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A Sociological and Hermeneutical Study of the Influence of Religion on the Rehabilitation of Prison Inmates.

A DISSERTATION

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Dedication

To my family: Thomas P. O'Connor (father), Rita Collins (mother), Aislinn Adams (wife), Sorcha (daughter), Maureen (sister), and Tony, Terence and Derek (brothers). To my teachers, colleagues and friends: Fergal O'Connor, O.P., Quinn Connors, O.Carm, Robert Lappin, Ph.D. Jeffrey Hawting, Jesse Palidofsky, and Tom Heebert

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INTRODUCTION

To correctly understand the American penal system one must not neglect the important role that religion has played in shaping the character, mission, and practices of the system. Religion has taken its place beside other cultural forces - mythical, political, economic, social, philosophical, sexual, familial, racial - in an ongoing public discourse around crime, punishment, rehabilitation, knowledge, power, justice, and social order that has created and shaped the various systems of punishment and rehabilitation that have operated in this country.

This interplay between religion and the developing U.S. penal system has been part of a more general dialogue between religion and culture that is essentially historical in nature in that it takes its meaning from and reflects the broad social forces of a given culture at a particular time. These broad social forces inform the operation of any given system of punishment and/or rehabilitation through a developing public discourse about the nature of the human person and community, the nature of crime, the structure of society, and the structure of society's response to crime.

This study is about the relationship between religion and culture in the U.S. as

both forces seek to address the problem of crime and offender rehabilitation.

How have the various cultural and religious traditions that have predominated in the U.S. sought to bring about change in the offending behaviors of people who injure other people

or society through crime and what can we surmise about the effectiveness of these various traditions?

The relationship between religion, crime, and rehabilitation in the U.S. is a very complex relationship that can be examined from a number of viewpoints.

Sociologists of religion and criminologists have tended to consider the relationship between religion and the justice system under two broad categories. First, there has been a body of literature examining the relationship between the prevalence and type of religion in a given society and the amount of crime in that society.¹ This macro-level of analysis seeks to determine, for

¹ Lee Ellis, "The Religiosity-Criminality Relationship," *IARCA Journal* 6, no. 6 (1995), Lee Ellis, "Denominational Differences in Self-Reported Delinquency," *Journal of Offender Rehabilitation* (Forthcoming), T D. Evans and others, "Religion and Crime Reexamined: The Impact of Religion, Secular Controls, and Social Ecology on Adult Criminology," *Criminology* 21 (1995), R.D. Knudten and M.S. Knudten, "Juvenile Delinquency, Crime, and Religion," *Review of Religious Research* 12 (1971), Rodney Stark, "Religion and Conformity: Reaffirming a

example, whether a community with a high church going rate has a lower crime rate than a community with a low church going rate, or whether members of one type of religious faith group have less crime than members of other faith groups. Second, the relationship has been examined from a more individual or micro-level focus. In this body of literature the question is whether or not the type and amount of individual religious practice in a person's life helps that them to live a crime free life or, more importantly for our purposes, turn from a life with crime to a life without crime.²

From a more theological and religious studies point of view the relationship

Sociology of Religion," *Sociological Analysis* 45, no. 4 (1984), C.R. Tittle and M. Welch, "Religiosity and Deviance: Toward a Contingency Theory of Constraining Effects," *Social Forces* 61, no. 653-682 (1983).

² Colin Baier, "If You Love Me, Keep My Commandments: A Meta Analysis of the Effect of Religion on Crime," *Research in Crime and Delinquency* 38, no. 1 (2001), T Clear and others, *Prisoners, Prisons, and Religion: Final Report* (New Jersey: School of Criminal Justice, Rutgers University, 1992), Evans and others, B.R. Johnson, "Hellfire and Corrections: A Quantitative Study of Florida Prison Inmates" (Ph.D., Florida State University, 1984), Thomas P. O'Connor, Michael W. Sprauer, and Terry L. Brooks, "Religious Program Outcomes: This Side of Heaven!," in *American Correctional Association* (1999), Thomas O'Connor and others, "Religion and Prisons: Do Volunteer Religious Programs Reduce Recidivism?," in *American Sociological Association* (New York: 1996), Melvina T Sumter and Todd Clear, "An Empirical Assessment of Literature Examining the Relationship between Religiosity and Deviance since 1985," in *Academy of Criminal Justice Sciences* (1998)..

between religion, crime, and rehabilitation has been examined by exploring the role that religious thinking and movements have played in the development of penal policies and practices.³ For example, one study described how Christian theologies of atonement have influenced retributive elements of penal strategies.⁴ The present study combines the religious studies approach to religion as a causative or formative influence on the penal response of society to offenders in general with the micro-level sociological approach to religion as an operative factor in the rehabilitation of individual offenders. The combination of the sociological and religious studies approach allows one to arrive at a fuller interpretation of the meaning of the socio-religious dialogue about crime and offender rehabilitation.

In chapter one I examine the historical interplay between religious and political approaches to the problem of crime and set the context for contemporary penal

³ Kai T. Erikson, *The Wayward Puritans: A Study in the Sociology of Deviance* (New York: John Wiley & Sons, 1966), Duncan B Forrester, *Christian Justice and Public Policy* (New York: Cambridge University Press, 1997), Timothy J. Gorringer, *God's Just Vengeance*, *Journal of Offender Rehabilitation* (Cambridge: Cambridge University Press, 1996), Harold G Grasmick and others, "Protestant Fundamentalism and the Retributive Doctrine of Punishment," *Criminology* 30 (1992), Tom O'Connor, "Best Practices for Ethics and Religion in Community Corrections," *ICCA* 8, no. 4 (1998).

⁴ Gorringer.

practices. Establishing the broader social and historical context for the current U.S. penal system entails an examination of the ways in which pre and post Enlightenment penal systems operated in Europe and America. I outline how a radical shift took place from the pre to the post-Enlightenment understanding of the nature of the person, the structure of society, the structure of crime, and the structure of society's response to crime. I also describe how a change in the dialogue between religion and culture from the pre to the post-Enlightenment systems helped to shape different penal responses. Before the Enlightenment religion and politics worked closely together in a socially collective context and set up a penal system of power, knowledge and social control that sought to maintain the power of the Royal society by punishing but not by rehabilitating people who were found to be guilty of crime. After the Enlightenment the close connection between religion and politics began to diverge but religion still contributed to the development of new ideas about the nature of the person and crime and society's response to crime. The notion of the individual emerged and a new ordering of the penal system, guided in part by religious ideals, took on the rehabilitation of criminals as one of its aims. Throughout the chapter I raise questions about the ethics of both the pre and post-Enlightenment political ordering of the power to punish and conclude that the

exercise of the power to punish

can be moral in so far as it is rooted in the kind of co-operation among people that creates community.

Chapter two explores in greater detail the ways in which American society has responded throughout its history to issues of crime, punishment and offender rehabilitation and shows how religion has always played a pervasive, if at times hidden, role in that response. In the earliest stages of the development of the U.S. penal system two rival systems of understanding people emerged from different theologies and each system of thought had a different influence on the structures of the penal system. Both of these rival systems believed that the primary function of the penal system was to rehabilitate and not to punish prisoners and that religious practice among prisoners played a vital role in the process of rehabilitation. However, each system had a profoundly different view of the meaning of rehabilitation and of how to bring it about. Since these early beginnings the notions of rehabilitation and punishment and the interplay of religion with these notions have had a varied history in actual penal practice. In the 1970's a new concern, which has continued to be debated, arose over the effectiveness of varying approaches to reducing crime among offenders. Does

punishment work? Does rehabilitation work? Today with cultural and political shifts such as the "faith-based initiative" of President Bush taking place there

is a new question about approaches to reducing crime among offenders: does religion work?

