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Why we should universalize the insanity defense and replace punishment with therapy and education

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ABSTRACT

The insanity defense, which exempts those judged to be insane from being punished for whatever illegal acts they have committed, exists in order to be the exception that proves the rule: namely, that illegal acts, except those committed by the insane, *deserve* punishment, since they are produced by a person who chose to do what he knew was wrong; and that the only questions we need to ask are moral and legal ones: "how evil was he, and how much punishment does he deserve?" This article will be devoted to showing why punishment, far from preventing violence, is the most powerful stimulant to violence that we have yet discovered; and that we need to replace it with empirically tested policies that do prevent violence. To speak of universalizing the insanity defense is simply another way to speak of abolishing punishment. The article will show why we should abandon the notion that prisons can be reformed, and instead replace them with safe, secure residential colleges and therapeutic communities. This would mean thinking of violence as a problem in public health and preventive medicine, about which we ask "what are the causes of violence, and how can we prevent it?"

When society requires to be rebuilt, there is no use in attempting to rebuild it on the old plan. No great improvements in the lot of mankind are possible until a great change takes place in the fundamental constitution of their modes of thought.

(John Stuart Mill, 1873)

We cannot solve our problems utilizing the assumptions that led to their creation in the first place. … We shall require a substantially new manner of thinking if mankind is to survive.

(Albert Einstein, 1946)

Getting hold of the difficulty deep down is what is hard. Because if it is grasped near the surface it simply remains the difficulty it was. It has to be pulled out by the roots; and that involves our beginning to think about these things in a new way. The change is as decisive as, for example, that from the alchemical to the chemical way of thinking. The new way of thinking is what is so hard to establish. Once the new way of thinking has been established, the old problems vanish; indeed they become hard to recapture. For they go with our way of expressing ourselves, and if we clothe ourselves in a new form of expression, the old problems are discarded along with the old garment.

(Ludwig Wittgenstein, 1946)

"There can be no case in which the law-maker makes certain conduct criminal without his thereby showing a wish and purpose to prevent that conduct. Prevention would accordingly seem to be the chief and only universal purpose of punishment."

(Oliver Wendell Holmes, *The Common Law*, 1881)

When a man is suffering from an infectious disease, he is a danger to the community, and it is necessary to restrict his liberty of movement. But no one associates any idea of guilt with such a situation. On the contrary, he is an object of commiseration to his friends. Such steps as science recommends are taken to cure him of his disease, and he submits as a rule without reluctance to the curtailment of liberty involved meanwhile. The same method in spirit ought to be shown in the treatment of what is called 'crime.'

(Bertrand Russell, 1918)

Violence is every bit as much a public health issue for me and my successors in this century as smallpox, tuberculosis, and syphilis were for my predecessors in the last two centuries.

(C. Everett Koop, MD, Surgeon General of the United States, 1984)

1. Introduction

The purpose of this paper is to demonstrate why we will need to make a radical, fundamental change in the way we think about violent behavior, if we want to improve our ability to prevent violence more successfully than we have been able to up to now. The traditional way

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of thinking about violence, which I will be arguing against, is to think of it as a moral and legal problem. As long as we are thinking of it in this way, the only question the criminal law can ask is, effectively, a question in moral philosophy: "how evil was this act of violence, and how much punishment does the perpetrator deserve?"

Now, even if we could acquire the knowledge that would enable us to answer those questions, no answer to this question would be either relevant or helpful in our effort to answer the only question that has any practical importance: namely, the empirical questions, "what are the biological, psychological and social causes of violent behavior, and how can we apply our knowledge of the causes so as to reduce the risk that he or others will commit such violence in the future?" Once we ask those questions, we have changed from thinking about violence as a moral and legal problem deserving punishment, to thinking of it as a problem in public health and preventive medicine that needs therapy and prophylaxis, including education – which is basically the same way we think about any other causes of death and disability, from tuberculosis or AIDS to heart disease and cancer.

And that change in the way we think, if we grasp how profound a change it is, will change virtually everything about how we understand and attempt to solve the problem of violence.

2. Violence as a problem in public health and preventive medicine

To begin with, it means that we will need to abandon our use of moral concepts and value systems, since thinking in moral terms of condemnation and punishment is simply irrelevant, useless, and (actually) worse than useless. Thinking in those terms is irrelevant and useless because it cannot answer the only relevant practical questions ("how can we prevent violence, just as we aim to prevent any other cause of death and disability, by curing those who carry and spread the contagious pathology, and identifying and uprooting the root causes of these forms of pathology?"). If we define disease as any force or process in an organism that tends to cause death and disability, then it is clear that all aggressive violence (as opposed to self-defense) is a manifestation or symptom of psychopathology; and even self-defense can be said to be caused by psychopathology – namely, that of the aggressor.

