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MUST THE DOOR REVOLVE?

Bail and sentencing reform come. Then stuff happens.



For Police Issues by Julius (Jay) Wachtel. Must the door that feeds jails and prisons forever revolve? Can we unplug the thing without causing even more pain? Let's start with three recent horror stories:

- Last November, Charles Goforth, a 56-year old Chicago-area man, [shot and wounded his girlfriend](#). He was soon arrested in Missouri. But a magistrate released him on an \$8,000 cash bond and Goforth went home to his wife. On January 30 he revisited his victim, who was recuperating at home, and shot her dead.
- “I can’t believe they let me out” said Gerof Woodberry, 42. [New York City cops arrested him](#) on January 10 for “stealing or attempting to steal” from four (count ‘em, four!) banks. Thanks to a [new state law](#) that abolishes bail for non-violent crimes, he was released two days later. Woodberry, who had served prison sentences in South Carolina for five strong-arm robberies, promptly robbed two banks in four days. He’s now in Federal custody, where the rules are different.

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- On October 13 two small children found their mother's lifeless body on the bedroom floor of their New York City apartment. [She had been beaten to death](#). It took two months for police to arrest her alleged murderer, Asun Thomas, 46. He had been living in a halfway house since being paroled in 2016 after doing sixteen years of a 20-year term for manslaughter.

We realize that Goforth, Woodberry and Thomas can't be used to represent the universe of persons who are released pending trial or after serving a term of incarceration. They're an "accidental" sample compiled from stories that caught your blogger's eye while perusing *The New York Times*, *The Washington Post*, the *Los Angeles Times* and the *Chicago Tribune*, something he does most mornings. (And yes, he's got subscriptions. You should, too!)

Recidivism is a weighty subject. [DOJ's Bureau of Justice Statistics](#) has been studying it for some time. In 2018 it published data about recidivism for a sample of 401,288 convicted felons who were released in 2005 after serving prison terms in thirty States. During their first nine years of freedom the former inmates compiled an average of five arrests each. Nearly half (44 percent) were arrested during the first year, and sixty-eight percent during the first three years. By the end of the ninth year a full eighty-three percent had been arrested at least once. As for *type* of crime, Table 7 of the [report](#) indicates that regardless of the crime for which they were originally confined – violent, property, public order or drug-related – about four in ten were arrested at least once, post-release, for a crime of violence.

[Research on Federal prisoners](#) also paints a gloomy picture. [A study](#) of 25,431 Federal convicts released in 2005 indicates that within eight years half (49.3 percent) were arrested on new charges. Nearly one-third of the sample (31.7 percent) suffered another conviction, and nearly one-quarter (24.6 percent) were re-incarcerated. Since these were former Federal inmates, a majority of the original convictions were for drug trafficking. But about one-quarter (23.3 percent) of the post-release arrests were for assault.

Are there ways to help former inmates avoid reoffending? NIJ's "[Corrections & Reentry](#)" webpage features reviews of 136 "programs" (approaches tailored to specific places) and thirty "practices" (methods used at multiple sites.) Each was rated as either "no effect," "promising" or "effective."

A "program" in Massachusetts' capital city, the "[Boston Reentry Initiative](#)," actually begins while offenders are still locked up. Meant for gang members and others at high risk of committing a violent crime, the voluntary effort – inmates must ask to join –

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offers everything from assistance in getting a driver's license to help with substance abuse, housing and job training. After release there's a day center; each former offender also gets a "case manager" who provides one-on-one help for up to eighteen months. BRI's "promising" rating is based on an [academic study](#) that concluded participants were significantly less likely than non-participants to be arrested post-release. During their first three years back on the street, arrests for any crime befell 77.8 percent of the BRI cohort and 87.7 percent of a non-BRI control group. Arrests for violent crimes followed the same pattern (27.8 and 39.2 percent, respectively.)

