivity model (more on this in the subsequent discussion), and then after release to society, they should be monitored as necessary and given appropriate aftercare services and a detailed plan for reentry success. A crucial aspect of phase 1 involves the socialization of offenders, focusing specifically on decision-making and cognitive thinking skills (i.e., via a cognitive behavioral therapy [or related] approach; Landenberger and Lipsey, 2005) that reorients them away from “running red lights.”

#### **Yellow Light**

Phase 2 gradually removes the supervision aspects from the offender and continues the initial work from phase 1 regarding agency involvement and placement decisions on aspects related



to education, social services, employment, and other matters. A recent longitudinal study of former prisoners shows that consistent work experiences before incarceration, connection to employers before release, and conventional family relationships improve employment outcomes after release (Visher, Debus-Sherrill, and Yahner, 2011: 698). Furthermore, drug use and chronic physical and mental health problems also were associated with fewer months after incarceration. The point here is that ex-offenders have several needs spanning an array of life domains that need attention for them to be viewed as “employable” to prospective employers, to acquire gainful employment, and to persist in their employment career.

### **Green Light**

In the third and final phase, releasees should have little (ideally no) supervision and be well on their way toward being productive members of society as they progress along their education and employment careers. They should have periodic check-ins with appropriate criminal justice reentry personnel to ensure that they are following their prescribed course of action and reentry, and then eventually, criminal justice/social service contact will cease.

### **Linkage Signaling to R-N-R (not that kind of RNR)**

To Bushway and Apel (2012), their “signaling model is not complementary to the risk–needs–responsivity approach” and in so doing makes the distinction between observable and unobservable characteristics.<sup>1</sup> In claiming that risk assessment generally concerns “the use of observable characteristics,” they view the signaling model as “looking for behaviors, in real time, that can flag individuals who possess characteristics that are, fundamentally, unobservable.” I am not convinced that the two models are as distinct as Bushway and Apel claim. Just because RNR is more dynamic, allows for differential responsivity of individuals to different treatments, and is based on a particular theoretical perspective, it does not follow that it is not complementary to signaling. As I view it, in both cases, both the RNR model and signaling use a mixture of characteristics (employers, after all, do observe offenders’ characteristics just like an RNR model collects and uses similar individual characteristics when making treatment plan decisions). For both, then, there clearly is an effort to improve predictive accuracy—the difference is that signaling is just a different way to go about it.<sup>2</sup>

Turner and Petersilia (2011) recently noted that to provide offenders with educational, literacy, vocational, substance abuse, and/or job placement services that can help improve

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1. Briefly, “RNR” refers to (a) risk—directing intensive services to those at highest risk of recidivism, (b) need—targeting needs or strong risk factors for recidivism, and (c) responsivity—providing services that are responsive to an offender’s learning style/ability. For an excellent discussion and example of RNR, see Taxman, Thanner, and Weisburd (2006).
  2. Bushway and Apel (2012) claim that “Signaling . . . is focused on conveying information about unobservable characteristics.” But I would think that by completing an employment program, an offender sends an observable signal to a potential employer, and it is just that the “desistance realization” within the offender is the unobservable component.

reentry success, we must invest “in reentry programs that incorporate effective principles of correctional treatment [the RNR model], targeting those programs to specific offenders who can most benefit, and continually evaluating and revising program models as the science accumulates” (pp. 180–181). Such service provision must also recognize the structural barriers that face offenders when they are released (Clear, 2007)—regardless of their employment program graduate status. As Travis (2009: 8) noted: “Successful reentry requires strong community support networks and comprehensive services.” In sum, just like vegetables are part of a daily, well-balanced diet, RNR should be part of a broader incarceration and reentry strategy that is combined with other evidence-based principles of behavior change (Lipsey and Cullen, 2007), including in particular cognitive-behavioral therapy.

### **Sometimes You Gotta Tap the Brakes When It’s Snowy**

There is much to admire in Bushway and Apel’s (2012) article, including its positive view that some things work for some offenders in some cases when dealing with recidivism generally and their reintegration into society in particular. At the same time, there is a need to think about the practicality of their views in the real world.

#### *Is a Job a Job?*

Bushway and Apel (2012) give high marks to the potentially important role of employment training and graduation of such a program. But they do not describe what these programs look like or what kinds of jobs these offenders would be trained to do (computer technician, plumber, teacher, etc.) and then expect to find work in once released from prison. There is a growing literature on the array of programs that have been developed and implemented by correctional organizations aimed at preparing offenders for employment (Solomon, Johnson, Travis, and McBride, 2004). It is imperative that any sort of employment training/readiness program be tailored not only to what may be the current jobs available but also to the skill set of the particular offender (again, a place where the RNR model would be useful). Perhaps a more important point as well is that not all jobs are created equal and not all offenders would “fit” all the same jobs. A job is not always a job. Work is not simply work. What is needed is, as Wilson (1996) observed, “meaningful work,” with a path and a plan for the future.

Additionally, what are we to do with offenders who are not in facilities that have these employment training programs? What about offenders who are in facilities that have inadequate employment training programs—much less any useful programming because of today’s constrained correctional budgets? Offenders in both of these instances would not have had any opportunity to be an employment program graduate. Does that make them any less employable or any less a desister after release from prison?

#### *On Prediction*

Bushway and Apel (2012) state that: “Employers and other decision makers may be able to identify reliably individuals who have very low risk of recidivism, based on their successful

completion of voluntary employment training programs.” Of course, this is a prediction for which there is a long tradition of discourse and analysis in the criminology/criminal justice literature (Gottfredson and Tonry, 1987). But prediction is tough, and accurate prediction even tougher. Consider Gottfredson’s (1999) study on the effects of judges’ sentencing decisions on criminal careers in Essex County, NJ, which showed, in part, that judges’ subjective risk assessments of offenders’ likelihood of recidivism was only modestly valid—with several judges’ predictions showing no validity regarding whether the offender would recidivate or not. Although I appreciate the growing and very important body of research on redemption showing that individuals who have not offended for a certain (lengthy) period of time have a (low) probability of offending that approaches that of nonoffenders (and can be considered for employment purposes “redeemed”; see Blumstein and Nakamura, 2009), I am somewhat more hesitant than Bushway and Apel are at claiming this finding to be “definitive.” It is definitive only to the extent that the finding routinely emerges in a small number of studies, all of which use official records. The problem here with the use of “definitive” to characterize this pattern of findings is that there is also research using self-report records showing that although many individuals exhibit no official record of criminal offending, they do self-report nontrivial offending (Nagin, Farrington, and Moffitt, 1995). When coupled with other research showing that offenders do exhibit stops and starts throughout their offending careers (or intermittency; Piquero, 2004), greater care must be taken with setting such a 7–10-year absolute standard at the risk of false-positive prediction error (see Barnett, Blumstein, and Farrington, 1987).<sup>3</sup>

The point here is that caution should be exercised when making predictions, and due consideration—especially from the point of view of the employer—of false positives should be given. This is so because potential desisters signal to prospective employers in much the same way that a newly minted Ph.D. signals to a prospective faculty that they can be a productive member of their faculty. In this case, a 2-day interview reveals a lot (of observables), but not everything about the candidate is observable. That they give a good job talk predicts, well, that they can give a good job talk. Being a faculty member (and all that it entails) is a bit different from being a graduate student, and some promising new faculty do not always succeed into the next transition of a productive academic career. As any Dean or Provost would attest, false positives cost both time and money. The same can be said about college football players. Some high-profile college quarterbacks signal to prospective NFL teams that they can put up big numbers in college (observables), but other parts of the player, such as locker-room presence and the ability to learn and grasp complicated offenses and defenses, may not be immediately observable. As in the example, that they can light up the field against other college players predicts, well, that they can light

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3. It is curious that Bushway and Apel (2012) indicate that “any risk prediction exercise will necessarily involve considerable error.” Wouldn’t the probability of error also exist with respect to employers relying on whether an offender graduated an employment program as a signal that they have in fact, desisted?

up the field against other college players. The professional game is a bit different from the college game, and many college players do not make a successful transition to the NFL or perform as they once did. False positives are common and, as any coach or general manager would attest to, can cost NFL teams millions of dollars.

That offenders complete an employment program predicts, well, that they can complete an employment program. It does not tell us much about whether they would make for good employees outside of supervision nor does it tell us much about whether that is something that most employers look for when hiring, which would likely include factors such as fit for the job; a specific level of educational background; interpersonal, language, and communication skills; and so forth. Bushway and Apel (2012) may have missed an opportunity in their article by not developing or at least highlighting the potentially considerable amount of room available to improve prediction efforts.

In this regard, it is generally the case that many prediction instruments do not incorporate much information about in-prison behavior, on-the-street behavior, or conditions of areas to which released inmates return to that may in fact help predict those who are likely to reoffend (see Bales and Mears, 2008; Mears, Wang, Hay, and Bales, 2008). For example, an individual who transitions to a high-crime area presumably will have a higher risk of recidivism; similarly, an individual who stops trying to find work would presumably (potentially) have a higher risk of recidivism. Perhaps current recidivism prediction efforts could be improved by systematically incorporating this and other “real-time” information. At the very least, evaluations of such potential prediction improvement could be considered. In sum, risk/needs predictions may be improved by systematically incorporating “real-time” information and updates to prediction models, which may not be too difficult to implement and evaluate given the widespread automation of information systems that could regularly provide updates that may raise caution flags about particular individuals who are in need of additional services.<sup>4</sup>

## Closing

Bushway and Apel (2012) have helped to remind readers and policy makers that the topic of desistance should be of prime importance. Their work is also helpful because it suggests that completion of employment training programs may be a useful signal for employers to consider and, in turn, may help spur and aid the desistance process. Clearly, there needs to be a research effort assessing these programs, their implementation, and their ability to predict the future employment and criminal courses of previous offenders as well as the extent to which prospective employers care and consider such knowledge in their employment decisions. Results from this line of work will be important to verify Bushway and Apel’s conclusion that, “Employers and other decision makers may be able to identify reliably

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4. Berk et al. (2009) offered one potential example, forecasting murder among Philadelphia probationers and parolees, which offers a way of concentrating resources on those offenders with the greatest needs.

individuals who have very low risk of recidivism, based on their successful completion of voluntary employment training programs.” Predicting how quickly a yellow light will turn red before we decide to speed up sometimes works out fine, but other times, the camera snaps your license plate as you speed through and the light turns red. We do not want the “Old Pefessor” to tell us “I told ya so,” now would we?

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# POLICY ESSAY

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## A SIGNALING PERSPECTIVE ON EMPLOYMENT-BASED REENTRY

### Signaling and Meta-Analytic Evaluations in the Presence of Latent Offender Groups The Importance of Coherent Target Group Specification

**Tim Brennan**

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The lead article by Bushway and Apel (2012, this issue) has several main goals, including that of alerting criminal justice researchers to the logic and value of the signaling approach for early identification of key latent traits or unobservable latent offender groups. It offers an instructive examination of similarities and differences between signaling and risk assessment. The methods are similar in that both aim to identify coherent target populations and to offer predictive assessments that may guide offender processing. Bushway and Apel largely succeed in their goals. The article provides useful insights into all of these issues. However, an unexpected value of this study is that it also raises several interconnected policy issues stemming from the use of meta-analytic methods in evaluating the impact of employment training programs. The discussion directs our attention to the challenge of identifying latent target groups for criminal justice programs and the value of the signaling approach for early identification of such groups. The presence of unobserved latent groups in offenders targeted for such employment programs also suggests a need to reinterpret evaluations of these programs and the question of who really benefits from them.