Just as the founders of preventive medicine in the 19th century discovered that cleaning up the water supply and the sewer system was more effective in preventing deadly epidemics of cholera and other contagious diseases than all the doctors, medicines and hospitals in the world, we would be wise to do the same thing in our century: namely, to clean up our social and economic system, and cleanse it of the inequalities, inferiorities and humiliations that stimulate every form of violence, from suicide and homicide to war and genocide.[1] That would be far more effective than all the police, prisons and punishments in the world, not to mention all the armies and armaments.

At this point in history, the nations that have been most successful, since the end of World War Two, in achieving this form of what can be called, in the language of public health, the "primary prevention" of these life-threatening pathologies have been those of western and northern Europe; the other English-speaking democracies (Canada, Australia, New Zealand); and Japan. By creating social democracies or "welfare states," with free college and graduate school education and universal, free health care, and by reducing social and economic inequality and relative poverty to the lowest levels on earth, they have also created the least violent societies on earth. Their homicide rates, are in most years only one-fifth to one-tenth as high as are those in the U.S. Which is hardly surprising, since we also have by far the highest degree of inequality and poverty of any economically developed nation, and by far the most punitive criminal justice system. For example, we are the only developed nation without free universal health care. Our imprisonment rates are ten times as high as most of those in western Europe (in fact, they are the highest of any nation in the world, including those we call "police states"). And we are the only western democracy that still inflicts the death penalty on its citizens. And after millennia of going to war against their neighbors, Japan and the nations of western Europe have also been free of that form of violent behavior for the past three quarters of a century (with the exception of France's brief but bloody wars against its former colonies in Algeria and Vietnam, which ended some sixty years ago). Again, that is in sharp contrast to the U.S., which has been at war during at least 30 of the past 75 years, and still is. In other words, cleaning up the social and economic system, and making the criminal justice system much less punitive, in the nations that have accomplished these achievements, has been accompanied by the most effective prevention of violence in the modern world. Correlation does not prove causation, of course, but the burden of proof would seem to be on anyone who would argue that these dramatic differences in punitiveness and inequality do not have at least some influence on the differences in rates of violent behavior.

3. Does punishment prevent violence or stimulate it?

The moral and legal approach to violent behavior is worse than useless – for it only encourages and prescribes punishment. As John Stuart Mill recognized, "We do not call anything wrong, unless we mean to imply that a person ought to be punished in some way or other for doing it…."[2] And one of the most firmly established findings in modern psychological science is the counter-productive nature of punishment, as an attempt to change people's behavior.

For example, we now have at least a century's worth of research on child-rearing, focusing on the effects of different parenting and disciplinary practices on the development of moral reasoning, conscience, loyalty, honesty, violence and aggression, other antisocial behavior, capacities for empathy and altruism, and so on. Child-rearing is such an inherently complicated and ambiguous enterprise, and involves so many thousands of different variables not all of which it is possible to control for, that it is not surprising that there are not many findings from all this research that are consistently replicated. But there is one finding that has been so consistent that there is a substantial consensus concerning it among researchers on child-rearing and child development, and that is, that the more severely children are punished, the more violent they become—both during childhood itself, and later, in adulthood. For example, as Roger Brown summarized this research in a standard textbook on the subject,[3]

> Very few associations have been reliably established between child-rearing practices and child personality. The association between physical punishment and an aggressive child has more evidence behind it than any other. …the evidence relating punishment and aggression is … better [than for any other association, such as that between early independence training and a strong achievement motive in the child]. …Severe punishment went with more aggression.

In another review of this field, Berelson and Steiner decided to publish a summary of the scientific findings on human behavior for

[1] Gilligan, James, "Structural Violence," article in *Violence in America: An Encyclopedia*, Ronald Gottesman, Editor in Chief, New York: Charles Scribners Sons, 1999.

Hsieh, Ching-Chi and M.D. Pugh, "Poverty, Income Inequality, and Violent Crime: A Meta-Analysis of Recent Aggregate Data Studies," *Criminal Justice Review*, 18:182–202, 1993; reprinted as Chapter 26 in Ichiro Kawachi, Bruce P. Kennedy and Richard G. Wilkinson, editors, *The Society and Population Health Reader: Volume I, Income Inequality and Health*, N.Y.: The New Press, 1999, pp. 278–296

[2] *Utilitarianism*, in *The Collected Works of John Stuart Mill*, edited by J.M. Robson, vol. 10 (Toronto: Univ. of Toronto Press, 1965, pp. 203–260, at page 246.