I describe how the current penal system, now called the Correctional System, has become increasingly punitive and moved away from its traditional rehabilitative or treatment approach to Corrections. I examine the rehabilitation literature that is often referred to as the "what works" literature. The evidence about the relative effectiveness of the punitive and treatment approaches is mixed and somewhat controversial but clearly favors the effectiveness of treatment over punishment in terms of reducing recidivism. Within the context of treatment approaches to Corrections I discover that religion actually plays an extensive role in the current penal system. On a very practical level almost every prison has a chaplain who presides over the constitutional right of all inmates to practice their religion. In 1991 a national survey found that about one out of every three inmates (32%) participate in worship services, Bible study groups and other religious activities, making religious involvement one of the most

common forms of "programming" in U.S. state prisons.⁵ Little is known, however, about the nature of this religious involvement or about its impact on offender

rehabilitation.⁶ How have prisoners responded to the religious elements of the penal system and has that response resulted in rehabilitation?

In Chapter three I help redress this gap in the literature about religion and offender rehabilitation by conducting a four-year empirical sociological study of the nature and meaning of religious practice within a medium/maximum security prison for men in South Carolina and the impact of this religious practice on offender rehabilitation. I begin by comparing the religious programs in the prison to other correctional treatment programs to discover how closely they adhere to what are known as the principles of effective treatment. Then I

⁵ Allen Beck and others, *Survey of State Prison Inmates, 1991* (U.S. Department of Justice, 1993).

⁶ J. Gartner and others, "Religion and Criminal Recidivism: A Systematic Literature Review," in *American Psychological Association* (Boston, MA: 1990), B. R Johnson, "Religious Commitment within the Corrections Environment: An Empirical Assessment," in *Crime, Values, and Religion*, ed. A. Day and W.S. Laufer (Norwood, NJ: Ablex, 1987), Sumter and Clear.

present my findings on the extensive, varied and inexpensive nature of religious practice among prison inmates. For example, during a one-year period 49% of the entire prison population attended at least one religious service and there were over 869 different religious meetings or services held in the prison in that year. Two prison chaplains, four inmate religious clerks and 232 volunteers from the community who donated about 21,316 hours of work to the prison (the equivalent of 11 full-time paid staff positions) made this high level of programming possible. I also demonstrate that there is a positive relationship across different types of offenders between their intensity of religious involvement in the prison

and their rehabilitation as measured by reduced infraction rates in the prison and reduced re-arrest rates after re-entry or release into the community.

The conversation within this text will move, therefore, from the historical and broad cultural and religious contexts that have shaped the responses of society to issues of crime and rehabilitation to a thorough empirical examination of the role and rehabilitative impact of religious involvement among prison inmates in a prison called Lieber. I conclude the conversation by setting the findings from

the study of the religious involvement of offenders against the background of the broader social and historical contexts of the first two chapters and discuss the implications of the study findings for the ongoing dialogue between cultural and religious approaches to the problem of crime in the U.S. The findings present both a practical and an ethical challenge to the current penal system because they point to the important role of community – a notion that is not currently fostered or valued in correctional systems - in the rehabilitation process.

CHAPTER ONE: SHIFTING SYSTEMS OF PENALTY.

Crime and Punishment under the Crown

In his influential and important work Discipline and Punish: The Birth of the Prison Michel Foucault identifies a key shift in and redistribution of the entire economy of punishment in Europe and the United States around the time of 1750 to 1850.

It was a time of great “scandals” for traditional justice, a time of innumerable projects for reform. It saw a new theory of law and crime, a new moral or political justification of the right to punish; old laws were abolished, old customs died out. 'Modern' codes were planned or drawn up: Russia 1769; Prussia, 1780; Pennsylvania and Tuscany, 1786; Austria, 1788; France, 1791; Year IV, 1808, and 1810. It was a new age for penal justice.⁷

For Foucault all cultural and political changes are carried forward in a public discourse that takes place in society and the central issues in this public discourse are always about knowledge and power. Thus the shift that took place in the economy of punishment between 1750 and 1850 must be understood as part of a more general shift in the political and mythical structures

⁷ Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (New York: Vintage Books, 1995).

of society that was centered on new ways of gaining knowledge and creating power.

America's present penal system is a direct descendent of the new age of penal justice that ensued as a result of these shifts in society. To understand this new age of penal justice therefore, one has to begin where the new age came from.

The system of justice that preceded the birth of our present system derived from and maintained the political and mythical structures of society as it was then constituted. Essentially, this was a unified society that was rich in the symbolism of the monarchy and stories of valor. This monarchical society placed the source of all knowledge and power in the person of the king or queen.

Torture and the Politics of the Crown

Within monarchical society the image of the gallows was set off against the image of the scepter. The royal system of punishment contrasted the body of the king or queen, which contained the complete power of society, with the body of the condemned man or woman which contained a complete lack of power, and this was a political act, for the power to punish is exercised rather than possessed, it is a political strategy.

The public execution did not re-establish justice; it reactivated power. In the seventeenth century, and even in the early eighteenth century, it was not, therefore, with all its theater of terror, a lingering hangover from an earlier age. Its ruthlessness, its spectacle, its physical violence, its unbalanced play of forces, its meticulous ceremonial, its entire apparatus were inscribed in the political functioning of the penal system (Ibid p. 49).

The king or queen delegated the practical center of the power to punish to his or her magistrates who, as the masters of truth, established whether or not a crime had been committed. The magistrates used a gradual process to establish the truth of whether or not a crime had been committed and torture could be part of that process. Thus, one could be "judicially tortured pending proof". The rules of court procedure were not known by the public, the legal system had an internal system of rules for judging guilt or innocence. Truth was not a question of yes or no, or of innocent until proven guilty, but a process of establishing quarter guilt, semi guilt, full guilt.

When the magistrate judged the accused to be guilty, the accused was expected to confess his or her guilt and the penal system put a great deal of effort and sometimes even more torture into the process of obtaining confessions. At the moment of execution the guilty party was given a chance to

speak so that they could acknowledge their guilt and the justice of their conviction. The confession of the guilty party was important for it was seen to affirm the innocence and the justice of the very society which had brought the guilty one to the point of confession. Through his or her confession a person took responsibility for the breach of the royal order that their crime had occasioned and made way for the continuation of the royal power and the further exercise of the royal power to punish.

This concern for public confession has manifested itself as a constant and recurring concern for western culture. From the middle of the second to the fifth century A.C.E. Christianity's system of canonical or public penance always assumed that the penitent would confess his or her guilt and live a life of satisfaction and expiation prior to reconciliation on Holy Thursday. The later system of private penance developed in the 14th and 15th centuries changed the context of this system of confession, but still retained a focus on both public confession (now to a priest) and expiation. Currently in the West we live in more pluralistic religious times and the influence of Catholicism's system of penance in the general cultures of the Western world has waned, however, the interest in public confession remains. Police interrogators seek and demand confessions

from arrestees that are then brought into the public court system. The general public and the political climate also demand confessions from public figures such as President Clinton who faced tremendous public pressure to publicly confess his wrongdoings with Monica Lewinski. Peter Brooks has explored the role of confession in the development of our society and makes an important link between confession and the emergence of the modern notion of the individual, a notion I shall further explore later in the paper.