A key starting point in the Bushway and Apel (2012) article is the seemingly counterintuitive finding from several meta-analytic and experimental evaluations that offender employment programs have minimal or null impacts on employment or rearrest (Visher, Winterfield, and Coggeshall, 2005). Based on these findings, policy makers may be tempted to abandon these programs on the basis of their modest results. Yet follow-up data suggest the presence of an unobservable latent group that has substantial employment

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success and low recidivism. The follow-up outcome data strongly suggest that program participation and program completion may function as valuable “signals” to allow earlier identification of this latent subgroup. These observational signal variables, (e.g., program completion and successful job retention in voluntary work programs) thus seem to identify a latent category of offenders that remains productively employed and largely crime free. This unobservable group (or trait) is not easily identified by conventional risk assessment methods. Their early identification could be enormously valuable to employers, treatment staff, and other decision makers during the reentry process.

In this response, I mostly agree with the positions and inferences of Bushway and Apel (2012). They offer cogent arguments and persuasive data, and I will certainly look for signaling variables in my own future work. However, given space limitations, I focus only on two broad themes in this essay. First, I offer some more extended comments on the apparent puzzle of disappointing findings from meta-analytic evaluations of job training programs. I view this anomalous finding as raising several complex analytical issues. For example, specific analytical problems develop when unobserved or masked latent classes in offender populations remain unrecognized, and this, in turn, may lead to problems of “conflation” in policy-relevant target populations. Second, I offer several observations on the differences and similarities between signaling and risk assessment. Although I largely agree with the remarks of Bushway and Apel in comparing the two approaches, I introduce several caveats.

### **Challenges to Meta-analytic Results—Potential Analytical Distortions and Incoherent Target Populations**

Starting from their review of employment programs and several evaluations of these programs, Bushway and Apel (2012) explore the question of why “work doesn’t work.” The failure is implied by the apparently poor results from meta-analytic studies and experimental evaluations they cite. Four reasons are offered:

1. Implementation problems, particularly offender noncompliance with program conditions
2. Target populations that include many offenders who are essentially unemployable with severe human capital deficiencies
3. Extreme stigmatization and “closed door” employer responses to reentering offenders
4. Small effect sizes for intermediate outcomes

Although Bushway and Apel (2012, this issue) make a strong case for each of these reasons, I suggest another possibility that particularly elaborates on their second reason (many unemployable offenders assigned to work programs) and introduces problems of meta-analysis and experimental evaluations that use random assignment to create undifferentiated experimental and control groups. These interconnected issues are as follows:

1. *Lee Cronbach's "Flat Earth" criticism of meta-analysis:* Gene Glass (2000), widely acknowledged as the originator of meta-analysis, in recounting several challenges to the method—and rejecting most of them—provided an interesting tale involving Lee Cronbach's criticism of meta-analysis. This criticism asserted that meta-analysis, as used in most studies, tends to oversimplify the complexity of social and psychological phenomena by its use of "crude averages" emanating from undifferentiated samples. Cronbach's statement is pertinent because it seems to pinpoint potential distortions that Bushway and Apel (2012) may have encountered in the disappointing findings from meta-analytic and experimental evaluations of job training programs in criminal justice. Cronbach wrote as follows:

Some of our colleagues are beginning to sound like a Flat Earth Society. They tell us that the world is essentially simple: most social phenomena are adequately described by linear relations; one-parameter scaling can discover coherent variables independent of culture and population; and inconsistencies among studies of the same kind will vanish if we but amalgamate a sufficient number of studies . . . The Flat Earth folk seek to bury any complex hypothesis with an empirical bulldozer. (1982, p. 70)

The common practice of relying primarily on the sample-wide variance–covariance matrix and on "group averages" would certainly function as an "empirical bulldozer" to flatten or remove any evidence of underlying latent groups. Glass—perhaps chastised, but clearly taking this challenge seriously—later acknowledged that "Cronbach's criticism stung because it was on target (1999)." In responding to Cronbach, he reanalyzed his 1980 meta-analytic study of the effectiveness of various psychotherapies that had originally found no evidence to favor behavioral psychotherapies over nonbehavioral psychotherapies. After his reanalysis, he described his new findings as "quite extraordinary and suggestive" with clear differences in effectiveness between the psychotherapy approaches.

2. *Causal heterogeneity and potential distortions of inappropriate analytical methods:* The critical implication of Cronbach's criticism is that parameters based on sample-wide analyses (correlation coefficients, partial regression coefficients, effect sizes, and so on) will be misleading if the underlying complexities of the data have been obliterated and masked by using sample-wide statistics and standard parametric methods, even in the context of control and experimental groups. The argument suggests that the meta-analytic and experimental evaluations of employment programs reviewed by Bushway and Apel (2012) produce flawed and misleading findings to the degree that the program populations contained an unknown mixture of different latent groups.

Other social scientists have similarly argued that standard parametric social science methods can produce distorted findings when studying open-systems domains and human developmental processes characterized by multivariate complexity, nonlinearities, and

causal heterogeneity within several latent groups (Bergman, 2000; Cairns, 2000; Lykken, 1991, 1995; Ragin, 2000; Richters, 1997). Each of these authors asserts that the logic and assumptions of covariance procedures and competing model justification strategies require within-sample structural or causal homogeneity and that if standard covariance approaches are applied to ill-defined populations with “unknown mixtures” of heterogeneous subsamples, the resulting interpretations of regression coefficients, partial correlations, semipartial correlations, and tests of competing theoretical models are distortions and not justified. An additional implication of latent or unknown heterogeneity among the selected offenders is that the “study populations” or the target population of the program or policy is actually an ill-defined ambiguous mixture of undetected latent antisocial adaptations and psychological patterns (Cairns, 2000; Lykken, 1991, 1995; Ragin, 2000). As noted, this ambiguity also will apply to experiments using random assignment to form experimental and control groups in situations where the overall population contains unobservable and heterogeneous latent groups.

3. *Population heterogeneity among offenders: categorical or dimensional?* The analytical distortions discussed above will occur only if causal heterogeneity, and the “hills and valleys” of categorical or multimodal structures, exist within criminal populations. Cronbach’s concerns would largely disappear if causal homogeneity and a relatively flat causal terrain actually characterize offender samples and the pathways toward and away from crime. Thus, the key question is whether offender populations—including offender populations assigned to work programs—are relatively homogeneous and reflect continuous multivariate distributions or contain substantial multimodality reflecting distinct and reliably detectable higher density regions (peaks) separated by lower density regions (valleys).

The concern over the nature of offender data structures, and whether distinct “offender types” exist, is a contested debate on whether offender data conforms to dimensional versus categorical distributions (Brennan, Breitenbach, and Dieterich, 2008; Lykken, 1995; Osgood, 2005; Sampson and Laub, 2005). An exposition on this debate appears in a special issue of the *The ANNALS of the American Academy of Political and Social Science* (November 2005). Briefly, however, the proponents of “general theories” mostly reject the existence of diverse offender types that may reflect differentiated causal processes and separate pathways (Gottfredson and Hirschi, 1990; Sampson and Laub, 2005). In contrast, a continuing body of empirical studies, using a variety of disaggregation methods (mixture modeling and latent class methods, group-based trajectory models, two-stage clustering, semisupervised pattern recognition, and so on), is building empirical support for the existence of diverse offender groups across several relevant domains (Brennan et al., 2008; Francis, Soothill, and Fligelstone, 2004; Quinsey, Skilling, LaLumiere, and Craig, 2004).

4. *Criminal justice policy and incoherent target populations:* Bushway and Apel (2012) offer a potentially useful process for clearer specification of a more appropriate target group for

reentry employment programs. I offer some general comments on issues in criminal justice targeting.

Ideally, target population identification should be adequately defined in legislation and bureaucratically implemented using clear procedural rules. These “rules” should identify cases that unambiguously fit the policy problem, legislative intent, and the targeted populations. There also should be clear empirical links among the policy problem, target populations, and proposed solutions. A key feature of target populations is that they should be structurally homogeneous and clearly identified—using either theoretically specified classification rules or empirically based categorizations—to give coherent categories of sufficiently similar cases that are well aligned with the policy and its procedures. The rules for identifying such targets often are developed and then implemented in ways that should be faithful to legislative policy. These targeting and eligibility assignment rules should not force end users to “fit round pegs into square holes” or to present end users with incoherent and unknown mixtures of unlabeled diverse cases.

Unfortunately, as is shown in Bushway and Apel’s (2012) review of employment programs, things often go wrong in the various targeting stages. Several useful texts have examined ways that criminal justice targeting can go awry to produce public policy fiascos (Best, 1995; Donovan, 2001; Schneider and Ingram, 1997). Donovan (2001), in examining drug control policies, noted that despite the importance and complexity of this issue, the targeting process is often only loosely specified, and is often undertheorized by legislative groups as well as by implementing agencies. A consistent problem in the area was the heterogeneity of the drug-using population that included hard-core addicts, traffickers, casual users, cocaine users, crack users, and so on. He also describes case studies where the target populations specified by legislation often were left implicit, poorly specified, and weakly justified.

Considerable criticism has been leveled at “three-strikes” legislation as a targeting policy that leads to one-size-fits-all sentences, for bizarre violations of common sense, and for destroying judicial flexibility with its rigid conflation of diverse offenders. The media often delight in publicizing absurd examples where government agencies violate common sense: for example, where offenders are given a life sentence after stealing a pizza or a bicycle, or where serious repeat criminals continually avoid this law because the targeting procedure applies to three convictions, not to three crimes. These offenders, despite having multiple offenses, slip through the system after repetitive plea bargaining and by using slick lawyers. These problems stem from the oversimplification of targeting specifications leading to conflation of different offender types being rigidly assigned to the same broad policy procedure. This scenario also is accompanied by a failure to specify target groups properly.

These criticisms may arguably extend to the targeting of offenders for reentry employment programs. The data provided by Bushway and Apel (2012) suggest that agency procedures for targeting offenders for reentry employment programs seem to

conflate a mixture of cases consisting of a large, perhaps diverse, category of permanently unemployable cases (see Addison and Portugal, 2001) that are comingled with a smaller category of “good bets” (perhaps identifiable by Bushway and Apel’s signaling method). The data presented suggests that up to two thirds of the offenders assigned to these programs seem virtually unemployable for various reasons. Bushway and Apel themselves report that “[t]he brutal truth is that many such individuals have difficulty holding onto jobs; providing them with a job probably does little to improve their ‘employability’.”

The obvious question from a cynical citizen who is worried about the lack of “common sense” of government agencies is why an agency would target large numbers of offenders for employment programs when most of these are fundamentally unemployable. A more refined targeting approach surely could be designed that applies a more detailed analysis of the reasons for the unemployment problems of this large group and arranges programs to address the needs of the target groups.

### **Comparing Signaling and Risk Assessment**

As signaling is rarely used in criminal justice, compared with the extensive utilization and rapid developments of risk assessment, I offer a few comments on the similarities and differences between these approaches. A common goal of both procedures is the identification of offender groups based on risk levels or treatment needs. Although Bushway and Apel (2012) provide useful information on the similarities and contrasts between the two methods, I offer the following points of clarification.

*Signaling focuses on a specific class of variables compared with the broader range of risk assessment factors:* Bushway and Apel (2012) indicate an obvious difference to risk assessment in that signaling focuses attention on a particular class of variables. They usefully define the key features of signaling variables, as being observable, changeable, able to be influenced or manipulated by the offender, linked to the underlying variable of interest (e.g., desistance) and imposing or requiring differing effort levels by offenders to achieve the signal status. Thus, it seems that signaling focuses more narrowly on a subset of variables, whereas risk assessment may use a broader set of variables including those that meet the requirements of a signal. In differentiating between latent groups, it is thus likely that risk assessment should be more accurate because it can use a broader set of variables, including static nonsignal items (e.g., age at first arrest) that can add substantial discriminating accuracy over and above other dynamic criminogenic variables and signaling variables. Signaling variables seem similar to leading indicators in economics in that they typically emerge or change before, or at the earliest stages of, some particular trend or development. Thus, they are useful for both predicting a future development and identifying specific cases (persons, industries, and regions) that may be embarking on this specific trend.