[3] Brown, Roger, *Social Psychology*, New York: Free Press, 1965, p. 38.

which there was such a solid empirical basis that there was a broad consensus concerning them among behavioral scientists of all major schools of thought. They summarize the research on punishment by saying that "The specific technique of [discipline called] punishment does seem to carry a boomerang effect…"[4] And they then go on to quote a classic and comprehensive review of the research findings in this field:

> The unhappy effects of punishment have run like a dismal thread through our findings. Mothers who punished toilet accidents severely ended up with bed-wetting children. Mothers who punished dependency to get rid of it had more dependent children than mothers who did not punish. Mothers who punished aggressive behavior severely had more aggressive children than mothers who punished lightly… Harsh punishment was associated with high childhood aggressiveness.[5]

Another study they quote concluded that "the more severely boys were punished for aggression by their mothers, the more aggressive they were in pre-school."[6]

Finally, they conclude that

> The more the control of the child is love-oriented, rather than based on physical punishment, the more effective is the parents' control over desired behavior and the stronger the development of the child's guilt feelings for improper behavior. …The less the parental warmth…or the more the parental punishment, the slower the development of conscience [in the child]. …The more severe the punishment for aggression in infancy and childhood, the more … aggression later … The less use of physical punishment in childhood and the more use of reasoning, the less likely the child or adolescent [is] to engage in delinquent behavior"[7]

Roger Brown also points out that

> …the severity of the child's conscience … is not proportionate to the severity of the parent's punishment but actually tends to be inversely related. …What were Freud's words? "A child which has been very leniently treated can acquire a very strict conscience."[8]

How well does physical punishment [as opposed to "simply restraining a child or distracting him"] work as a check on aggression against parents? Not well. The parents who punished had the more aggressive children. Apparently then punishment fails to produce a generally strong conscience and fails also to check the particular form of wrongdoing against which it is most often directed—aggression against parents.

> …The best-established proposition…is that rejection and physical punishment by parents tend to produce aggressive children with under-developed superegos.[9]

There are many other confirming studies. The Gluecks[10] found severe physical punishment to be one of the major factors associated with delinquency in young boys. Bandura and Walters (1959)[11] found physical punishments and paternal rejection associated with experiencing less guilt, being hyperaggressive, and being in trouble with the law… Furthermore, they found that "the fathers had been rejecting long before the boys became exceptionally aggressive" (1965, pp. 388–389).

But why would this apparently paradoxical or counter-intuitive relationship exist between punishment and behavior? To answer that question, Brown[12] begins by observing that

> This form of discipline has a peculiar and interesting property: it is itself an instance of the behavior it is designed to eradicate. Punishment, the response to aggression, is itself aggressive. What will the child learn? … If … he learns by imitating what others do, he may learn to be aggressive. He might even learn a subtler lesson that incorporates all the information: Do not be aggressive to parents, since that is punished, but do be aggressive to those smaller or subordinate to yourself as parents successfully do.
>
> …[Many studies, e.g.,] Bandura, Ross and Ross, 1961, have demonstrated that children very readily imitate the aggressive actions of another person so we cannot doubt that punishing parents could create aggressive children.

Whichever has priority in the child's history, punishment or aggressiveness, it seems likely that in a short time the two variables must constitute a mutually reinforcing system [i.e., a literally "vicious" cycle]. Punishment by angering the child and providing him with an aggressive model must increase his own aggression and that increase would stimulate the parents to further violence.

Thinking of punishment as itself a form of aggression has suggested to us that punishment can engender aggression because it constitutes an imitable model of aggression. In a parallel manner the "technique" called "withdrawal of love" can be reconceived as a model of non-aggression under provocation. … A parent who will not allow himself to hit a child or to scream at a child is nevertheless hurt, frustrated and angered. … Taking care not to "blow up" [is itself a message]. …the withdrawal of love can…be described as an imitable model of non-aggression under stress, and imitation of the model would produce a non-aggressive child.

What are the causes of psychopathy? …The most reliable antecedent of adult psychopathy is …[that] the psychopath was severely rejected by his parents and in many cases brutally beaten (McCord and McCord, 1956).

…Parents who beat their children for aggression intend to "stamp out" the aggression. The fact that the treatment does not work as intended suggests that the implicit learning theory is wrong. A beating may be regarded as an instance of the behavior it is supposed to stamp out. If children are more disposed to learn by imitation or example than by "stamping out" they ought to learn from a beating to beat. That seems to be roughly what happens.