Several efforts in NIJ's "practices" category also seemed pertinent:

- "[Pretrial Interventions for Ensuring Appearance in Court](#)" evaluated three approaches for combatting failure-to-appear and re-arrest: court notifications (reminders), cash and appearance bonds, and pretrial supervision, ranging from electronic monitoring to placement in a halfway house. Of these, only pretrial supervision demonstrated a statistically significant reduction on failures to appear (this effect, which led to a "promising" rating, was nonetheless considered "small.") None of the methods, however, reduced rearrests.
- "[Day Reporting Centers](#)" (aka "community resource centers" or "attendance centers") offer non-residential services to parolees and probationers, including supervision, drug abuse treatment and job training and placement. A 2019 meta-evaluation of nine such efforts found that none was more effective in preventing recidivism than conventional probation and parole.
- "[Noncustodial Employment Programs for Ex-Offenders](#)" offer job training, career counseling and educational services in settings such as halfway houses and group homes. Assistance is hands-on and can include resume preparation and coaching for job interviews. Alas, a review of ten programs concluded that their participants were just as likely to be re-arrested or convicted or commit a release violation as probationers and parolees who didn't take part.

Glancing at the scorecards, we noticed that only a measly eight percent of practices and five percent of programs got NIJ's "effective" nod. Even then, there seems to be pitifully little to brag about. Consider the well-regarded Boston program. While the difference between clients' 77.8 percent re-arrest rate and the comparison group's 87.7 percent rate may be statistically significant, its real-world implications are less than compelling. Even so, the program's academic evaluators seemed highly impressed. Here

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are their journal article's ("[Controlling Violent Offenders Released to the Community: An Evaluation of the Boston Reentry Initiative](#)") final words:

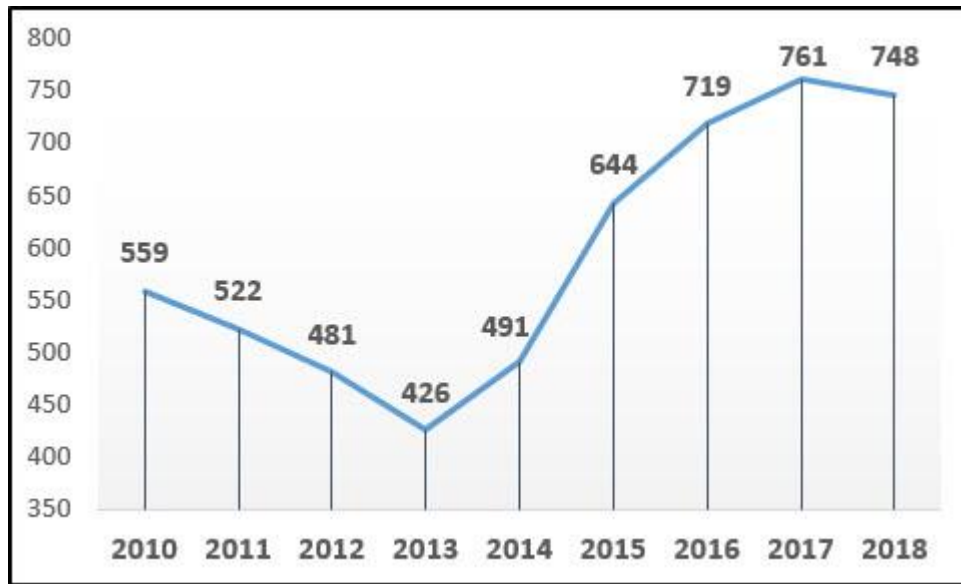
...these findings suggest that individualized treatment plans, facilitated by mentors and supported by a network of criminal justice, social service, and community-based organizations, can positively affect gang-involved offenders returning to high-risk communities. Effective gang violence prevention policy should focus on developing programs that facilitate prosocial transitions for gang-involved inmates after release from incarceration.

As bad old "police science and administration" (your blogger's undergrad major) gave way to the modern disciplines of criminal justice and criminology, university programs began looking on policing – indeed, all forms of social control – far more skeptically. Consider, for example, [a recent lead story](#) in John Jay college's *The Crime Report*, "Why Re-Arrest Doesn't Mean You're a Failure." Its source, [an extensive essay](#) by Professor Cecelia M. Klingele in the *Journal of Criminal Law and Criminology*, argues that re-arrest is a poor proxy of recidivism, as it fails to consider positive "life changes" and unspecified "nuances" that would yield a more accurate assessment of desistance from crime. (And, one might assume, a far more upbeat one as well.)