*Both methods use observable and changeable variables to detect unobservable constructs:* Both risk assessment and signaling use observable and dynamic variables to detect or

signal unobservable traits or latent groups. I agree with Bushway and Apel (2012) that older risk assessment models—characterized as second-generation (2G) procedures by Andrews, Bonta, and Wormith (2006)—were not theoretically driven, mostly avoided links to underlying constructs, and were largely driven by static factors. However, the identification of latent constructs (e.g., psychopathy, low self-control, and social bonds) is now a standard feature of recent third-generation (3G) and fourth-generation (4G) risk assessments (Andrew et al., 2006; Brennan, Dieterich, and Ehret, 2009). Risk assessment has long recognized that observable risk indicators can support inferences from multiple indicators to the thing indicated (Hammond, 2007: 33) and that the latter can be either a latent theoretical construct or a group. A recent trend in criminal justice risk assessments is the use of a “theory-guided” approach to scale construction. This method implies that a selected theoretical construct (e.g., social marginalization, criminal opportunities, and psychopathy) is first identified in one of the major criminological theories and then empirical scales are built from observable indicators of these constructs.

The LSI-R was an early example of the theory-guided trend in risk assessment with its use of social learning theory as a conceptual basis for scale construction. This tendency is even more apparent in recent risk assessment tools such as the COMPAS system (Brennan et al., 2009) with its explicit focus on dynamic theoretical constructs such as social bonds/controls, social marginalization and strain, criminal opportunity, routine activities, antisocial cognitions, strengths/protective factors, and so on. The psychopathy checklist (PCL) similarly uses multiple indicators to identify the latent construct of psychopathy (Hare, 1991) and is used as an indicator variable in risk assessment systems such as the VRAG (Quinsey et al., 2004) to identify a group of high-risk offenders. Clearly, static items such as “age at first arrest” also can be used as partial indicators of unobserved latent developmental constructs (e.g., life-course–persistent offenders) as in Moffitt’s (1993) dual pathway taxonomy.

My point is that signaling is not unique in using observable variables to detect latent unobservable traits or groups. Signaling, however, is differentiated by its focus on a specific class of variables that have particular properties and by the specific strategy of using these variables.

*Newer risk assessments routinely use signaling variables:* Another point of overlap with signaling is that more recent 3G and 4G risk assessment models are increasingly using signaling variables in their models. Thus, although signaling focuses on a specific class of variables, risk assessment also can use these variables, often in combination with other predictive indicators that add incremental predictive variance. For example, recent risk assessment models are increasingly incorporating various measures of “strengths” and protective factors that may qualify as signaling variables by meeting the various criteria of a signal (Blanchette and Brown, 2006). Strength factors emphasize the presence or acquisition of various personal and social resources and of protective factors that may reduce recidivism (Andrews et al., 2006; Ward and Brown, 2004). Examples of risk assessments that

incorporate the strength domain include the Offender Intake Assessment of the Canadian Federal System (Brown and Motiuk, 2005); the LSI-CMI (Andrews et al., 2006), and the COMPAS Reentry system (Brennan, 2009). Specific changeable strength factors in this instrument include developing prosocial engagement bonds, personal and social skills, vocational and educational skills, prosocial thinking, prosocial supports, and so on. All of these can be influenced by offender efforts, intelligence, educational background, and motivations.

*The avoidance of differential responsivity in the signaling approach:* Bushway and Apel (2012) clearly assert that although risk assessment “presupposes” a belief in differential responsivity of individual offenders to different treatments, signaling “does not assume” such differential responses. This difference seems to be significant between signaling and risk assessment because differential responsivity is a clear component of the overall risk–need–responsivity (aka RNR) principles. Differential responsivity goes beyond the question of “what works” to the more complex question of “what works, with what kind of offenders, under what conditions.” The meta-analytic studies that Bushway and Apel reviewed in their article clearly focused only on the “what works” question with no digging in the data to address the more nuanced second question. A concern with differential responsivity inserts the related issues of offender heterogeneity, the systems concept of equifinality (different pathways to the same outcome), differential effectiveness of treatments for different offender classes, offender type by treatment interactions, and the critical practical issue of matching offenders to appropriate treatments. These issues lead to methodological, conceptual, and policy differences between signaling and risk assessment approaches.

Methodologically, if differential responsivity is taken seriously, it requires that evaluation designs explicitly search for offender type-by-treatment interaction effects. This approach requires an understanding and mapping of the relevant offender heterogeneity (either dimensional or categorical) in regard to offender responses to the treatment program being evaluated. Differential responsivity also coheres with the idea that offenders may follow different causal pathways regarding the onset, maintenance, and termination of criminal careers (Brennan and Breitenbach 2009; Lykken, 1991, 1995; Moffitt, 1993). Methods that avoid this assumption may be comfortable in assuming offender homogeneity and consequently may focus only on global effects of specific treatments on the undifferentiated control and experimental groups (as in the meta-analytic studies reviewed by Bushway and Apel [2012]). In regard to the policy differences stemming from the responsivity approach, this would require implementing an appropriate array of graduated and diverse interventions to support the careful matching of offenders or subgroups to different treatments. Appropriate sentencing policies similarly would require sentencing designs to address effectively the diversity of responses and needs for different programs. Such sentencing designs are likely to be unfriendly to mandatory guidelines because as currently designed, they generally do not seem to account for the causal heterogeneity among offenders.



However, the previous discussion of differential responsivity is perhaps premature because little progress has occurred on this issue since the classic efforts of Marguerite Warren and Ted Palmer with the I-level classification project (Harris, 1994; Jesness, 1988; Palmer, 1992; Warren, 1971). Several recent efforts have aimed at developing theory-guided, treatment-relevant typologies that reflect the classic approaches of Warren and Palmer to the responsivity issue (Brennan et al., 2008; Harris and Jones, 1999). However, although the responsivity principle seems to be widely accepted, scant few programs have successfully incorporated or evaluated differential responsivity. Andrews et al. (2006: 12) in their broad review of risk assessment and RNR principles, acknowledged that research on differential responsivity remained sparse and that this was the “least researched” of the RNR principles.

*Does risk assessment primarily focus on static factors?* In discussing the contrasts between signaling and risk assessment, Bushway and Apel (2012) suggest that the latter is “inevitably driven by a few static factors.” Although I agree that many extant risk assessments rely mainly on “a few static factors,” I suggest that their statement is primarily aimed at 2G methods. A key feature of 3G and 4G risk assessment models is that they include dynamic factors (e.g., antisocial attitudes, risky lifestyles, criminal opportunity, social bonds, and levels of drug use) in their assessments, as examples (Andrews et al., 2006; Brennan et al., 2009; Van Voorhis, Salisbury, Bauman, Holsinger, and Wright, 2008; Wright, Salisbury, and Van Voorhis, 2007).

## Conclusions

In their lead article, Bushway and Apel (2012) usefully propose that the signaling approach can play a strong role in upgrading and refining the targeting and selection of offenders for employment reentry program. I agree that this approach may offer a valuable contribution to the criminal justice procedures for selecting and targeting offenders into appropriate programs that may better their responsivity characteristics.

In this response, I have explored the possibility that the meta-analysis and experimental results from previous evaluations described by Bushway and Apel (2012) conform to Cronbach’s Flat Earth argument regarding the misuse of meta-analysis. This situation would imply that offenders being assigned or targeted for these programs do not constitute a truly structurally homogeneous group but instead consist of an ambiguous and heterogeneous mixture of unknown classes. The disappointing results of the evaluations would inevitably mask any differential responses to the program by any latent groups because any differential responses would be “averaged out.” The key issue is that we require better ways of identifying key target populations to improve the assignment of cases to appropriate programs, to match their responsivity characteristics, and to add precision to the evaluation phase where we may wish to go beyond “what works” and address the more specific question of what works for what kind of offender, and in what circumstances. Appropriate target group specifications and identification procedures would seem an essential first step in beginning to achieve

this precision. The signaling approach that Bushway and Apel have described may offer an important contribution to these tasks. I also have commented briefly here on the misspecification of target populations more generally in criminal justice (sentencing policy, drug policy, three strikes, etc.) and in other examples of the “failures” of government.

Finally, in commenting on similarities and differences between signaling and risk assessment, I have suggested that although there are differences, both have a role to play in target group specification, in the on-going challenge of addressing the differential responsibility, and in defining relatively homogeneous groupings of offenders.

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# POLICY ESSAY

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## A SIGNALING PERSPECTIVE ON EMPLOYMENT-BASED REENTRY

### Elements of Successful Desistance Signaling

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One of the things that makes criminology so vibrant as an area of study is its multidisciplinary nature. Scholars in the older disciplines might (and do) turn their noses up at our lack of a unified methodological or theoretical approach to research, but we criminologists tend to relish our status as a “rendezvous subject” (Rock and Holdaway, 1998), a place where those from the “real” disciplines can come to meet. In their hugely important lead policy article, Bushway and Apel (2012, this issue) introduce another fascinating visitor into our little party from labor economics: Greetings Mr. Spence! I do hope you stick around awhile. There are some folks already here I want to introduce you to!

The idea of “desistance signaling” should be a revelation and, I hope, a revolution for criminology, as it represents a subtle but substantial challenge for the reigning paradigm of risk assessment and program evaluation monopolizing the field of rehabilitation. As new as it is, Bushway and Apel’s (2012) plea for signals is also a throwback to a different era in criminological thinking in need of a renewal in the field of rehabilitation studies. Indeed, if one were to follow the signaling argument to its logical conclusions (as I encourage the authors to do in the subsequent discussion), it would start to sound a lot like the symbolic interactionism that gave rise to the labeling perspective—criminology’s original, great venture into the power of the signal. What this article represents, then, is the legitimization of a labeling theory of rehabilitation.

“Rehabilitation” is a frequently misused word, at least partially because the word “habilitation” has basically become obsolete. The *Merriam-Webster Dictionary* lists two related, but different, definitions of the lost word of “habilitation: 1. to make fit or capable (as for functioning in society) and 2. to clothe or ‘to qualify oneself.’” The first definition is the

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one that most people associate with offender rehabilitation today—corrections, treatment, dosage, and the medical model approach to making the unfit fit. Yet, writing 25 years ago, Forsythe (1987) was careful to distinguish that approach (which he termed “reform”) from what he termed “rehabilitation.” Reflecting *Merriam-Webster’s* second definition, he argued that whereas reform involved efforts to change an individual’s character or values, “rehabilitation” refers to the restoration of the person’s “reputation” and full citizenship.<sup>1</sup> The United Kingdom’s Rehabilitation of Offenders Act 1974 clearly recognized this second meaning of the term “rehabilitation,” as well. The Act has nothing to do with correctional programs or training, but instead it specifies when and how a person’s criminal record becomes expunged or concealed (basically, after multiple years of good behavior). The “rehabilitation” on offer is the removal of the “leper’s bell” of the criminal conviction, not some expert treatment.

It is the tension between these two concepts of “rehabilitation”—as treatment or as credentialing—that is at stake in Bushway and Apel’s (2012) important article. In theory, both approaches lead to the same outcome (recidivism reduction), but the paths they travel to get there, and in particular the way one evaluates and assesses them, are quite different. The difference here is one between “signaling desistance” and searching for “signs of desistance.” The semiologists tell us that a “signal” differs from a “sign” in that a signal requires a purposive agent—it is something a person does intentionally (Gambetta, 2009). The risk paradigm in rehabilitation instead focuses on “signs” of risk, putting the expert in control, and leaving prisoners feeling powerless and frustrated (see Crewe, 2009; Liebling, 2004; McNeill, 2006).

These dynamics are nicely captured in Attrill and Liell’s (2007) study of risk assessment from the perspective of the “assessed” prisoners:

It’s not fair – I’m prejudged on what I did in the past, not on what I’m doing now. (p. 198)

They should take into account fully every attempt the individual has made to address offending behavior and remain objective and consider all the main indicators. They should consider all the work he’s done in prison and his intentions for rebuilding his life and the steps taken towards this – in prison. (p. 199)

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1. Interestingly, one of the only contexts in which habilitation is commonly used today is in academia where a “habilitation” is a kind of “second Ph.D.,” a one-step up from a Ph.D. in European and Asian universities that one achieves through either a series of published works or a magnum opus of a second thesis. Now that is a “costly signal” to the world, turning the volume dial to 11, *Spinal Tap* style.