> …parents who beat their children for being aggressive nevertheless have aggressive children, in fact children more aggressive than those of parents who administer no beatings. This is not the way things should go if direct reward and punishment were the only determinants of behavior. It is the way things should go if children learn by example.[13]

…aggressive children learn by the example of their parents and by the example of aggression shown by the mass media.[14]

4. Shame and guilt in the psychology of violence

But to understand more deeply why punishment stimulates violence rather than preventing it, it will be helpful to examine the psychological causes of violence. In books and articles in which I summarized

[4] Berelson, Bernard & Gary A. Steiner, *Human Behavior: An Inventory of Scientific Findings*, New York: Harcourt, Brace & World, 1964, p. 72

[5] Sears, Robert R., Eleanor E. Maccoby, and Harry Levin. *Patterns of Child Rearing*. Harper and Row, 1957, quoted in Berelson and Steiner, ibid.

[6] Sears, Robert R., John W. M. Whiting, Vincent Nowlis, and Pauline S. Sears. "Some Child-Rearing Antecedents of Aggression and Dependency in Young Children." *Genet. Psychol. Monogr.* 47 (1953): 135–263, quoted in Berelson & Steiner, 1964, p. 73

[7] Ibid., pp. 77–82

[8] Brown, ibid.

[9] Brown, ibid., p. 394

[10] Glueck, Sheldon and Eleanor. *Unraveling Juvenile Delinquency*. Cambridge, MA: Harvard University Press, 1950.

[11] Bandura and Walters, 1959, quoted in Brown, ibid., pp. 388–389

[12] Brown, ibid., p. 389

[13] Brown, ibid., p. 395

[14] Brown, ibid., p. 396

observations and conclusions derived from clinical work with violent individuals and groups,[15] I isolated the pathogen that is necessary (but not sufficient) for the development of violence just as specifically as the tubercle bacillus is necessary (but not sufficient) for the development of tuberculosis. In the case of violence, however, the pathogen is an emotion, not a microbe—the emotion of shame and humiliation. This is an emotion that is so powerful and pervasive, and so central to the experience of many people, and especially the violent, that there are forty synonyms for it, just as the Inuit were said to have forty words for snow because of its centrality in their experience: feelings of inferiority and inadequacy; feelings of being slighted, insulted, disrespected, dishonored, disgraced, disdained, slandered, treated with contempt, ridiculed, teased, taunted or mocked, rejected, defeated; feelings of being weak, ugly, poor, incompetent or a failure; "losing face;" being treated as insignificant, unimportant or worthless, or any of the numerous other forms of what psychoanalysts call "narcissistic injuries." People become indignant (and may become violent) when they suffer an indignity; our language itself reveals the link between shame and rage.

This link first became apparent to me in my psychotherapeutic work with violent criminals when I discovered that I kept receiving the same answer when I would ask one man after another why he had assaulted or even killed someone: "Because he disrespected me." In fact, they used that phrase so often that they abbreviated it into the slang phrase, "He dis'ed me." Now, whenever people use a word so often that they abbreviate it, you know how central it is in their moral and emotional vocabulary. That experience, and others like it convinced me that the basic psychological motive, or cause, of violent behavior is the wish to ward off or eliminate the feeling of shame and humiliation—a feeling that is painful and can even be intolerable and overwhelming—and replace it with its opposite, the feeling of pride (another master feeling for which there are also many synonyms—self-esteem, self-love, self-respect, feelings of self-worth).

And just as people's vulnerability to tuberculosis is influenced by the state of their body's defense mechanisms (the immune system), so their vulnerability to violence is influenced by the state of their psychological defense mechanisms, such as the degree to which they have developed the capacity for an emotion that is antagonistic to shame, and inhibits the violence toward others that shame stimulates, namely, feelings of guilt and remorse – a capacity that the most violence-prone individuals and groups notably lack. Freud said once that no one feels as guilty as the saints: "it is precisely those people who have carried saintliness furthest who reproach themselves with the worst sinfulness.[16]

And that is true, as their own writings show. And in fact, it could be seen as one reason why they are saints – because they feel too guilty to hurt a fly. But I would add to Freud's comment an observation of my own, of a patient population with which he never worked – namely, that no one feels as innocent as the criminals. That is one reason why they are criminals – because they never developed the capacity for one of the main inhibitors of violent behavior, namely, feelings of guilt and remorse over hurting anyone.