Reflecting on the value we attach to the spoken confession of sin, crime, and error, we may become aware of how close we still are to the year 1215, when The Roman Catholic Church, in the Fourth Lateran Council, made annual confession obligatory for all the faithful. Lateran IV also issued for the first time a profession of the dogma- what a Christian is to believe- and established an inquisition for the extirpation of heresy. When one considers how the requirement of confession intersects with the definition of orthodox belief and the war on heresy, it begins to be apparent that confession plays a crucial role in moral cleansing and also in moral discipline: It works both to console and to police. It offers articulation of hidden acts and thoughts in a form that reveals- perhaps in a sense creates- the inwardness of the person confessing, and allows the person's punishment, absolution, rehabilitation, reintegration. The process of rehabilitation and reintegration- if by way of punishment and expiation-can only begin when the suspect says those words, "I did it."⁸

⁸ Peter Brooks, *Confession* (1999).

Hannah Arendt who has traced the origins of the use of torture to extract confessions of guilt believes that the practice stemmed from a belief that the telling of a lie always involved an act of freedom. Torture, as a form of violence, silenced a person and took away their freedom to lie and, thus, their confession had to be true. Something of this understanding of the function of torture clearly remained in the royal system of justice, for a kind of duel or joust to the truth took place between the royal power and the person accused of a crime, and punishment was part of that joust.

Torture or corporal punishment was not only used in the process of establishing guilt it was also, to varying degrees, part of every sentence. At this time prison, as we know it today, did not exist in the panoply of punishments that included death, judicial torture pending proof, penal servitude, flogging, *amende honorable*, and banishment. Foucault estimates that despite this harsh list of punishments and the many spectacles of public flogging and execution, severe punishments were often mitigated and death was not always chosen for the ultimate punishment. It seems that about 50% of cases resulted in banishment. All these punishments, however, were public rituals that displayed and restored the power of the sovereign that had been attacked by the crimes of those who

were found guilty. Their aim was not one of deterrence - making the pain of the punishment outweigh the gains of the crime so as to deter crime – an aim that is often argued for punishment in modernist times.

Although redress of the private injury occasioned by the offense must be proportionate, although the sentence must be equitable, the punishment is carried out in such a way as to give a spectacle not of measure, but of imbalance and excess; in this liturgy of punishment, there must be an emphatic affirmation of power and of its intrinsic superiority. And this superiority is not simply that of right, but that of the physical strength of the sovereign beating down upon the body of his or her adversary and mastering it: by breaking the law, the offender has touched the very person of the prince; and it is the prince - or at least those to whom he or she has delegated their force - who seizes upon the body of the condemned man and displays it marked, beaten, broken. The ceremony of punishment, then, is an exercise of 'terror'.⁹

This takes us to one of Foucault's four general rules for his study on the birth of the prison: regard punishment as a political tactic with its own specific techniques and strategies for exercising power in the general political field of exercising power. Although I am indebted to Foucault for a deeper understanding of how politics and power are dominant factors in every penal system, I find him lacking in that he does not, at least in his earlier writings, explicitly take up the question of the ethics or justice of the political and penal

⁹ *ibid*, 49.

systems he so brilliantly analyzes. Almost by definition Foucault views questions of whether or not a penal system serves justice as irrelevant and meaningless. It seems reductionist to me to argue, as Foucault does, that the people who later worked to reform the Royal Penal System he describes were ultimately only concerned with issues of knowledge and power. Yes, questions of knowledge and power are central to the penal practice of any culture - witness the Willy Horton episode in the U.S. presidential election of 1988, which had little to do with a public debate about how best to bring about justice through developing the penal system and much to do with establishing a system of power - but so too are questions of justice and ethics. Clearly the penal reformers we shall meet later in this paper had a sense that the excesses of royal power were unjust and in need of change and it is possible to view this desire or search for greater justice as at least partially valid, but to do so means that one must step out of Foucault's understanding of the human universe.

Leaving aside the issue of whether questions of knowledge and power ultimately subsume ethical considerations it is clear that ethical questions do arise about any penal system and once raised, questions need to be addressed. Does a given penal system achieve justice, is it ethical in its operation, and what are the

criteria for judging whether or not justice is achieved in an ethical manner?

With these questions in mind let us consider the system of penal ethics that operated in Royal society.

Christian Anthropology and Ethics under the Crown

The religious world view in the monarchical western society of the 17th and early 18th centuries, whether it was Catholic or Protestant, tended to believe that God had ordained the order of society and everyone's position in that society whether rich or poor, ruler or ruled, innocent or guilty. The political order supplied a single or uniform context for the religious thought and battles of the day. Sabine and Thorson claim that the Protestant Reformation increased rather than disrupted the alliance and shared worldview that operated between the Church and the Crown in this period of Western history.

On the whole, therefore, the Reformation, together with the sectarian controversies to which it gave rise, accelerated the tendency, already in existence, to increase and consolidate the power of the monarchies. The failure of the church to reform itself by a General Council meant that no successful reform was possible unless it could enlist the support, or even the force, of secular rulers. Martin Luther early discovered that the success of reform in Germany depended upon obtaining the help of the princes. Thus, whoever lost, (Protestant or Catholic forces), the kings won, and

the absolute monarchy, which the Reformation did not originate and which was no more naturally related to one form of religious belief than another, was in the first instance its chief political beneficiary.¹⁰

Some Protestants and some Catholics, who were generally in political situations that were not advantageous to them, did dispute the political order of the day and questioned Luther's and Calvin's view that Christians had a duty of passive obedience to their civil rulers. These Christians argued that when a ruler was heretical or tyrannical there was a right to resist such a ruler. In Scotland, John Knox rejected Calvin's doctrine of passive obedience upon religious grounds.

For now the common song of all men is, we must obey our kings, be they good or be they bad; for God hath so commanded. But horrible shall the vengeance be, that shall be poured forth upon such blasphemers of God his holy name and ordinance. For it is no less blasphemy to say that God hath commanded kings to be obeyed when they command impiety, than to say that God by his precept is author and maintainer of all iniquity.¹¹

Later, the Jesuit Francisco Suarez in Spain developed a political argument for the right to resist tyrannical or unjust leaders. Suarez argued that the state was

¹⁰ George H. Sabine and Thomas L. Thorson, *A History of Political Theory*, 4th. ed. (Hinsdale, Illinois: Dryden Press, 1973).

¹¹Laing, ed., *Appellation; Works*, vol. IV..

separate from the divine law in so far as it was based on the natural law of right and wrong that not even God could change. For Suarez political power is an inherent property of the community that can be exercised in many ways and no form of political obligation is absolute.

Against these views that legitimated public dissent on the part of Christians others argued that the Crown held complete authority from God in civil and in spiritual matters and argued on behalf of the doctrine of the divine right of kings. It is clear from the following quotes from Luther that in most circumstances Protestant Christians felt it was their duty to obey the civil rulers.

“It is in no wise proper for anyone who would be a Christian to set himself up against his government, whether it act justly or unjustly.”¹²

“There are no better works than to obey and serve all those who are set over us as superiors. For this reason also disobedience is a greater sin than murder, unchastity, theft, and dishonesty, and all that these may include.”¹³

¹² *The Age of the Reformation*, (1920).594ff.