Prisoners feel disempowered by risk assessment processes precisely because they feel these external assessments rely on “signs” outside of the person’s control. They do not understand or agree with the criteria on which they are being assessed, and they do not feel that they can do anything to change the expert portrait of them (see Maruna, 2011).

The ex-prisoner’s dilemma, then, involves trying to prove to employers and others in their social world that “I am not now who I was then” (Toch, 2010). It is about finding some means of overcoming or working with the stigma of a criminal conviction (Goffman, 1963; LeBel, 2008). Recent research estimates that approximately two thirds of ex-prisoners remain unemployed for up to 3 years after their release from prison (Saxonhouse, 2004), suggesting that the difficulties of prisoner reintegration are social and structural in nature as much as they are internal. Jacobs (2006: 387) captured this well-known process nicely: “The criminal justice system feeds on itself. The more people who are arrested, prosecuted, convicted, and especially incarcerated, the larger is the criminally stigmatized underclass screened out of legitimate opportunities” (see also Love, 2011; Pinard, 2010; Travis, 2002).

If this premise is true, what is the point of “challenging criminal thinking” or assessing lowest criminal propensity, if, when released, ex-prisoners will be prohibited from finding legitimate means of self-support as a result of their involvement with the system meant to “correct” them? Recognizing these structural elements to recidivism, Bushway and Apel (2012) want to “focus on allowing individuals to identify themselves credibly as desisters, rather than on trying to ‘cause’ desistance explicitly” (see also Freeman, 2008; Maruna, 2001: 155–164 on “Recognizing Redemption”). What makes this “desistance signaling” approach so radical and so appealing is that it gives the “rehabilitation” process back to the desister, not to the expert (McNeill, 2006).

It is an open question which approach to rehabilitation (treatment models or signaling models) is the better route to crime reduction. Actually, it is not a fully “open” question at all as the race is a bit fixed. At the moment, as Bushway and Apel (2012) point out, almost all of the existing research evidence (or all the evidence that “counts” anyhow) has focused purely on treatment models conveniently assessed using the treatment paradigm of program evaluation. Existing examples of signaling opportunities (certificates of rehabilitation, presidential pardons, and expungement policies like the Rehabilitation of Offenders Act in the United Kingdom) have not been evaluated for the most part, and for good reason. As Bushway and Apel explain, they cannot be evaluated using the traditional schemes because these policies (like arts projects in prisons, mutual aid fellowships, volunteer work, parenting, and so forth) are based on principles of self-selection and so would make evaluation far more difficult than, say, a modular program on anger management. Yet deciding to evaluate the latter rather than the former on grounds of ease is a bit like the drunk who looked for his car keys under the lamppost, not because he thought they were there, but because that was where the light was best.

Robert Martinson’s (1974) infamous “what works?” question has much to answer for here. The argument that perhaps “work doesn’t work,” cited in Bushway and Apel (2012),

has to be one of the most frightening phrases I have read in criminology in a while. Surely, it is time to retire this “what works” phrase once and for all and to agree that the word “works” does not “work” when talking about human lives. What does it even mean? I have heard people ask, “Do the arts work?,” “Does prison work?,” and “Does supervision work?” as if these questions could be meaningfully answered. After a presentation, I was once asked, “Yes, but does desistance work?” Has anyone ever asked, “Does grad school work?” or “Does university work?” I hope not, or else they will start testing it by randomly assigning people to Ph.D. programs in criminology.

The beauty of the signaling approach is that it allows us to recognize the folly of such a question when the subjects involved are human beings trying to live meaningful lives.<sup>2</sup> A signaling theory approach would ask what we would need to know before we could even ask whether “grad school works.” For instance, would graduate school work if you did not get a degree at the end? That is, what if you got all the “dosage” (i.e., took all the courses and completed a dissertation), but you received no official credential at the end (e.g., because you forgot to pay your tuition)? What about the opposite? Imagine you skipped all the “dosage” (never attended a single lecture), but you forged or scammed a Ph.D. credential and recommendation letters from one of the top university departments. Which of those scenarios (all dosage, no degree or all degree, or no dosage) would “work” better on the job market? So, does grad school work? Don’t ask me! In fact, don’t ask that at all. Bushway and Apel (2012) would argue that the better question (and certainly the more pertinent one for aspiring criminologists) is “what do I have to do to get the job I want in academia?” That is a question that I can answer.

Prisoners ask the same sort of questions. The prisoners whom I have met and worked with over the years are deeply ambivalent about expert correctional treatment and highly skeptical of expert risk assessment. They are, however, very interested in the idea of redeeming themselves (i.e., signaling their desistance). They ask, “What do I have to do to get a second chance?” and if that means sitting through a “what works” course or smiling while a 23-year-old trainee psychologist from the suburbs risk assesses them, so be it. The problem about such signaling opportunities, that every prisoner knows well, is that these signals carry little or no weight in the real world. Successful completion of a criminal thinking course or an expert assessment of low-risk of recidivism is hardly something one puts on a job application. As employers would not understand either one or accord them much legitimacy, they have little by way of what Pierre Bourdieu (1977) deemed “symbolic capital.”

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2. Was I the only one cheering on the pluck of humanity when reading this passage in Bushway and Apel (2012)?: “Individuals assigned to a control condition can seek nonprogram assistance or training on their own, whereas individuals assigned to an experimental condition can refuse to show up for training or subsidized employment. Plenty of evidence of this sort of noncompliance in social experiments exists” Good for us! May it ever be so.



### **“What Works” in Signaling Desistance**

When ex-prisoners ask me (as they occasionally do) how they can overcome the stigma they face in society and prove to people they have changed, I recommend that the easiest thing they can do is to grow a beard (I should say, this advice obviously does not work for women or indeed for many individuals accused of terrorism) and wear a pair of thick glasses. Graying beards and thick glasses (especially when combined with appropriately lame fashion choices) are signals with widespread unconscious power that the wearer is old, fuddy-duddy, and not in “the game.”<sup>3</sup> Such an individual, in most cultural contexts, is considered unthreatening for the most part—they may secretly be a pedophile, a political radical, or an Internet creep, but they would not convey an immediate threat of violence. Put it this way, if ten such individuals were walking down a street, you might worry that a documentary film festival was in town but not that immediate trouble was afoot.

Thanks to Bushway and Apel (2012), I now know that the problem with relatively “cheap” signals like these is that because they require minimal sacrifice (although a person’s fashion credibility is no small thing), they are not widely perceived as legitimate discriminators. Indeed, the job of much social interaction is to differentiate between “authentic” signs and manipulation—discerning the genius from the con artist, the “gangsta” from the “wannabe,” and so forth. The best signals for making these judgments are those that would be the most costly to mimic—that is, more costly for the fraudster than they would be for the person who actually has the quality being advertised (Grafen, 1990; Zahavi, 1975; Zahavi and Zahavi, 1997). The Ph.D. degree is an example of a costly signal. Anyone can spout off in a job interview about being a hard worker with a love for learning, but a potential employer is more likely to be persuaded that these invisible qualities are authentic if they know that the person has been admitted to, pursued, and completed a Ph.D. program. The idea is that if someone really were not dedicated to learning, spending 5 years in graduate school would likely be an awfully costly charade. Facial tattoos are another costly signal discussed in Diego Gambetta’s remarkable *Codes of the Underworld* ([2009] which also draws on Spence and costly signal theory). Males (and some females) often want to signal to potential adversaries (and sexual partners) that they are fearless, dangerous, and unpredictable. A cheap way to signal this is by wearing one’s hat backward or walking with a swagger, but such poses can be (and routinely are) challenged. Few, however, would doubt the dangerous bona fides of the individual who has gone to the trouble of tattooing his face.

Variants of a signaling theory—dating back to Mauss and Veblen—have been used to explain many behaviors that appear nonrational on the surface, ranging from altruism to

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3. Not coincidentally, the bearded, bespectacled male is also largely avoided at nightclubs or other youth venues (if, indeed, one somehow manages to get past the door staff in the first place). Of course, these signals may not be universal or timeless. (Beards send different signals in Muslim societies or perhaps Scandinavia in the 1970s). Also, of course, there are *types* of glasses and *types* of beards, even in Western cultures today that could qualify as threatening or dangerous looking. A proper feminist and/or evolutionary analysis of these dynamics would be fascinating.

conspicuous consumption to self-harming (Bliege Bird, Smith, and Bird, 2001; Gambetta, 2009; Gintis, Smith, and Bowles, 2001; Turner, 1986). Giving of one's time "selflessly" to others, throwing money around, or cutting one's wrists and arms are personally costly behaviors, but the reputational "capital" these behaviors purchase may be worth the price (Posner, 2000). Traditional "costly signals" of remorse similarly have involved acts of self-sacrifice and penitence (see Braithwaite and Mugford, 1994). An individual demonstrates her contrition through apology and acts of restitution, and these acts are formally recognized through acts and gestures of forgiveness.

The best source for understanding what makes a good desistance signal, however, is to learn from its opposite—the criminal stigma. What makes a conviction such a powerfully effective signal? I can think of three core elements. First, of course, the conviction comes with a widely accepted credential (see Pinard, 2010). Drawing on the Randall Collins (1979) classic, *The Credential Society*, Pager (2007: 4) argued that the "criminal credential constitutes a formal and enduring classification of social status, which can be used to regulate access and opportunity across numerous social, economic and political domains" and is therefore "an official and legitimate means of evaluating and classifying individuals" (p. 5).

Second, you get a name when you have the credential. You become an "offender." Wonderfully, that name is ambiguous in regard to whether it refers to something you did in the past or something you are likely to do in the future; the implication is that it is about who you are. Other credentials work this way too. You pass your Ph.D. and you become a "doctor" with all of the connotations of special insight and capability implicit with that title. Quickly, the person moves from something one has achieved (finished a big piece of research) to what someone is ("My son, the doctor").

Lastly, the criminal conviction is ritualized in the form of a degradation ceremony imbued with authority and legitimacy (Garfinkel, 1956), suggesting that a good signal is often performed in the form of ritual (see Maruna, 2011). It is no coincidence that the foremost sociological theorists of the "credential" (Collins, 1979; Goffman, 1963) are also among our leading scholars of "ritual" (Collins, 2004; Goffman, 1966). Credentialism and performance go hand-in-hand (weddings and marriage certificates, graduations and diplomas, court trials and convictions) with the credential legitimizing the ritual and the ritual legitimizing the credential.

The science of desistance signaling, then, could learn from these elements of the criminal credential in imagining means of accrediting desistance, such as the "certificate of rehabilitation" intended to be a kind of "letter of recommendation" (Lucken and Ponte, 2008) to employers. As far as U.S. rehabilitation credentials go, Love (2011: 775–776) argues that the formal pardon remains the "gold standard" for "confirming good character, so that an employer, landlord, or lending institution will have some level of comfort in dealing with an individual who has been deemed worthy of this high-level official forgiveness." The primary problem with such policies is that they often involve a labyrinth of bureaucracy

making them “biased in favor of the wealthy and politically connected, and inaccessible as a practical matter to those without means” (Love, 2003: 116). President Bill Clinton’s infamous pardon of the billionaire tax evader Marc Rich in his last days of office is an extreme example of the sorts of individuals most likely to receive such privileges at the presidential level.

Outside of the United States, opportunities for reputational redemption are more plentiful (see Pinard, 2010). In France, “judicial rehabilitation” rituals take place in the same court rooms that sentence individuals to prison and (not coincidentally) “resemble citizenship ceremonies” (Herzog-Evans, 2011; see also Maruna and LeBel, 2003). Such forms of “judicial rehabilitation” benefits from “a certain imprimatur of official respectability” (Love, 2003: 127) given “the respectability that the judiciary enjoys in . . . society” (Love, 2011: 783). As Herzog-Evans (2011) astutely pointed out, courts have a distinct advantage over almost any other institution: “[T]hey can state what the truth is.” This ‘judicial truth’ (*vérité judiciaire*) or “legal magic” carries real weight. Just as a degradation ceremony succeeds in condemning the whole self of the person (Garfinkel, 1956), the reintegration ritual acts to restore the person’s reputation as ultimately good (Braithwaite and Mugford, 1994).