The same conclusion as to the psychological cause of violence has been reached by scholars from the whole range of behavioral sciences, from clinical psychoanalysis and experimental psychology to sociology, criminology and law-enforcement. The psychoanalyst Heinz Kohut, for example, wrote that "The deepest level to which psychoanalysis can penetrate when it traces destructiveness [is to] the presence of a serious narcissistic injury, an injury that threatened the cohesion of the self."[17]

Another analyst, Gregory Rochlin made the same point when he emphasized "the relation of injured narcissism to aggression [and of] humiliation to violence," and concluded that "The question…is…what makes people…so prone to feeling vulnerable and humiliated, and therefore ultimately what causes violence."[18]

Experimental psychologists have reached the same conclusion. Many individual studies and several reviews of the published research literature have been devoted to the study of aggressive behavior and simulated violence elicited under experimental conditions in psychological laboratories. These include, for example, experiments in which an attempt is made to induce the subject to press a button that he is told will administer painful and potentially injurious or even lethal electrical shocks to another person. The consensus that has emerged from this work is that the most potent stimulus of aggression and violence, and the one that is most reliable in eliciting this response, is not frustration per se (as the "frustration-aggression" hypothesis had claimed), but rather, insult and humiliation. In other words, the most effective way, and often the only way, to provoke someone to become violent is to insult him. Feshbach, for example, after reviewing the literature on this subject, concluded that "violations to self-esteem through insult, humiliation or coercion are…probably the most important source of anger and aggressive drive in humans."[19] (It should be stressed that coercion, as a violation of autonomy, also produces feelings of shame, as Erik Erikson[20] stressed; that is, pride is dependent on being independent, and coercion is the direct negation of autonomy (1963). Geen concluded that personal insult was more powerful in provoking aggressive behavior than frustration per se (1968). Sabini, in another review of the literature, generalized that

> frustration per se does not lead to anger. If frustration is not the cause of anger, what is? According to Aristotle, the perception that one has been insulted leads to anger. … Curiously, when psychologists have tried to produce anger in the laboratory, even when they have written about their results in terms of the consequences of frustration, they have not relied very much on frustrating people but have much more commonly insulted people—possibly because it is very difficult to make adults angry just by frustrating them (1978, p. 347).

The only situation in which frustration without deliberate insult was found to elicit anger was when the frustration was unjustified (e.g., a bus driver deliberately by-passing a bus stop). This does not constitute an exception to the principle that anger and violence are caused by feeling shamed, however, for the perception that one has been a victim of injustice elicits feelings of shame: over being valued so little by the other person, and for being too weak to make him treat one fairly. In fact, the Latin word for injustice, *iniuria*, also means "insult" (as well as "injury"). One does not need to add insult to injury, or to injustice; it is already contained within both of those experiences, as it is in the words used to refer to them. (To quote another investigator of how people respond to perceived injustice and exploitation with anger and violence, Karl Marx, "shame is the emotion of revolution.") The perception that one has been a perpetrator of injustice, by contrast, elicits feelings of guilt.

A number of sociologists have arrived at the same explanation of the psychological roots of human violence. Scheff and Retzinger, for example, wrote that "a particular sequence of emotions underlies all

[15] Gilligan, James. *Violence: Our Deadly Epidemic and Its Causes*. New York: Grosset/Putnam, 1996.

Gilligan, James, "Shame, Guilt and Violence," *Social Research* 70 (4):1149–1180, 2003

[16] Freud, Sigmund, *Civilization and Its Discontents* (1930), translated and edited by James Strachey, New York: W.W. Norton, 1989, p. 87.

[17] Kohut, Heinz, *The Restoration of the Self*, New York: International Universities Press, 1977

[18] Rochlin, Gregory, *Man's Aggression: The Defense of the Self*, Boston: Gambit, 1973, p. viii

[19] Feshbach, S., "The Dynamics and Morality of Violence and Aggression," American Psychologist, 26:281–292, 1971, p. 285

[20] *Erikson, Erik H., Childhood and Society (Second Edition), N.Y.: W. W. Norton, 1963*

destructive aggression: shame is first evoked, which leads to rage and then violence."[21] The criminologist David Luckenbill[22] analyzed the step-by-step escalation of the confrontations between victim and perpetrator that led to all seventy murders that occurred in one California county over a ten-year period, 1963–72, and found that in all cases the murderer had interpreted his violence as the only means by which to save or maintain "face" and reputation and demonstrate that his character was strong rather than weak, in a situation that he interpreted as casting doubt on that assessment of himself. The opening move that started this process was some behavior by the victim that the perpetrator interpreted as insulting or disparaging to him and that would cause him to "lose face" if he "backed down" rather than responding with violence—even when the victim was only a child who refused to stop crying when ordered to.