¹³“On God Works” (trans. by W.A. Lambert); *Werke*, Vol V1, p.258.

According to Alasdair MacIntyre the system of ethics that operated in this society was Aristotelian in nature as interpreted and developed first by Aquinas and the Roman Catholic tradition and second by the Protestant tradition. This system of ethics was embedded in a common secular and Christian anthropology that understood men and women to have an essential nature, a telos that was both human and divine, that they must fulfill in life. Because people were not conceptualized as individuals but as members of society, the fulfillment of a person's essential nature was part of and indistinguishable from the fulfillment of the common good of society. This quest for fulfillment of the telos was informed and guided by the traditions of the society and the virtues were those human qualities - honesty, courage, justice, forbearance - which enabled people to realize their telos and society to achieve its common good.¹⁴

MacIntyre and Foucault both agree that at this point in time the "individual" was not an important or guiding category for determining how society understood human beings or itself. The notion of the individual is a modern notion that only emerged in public discourse at the time of the Enlightenment and it did not

¹⁴ Alasdair MacIntyre, *After Virtue*, 2nd ed. (Notre Dame, Indiana: University of Notre Dame Press, 1984).

have a guiding role in the system of ethics or punishment that operated in Royal society. We shall see later how important the emergence of the individual was to the shape of the new age of penal justice. For now, however, it is important to note that virtues like courage, honesty, forbearance, and justice were important in the political and religious life of monarchical society. The criterion for the justice of any action was whether or not it helped people to realize their telos and society to achieve its good.

We must surmise then, despite the political and retributive nature of punishment at this time as described by Foucault, that in part the use of torture and punishment was understood both by the secular and religious rulers to be for the good of society as represented by the crown. For the most part the religious worldview of the day acquiesced in the judgments of the king or queen and their magistrates. However, the fact that there was a religious dissenting view in the face of the tyrannical aspects of the Crown's justice reveals that criteria for justice other than the order of the crown existed and that these criteria were not being met in every instance. This means that we must make a distinction between crime and right and wrong. Simply because one is found guilty of a crime does not mean that one has done wrong. Sociology can help

us to examine this distinction and that is why I now turn to examine how the factors of politics, power, religion, anthropology, and ethics played into the sociology of crime in the period we have been discussing. Of course sociology did not exist at

this time, so here I am using modern methods to help us understand a pre-modern time.

The Sociology of Crime under the Crown

Emile Durkheim believed that crime is "an integral part of all healthy societies"¹⁵ for it helps to define and temper a society. "Crime brings together upright consciences and concentrates them."¹⁶ From the viewpoint of the functionalist sociologist society needs crime to define itself. Deviant forms of behavior provide the members of a society with a necessary limit or boundary that helps a group of people with a common tradition to create a social identity. From this perspective Kai T. Erikson gives us a sociological definition of criminality.

¹⁵ E. Durkheim, *The Rules of Sociological Method*, trans. S.A. Solvay and J.H. Mueller (Glencoe, IL: The Free Press, 1958).

¹⁶E. Durkheim, *The Division of Labor in Society*, trans. George Simpson (The Free Press, 1960).

The term "deviance" refers to conduct which the people of a group consider so dangerous or embarrassing or irritating that they bring special sanctions to bear against the persons who exhibit it. Deviance is not a property *inherent* in any particular kind of behavior; it is a property *conferred upon* that behavior by the people who come into direct or indirect contact with it. The only way an observer can tell whether or not a given style of behavior is deviant, then, is to learn something about the standards of the audience, which responds to it.

Although I disagree with Erikson's epistemology and value-free sociological perspective that deviance must not be considered as a property *inherent* in any particular kind of behavior, I find his description of how a crime comes into being helpful for it explains how one society can radically differ from another in terms of what it deems to be deviant behavior and allows for the play of various social forces in that determination. It also affirms that without society there is no crime, and allows for a distinction to be made between that which is criminal and that which is right or wrong.

It seems that the political order we have been discussing agreed with Durkheim's view that crime is an integral part of all healthy societies for they considered crime to be a natural part of society. Foucault has argued that during the royal period there was no thought of eliminating crime from society;

the very ideal of a crime free society only emerged during the Enlightenment. Pre-enlightenment society felt that everybody had their God given place in society and made no radical societal disjunction between those who were criminals and those who were not. People were not judged to be criminals, their acts were judged to be criminal acts. Magistrates passed judgment on whether or not a crime had been committed, if the crime was bad enough then "off with their head". At this point in history *homo criminalis* had not evolved. Behaviors that did not threaten the order of the crown were generally tolerated by society as a natural part of life even if there was a dishonest aspect to that behavior. Such behaviors belonged in the realm of ethics and not in the penal system.

Apart from the crimes that were a threat to the Royal order there was a certain acceptance and even tolerance of crime in society. People were expected and at times encouraged to act in certain illegal ways. For example, society accepted smuggling and the non-payment of some civil and ecclesiastical taxes among the common people - it was a part of how the poor earned their living. The nobility, on the other hand were allowed to use the laws to set various factions against each other to their own benefit and often did not enforce laws

that were on the books.

Roughly speaking, one might say that, under the Ancien Regime each of the different social strata had its margin of tolerated illegality: the non-application of the rule, the non-observance of the innumerable edicts or ordinances were a condition of the political and economic functioning of society. This feature may not have been peculiar to the Ancien Regime. But illegality was so deeply rooted and so necessary to the life of each social stratum, that it had in a sense its own coherence and economy.¹⁷

In the second half of the eighteenth century, however, the old order began to change. New social forces and understandings of human nature emerged and changed the structure of society which in turn changed the structure of crime and of society's response to crime. There was an expansion of the population, a shift from the agricultural ownership of land to commercial and industrial ownership, a change in the methods and relations of production, an increase in wealth, and the emergence of the vagabond or person who did not belong to any given community. These new social conditions meant that the illegality of the common people turned from finding a way to live in harsh conditions toward an illegality that was more focused on forms of property that were vitally important to the interests of an emerging industrial-based society. Theft

¹⁷ Foucault, 82.

replaced smuggling and violent crimes by vagabonds with no ties to a community replaced the resistance of the people to oppressive taxes within a community. The new order of society could not tolerate these new types of illegality and excess among the common people.

Nor could the new order continue to tolerate the excesses of the royal power to punish. For the royal power had become arbitrary, excessive, weakened and confused. Some magistrate positions were hereditary and were merely forms of wealth, others were purchased by uneducated people who made arbitrary and hence destructive decisions. Various levels of the penal apparatus - the courts of the sovereign, the courts of the nobility, the ecclesiastical courts, the bailiffs courts - were in conflict with each other and often overlapped in their jurisdictions.

The power of the King or Queen had become capricious - vengeance outweighed punishment - and illegality among the people had been allowed to flourish. Both tyranny and rebellion were always in the air. In the face of newly emergent social forces reformers called for a legal reform that would redistribute the power to punish in a way that would address the needs of a changing order

and render the power to punish more effective. The reformers called for an end to the excesses of torture and public executions, insisting that criminal justice should only punish and not take revenge. Man, not the excessive tortures of the crown or the excessive illegalities of the generalized people must be the measure of punishment. Limits must be set.