### **Whatever the “It” Is**

It is on this point of “ultimate goodness” where I have two bones to pick with Bushway and Apel’s (2012) remarkable analysis. The first one is minor, the second one is major, but they are closely related.

The minor point: Bushway and Apel (2012) use the term “desist” incorrectly throughout their article, although this is a very understandable move and one I have resorted to myself<sup>4</sup> for reasons that I will explain. To be pedantic, though, desistance is a behavioral term meaning the absence of repeated behavior among those who had established a pattern of such behavior. Therefore, sentences like the following in Bushway and Apel make no coherent sense: “The person reentering the community from prison may know that he or she has desisted from crime . . . but no one else does” or “[c]an individuals exiting prison who have nonetheless desisted be identified as low risk without waiting 7–10 years or more?” The authors do not mean “desisted” here but something like “gone through a personal transformation,” “experienced inner change,” or “self-reformed,” although none of those terms is exactly right either. The truth is there is no precise word in English for this sort of change, and that frankly speaks volumes about Anglophone cultural assumption about the permanence of deviance (see Maruna and King, 2009).

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4. Drawing on Lemert’s (1951) concept of primary and secondary deviation, I have used the term “secondary desistance” in more or less the same way as Bushway and Apel. Whereas, primary desistance is the absence of offending behavior, secondary desistance refers to a change in identity consistent with a reformed ex-offender (see Maruna et al., 2009).

More problematically, Bushway and Apel (2012) seem to assume that the unobservable characteristics (in their wonderful words “whatever the ‘it’ is”) being signaled is somehow a “real” (if invisible) quality internal within the person. They give this “it” various names: “different underlying productivity,” “true underlying default probabilities,” or “unobservable information about who has changed.” Each, however, presumes that “it” is something inherent in the person, not—crucially—that the person is simply doing something different.

Yet the great insight of the labeling theory of signaling is that criminal “propensity” is not an inherent quality of an individual, but rather “risk” exists in the dynamic interplay between persons and our situations (indeed, the person cannot be understood outside of this social context). Labeling theory emerged out of symbolic interactionist and interpretivist traditions associated with the work of Mead, Garfinkel, Cooley, and Goffman. Crucial to this work is the idea of the looking-glass self or the idea that, as social beings, our “selves” are in large part a reflection of what other people perceive us to be. In terms of the self-fulfilling prophecy at the heart of labeling theory, if others around us think we are dangerous and not to be trusted, we often become dangerous and untrustworthy. We internalize the stigma that others put on us.

That is, yes, the credential is just hype (just a label), but when others believe our signals, we sometimes also start to “believe our own hype.” As an example, consider a credential many of us know well. A Ph.D. degree is just a signal and one need not necessarily be clever, thoughtful, wise, or even hard-working to earn one. However, having this signal (flashing it to the world) will change the way the world treats us, and (if you buy the argument of the labeling theorists) this treatment will influence the way we understand our “inner selves.” As a result, we will start behaving in ways that are consistent with the signal we have flashed. In fact, the degree can make us “smart” in the sense that “Oz never did give nothing to the Tin Man that he . . . didn’t already have” (Bunnell, 1974).

Such self-fulfilling prophecies are at the heart of the labeling theory tradition (Becker, 1963; Lemert, 1951), and they are strongly supported by a growing body of theory (e.g., Braithwaite, 1989; Sampson and Laub, 1997) and empirical research in recent years (e.g., Bernburg, Krohn, and Rivera, 2006; Chiricos, Barrick, and Bales, 2007; Farrington and Murray, in press; McAra and McVie, 2011). Additional support for the power of self-fulfilling prophecies comes from the literature on “Pygmalion effects” in psychology. In the most famous example, Rosenthal and Jacobson (1992) found that teacher expectancies of student performance were strongly predictive of student performance on standardized tests, and that manipulating these educator biases and beliefs could lead to substantial improvements in student outcomes. Dozens of different studies have confirmed the idea that one person’s expectations for the behavior of another can impact the other person’s behavior. Meta-analyses of studies conducted both inside and outside the research laboratory suggest an average effect size or correlation ( $r$ ) of more than 0.30 in studies of interpersonal expectancy effects (Kierein and Gold, 2000; Rosenthal, 2002). A nursing home study demonstrated that raising caretakers’ expectations for residents’ health outcomes led to

a significant reduction in levels of depression among residents (Learman, Avorn, Everitt, and Rosenthal, 1990). Similar Pygmalion effects and expectancy-linked outcomes have been found in courtroom studies, business schools, and numerous different workplaces (e.g., Babad, Inbar, and Rosenthal, 1982; Eden, 1984; McNatt, 2000; Reynolds, 2007; see Rosenthal, 2002, for a review). More recently, research by Steele and Aronson (1995), among others, on “stereotype threat” has demonstrated how situational reminders of negative stereotypes about one’s social group can lead to lower performance on standardized tests and other behavioral outcomes. So much for tests measuring objective “inner” intelligence.

This insight will relieve Bushway and Apel (2012) of the awkward discussion they have about whether “desisters . . . know who they are.” Interactionism suggests that as social creatures we cannot know who we really “are” outside of the social world of others’ perceptions of us. These dynamics play out in rehabilitation work all the time as demonstrated in our fieldwork with ex-prisoner groups in New York (see Maruna, LeBel, Naples, and Mitchell, 2009). How do staff counselors know a client has changed? They look for the individual to show them some signal of respect, engagement, and commitment. How does the client know he or she has changed? They point to the positive reports they get from staff, and the respect they are given from peers and professionals.

Bushway and Apel (2012) quote an employer as saying “You can’t really tell what’s in a man or woman’s heart until they actually start working for you.” Without knowing it, this quote perfectly captures the interactionist’s perspective. The hardcore signaling perspective would argue that indeed a person’s “heart” is precisely in his or her actions, in the signal exchange itself.

In other words, interactionists would question whether the unobservable quality ( $x$ ) is really “there”—at least there inside the person—at all. For instance, in a now famous experiment, Leake and King (1977) informed treatment professionals that they had developed a scientific test to determine who among a group of patients was most likely to be successful in recovering from alcoholism. These were the individuals with the “X”-factor. In reality, no such test had been developed, and there was no such thing as factor “X.” The patients assigned this “X” were picked purely at random. Nonetheless, the clients who were assigned this optimistic prophecy were far more likely to give up drinking than members of the control group. Apparently, they believed in their own ability to achieve sobriety because the professionals around them seemed to believe it so well (see also Miller, 1998). The “X” became real in the dynamics.

Remember signals are supposed to make visible some invisible quality. The person who wears a motorcycle jacket to signal to others that he rides a Harley, but who in actual fact drives a Ford, can clearly be exposed as a fraud (his Ford is visible). Yet the person who rides a Harley to signal that he is a hard man is a different situation. After all, what is being a “hard man” except a front or performance at some level? If signaling theory is taken to its logical extreme, one finds that all of the things we think of as “essences” of a person (e.g., wisdom, genius, bravery, and evil) may all be simply signals and perceptions bouncing back and forth

between perceivers and the perceived. They become “real” through social negotiation—the person proves themselves to be X through their actions and the acquisition of symbols (penalties, prizes, recognitions, and remembrances) themselves. This is what Staihar (2008: 195), in his own version of signaling theory, called the “self-fulfilling nature of trust”—the more we trust others, the more trustworthy they become.

This is a subtle difference between the Spence version of signaling theory and the interactionist perspective but not an unimportant one. One somewhat extreme example from the criminal justice literature makes this clear. Bushway and Apel (2012) are not the first criminologists to draw on the economics research on signaling. Fifteen years ago, T. Markus Funk (1996) drew on the work of Spence’s corecipient of the Nobel Prize, George Akerlof’s 1970 article “The market for lemons.” However, as implied by that title, Funk’s argument here was nearly the opposite that of Bushway and Apel. Funk used signaling theory to argue *against* the expungement of criminal records, arguing that such policies withhold information from judges, employers, and others that is necessary to determine who among the individuals before them might secretly be a “lemon” (1996: 922). Like buyers in the used car market, he argued, employers need all the information they can get about individuals’ criminal records to make informed choices in hiring.

The fallacy in Funk’s (1996) thinking is, of course, that human beings are not used cars. Our “performance” in life is socially constructed and shaped, not determined by what is under the hood. No matter how much I trust and believe in my new car, a lemon is a lemon. All the hope and belief in the world cannot make a car drive when the timing belt has snapped.<sup>5</sup> We humans are different. We need social scientific models that recognize this.

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5. Interestingly, however, Robert Rosenthal did demonstrate that self-fulfilling prophecies could make rats run faster. In a series of experiments, he randomly told student rat trainers that the rodents they were working with were from a either particularly bright or particularly dull species. Those who believed their rats were special actually trained the rats to run their maze faster than those who believed they had been assigned dim-witted rats (Rosenthal and Rubin, 1978).

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**Statute Cited**

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# POLICY ESSAY

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## A SIGNALING PERSPECTIVE ON EMPLOYMENT-BASED REENTRY

# Why Work Is Important, and How to Improve the Effectiveness of Correctional Reentry Programs that Target Employment

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Let me begin by saying that I do not know much about signaling theory, as discussed in the lead article by Bushway and Apel (2012, this issue), but I do know a little about criminal behavior and the factors that are important in designing programs that lead to reductions in recidivism. In a recent piece I wrote for *CPP* (Latessa, 2011), I discussed the failure of employment programs to reduce recidivism significantly and some of the reasons for it. Rather than rehash those remarks, I have several additional points I want to make.

First, work and employment is important for reentry and we should not ignore it simply because most studies have not shown employment programs to reduce recidivism. Second, the nature of risk factors is more complex than simply categorizing them into static and dynamic. There are different types of dynamic factors, and we can see this clearly when looking at employment. Third, if we truly want to incorporate employment into effective correctional programs, we need to employ techniques and approaches that have been found to be effective in changing behavior. I will start with the question of the importance of work.

### **The Importance of Employment**

Few can dispute the value and importance of meaningful employment. Supporting one's self and others, developing the self-worth that comes from work and a job well done, having stakes in society and conformity, and building prosocial relationships and a sense of

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community are all things that employment can bring. Most of us also can identify mentors and role models from jobs we have had.

If we look at our own lives, most of us come to realize how important work is, and how that view often changes over the years. I know when I first started working as a teenager the clock never seemed to move. My sole goal was to make some money so I could put some gas in the car and go out with my friends. A job was simply a means to an end. As I got older, however, my view of work began to change. I took more pride in what I did, saw the value in work and the relationships it provided, and understood how it allowed me to support my family. Now I look at the clock and can hardly believe the day is over. Work has become a much larger part of who I am, and it is hard to imagine what I would do without it. What has changed of course is how I view work. Somehow it has become a central part of my life, not simply a way to earn some money. That certainly was not always the case.

I remember when my oldest child turned 16 and she told me she wanted to get her driver's license. I told her I supported her driving provided she get a job to help pay for expenses. She said, "work?" like it was a bad four letter word, and I said, "yes, work." She dutifully got a part-time job after school at a local bakery. On several occasions, I would take her three younger siblings up to the bakery and we would stand outside the window before going in and watch her cleaning the glass or doing some other mundane chore. They would often ask me why we were watching her work, and I would reply, "because I am enjoying it." Of course I had another motive. By watching her work, the others were seeing their older sister as a role model. Several years later, when my second daughter wanted to get her license, she prefaced it by saying that she also needed to get a job. Clearly my strategy worked. Now, suppose I had simply given the oldest \$50 a week instead of having her work? When it came time for daughter #2 to drive, she would have held out her hand and asked for money.