Nor is it only behavioral scientists and academicians who have reached these conclusions. The same findings have been reported by law-enforcement officers who have investigated the motives of murderers and other violent criminals. John Douglas, for example, was a "profiler" with the F.B.I. whose career was devoted to studying the personalities and attempting to discern the motives of the most violent and dangerous criminals in the United States. What he concluded was that any ultimate violent act "is the result of a deep-seated feeling of inadequacy," and that these men attempt to diminish their low self-esteem by blaming others for their own real or imagined shortcomings, which were often caused, he discovered, by the way they were treated by overly authoritarian fathers.[23]

It is understandable, in terms of the etiological principles just discussed, why punishment would stimulate violence rather than inhibiting it: for punishment increases feelings of shame (it is humiliating to be punished, as it is intended to be) and decreases feelings of guilt (as it is intended to do). The whole purpose of legal punishment, after all, is to serve as the means by which the criminal expiates his guilt and thus "pays his debt to society," at the completion of which process he is no longer guilty in the eyes of the law, nor presumably in his own eyes. That punishment relieves guilt and leads to humiliation or shame is apparent also from the fact that those are precisely the purposes for which the religious sacrament of penance, or self-punishment, was institutionalized by the Church; for penance, or self-humiliation, is the ritual that alleviates the feeling of sinfulness, or guilt (as it is intended to do). And as we have just seen, violence is most likely when shame is maximized and guilt is minimized – exactly the conditions created by punishment. Thus it would seem that if we set out to create the conditions that would produce the maximal amount of violence, we could hardly do better than to create the punitive criminal justice system that we have established in the U.S.

That is one of the main reasons why I am urging us to universalize the insanity defense, for that is merely another way of urging us to abandon our practice of punishing those who have committed acts of violence – regardless of whether or not they meet either psychiatric or legal criteria for being declared "insane."

5. Violence prevention in the Massachusetts prisons

What leads me to conclude that replacing prisons with locked residential colleges would reduce the rate of violent crime? I will give two examples, from my own experience of evaluating and treating the most violent men our society produces over the past fifty years. This began in 1967 with ten years participating in, and an additional fifteen years directing, mental health and violence prevention programs in the Massachusetts prisons and prison mental hospital, as Director of the Institute of Law and Psychiatry at the Harvard Medical School, which had a court-ordered contract with the Mass. Department of Correction to provide those services (1977–1991). My colleagues and I found that by establishing mental health centers in every prison, with staff recruited from Harvard's teaching hospitals, that offered a full range of psychiatric services from emergency crisis intervention to ongoing long-term multi-modal treatments, it was possible to reduce the level of lethal and life-threatening violence in the prison system from war-zone levels (a murder a month and a suicide every six weeks, in one 600-man prison alone, plus riots, hostage-taking incidents and murders throughout the prison system as a whole) to a situation in which there were no suicides or homicides throughout the entire state prison system for a full year at a time, and no riots or hostage incidents at any time throughout the entire duration of the program.

When I investigated which programs were most effective in reducing recidivism after inmates were released from prison and returned to the community, I found one program, and only one, that had been 100% successful over a twenty-five year period – namely, a college education program in which professors from Boston University volunteered their time in order to teach in the prisons, and more than 200 inmates earned a bachelor's degree. When we attempted to learn how many of them had been returned to prison for a new crime after leaving, we were unable to find any, even when we surveyed prisons throughout the country to find out whether any had been re-incarcerated in another state. And in fact other studies throughout the country have reported the same results: a college education in prison is followed by significantly reduced rates of recidivism. While none of these studies constitute proof that the education was the cause of the reduction in violent (and even non-violent) crime, they do at least demonstrate that violence can be prevented, for that is what the data showed; and they support one hypothesis as to how to accomplish that outcome.

6. Violence prevention in the San Francisco jails

Following that experience, I had the opportunity to serve as the principal investigator in a violence prevention experiment involving men in the San Francisco jails,[24] all of whom were serving time for violent crimes. Since this experimental program exemplifies many of the principles I am proposing for the locked residential colleges and therapeutic communities that I am recommending we replace prisons with, and involves a comparison between inmates in an experimental jail program and a matched control group in a traditional/conventional one, it can serve as a preliminary test of whether this type of institution can prevent violence. The question then becomes, is this approach enough more successful than traditional prison practices to warrant literally replacing the latter with this radically new model?