It became necessary to define a strategy and techniques of punishment in which an economy of continuity and permanence would replace that of expenditure and excess. In short, penal reform was born at the point of junction between the struggle against the super-power of the sovereign and that against the infra-power of acquired and tolerated illegalities (ibid, p. 87)

For Foucault the calls of the reformers for limits and measure did not flow from a new understanding of justice based on more equitable principles, or a sensibility for the humanity of a person who could be hanged for stealing a loaf of bread, or on a disavowal of the arbitrary cruelties of those in power, but from a new ordering of the political economy.

The reform of the criminal law must be read as a strategy for the rearrangement of the power to punish, according to modalities

that render it more regular, more effective, more constant and more detailed in its effects; in short, which increase its effects while diminishing its economic cost (that is to say, by dissociating it from the system of property, of buying and selling, of corruption in obtaining not only offices, but the decisions themselves) and its political cost (by dissociating it from the arbitrariness of monarchical power). The new juridical theory of penalty corresponds in fact to a new 'political economy' of the power to punish (ibid p. 80).

New political, anthropological and social forces lay behind this reform, this "tendency towards a more finely turned justice, towards a closer penal mapping of the social body". In Erikson's terms the boundaries of society were shifting and this shift led to a redefinition of what society deemed to be criminal in an effort to redefine itself and build a new identity. This redefinition then led to new methods for deploying the resources of society to combat crime. Foucault believes that at this point the illegalities of the poor were redefined and became the focus of criminal justice, while the illegalities of the rich and powerful were allowed to continue in operation - while theft could not be permitted among the poor it could be permitted among the rich in the form of tax evasion and fraud. This redefinition, if Foucault is right, may be the origin of the huge emphasis of today's penal system on street crime and its relative lack of concern with so called "white collar" crime.

The new system of justice no longer took its measure from the king or the queen or the magistrates; now the measure became humanity. A chorus of voices arose in the public discourse demanding an end to the era of torture and public executions and these voices ushered in the era of what Foucault calls the "gentle way in punishment". By making humanity the measure the new political economy could reduce both the excesses of the crown and the people to a common measure that ensured greater leniency in punishment but also greater intrusiveness in punishment.

For Foucault one of the key differences in the new system of justice is the emergence and creation of the "individual" as the defining element of humanity. Others such as Alistair McIntyre writing from the viewpoint of moral theory and Sabine and Thorson from the viewpoint of political theory agree with Foucault on the key importance of understanding the emergence of the individual as a new core element of society at this time in history. Sabine and Thorson hold that the political and philosophical foundations of society's ability to make humanity the measure of politics had been laid down in seventeenth century ideas about the natural law, social contract and individual consent.

Natural Law, the Individual and the Politics of the Social Contract

In the seventeenth century there was a gradual separation between political theory and theology. Religious wars in Europe had made it necessary to find a common and non-religious source to political and social obligation for all regardless of their religion. That source was found in individual men and women and in a return to pre-Christian times, to the Stoics, Plato, and Aristotle and to the natural law and reason. Using logical analysis every individual could deduce laws that were self-evident, simple, unchanging and binding on all. Thorson and Sabine outline the thought of the time:

There are then, certain minimal conditions or values which must be realized, human nature being what it is, if an orderly society is to persist. Specifically these are, in the main, the security of property, good faith, fair dealing, and a general agreement between the consequences of men's conduct and their deserts. These conditions are not the result of voluntary choice or the product of convention but rather the reverse; choice and convention follow the necessities of the case.¹⁸

These natural laws introduced a normative basis for both law and politics.

Reason and the natural law gave rulers a basis for positive law that was not susceptible to the arbitrariness and excesses of customary and conventional

¹⁸ Sabine and Thorson.

practice. The seat of reason was in the individual. Enlightened intelligence allowed everyone to break free from the bonds of custom and to consent to a social contract that derived its positive law and reasonableness from the natural law. The Enlightenment gave birth to the individual who now became the basis of society whereas before, society had been the basis and ruler of the individual.

One outstanding fact, it seemed, required special explanation. Man the individual is also man the citizen or subject. According to the theory of natural law this was believed to be deducible from his individual nature; it was certain but it was not self-evident. The assumed order of certainty was significant. Under other circumstances man as a member of an organized community might have figured as the axiom, as in general it did for Plato and Aristotle, and man as an individual as the derivative. For the theories of natural law, and more especially after Hobbes, it was membership that required explanation. Society is made for man, not man for society; it is humanity, as Kant said, that must always be treated as an end and not a means. The individual is both logically and ethically prior. To the philosophy of the seventeenth century relations always appeared thinner than substances; man was the substance, society the relation. It was this assumed priority of the individual that became the most marked and

the most persistent quality of the theory of natural law and the clearest differential of the modern from the medieval theory. Developed especially by Hobbes and Locke, it became a universal characteristic of social theory down to the French Revolution and maintained itself far beyond that date. It persisted, moreover, as a presumption in Bentham's school long after David Hume had destroyed the methodology of natural rights (ibid, p. 401).

These notions of the individual and of the social contract set the context for the two new technologies of the power to punish that emerged in the public discourse about crime at the time of the shift from monarchical society. Both technologies "refer to a preventive, utilitarian, corrective conception of a right to punish that belongs to society as a whole; but they are very different from one another at the level of the mechanisms they envisage" ¹⁹

The first technology focused heavily on the dictum of one of the reformers Malby: 'Punishment, if I may so put it, should strike the soul rather than the body'.²⁰ This system of punishment was developed by the 18th century

¹⁹ Foucault, 30.

²⁰Mably, G. de, De la legislation, Oeuvres completes, IX 1789.

reforming jurists and replaced the sovereign and his force with the social body as the source of the power to punish. It was a semiotic system that was meant to operate through a series of signs and representations (not public ceremonies of torture) that would strike the soul (no longer

the body) of an individual conceived as a juridical subject in the process of requalification as a subject (not as a vanquished enemy).

This reformed system embodied the ideal of the elimination of crime and was to be utilitarian, widespread, and public. Foucault names it the 'punitive city'.

Every citizen was to play a part in a diverse system of signs and representations that would give rise to the idea of disadvantage in the mind of a person who even considers a crime. Thus, the crime of theft would be punished with loss of property, of violence with hard labor, and of kidnapping with loss of liberty. A myriad of punishments would mirror the myriad of crimes and either deter the juridical subject from straying or restore the juridical subject by acting on their soul or mind more through the representation of the punishment than through the actual punishment.

This semiotic system of punishment, however, never took root. Within the space of 20 to 50 years the second technology of the power to punish, with prison as its central apparatus, became ubiquitous. This second punitive system still operated within the social contract but it replaced the social body as its enforcer with an administrative apparatus that divorced the system from the community. This system was a disciplinary system that operated through a series of manipulative exercises (not signs or representations) that left their trace on the body (not the soul or mind) of an individual who was subject to coercion (not a juridical subject), in the form of habits and behaviors that conformed to "normal" social behaviors.

Like the first new system to emerge, this system was utilitarian in that it was focused on prevention; however it operated in secrecy (not in the public arena) and was autonomous from the social body. Foucault calls it the 'carceral'. Its incredible rise in popularity, and its early functioning as the sole method of punishment lay in the fact that there were three models available at the time that could supply the new mythic, political, and economic structures of society with a system of controlling criminals that fit within a general strategy of organizing power and knowledge. As we shall see each of these three models -

at Ghent, Gloucester, and Philadelphia - contained a religious element and each model reflected the general sociological and political trends of the day.