One difference between me at that age and my children was that my family did not have the means simply to hand me money. I had to work if I wanted spending cash. I could have easily given my children spending money, but I decided that if I did, they would not learn the value of work, of doing things that were sometimes tedious and unpleasant, and in learning the satisfaction of earning something themselves rather than having it handed to them. I also hoped that it would provide them with the desire someday to get a job that they loved, much like I had.

Of course what I am describing is social learning; the processes through which individuals acquire attitudes, behavior, or knowledge from the persons around them where both modeling and instrumental conditioning play a role. Social learning is not a theory of criminal behavior; it is a theory of human behavior, and one of the strongest theories we have about why we behave as we do. I like to say that although the process of social learning is complex, the concept is not. If you have children, you know this to be true because for many of us, we wake up one day and find that we have turned into our parents: the last people we thought we were going to be when we were teenagers.

So is employment important? Of course it is, but that does not mean that employment programs will lead to significant reductions in recidivism unless we go beyond simply getting them a job.

### **The Nature of Risk Factors**

Since Lombroso, scholars have been working to identify risk factors. More recently, this work has advanced to where we now have several actuarial instruments that measure and gauge risk factors and then place offenders into categories based on probabilities of reoffending. Most of the new generation of tools include what are commonly referred to as static and dynamic risk factors. Static factors are those factors that are related to the risk of reoffending and do not change. Some examples might be the number of prior offenses, or whether an offender has ever had a drug/alcohol problem. Dynamic factors also are related to risk and *can change*. Some examples are whether an offender is currently unemployed or currently has a drug/alcohol problem. Dynamic factors are those that are usually targeted for change in most correctional reentry programs. There are, however, two types of dynamic factors: ones that can change relatively quickly (acute) and ones that require more time and effort to change (stable). For example, on the one hand, if someone is unemployed, it is conceivable that he or she could interview and get a new job almost immediately. As measured by some tools, he or she essentially went from being unemployed (risk factor) to employed (no risk factor) very quickly. On the other hand, other dynamic factors, many of which will be related to his or her success at employment, such as attitudes about work, lacking self-control, or having poor problem-solving or coping skills will require more time and effort to change. The mistake that often is made is failing to see the relationship between these factors.

When we take an offender that thinks work is for someone else, has no discernible job skills, and lacks self-control, and simply give him or her a day- or two-long job readiness program and then get him or her a job, we are unlikely to be successful in reducing the offender's risk to reoffend, even though it may seem that his or her risk has been reduced because the offender is no longer unemployed. The changing of attitudes, values, and beliefs and the learning of new skills will take considerably longer and will require modeling, graduated practice, and reinforcement. In other words, a behavioral approach that incorporates cognitive theories (what to change—the “what” and “how” offenders think) and social learning theories (the “how” to change it—model, practice, and reinforce).

### **Changing Behavior**

In a previous essay (Latessa, 2011), I discussed the risk (who to target) and need (what to target) principles and their application to employment programs. Understanding these two principles helps us understand the limitations of targeting employment as a means of

reducing recidivism. I now want to turn my attention to the “how” of changing behavior, and the use of social learning and behavioral programs to reduce recidivism.

Behavioral programs have several important attributes. First, they are centered on the present circumstances and on the current risk factors that are responsible for the offender’s behavior. Hanging around with the wrong people, not going to work or school, and using drugs or alcohol to excess are examples of current risk factors, whereas focusing on the past is not very productive, mainly because one cannot change the past. Second, behavioral programs are action oriented rather than talk oriented. In other words, offenders do something about their difficulties rather than just talk about them. These approaches are used to teach offenders new, prosocial skills to replace the antisocial ones (e.g., stealing, using drugs, cheating, lying, etc.) they often possess, through modeling, practice, and reinforcement. Interventions based on these approaches are very structured and emphasize the importance of modeling and behavioral rehearsal techniques that engender self-efficacy, challenge of cognitive distortions, and assist offenders in developing good problem-solving and self-control skills. This approach should be used regardless of the target for change. For example, employment success is more likely if one’s attitudes about work changes and then one learns the skills necessary to be successful. Simply teaching an offender how to fill out an application or interview and then simply getting him or her a job will not be nearly as effective. Correctional programs, including employment programs that want to reduce recidivism, need to replace educational and didactic groups with a directive, skill-building, and cognitive behavioral approach. Third, behavioral programs use reinforcement appropriately. Thus, offenders are given positive reinforcement when they are doing well and there are consequences when inappropriate behavior is exhibited. This approach should be consistently done throughout the program. A recently study by Widahl, Garland, Culhane, and McCarty (2011) demonstrated how even an intensive supervision program can dramatically improve success when the ratio of rewards to punisher is at least 4:1.

So if we think about the application of behavioral programs to targeting employment, we should focus on preparing offenders to work by first targeting their attitudes and values about work, and then combine that with teaching those skills that will help them be successful at work. Putting them together is much more effective than one without the other. The simple analogy is that changing an offender’s attitude about work *and* teaching him or her which end of the shovel to use will be a more effective approach than focusing on just one over the other.

## Conclusions

In conclusion, there is a difference between a reentry program that wants simply to help offenders and one that wants to reduce recidivism. The former may help them get a job and find a place to live, whereas the latter will focus on targeting criminogenic risk factors and then systematically training offenders in behavioral rehearsal techniques. Offenders should

be trained to observe and anticipate problem situations, and they should plan and rehearse alternative prosocial responses in increasingly difficult scenarios. This approach should be an integral part of our work with offenders, and it should be routinely done throughout all components of a program, even one that is focused on employment.

Although it can be argued that having an offender participate and complete a program (of any type) can be a signal that an individual is serious about change, it also can send the wrong signal if that offender continues to engage in criminal behavior. I often have heard the argument that even if recidivism is not reduced, other benefits can accrue from reentry programs. This assertion may be true, but like it or not, recidivism remains the primary measure by which we gauge the effectiveness of a correctional program. When asked whether a correctional program “works,” most do not care whether the offenders or staff like the program, if participants feel better about themselves, or even if they completed the program. They want to know whether the program helped change their behavior and whether those who completed are less likely to recidivate than those that did not complete or go to the program. Fortunately, a large body of research is available that clearly demonstrates that well-implemented correctional programs that target the right offenders, target criminogenic needs, and teach offender new skills and behaviors can have an appreciable effect on recidivism. Programs that do not pay attention to this research run the risk of being ineffective. The result can be an undermining of support for programs—the sending of the wrong signal.

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# POLICY ESSAY

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## A SIGNALING PERSPECTIVE ON EMPLOYMENT-BASED REENTRY

# A Signaling Approach to Criminal Desistance through Transitional Jobs Programs

**Dan Bloom**

*MDRC*

The lead policy article by Bushway and Apel (2012, this issue) argues that employment programs for former prisoners may serve a valuable function by helping employers identify individuals who have decided to “go straight” and, as a result, will likely be more reliable workers. These programs may play this role even if they do not succeed in increasing participants’ employability or in reducing their propensity to reoffend.

This signaling mechanism may be especially important in an era when an increasing number of employers routinely conduct background checks on job applicants. Without some additional information to assist in assessing candidates, employers may be unable to identify accurately which former offenders have made a decision to desist from crime. They may respond by discriminating against all applicants with criminal records, or by hiring people who turn out to be unreliable employees, perhaps because they are not serious about changing their lives.

### **Transitional Jobs Programs**

Bushway and Apel’s (2012) central argument is, at least in part, consistent with the underlying theory of transitional jobs (TJ) programs, which are discussed extensively in their article. TJ programs provide temporary paid jobs (usually with the program sponsor or another nonprofit organization), support services, and job placement help to disadvantaged

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The author would like to thank Cindy Redcross, Erin Jacobs, and Charles Michalopoulos for their helpful comments on an earlier draft of the essay. Direct correspondence to Dan Bloom, MDRC, 19th Floor, 16 East 34th Street, New York, NY 10016–4326 (e-mail: dan.bloom@mdrc.org).

job seekers. Proponents of this approach believe that transitional jobs provide an opportunity for hard-to-employ individuals to “learn to work while working.” In some versions of the model, worksite supervisors employed by the program act as coaches, identifying and working with participants to address deficiencies in their “soft skills”—for example, their ability to show up on time, take direction, and work in groups. Even when the participant’s direct supervisor is not an employee of the program, staff follow up frequently with worksite supervisors to monitor how things are going on the job and then follow up with employees to address issues that emerge. This hands-on instruction in the kinds of skills that employers say they value most should, in theory, prepare the participant to succeed in a regular, unsubsidized job.

But even if participants do not improve their soft skills, the TJ experience may benefit them through the sort of signaling mechanism described in the article; employers may be more likely to hire someone who has proved himself during several weeks or months of work in a transitional job. In other words, employers may be more willing to take a chance on a former offender if program staff or a worksite supervisor can attest to the fact that the individual showed up to work on time, got along well with coworkers, dressed appropriately, and exhibited other soft skills while working in the transitional job. A similar candidate who has not worked in a TJ may not be able to produce a similarly convincing reference. Bushway and Apel (2012) cite one study in which employers claimed that they would be more likely to hire an ex-prisoner who had completed a transitional jobs program and had “built a positive employment record.” Indeed, many TJ advocates identify the opportunity for participants to earn a positive workplace reference as a key strength of the model.

The results of several recent random assignment studies have cast some doubt on these assumptions. These studies, conducted by MDRC, a nonprofit research organization, with both federal and private funding, have tested a total of six TJ programs, five targeting (mostly male) former prisoners and one targeting (mostly female) long-term welfare recipients.<sup>1</sup> In each case, individuals were assigned, at random, to a treatment group that was offered access to a transitional jobs program or to a control group that was not permitted to enroll in the program. In most cases, the control group was offered some job search assistance. Depending on the site, 70% to 99% of those in the treatment group actually worked in a transitional job, typically for 3 or 4 months. More limited data are available on the services received by the control groups, but it seems that very few of these individuals found transitional jobs elsewhere in their communities (in most cities, few programs of this type are available). Thus, in the early months of the follow-up period, the treatment group’s employment rate (including transitional jobs) was dramatically higher than the employment rate for the control group.

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1. See Bloom et al. (2009), Redcross et al.(2009), and Redcross et al. (2010).

If employers are substantially more likely to hire people who demonstrate success in a transitional job, one would assume that these programs would have generated increases in unsubsidized employment as treatment group members completed the TJs. That is, the treatment group would have been more likely to find unsubsidized jobs than the control group. Even though substantial numbers of treatment group members did not perform well in their TJs, many did, so the treatment group ultimately included many TJ graduates, whereas the control group included none (or, at least, very few). Despite this fact, none of the five programs for former prisoners consistently increased unsubsidized employment during follow-up periods ranging from 2 to 3 years. The program serving welfare recipients increased unsubsidized employment for a time, but the gains faded by the second year of the study period.<sup>2</sup>

As Bushway and Apel (2012) note, most of the programs also failed to affect recidivism, a result that casts some doubt on the widespread assumption that people who are employed will be less likely to get involved with crime (the New York City–based Center for Employment Opportunities [CEO] program was an exception to this pattern, as it did generate statistically significant reductions in recidivism). In each study, the treatment group’s employment rate was dramatically higher than the control group’s rate for the first several months of the follow-up period—the time period when many treatment group members were working in transitional jobs. And yet few decreases in recidivism occurred, even during this early period.

Bushway and Apel (2012) cite Lattimore, Steffey, and Visher (2010), who noted that it is difficult for programs to reduce recidivism indirectly, via employment, if the employment gains are not very large in the first place. However, in the TJ studies, the initial differences in employment rates were 30 to 40 percentage points (50% to 60%), depending on the site. Of course, it is possible that any connection between employment and recidivism does not pertain to minimum wage “program” jobs, but these results certainly give one pause, as they represent an unusually rigorous test of the proposition that employed former prisoners will be less likely to reoffend.