The San Francisco County Sheriff's Department's Resolve to Stop the Violence Project (RSVP) was a program that ran from 1994 to 2004, which used the jail system as a setting for working with a wide spectrum of violent offenders, from first-time or early offenders to career criminals with an extensive history of heinous crimes. Inmates with broadly defined violent charges such as assault, domestic violence, armed robbery and rape could be mandated to the program (it was not a voluntary program). Only three groups of men were not eligible to enter either the control or the experimental jail: pedophiles; gang members

[21] Scheff, Thomas and Suzanne Retzinger, *Emotions and Violence: Shame and Rage in Destructive Conficts*, Lexington, MA: Lexington Books, 1991, p. 3

[22] Luckenbill, David F., "Criminal Homicide as a Situated Transaction," *Social Problems, 25(2):176–186*, 1977

[23] Douglas, John, and Mark Olshaker, *The Anatomy of Motive: The FBI's Legendary Mindhunter Explores the Key to Understanding and Catching Violent Criminals*, New York: Lisa Drew/Scribner, 1999

[24] Gilligan, James and Bandy Lee, "The Resolve to Stop the Violence Project: Reducing Violence in the Community through a Jail-Based Initiative," *J. Public Health*, 27(2):143–148, June 2005.

Lee, Bandy and James Gilligan, "The Resolve to Stop the Violence Project: Transforming an In-House Culture of Violence Through a Jail-Based Programme," Journal of Public Health, 27(2):149–155, June 2005

who were believed to have enemies in the unit they would otherwise have been assigned to; and men whose current charge was murder (since they would be likely to move on to a prison rather than returning to the community after leaving the jail and therefore could not be included in this recidivism study). However, there were men, roughly equally divided between the experimental and the control group, who had a past history of criminal homicide.

Since most inmates, other than those just listed, were eligible to enter RSVP, there was a long waiting list, and not all those who were referred got into the program. That created a population of offenders who would be eligible for RSVP, but who served their time in a conventional jail, and were thus able to serve as a "control group" for purposes of evaluating the RSVP program. The two populations were statistically indistinguishable from each other in terms of the main demographic criteria that predict violent behavior, such as age, sex, education, race, and criminal history.

RSVP began with an in-house jail program that was located in an all-male, 62-bed direct supervision open dormitory. The duration of any inmate's participation in the program depended on the length of time he remained in jail, which varied from a few days to more than a year. To measure the effectiveness of RSVP in preventing violence during incarceration, we measured the frequency of serious violent acts for the whole inmate population in both the control and the experimental jails throughout the entire time they were in jail, regardless of how long they remained there. In order to assess its effectiveness in reducing violent recidivism after release from jail, however, we measured rearrests for violent crimes that occurred during the first year after return to the community for only three groups of inmates: those who had been in either the control or experimental group for at least eight weeks, twelve weeks, or sixteen weeks.

The RSVP unit as a whole was, of course, locked, since it was part of a jail. However, there were no locked doors within the unit itself, which was organized as an open dormitory surrounding a large central activity space where large group discussions were held, and inmates performed plays that they had just written (as described below). There were also classrooms, conference rooms, art studios, etc. Instead of being locked into the usual jail cell (or cage), inmates slept and spent their waking hours living openly among each other. A treatment milieu was created through an intensive, twelve hours a day, six days a week program consisting of group discussions, academic classes (including some emphasizing non-violent forms of self-expression, such as art and creative writing), theatrical enactments and role-playing, counseling sessions, and presentations by and discussions with victims or survivors of rape, murder and other serious violence.

The point of the RSVP experiment was to determine whether or not it was possible, by means of this program, to reduce the rates of violent behavior among a group of violent male criminals both while they were in jail and (especially) after they returned to the community. The means for reaching these goals centered on facilitating change in both the culture of the jail, which can best be described as a "sub-culture of violence" (a mutually reinforcing set of values, assumptions and social relationships that gave respect and honor to violent behavior against other men, and shame and disrespect to non-violent behavior (which was categorized as cowardly and non-masculine), and change in the corresponding, violence-prone character structure of the violent criminals in the jail (their habitual, mutually reinforcing patterns of cognition, emotion, and action, central to which was vulnerability and hyper-sensitivity to feelings and perceptions of being shamed, humiliated, disrespected, or subjected to any other type of "narcissistic injury"). One point of RSVP was to break the positive-feedback loop, or vicious cycle, between the violence-causing patterns of culture and of personality that reinforced each other, by enlisting the entire inmate population in the program, and by exposing the inmates to the program for virtually every waking hour, twelve hours a day six days a week.