While fine-tuning our measurement tools might yield some benefits, all this newfangled sophistication threatens to distract us from the reason we bothered in the first place. Whether recidivism stands at 77.8 or 87.7 percent, it's flesh-and-blood people who pay the price. Powerful real-world examples of the human costs of crime, such as those that kicked off this essay, feed the fire of advocacy groups positioned well to the right of *The Crime Report*. Say, [The Manhattan Institute](#). Its recent missive, "[Issues 2020: Mass Decarceration Will Increase Violent Crime](#)," uses arrest, sentencing and reoffending data to argue that "given the extremely high rates of recidivism," backing off on imprisonment can only lead to more suffering.

Consider the story of [Shomari Legghette](#). Thanks to his early release from prison, the four-time loser with convictions for armed robbery, guns, drugs and assault was running loose on Chicago's streets. On February 13, 2019 he was approached by officers who wanted to question him about some recent gunplay. Legghette ran off, and when confronted by police commander Paul Bauer, who happened to be nearby, the forty-four year old chronic offender pulled a gun and repeatedly fired, inflicting fatal wounds. (For an account of Leggett's troubled life – in his own words, no less – click [here](#).)

Full stop. Let's look at some numbers. This graph uses [LAPD's UCR data](#) to depict the city's violent crime trend from 2010 thru 2018, the latest full year available:



“[The Blame Game](#)” mentions three key easings during this period: a 2011 act ([AB 109](#), the “Public Safety Realignment Act”) that shifted confinement and supervision of “non-serious, non-violent” felons from state prisons and parole agents to county jails and probation officers; Proposition 47, a 2014 measure that reduced many felonies to misdemeanors; and, two years later, Proposition 57, which reduced sentences and facilitated early parole.

What caused the sharp, post-2013 uptick? [Cops](#), [prosecutors](#) and the [state peace officer’s association](#) would say: “all three.” Their angst isn’t purely based on numbers. Consider, for example, Michael Mejia. After doing three years for robbery, the 26-year old Southern California resident was arrested for grand theft auto and served another two years. After his release he committed a string of violations. In the old days Mejia would have been returned to prison, but thanks to A.B. 109 he merely landed in county jail, and for brief periods, at that. On February 20, 2017 [Mejia gunned down his cousin](#) and stole a car. He then shot and killed veteran Whittier, Calif. police officer Keith Boyer and seriously wounded his partner.

Whittier’s grieving chief and the L.A. County Sheriff [laid blame on California’s legal retrenchments](#). Sheriff Jim McDonnell complained that his jails had become a “default state prison” and that thanks to the letup, “we’re putting people back on the street that aren’t ready to be back on the street.”

Not everyone sees it that way. According to the liberally-inclined [Public Policy Institute of California](#), the uptick in violence [was already in progress](#) when Proposition

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47, which it supports, came to be. That view [was supported by researchers](#) at UCI's School of Social Ecology, who found no difference when comparing 2015 crime rates between California and "synthetic" equivalent states with like demographics but no changes in the laws. (Yes, that's 2015 only.) Punching back, a conservative Oakland-based group, the [Independent Institute](#), pointed out that property crimes such as car burglaries [also surged](#) after Prop. 47 took effect. In June 2018, the Public Policy Institute [partly conceded](#). Yes, early releases may have somewhat increased offending, but only of the "property" kind. As for the spike in violence, that's an artifact of changes in crime defining and reporting. And don't fret, they added: recidivism is on the way down.

We'll wait while the blues and the reds duke it out. And keep an ear to what's happening in New York. On January 1st. [a bail reform law went into effect](#), eliminating cash bail for misdemeanors and "non-violent" felonies, including some robberies and burglaries. That's led to the release of many arrestees pending trial and, as the *New York Times* [recently reported](#), is putting authorities "on edge":

A few liberal prosecutors, including the Brooklyn district attorney, Eric Gonzalez, have embraced the changes, pointing to states that saw lower crime rates after they eliminated cash bail. But many prosecutors and police officials worry that some defendants released under the new rules will continue to commit crimes....

Really.