### **What Do the Results Say About Signaling?**

With all that said, the pattern of results from the TJ studies does not necessarily mean that Bushway and Apel’s (2012) signaling argument is incorrect. These authors note that they are not sure whether the signaling process they describe is occurring now. In fact, interviews we have conducted with job placement specialists in the TJ programs we studied have raised questions about whether these staff members actually use participants’ TJ experiences as a

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2. Interestingly, the slightly stronger employment impacts for the program targeting welfare recipients seem consistent with surveys showing that employers’ attitudes toward welfare recipients are more elastic than their attitudes toward offenders. Perhaps signaling makes a bigger difference for the welfare population.

selling point in their discussions with potential employers. If staff members are not sending the signal clearly, then employers may not be receiving it.

If true, employers need more information about employment programs and what it means to complete one—as well as more explicit information about individual applicants' performance in such programs. Some might argue that Bushway and Apel's (2012) desire to give employers more information to, in essence, help assess candidates' risk of future offending runs counter to the current push to restrict the amount of information that employers can obtain about applicants' criminal histories—for example, “ban the box” laws, which prohibit employers from asking about criminal history on job applications. Without wading into the argument about whether laws restricting access to criminal history data will cause more widespread discrimination against minority males in the job market (see, e.g., Holzer, Raphael, and Stoll, 2006), it is important to note that providing information on how a job applicant performed in an employment program is not the same as providing more information on his/her criminal history.

Transitional jobs programs like the ones discussed by Bushway and Apel (2012) serve many different groups and participants do not necessarily have criminal records. In fact, the current incarnation of this model emerged in the 1990s in the welfare system, not in the criminal justice system. Job placement staff in such programs may tell employers which population(s) their programs serve, but often they do not advertise this information. Bushway and Apel argue that information on an applicants' performance in a TJ program is much more useful to employers than information on an individuals' criminal history because program performance may help employers predict whether a candidate will be a reliable employee. Criminal history information, in contrast, lumps together people who have made a decision to desist with those who have not. Presumably, few would argue that employers should be restricted from obtaining information that will help them make an *accurate* assessment about which candidates would be a good match for an open job.

It also is possible that signaling is occurring, but that the signal is simply too weak to make a big difference in employers' hiring decisions. In other words, employers may consider program completion as a plus, but not a very big plus (or, perhaps, not a much bigger plus than the signal that control group members obtained by completing the brief job search assistance programs they were offered). How could the signal be amplified? Bushway and Apel (2012) discuss Certificates of Rehabilitation or Good Conduct, noting that program completion may be one of the prerequisites for granting such a certificate. However, they also note that little evidence exists about whether these certificates influence employer hiring decisions. A more dramatic approach would be for the state to consider program completion when deciding whether to expunge or seal an offender's criminal history. With their record sealed or expunged, desisters would not be perceived as offenders at all, which would presumably reduce any disadvantages attributable to their record (although it would not help them explain large gaps in their work history). This approach is similar to the

principal behind some Alternative to Incarceration (ATI) programs, which may vacate an offender's conviction if he or she completes an assigned program.

In the end, however, it is important to consider whether employment programs of this type are really necessary to distinguish desisters from nondesisters. Perhaps desisters tend to rise to the top of the heap anyway. For example, it seems plausible that someone who has made a decision to desist might try harder to find a job, either with or without special help. He might apply for more jobs, be more persistent in following up, show up on time to interviews, dress appropriately, and so forth. Similarly, although many former prisoners receive instruction about how to answer the "conviction question" during job interviews—instruction that often includes role-playing exercises that can seem a bit like rehearsing for a play—maybe people who have actually made a decision to desist come across as more sincere when they are sitting across the desk from a potential employer. In other words, employers may do a reasonably good job of identifying good candidates through conventional hiring procedures.

### **Costs, Benefits, and Next Steps**

The bigger issue, as Bushway and Apel (2012) note, is whether public agencies will be willing to spend several thousand dollars per person on a program whose primary benefit is to distinguish desisters from nondesisters. Employment programs may do better at identifying desisters than standard risk assessment tools, but will that improvement be considered sufficient to justify the programs' costs if they are not able to increase employment or reduce recidivism?

TJ advocates are clearly not satisfied, and they are working hard to adapt and improve the model in light of the recent evaluation results. Two large-scale federal research projects, one sponsored by the U.S. Department of Labor and the other sponsored by the U.S. Department of Health and Human Services, are testing enhanced models built on subsidized or transitional jobs. Some of these programs will be targeting former prisoners (others will target welfare recipients, low-income noncustodial parents, or other groups). As Bushway and Apel (2012) note, a powerful argument can be made for building services on a foundation of paid employment, and the field is far from giving up.

The programs that will be tested in these new studies will differ from the TJ programs discussed earlier. For example, some of them will include a greater emphasis on "hard skills"; that is, they will provide training in particular occupations, with close links to employers in that field. In theory, a participant who can confirm that he has learned specific, relevant occupational skills will have an even more potent signal to send potential employers. Moreover, it may be that the higher paying jobs people can access after completing a training program will trigger the causal connection between employment and crime discussed earlier. Finally, it is possible that program participants who are on the fence about desistance will be motivated by seeing fellow participants qualify for jobs with decent wages.

Other models will seek to place participants directly into jobs with private employers and will subsidize their wages. Ideally, participants will be able to roll over into an unsubsidized job with the same employer when the subsidy ends (usually after a few months). This model represents an entirely different approach. Rather than signaling employers that a participant has demonstrated success in a program, it pays employers to take a chance on someone who is perceived to be higher risk. One assumes that the strongest signal is sent when an individual proves himself in the very workplace where he is seeking employment. It will be interesting to learn whether employers respond to subsidies more readily than they seem to respond to the kinds of signals Bushway and Apel (2012) discuss.

### Conclusion

Bushway and Apel (2012) present an interesting argument that employment programs for former offenders may be an important tool for addressing a critical problem—the fact that individuals with criminal records are penalized in the labor market even if they have made a decision to desist from crime. These authors argue that, by completing rigorous programs, offenders can send a signal to employers about their future intentions.

This argument is largely consistent with the rationale behind transitional jobs programs, although recent random assignment evaluations have cast some doubt on whether the programs function this way in practice. This pattern of results does not necessarily mean that the hypothesized signaling process is not occurring, but it suggests that stronger signals may be needed.

At the same time, new studies are testing subsidized employment models that may be more effective in building former offenders' skills and employability. These studies also should provide another opportunity to learn about the nature of the complex connection between employment and recidivism.

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**Dan Bloom** directs MDRC's work on groups seeking to gain a foothold in the labor market, including former prisoners, disconnected youth, low-income noncustodial parents (usually fathers), welfare recipients, and others. He is currently directing two large-scale federal projects that are testing subsidized and transitional employment programs. Previous projects include the National Guard Youth ChalleNge evaluation, the evaluation of the Center for Employment Opportunities program for former prisoners, and evaluations of three state welfare reform initiatives in the 1990s. Since joining MDRC in 1988, Bloom has written more than 35 research reports and contributed articles to several published volumes on workforce and youth policy. Bloom previously worked for America Works, a for-profit company that operates job placement programs for welfare recipients, and for the Center on Budget and Policy Priorities, a Washington-based policy analysis group. He has a master's degree in public policy from the John F. Kennedy School of Government at Harvard University.





# Policy Essay

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## A SIGNALING PERSPECTIVE ON EMPLOYMENT-BASED REENTRY

# Good Science, Good Sense: Making Meaningful Change Happen— A Practitioner's Perspective

**Dora Schriro**

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Every correctional administrator, each in his or her own way, looks for opportunities to reduce demand for jail and prison beds, while improving public safety. Whether one's approach is retributive, rehabilitation, incapacitation, or deterrence, the lead policy article by Bushway and Apel (2012, this issue) raises important issues and provides a fresh perspective on corrections' most fundamental concern: how to accelerate and direct personal growth toward crime desistance and productive citizenship.<sup>1</sup>

During a period of time, one with no foreseeable end in sight, when virtually every city, state, and federal agency are being directed to do more with less, Bushway and Apel (2012) raise several very important and very pragmatic questions: first, whether employment programs, for example, increase the likelihood that released inmates will secure work and stop reoffending; second, if there is a less costly, more expeditious method such as certificates of rehabilitation to achieve the same results as jobs training programs, should that method be pursued in its place; third, in as much as some inmates seem to desist on their own without an intervention such as jobs training or placement services, is there opportunity to identify those offenders and allocate scarce resources accordingly to the others; and last, how does the desister convey his or her employability, as well as his or her underlying commitment to

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1. Productive citizenship conveys an expectation that an ex-offender should do more than desist from criminal activity; the ex-offender also should actively contribute to his or her community, in part, by taking care of his or her household by means other than public assistance. If not, the ex-offender merely shifts from being sustained from by one form of public relief (incarceration) to another.

productive citizenship, in jail or prison and postrelease without the ordinary credentialing of a jobs training certificate or the assistance of a jobs placement agency.

### **A Brief Discussion about “What Works”**

Renaming penal systems as correctional systems had to be one of the first early efforts at rebranding and, certainly, an important one. Jails and prisons are much more than places of punishment. But why individuals change and how they change during their incarceration and over the course of their criminal careers is still something of a mystery. Here is what we do know. First, the intervention has to achieve its primary mission (Ellis, McFadden, and Chlaric, 2008); for example, an academic program must be instructionally effective. Second, the intervention should be warranted (Lowencamp and Latessa, 2004); an offender with viable jobs skills and employment history does not require an employment program. Third, the intervention must target the offender’s assessed needs (Cullen and Paul Gendreau, 2000; Latessa, 2004, 2006, 2008; Lowencamp and Latessa, 2005). For example, offenders with co-occurring disorders require both mental health and substance abuse services; addressing one area of need but not the other is insufficient to succeed. Fourth, the intervention must be individualized (Petersilia, 2007). Overserving and oversupervising a low-need, low-risk offender can be as detrimental as underserving and undersupervising a high-need, high-risk offender. Fifth, the time to complete the intervention should be achievable (Bourffard and Muftic, 2006). Placing high-need individuals whose anticipated stay is short in a program long in duration is not a wise use of scarce resources (Clement, Schwarzfeld, and Thompson, 2011). It is preferable to subdivide and sequence the intervention as discrete skill-building components as long as any changes in dosage do not impact absorption. Sixth, there should be ample opportunity to assimilate and to apply newly acquired skills in real-world settings and situations to ensure its integration into offenders’ individualized problem-solving strategies (Schriro, 2009). Last, and specific to jobs training programs, the intervention must be realistic. Where some fields and some work within fields are closed to persons with criminal convictions (Colgate Love, 2008; Vernick and Reardon, 2001; Weiman, 2007), it is unrealistic and ill advised to provide instruction in and referrals to work where no manner of relief is feasible.

Professors Bushway and Apel (2012) afford us the opportunity to learn more.

### **Do Employment Programs Increase the Likelihood that Released Inmates Will Secure Work and Stop Reoffending?**

Well, sometimes. Individuals, who want to work, have both the requisite entry-level skills and realistic expectations, overcome outstanding employment barriers, and are willing to forego unlawful income; they are highly likely to secure employment, remain employed, and stay crime-free. Work is not necessarily easy or fun for those of us who are employable. Employment can be downright unattractive for those whose experiences and credentials are more limited.

Wanting to find work—any work—and to remain employed are as critical to achieving productive citizenship as are having realistic expectations about entry-level employment and overcoming stereotypes associated with having a criminal record. Securing these requisite entry-level skills to get and keep a job and remain crime-free go well beyond any classroom experience. Some things are best learned, if not only learned, in real-world settings while incarcerated and in the community after release—reporting to work on time and appropriately dressed, taking orders, following directions and accepting feedback amicably, working well with others, reconciling earning potential and spending habits, and otherwise managing expectations and improving relationships with supervisors and co-workers.