The Birth of Prisons: Complete and Austere Institutions

The three models that existed at this time - the Flemish model at Ghent, the English model at Gloucester, and the American Model at Philadelphia - all harkened back to the Rasphuis prison of Amsterdam. The Rasphuis prison was founded in 1596 for beggars and malefactors and has often been called the first prison. It instituted three principles that were to continue in more modern prisons: 1) length of stay could vary according to conduct (individual sentencing); 2) work was obligatory; and 3) there was a regime of exercises that included religious practices. A strict timetable, a system of prohibitions and obligations, continual supervision, exhortations, religious readings, a whole complex of methods 'to draw towards good' and 'to turn away from evil' held the prisoners in its grip from day to day (ibid, p. 121)

The Flemish model at Ghent was established in 1749 and was organized around work and economics for those who were idle in society. Prisoners were kept long enough to develop habits of work but not so long as to induce

discouragement. The English model at Gloucester, established in 1779 continued to operate on the principle of developing work habits and added the religious principle of solitude reworked as isolation.

The cell, that technique of Christian monasticism, which had survived only in Catholic countries, becomes in this protestant society the instrument by which one may reconstitute both *homo oeconomicus* and the religious conscience. Between the crime and the return to right and virtue, the prison would constitute the 'space between two worlds' the place for the individual transformation that would restore to the state the subject it had lost (ibid, p. 123)

Finally, there was the American model at Philadelphia, founded in 1790 under the direct influence of a Quaker movement that consciously and explicitly used religious notions of conversion and spirituality, the reading of scriptures, morality, and solitude to give meaning to and guide its operation (Scotnicki, 1992). Foucault points out that the Philadelphians knew about Ghent and Gloucester and may also have been aware of the Rasphuis. Their model included compulsory work in solitude and silence, a strict timetable, the partitioning of types of offenders, solitary confinement for the most serious offenders, and an overall effort to prevent communication between prisoners.

A unique aspect of the Philadelphia prison at Walnut Street was that it did not publicize the penalty. The social body knew of the crime and the sentence, but after sentencing the machinery of the penal system operated behind the walls of the prison.

The punishment and correction that it must operate are processes that unfold between the prisoner and those who supervise him. They are processes that effect a transformation of the individual as a whole - of his body and of his habits by the daily work that he is forced to perform, of his mind and his will by the spiritual attentions that are paid to him.²¹

Also specific to the Philadelphia system of control by the administration and most important in the view of Foucault was that the administration developed a body of knowledge about each person who entered the system. There were reports of the crime itself, of the offender's behavior before and after sentence and during prison. Divisions within the prison were made not according to the crime of a person but according to the disposition of a person. This system of gaining knowledge about prisoners was to take root particularly in the United States where the human sciences of criminology and criminal justice have flourished. Foucault develops this point into a second of his four maxims for the

²¹N.K. Teeters, *The Cradle of the Penitentiary* (1935)..

study of the history of prisons: regard the history of penal law and human sciences as a single process of epistemological-juridical formation - i.e. make the technology of power the very principle both of the humanization of the penal system and the knowledge of man.

For Foucault the three models that were used to develop the prison system in Europe and America marked but did not give rise to the transitions that were occurring in society at the time of their birth. It is these transitions that explain the dazzling rise of the new penal system of incarceration.

The Birth of a Disciplinary Society

Changes in the public discourse of power and new ways of gaining knowledge were translated into structural shifts in many fields: business, finance, child rearing, medicine, crime and punishment, schools and the military. Society discovered that what Foucault calls discipline could produce enormous wealth, as well as tremendous knowledge and power over individuals. Educational, medical, penal, and social disciplines and their institutions became general formulas of domination. Whereas the monastic disciplines of the past had aimed at renunciation and mastery over the body for the sake of a communal

salvation that lay beyond society, the new forms of discipline aimed at optimizing the utility of each individual for the progress of society.

It could be said that the theological virtue of hope was no longer situated in both this and the after-life but only in this life.

The disciplines mark the moment when the reversal of the political axis of individualization - as one might call it - takes place. In certain societies, of which the feudal regime is only one example, it may be said that individualization is greatest where sovereignty is exercised and in the higher echelons of power. The more one possesses power or privilege, the more one is marked as an individual, by rituals, written accounts or visual reproductions.....In a disciplinary regime, on the other hand, individualization is 'descending': as power becomes more anonymous and more functional, those on whom it is exercised by surveillance rather than ceremonies, by observation rather than commemorative accounts, by comparative measures that have the 'norm' as reference rather than genealogies giving ancestors as points of reference; by 'gaps' rather than by deeds. In a system of discipline the child is more individualized than the adult, the patient more than the healthy man, the madman and the delinquent more than the normal and the non-delinquent (Foucault, 1975, p. 192).

The new disciplinary society succeeded in producing docile bodies that were productive for society through the art of distributing people in enclosed areas and cells, places of utility where people could be ranked and positioned one

against the other. "In organizing 'cells', 'places', and 'ranks' the disciplines create complex spaces that are at once architectural, functional and hierarchical (ibid, p. 148)." Within these places (schools, hospitals, prisons, armies, mental institutions) all human activity could be controlled through the use of a rigid timetable and the setting out of a series of activities for all during each time period.

These two great 'discoveries' of the eighteenth century - the progress of societies and the geneses of individuals - were perhaps correlative with the new techniques of power, and more specifically, with a new way of administering time and making it useful, by segmentation, seriation, synthesis and totalization (ibid, p. 160).

Religious techniques of training and discipline were appropriated and transformed the theme of a perfection towards which the exemplary master guides the pupil became with them that of an authoritarian perfection of the pupils by the teacher; the ever-increasing rigorous exercises that the ascetic life proposed became tasks of increasing complexity that marked the gradual acquisition of knowledge and good behavior; the striving of the whole community towards salvation became the collective, permanent competition of individuals being classified in relation one another (ibid. p. 160)

By creating and training individuals and combining their forces through carefully structured cooperation society greatly increased its power. The means of this

training were: 1) hierarchical observation - a functional network of relations and supervision to produce power; 2) normalizing judgment - using uniform standards to judge, rank and control people, judgment of the person rather than their actions; and 3) examination - a never ending series of examinations that are rituals of power that serve both to increase the knowledge of each individual and decrease their freedom. Each of these methods were used to construct the prison system and their effects remind us of another of Foucault's maxims for the study of the birth of the prisons: that we must regard punishment as a complex social function that has both repressive and positive social effects.

It is often said that the model of a society that has individuals as its constituent elements is borrowed from the abstract juridical forms of contract and exchange. Mercantile society, according to this view, is represented as a contractual association of isolated juridical subjects. Perhaps. Indeed, the political theory of the seventeenth and eighteenth centuries often seems to follow this schema. But it should not be forgotten that there existed at the same period a technique for constituting individuals as correlative elements of power and knowledge. The individual is no doubt the fictitious atom of an 'ideological' representation of society but he is also a reality fabricated by this specific technology of power that I have called 'discipline'. We must cease once and for all to describe the effects of power in negative terms: it 'excludes', it 'represses', it 'censors', it 'abstracts', it 'masks', it 'conceals'. In fact, power produces; it produces reality; it produces domains of objects and rituals of truth. The individual and the knowledge that may be gained of him belong to this production (ibid).