One assumption guiding the design of this program has been that many of the past attempts at reducing recidivism among violent criminals have failed because they involved only some members of the prison or jailhouse culture (and thus did not change the culture as a whole), and involved even them for only very brief periods of time each week. RSVP was devoted to making available to these violent men the kinds of tools they needed in order to develop the skills and accomplishments that could serve as non-violent, internalized and reality-based sources of self-respect and self-esteem, as well as of respect and esteem from others, and could enable them to build a greater degree of psychological "immunity" to being disrespected or insulted, so as to enable them to neutralize and tolerate such experiences. It appeared that through participating in this program, many of these violent men were able to decrease their vulnerability to being overwhelmed by these painful and potentially intolerable feelings. That in turn reduced their need to resort to violence in order to avoid experiencing what we have come to call the death of the self, meaning the feeling of inner deadness (emotional and physical) that they told me they began experiencing when they felt in danger of being overwhelmingly shamed and humiliated. Their behavior, both physical and verbal, indicated that they also developed increased capacity to experience feelings of empathy and concern for victims of violence, of guilt and remorse over injuring others, and of responsibility to repair the damage that they and others had inflicted on individuals and the whole community in the past, and to prevent future injuries.

The three major components of the program each emphasized (though they were not restricted exclusively to) one of the three main aspects of psychic functioning, namely, cognition, emotion, and action. Intensive group therapy enabled them to become aware of the cognitive assumptions that they had not even consciously realized they had internalized, and which they could now recognize had controlled, and ruined, their lives and the lives of their victims.

Meetings with victims and/or survivors of violent crimes, who came into the jails once a week to describe to them the depth of the suffering that they and their families had experienced as a result of the violence that had been inflicted on them (or on their murdered daughter, grandson, etc.), had the effect of enabling men who had previously appeared incapable of feelings of empathy with other people, to sit there with tears rolling down their cheeks (some of whom said that it was this experience that convinced them that they had to renounce their habitual use of violence as the default way of expressing themselves and pursuing their goals).

Finally, we had the men write a one-act play describing a painful, poignant, traumatic experience in their lives that they could recognize had turned them toward a life of violence.

For men who had gone through life up to that point almost like sleep-walkers, with astonishingly little self-reflection or self-awareness as to what they were actually doing to themselves and others and why they were doing it, and who customarily used actions (or "acting out") as a substitute for, and a way of avoiding, painful feelings and thoughts, this exercise enabled them to observe and reflect on themselves and others with a degree of objectivity they had not had before. They literally wrote themselves into a play that they could then see could have had a different ending, if only they had had enough awareness at the time that alternatives did exist, that they could have written a different script. This enabled them to transform an overwhelmingly traumatic and destructive event in their lives, which was unbearable and inexpressible, into something on which they could impose form, creativity, choice, and hence control (*self*-control).

Ironically, it was through *acting* (in the theatrical sense) that they learned how to engage in healthy *acting* (in the behavioral sense), instead of the destructive forms of "acting out" in which they had habitually engaged in the past. It appears that they made the discovery, by acting in a play, that they could impose order and form and discipline on their actions, and could know in advance that they would say and do one thing and not another; and that this discovery facilitated their ability to free themselves from the chaos of uncontrollable impulsiveness.

Do the results demonstrate the effectiveness of RSVP's approach as a means of curbing violence? During the year before RSVP began, there were 24 violent incidents serious enough to have constituted felonies had they occurred in the community (roughly two per month) in the 62-man dorm. During the first month RSVP was in effect there was one such incident; and for the following twelve months, there were none. During that same year, the control dorm that still followed traditional jail practices had 28 violent incidents.

The initial hypothesis was that inmates who participated in RSVP would have fewer violent rearrests and spend less time in jail in the year after reentering society than those who did not experience RSVP, which turned out to be the case. The rate of violent recidivism after 8 weeks in the program was 46.3% lower than that shown by the control group. After 12 weeks in the program, the violent rearrest rate was 53.1% lower, and after 16 weeks, 82.6% lower, during the first year after return to the community.

The program, intended as a comprehensive, major intervention, addressed violence as a matter not just of individual actions but as a public health matter involving both characterological and community-wide cognitive, behavioral, and affective changes. Because the recidivism rate was so low, and because the costs of incarcerating anyone are so high, it was not too surprising that RSVP, by reducing the recidivism rate so deeply, saved the taxpayers about $4 for every dollar spent on this program. Indeed, this program was so successful in preventing future violence that the Ash Foundation, in a program administered and judged by Harvard's Kennedy School of Government, gave an “Innovations in Governance” Award in 2004 to the San Francisco Sheriff's Department for this program, in a competition among 800 nominees from around the country.

7. Conclusion

Neither of the violence prevention programs just described constitute fully what I am recommending, since they were housed in the traditional zoo-like architecture of prisons and jails. But they both contained many elements that I believe should be incorporated into a replacement for prisons. The goal would be to create a comfortably furnished, locked, secure residential school, college and therapeutic community, as homelike as possible, so that they can learn how to live non-violently in a home. If it seems utopian to dream of replacing prisons with schools, let me remind you that prisons already are schools – in crime and violence. I am merely proposing replacing one type of school with another.

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