Many adults, including many adult offenders, are ill-equipped to enter and remain in the workplace or to succeed in other facets of productive citizenship. Entry-level jobs training and placements in real-world settings are critical to acquiring job-readiness skills, which are essential to offenders' success for the duration of their time in jail or prison, and after their release. Effectively executed employment programs afford essential skill-building opportunities, both the technical or hard skills associated with doing the work and the social or soft skills associated with finding and keeping the job.<sup>2</sup> It is this blend of hard and soft skills that moves different inmates toward desistance, for different reasons, all of them reasons that warrant our continued support.

The same can be said for literacy, sobriety, and mental health programs. Learning how to read and how to think critically are complementary competencies, however; literacy alone does not lead to critical thinking. Likewise, learning how to get sober and how to stay sober are clearly connected but not necessarily concurrently acquired. Maintaining sobriety by mastering relapse requires a lifetime commitment that comes over time through the continuous application of lessons learned during and after treatment. Similarly, substance abuse and mental illness are closely linked. Inmates and ex-offenders who initially learned to rely on self-medication to abate the symptoms of underlying mental illness must relearn how to recognize and respond without relapsing to drugs or alcohol. Like a one-legged ladder, it is difficult to reach long-term sobriety and mental well-being by treating only one malady and not the other.

**Where There Are Less Costly, More Expeditious Methods to Achieve the Same Results as Employment Programs, Such as Certificates of Rehabilitation, Should Those Methods Be Pursued in Their Place?**

Probably not. The first year after release, and especially the first several months after release, is the most difficult for newly released offenders with the highest rate of return occurring in these 12 months (Langan and Levin, 2002; Nelson, Dees, and Allen, 1999; Pew Center on the States, 2011; West, Sabol, and Greenman, 2010). Critical to the success

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2. *Getting Ready: Keeping Communities Safe*, 2008 Winner, Innovations in American Government Awards, Harvard University; Ash Institute for Democratic Governance and Innovation.

of recently incarcerated offenders is housing and employment (Solomon, Johnson, Travis, and McBride, 2004; Visher and Travis, 2003). Most offenders are discharged under some form of postrelease supervision with the customary stipulation to secure employment within a very short specified period of time. Most offenders also must find work simply to secure and sustain shelter, maintain their self-esteem, and retain the resolve to remain crime-free. Securing a certificate of relief is uncertain, it takes time, and the process cannot begin until the sentence has been satisfied in full.

### **What Is a Certificate of Rehabilitation, and What Are Its Benefits?**

Every state provides for some form of relief from the collateral consequences of a criminal conviction (Colgate Love, 2008). And the relief that the certificate affords can be significant if it can be obtained,<sup>3</sup> by signaling approval to both prospective employers by removing certain barriers to employment and licensure and to ex-offenders seeking to rejoin the workforce by validating their efforts toward productive citizenship.

Certificates of relief are not designed, however, to discharge one's debt to society.<sup>4</sup> Securing a certificate does not ensure work can be secured. Securing the certificate only requires an employer or licensing agency to consider the certificate as evidence of rehabilitation. It does not obligate the employer to hire the holder. It obligates the employer or the licensing agent not to reject the applicant solely on the basis of his or her prior convictions unless those convictions are job related; there must be other evidence that the holder is not qualified. Additionally, the holders of a certificate still must list their convictions on job applications that ask for them.

Here, in New York City (NYC), ex-offenders enjoy several kinds of relief. The first form of relief is from convictions and is provided by the state. Residents of New York State may seek to secure a Certificate of Relief from Disabilities or a Certificate of Good Conduct.<sup>5</sup> Both are governed by statute (Sections 700–706 of the New York State Corrections Law, 2009) and provide relief from any statute or rule that would automatically preclude someone who has been convicted from certain licenses or employment. Both certificates also provide a presumption of rehabilitation for any individual for employment and licensure purposes within the “balancing” of factors pursuant to statute (Section 753 of the New York State Corrections Law). Prospective employers and licensing agencies are expected to consider these certificates as evidence that the person in its possession is rehabilitated, to thwart

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3. In a number of states, the mechanisms are characterized as unreliable and the relief promised, unrealizable. See Colgate Love (2008).

4. Virtually all of the relevant case law illustrates in a variety of circumstances that the certificates are not dispositive whether the ex-felon is qualified or barred from the job by reason of past conviction. An employer still may consider a prior conviction as a good reason not to employ an individual even when a certificate has been issued. For example, correctional systems may employ qualified ex-offenders for certain civilian assignments but not to perform security functions.

5. Certificates of Relief from Disabilities apply to persons convicted of no more than one felony; Certificates of Good Conduct apply to those convicted of two or more felonies.

an outright rejection for employment or refusal of a license, unless there is evidence other than the criminal history that the applicant is not qualified. The law allows an employer or licensing agency to refuse to hire or license an ex-offender in possession of a certificate if the convictions are job related and requires ex-offenders in possession of a certificate to list their convictions on job applications that ask for them.

The second form of relief is from arrests and is provided by the state and NYC (Subsection 16 of Section 296 of the New York State Human Rights Law, 1945, and Section 8–107 of the New York City Human Rights Law, 1991). Both the NYC Human Rights Law and the New York State Human Rights Law expressly prohibit any employer, including any municipality, from making “any inquiry about” or from acting upon “adversely” any arrest or criminal accusation against an individual based on an arrest “not then pending” against an individual, “which was followed by a termination of that criminal action or proceeding in favor of such individual.”<sup>6</sup> These provisions afford additional due process; the employer must fully consider all of the specified factors before making a determination; and further, when the determination to deny employment is based on prior criminal convictions, the employer must specifically state his or her reasons in writing, when requested (Section 754 of the New York State Corrections Law).

The third provision is found in NYC Mayoral Executive Order 151 (2011). This Order expresses a strong policy in favor of facilitating rehabilitation and, thus, of removing barriers that would otherwise impede persons with criminal convictions from obtaining employment in civilian capacities.

Despite these many provisions, most of the relevant case law in NYC and New York State, as well as around the country, discloses the many circumstances that the certificates are not dispositive, whether the ex-felon is qualified or barred from the job by reason of past conviction. In the end, an employer still may consider a prior conviction as a good reason not to employ an individual even when a certificate has been issued.<sup>7</sup> None of this is to suggest, however, that relief should not be sought or celebrated when it is secured. It is an important form of self-validation and may open doors to advancement throughout the career of its holder.

### **In as Much as Some Inmates Appear to Desist on Their Own Without an Intervention Like Jobs Training or Placement Services, Is There Opportunity to Identify Those Offenders and Allocate Scarce Resources Accordingly Only to the Others?**

I have had the good fortune to lead two states correctional systems and two city jail systems including the NYC Department of Correction where I currently serve as the Commissioner.

6. This provision applies to civilian hiring and not to uniformed employment.

7. For example, see *Arrocha v. Board of Education* (1999), wherein the NYC Board of Education was upheld in its refusal to grant a teaching license to an ex-felon who had been convicted of selling drugs, despite the presence of a certificate of relief from disabilities.

In each jurisdiction, whether the population is pretrial or sentenced, and regardless of the length of the incarceration, all offenders face the same fundamental challenge—how to accelerate and direct personal growth toward crime desistance and productive citizenship.

The lead article by Bushway and Apel (2012) is particularly instructive to reforms that are underway in NYC's jail system, and I am grateful to the authors for raising these important issues. The timing could not be better. Fostering desistance and productive citizenship are not easy in any system, and they are particularly challenging when the population is primarily pretrial, and the sentences served by the minority who are city inmates are very short. These jail-specific characteristics may help to explain why reentry efforts are usually reserved for inmates sentenced to state and not to city or county departments of correction. And although this approach seems to be practical, it is not advisable because it falls short of the field's fundamental commitment to crime reduction: More offenders are referred, and repeatedly referred, to local correctional systems than to state systems (Minton, 2010; West et al., 2010), and most locally incarcerated individuals are released directly to the community and not sentenced to serve state terms (Osher, 2007). To overlook the jails is to overlook an extraordinary opportunity to protect the public.

NYC's reentry initiative incorporates critical components that Bushway and Apel (2012) identified—voluntary versus mandatory jobs training completion and placement (as well as other skill-building opportunities), “trusted intermediaries,” and NYC Mayoral Executive Order 151 (2011),<sup>8</sup> a form of relief for which no application is needed. Our effort also relies on both risk prevention and needs prioritization assessments in the spirit that the authors expressed—with an eye toward efficiency as well as effectiveness.

We approach discharge planning, prerelease preparation, and postrelease employment as a continuum of care that begins in jail, starting day one in detention, and continues in the community. Persisters are prioritized as its primary beneficiaries. Individuals whose assessed need for jobs training or placement and other forms of assistance and risk of readmission are low are identified as desisters, and they are offered only limited transitional discharge planning.<sup>9</sup> Individuals whose assessed need for jobs training or jobs placement and other forms of assistance and risk of readmission are high are identified as persisters, prioritized for intervention, and encouraged to participate in prerelease preparation and discharge planning services, both in jail and after release, through community-based providers with

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8. NYC Mayoral Executive Order 151 provides that no applicant in most city agencies (notably excluding persons performing enforcement functions) shall be asked about prior convictions on any employment application or on a first interview.

9. Assistance is self-directed and limited to the acquisition of basic credentials including a duplicate birth certificate, social security card, state identification, and temporary housing and clinic appointments if needed.

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proven records.<sup>10</sup> Encouragement comes in the form of earned incentives that can lower participating inmates' custody classification and improve their conditions of detention. The community-based providers are trusted intermediaries, individuals, and organizations that are well known in NYC and adept at securing certificates of relief and using Mayoral Executive Order 151. They serve an important, albeit informal, credentialing function for newly released inmates seeking employment, housing, and other critical linkages in the community.

**How Does the Desister Convey His or Her Employability in Jail or Prison and Postrelease Without the Ordinary Credentialing of a Jobs Training Certificate or the Assistance of a Jobs Placement Agency? How Does the Desister Convey His or Her Underlying Commitment to Productive Citizenship?**

Most efforts to improve reentry focus on discrete programs and innovative programs, and not on the underlying correctional system in which they operate. NYC's effort strives to do more.

Inmates who are identified as persisters are afforded opportunity to acquire entry-level job skills in fields where the criminal record is less likely to be an impediment to employment. The training is provided by community-based organizations that will first credential the enrollees and, later, facilitate their jobs placement after release. Inmates' participation is encouraged, but it is not mandatory. Satisfactory enrollment is recognized, in part, by lowering participants' custody classification and by increasing their access to benefits such as higher inmate wages, increased access to an expanded commissary list of offerings, and more visits and recreation.

The teaching and the learning does not end with the program day, and it is not limited to persisters only. The core assumptions of custody management department-wide are predicated on the same principles. All inmates have access to this system of incentives and have the opportunity to improve the conditions of their detention by making good decisions, taking responsibility for bad choices, and practicing prosocial problem solving throughout their time in detention. Operating correctional facilities in this manner contributes to the core mission of safety and security, and it makes clearer which inmates are desisters or are moving in that direction. It also helps to identify which inmates are persisters, individuals who have not yet acquired or are not yet ready to apply consistently the hard and soft skills critical to productive citizenship. It is one means by which previously unobservable qualities associated with desistance can be revealed more quickly and monitored more closely in jail.

Effectively communicating both intrinsic and explicit signals—individual inmates' desire to change and their acquisition and application of hard and soft skills necessary

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10. The Department of Correction also attempts to ascertain the length of stay of high-need, high-risk inmates, prioritizing those with expected lengths of stay of 30 or more days for placement in programming.

to make change happen—beyond the correctional system is a hurdle of considerable magnitude. It is also a responsibility of the correctional system that is shared with the inmate population. Whereas certain institutions, particularly school districts and postsecondary facilities, hospitals, and police departments, earn reputations for excellence, so it is possible—and indeed may be necessary—that correctional systems do the same: achieve sufficient standing to signal to prospective employers that individuals released from their agencies are ready for reentry and ready for productive citizenship. It is a challenge worth taking on.

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Commissioner Schriro also served as Director of the Arizona Department of Corrections and the Missouri Department of Corrections. Schriro was the Warden and later,

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