To get an image of what this enforcement of discipline means in human terms Foucault relates a story of how a Grand Duke named Mikhail kept his regiment under review and presenting arms for one hour. After this review the Duke remarked "Very good, only they breathe". This story contrasts with a story from popular folklore about Michelangelo that reflects on what he was trying to achieve in his work. After he had completed his great statue of Moses, Michelangelo, like the Grand Duke Mikhail, was satisfied but not satisfied. In the frustration of his artistic aims, which were opposite to those of Mikhail, Michelangelo was said to have picked up a mallet and struck Moses on the knee shouting "Speak". That is why there is a chip in the knee of the statue of Moses. Discipline, therefore, may be a productive force, however, it is not a creative force as such.

For Foucault all of these nineteenth century disciplinary techniques and mechanisms of power can be traced to techniques that were learned through confronting leprosy and the plague. The marking of the leper led to a binary system - mad/sane, normal/abnormal, dangerous/harmless - excluded the abnormal people and gave rise to the idea of a pure society. The street-by-street and house-by-house analysis of a city to find and isolate the plague germs

and the rigorous coercive confinement of those who were sick led to the utopian idea of a disciplined society.

Both of these mechanisms - separation and isolation - came to be used in the prison system. Bentham's famous panopticon is the architectural figure for the composition of all of the disciplinary forces. Prisoners in individual cells on the circumference of the prison were to be visible at all times to a guard in a central tower who himself could not be seen by the prisoners. Never knowing when they were under surveillance but knowing they were always under surveillance, the prisoners who were the objects of power were induced to become the subjects of power as they were manipulated to watch themselves. In this way the constant operation of the mechanisms of power in the panopticon assured the automatic functioning of power. For this reason there were no bars on the inside walls of the cells in Bentham's design, constant surveillance would be sufficient to keep people in their place.

For Foucault the three models for the new penal system- Ghent, Gloucester, and Philadelphia - marked but did not invent the transition from a monarchial to a disciplinary society. So the prison quickly came to be accepted by society as the

self-evident punishment, the penalty par excellence for all criminals regardless of their crime, age or any other factor. The prison introduces the procedures of dominance that are characteristic of a certain kind of power that swept Europe and America in the nineteenth century. Through an intensification of the disciplines - through isolation, work, and a varying sentence of time - criminals could be retrained and rendered both docile and useful. The prison became a total institution, not merely depriving people of their liberty, but taking over their time, their daily activities, their education, their eating, in fact all of their decisions.

Ethics under the Disciplinary Society

As I noted above Foucault does not directly address the question of ethics in his treatment of the various forms of power that have emerged historically in the ongoing public discourse about crime and punishment. It is clear, however, that Foucault is not in favor of the dominance and control that the extended penal mapping of the social body achieves over individuals despite the fact that he believes power produces both positive and negative effects. In his personal life Foucault fought many battles with French and other political authorities defending prisoners who, in his view, were being maltreated. He even founded

an organization to defend prisoners. And yet, although Foucault paints a disturbing picture of how society uses the penal system to extend a social structure that primarily treats individuals in utilitarian and disciplinary terms he never offers a view of a non-disciplinary society or suggests an alternative to prison as a solution to the problem of crime.

To consider this question of the ethics of the penal system as it now operates through the primary punishment mechanism of the prison I return to the work of MacIntyre. Like Foucault, MacIntyre traces what he calls the modern "invention" of the individual to the Enlightenment. For MacIntyre the Enlightenment was a grand project to find a rational basis for justifying morality, but a project that failed and was doomed to fail by definition. For with the emergence of the individual, morality lost its context and its bearings. Before the Enlightenment, as we saw above, the individual emerged from society and had a definite role in society; a person's telos or endpoint to which he or she aspired gave society a reference point for judging the morality of his or her actions. After the Enlightenment, the individual was created apart from society and he or she had no single identity and no telos. A person's individuality was created through their own choices. Indeed this concentration on the constant remaking of one's

individuality was one of Foucault's central guiding beliefs in his own life.

Foucault continually sought to recreate himself, to break out of any single identity. He believed that any present self-identity was a barrier to the discovery of truth and to his work. This desire of Foucault helps to explain the considerable role of sado-masochistic practices in his own life. Foucault was a man of intense feelings and clarity of thought, but one who neither desired nor felt he had any permanent essence or stable identity. He seems therefore to have had no reason or anchor in life that would lead him to resist what for his personality were the adventurous pleasures and insights of sado-masochism that Miller documents in his biography of Foucault's life²².

Given the integral role of sado-masochism in Foucault's life one must, I believe, bring this facet of his life into a reading of his work Discipline and Punish: The Birth of the Prison if one is to read it correctly. Foucault used dominance and submission in a sexual way in his personal life for he felt this was a way to resist and subvert the disciplinary society. Thus while Foucault's writing only informs about the operation of techniques of power in society, his personal life was a witness to the fact that wherever there is power exercised over people there is

²² J. Miller, *The Passion of Michel Foucault* (Doubleday, NY: Anchor Books, 1993).

also resistance to the exercise of that power. Here too, it may be helpful to note the distinction between having power "over" people and having the power "to" do things. Catholic moral theology has always affirmed the potentially ethical basis of a person's or society's power to do good and has tended to question the very possibility of an ethical exercise of power over people.

Foucault's emphasis on power as the play of dominance and submission through the use of discipline by society especially in penal practice is correct. His emphasis on power as dominance and submission is, however, one sided. Power can also be used to search for justice, to protect people and minimize the serious problems that are created for people and society by crime, to create good in society, to prevent children from becoming involved in crime, and to help and turn the lives of habitual criminals around. Power can be moral provided it is "power to" and not "power over" and provided that it is rooted in a community. As Bernard Lonergan explains "authentic cooperation is the source of legitimate power".²³

MacIntyre argues, that the loss of the social and thus historical context for

²³ B Lonergan, *Method in Theology* (New York: Seabury Press, 1972).

morality and the subsequent genesis of the individual as a person without any given essence leaves people without the necessary context for morality.

Because of this situation what MacIntyre calls "emotivism" flourishes today.

Emotivism is the belief that moral discourse can not attain to a right and wrong that is independent of personal beliefs but is merely a discourse that is used to express one's personal attitudes and feelings and to persuade others to adopt similar attitudes and feelings. MacIntyre argues that emotivism is correct if we take it as an actual description of the use of moral discourse today rather than as a valid theory of meaning. Thus while people may believe and it may even be true that disputes over presidential election counting in America are solved on the basis of whether or not a majority of the Supreme Court Judges are Democratic or Republican it does not have to be that way. MacIntyre views Nietzsche's response to this situation of use as correct when Nietzsche claims there is no rational basis to morality but wrong when he claims that the only viable option is to create one's own morality on the basis of the will to power. Another option is a hermeneutic of recovery that will reclaim the context of moral discourse and allow society to address current ethical questions from within a non-emotive theory of meaning.

To help us turn to a discussion of the ethics of the penal or prison system as it operates within an emotive context of meaning in America today I wish now to take a closer look at how the prison system developed in North America placing particular emphasis on the role of religion in that development. Up till now I have treated the development of the American and European penal systems together. However, to understand the uniqueness of the American penal story we must travel back in time to 1630 and to Massachusetts Bay on the western shores of the new country. On these shores we can get a glimpse of a society that was originally and explicitly founded on religious ideals that lay within the context of the pre Enlightenment system of royal power that I have discussed above.

CHAPTER TWO: RELIGION, REHABILITATION AND THE U.S.

PENAL SYSTEM

The Politics of the Puritans

In 1630 John Winthrop gave a sermon to his fellow voyagers on the ship that was bringing some of the first Puritan settlers from England to Massachusetts Bay.

We must consider that we shall be as a City upon a Hill, the eyes of all people are upon us; so that if we shall deal falsely with our god in this work we have undertaken and so cause him to withdraw his present help from us, we shall be made a story and a by-work through the world ²⁴

The City upon a hill was to be a Biblical state of such virtue that it would be a beacon to the world and would reform all of Christianity by its example. The settlers, then, were intent on establishing a purified "New England", not on

²⁴ John Winthrop, *A Model of Christian Charity*, vol. 2 (Winthrop Papers Boston: The Massachusetts Historical Society, 1931).

establishing a different England and so they brought their politics, their religious anthropology, their ethics, and their understanding of crime with them.

The settlers came with a charter from the King of England to settle the land and establish a British colony on behalf of the King. Although the puritans were more interested in a return to the Biblical simplicity and purity of the Church than in the exercise of civil power, the royal power still operated in their midst and shaped their political structures. Without the backing of the royal power the puritans could not have succeeded. They followed the degrees of the King of England as they applied to their colony.

In England the puritans had held a minority position in both political and religious circles. They were the dissenters whose congregationalism and strict religious beliefs on the need for a more thorough biblical revival had left them open to some ridicule. They felt the church of England was still too "Catholic" and their challenge to the hierarchical rule of the Church of England had identified them as the party of outright opposition to the crown. Not wanting to rebel against the powers that be, the puritans choose to remain politically and

religiously loyal but to withdraw from the English scene to a place where they would have greater freedom for their own views.

Politically, then, the puritans went from being the opposition party to being the ruling party. As the opposition party it was easier to insist that each congregation must follow only God and their own conscience without the interference of any intermediaries and to criticize those in power for their inadequate religious performance. As the ruling party, however, it quickly became necessary to develop a public system that would maintain the purity of the colony as a "City upon a Hill" and ensure that people were loyal to the colony and the crown and that their consciences were correctly informed.

In theory, at least, each soul was left to negotiate his own way to heaven and was encouraged to act upon the prompting of his own conscience; but in fact, an administrative machinery was slowly developing to make sure that each private conscience was rightly informed and loyal to the policies and programs of the state. The clergy, naturally, played an important role in this arrangement. It became their job to keep order among the various congregations, to instruct men in their duty toward the state as well as toward God, and perhaps most important, to lead the congregation in deciding what persons were eligible for membership in the larger corporation.²⁵

²⁵ Erikson.

Because citizenship of the colony was based on whether or not a person was a member of the church, who had undergone a genuine religious conversion experience, the religious motivation for the founding of the colony tended to dominate the setting up of the administrative machinery that was to run the colony and enforce its laws.

Christian Anthropology and Ethics under the Puritans

The New England settlers were serious about their religious mission. They hoped to establish New England as the spiritual capital of Christendom, the headquarters of the Protestant Reformation. Kai T. Erikson in his book The Wayward Puritans explains how they had a heightened and exaggerated sense of mystery, a feeling that they were involved in a cosmic drama of mythic proportions.

They were a chosen company of saints, carrying a commission from God to cleanse the churches of Christ throughout the world by restoring them to the purity and simplicity they had known in the days of the Apostles. The impulse which brought these early immigrants across four thousand miles of ocean, then, was primarily one of revival, looking back all the way to Biblical times for its basic models and sanctions.²⁶

²⁶ *ibid*, v

The Puritans were a revivalist religious movement who harkened back to New Testament times and believed that the Word of God could provide the basis for human government and the usual business of life. The Puritans were Calvinists, their piety was based in conversion experiences, it contained an emotional fervor and a sense of both sin and pride. Their religious practices were strict and they longed for an experience of grace, to be touched by and to touch God. This conversion experience brought with it a responsibility and a competence to teach others. Being of Calvinist temperament, the Puritans had a deep distrust of hierarchy; they believed there could be no intermediaries between men and God. The Bible was the sole criterion for truth both in civil and in church life. The Bible was the complete guide to truth that had been discovered in its entirety for all times. Those who were chosen already knew this truth. The doctrine of predestination loomed large in this respect for some were chosen and some were not.

Although church and state should be separate - church ministers could not be elected to civil office or interfere too much in political life - both church and

state answered to the same authority of the scriptures. It became the job of the clergy, the people who were the authorities on the Bible to keep order among the various congregations and to be the final arbiters of the laws. The ministers decided who had had a true conversion and who should get the privileges of franchise, for the privilege of franchise was reserved to those who were chosen. The ministers were also the final arbiters of the laws that were enforced by the magistrates for in New England the Bible became the criterion for judging if a person had committed a crime. For example, failing to go to church on Sunday was both a religious violation and a crime.

The Sociology of Crime under the Puritans

In Massachusetts Bay the trappings of the royal power to punish were very similar to those discussed in chapter one in the royal system of punishment. Hangings, floggings, banishment, torture, confessions, and the power of the magistrate to determine the truth were common attributes of the power to punish. Puritan justice was severe, though perhaps no more severe than the justice of other societies at that

time. What made it seem more severe is the sense of cold righteousness and lack of emotion that the New England Puritans brought to the dispensation of their justice.²⁷

In America, however, the political and religious boundaries of the puritan identity had changed. Now they were in power and they were guided by a mythical structure which said the church was made up of those "visible saints" who could show by their prosperity and moral rectitude that they belonged to God's elect. Their society contained the "sure" - those who were in charge of the community and responsible for it, the "unsure" - honest folk who kept working until they were sure, and "others" - those whose deviancy was a sign of their pre-destiny in hell. Punishment of these deviants carried with it images of burning and of hell. Thus punishment not only protected society but was an act of fealty to God's predestined plan.

God Almighty, in his most holy and wise providence, hath so disposed of the condition of mankind, as in all times some must be rich and some poor, some high and eminent in power and dignities, others mean and in subjection.²⁸

²⁷ Erikson.

²⁸ Winthrop.

Erikson believes that shifts in the boundaries or identity of a society are apt to lead to crime waves, for society will either create new deviants or use existing deviants to help define itself and establish firmer boundaries. Society will either focus more closely on maintaining an existing boundary or set up a new boundary that has to be enforced. From 1630 to 1700 three "crime waves" rocked the Puritan settlement. Each of these crime waves mirrored the religious structures and imagery of the society just as the power of the gallows mirrored the power of the king.

The first crime wave concerned a Mrs. Hutchinson and the Antinomian controversy. Mrs. Hutchinson, a devout Puritan with a lively following in the community, claimed that only two of the ministers in the colony were truly chosen and qualified for their job. This was a direct challenge to a shift in the Puritan's congregationalism as the leaders now insisted that only certified ministers were competent to judge who was chosen and therefore franchised. The leaders also felt that the chosen ones should be subject to church discipline, not because their salvation depended on the church, but to prepare them for their heavenly participation. If God gives grace, Mrs. Hutchinson argued, why must it be ratified, especially by a minister who may not themselves be chosen?

This was such a serious threat to the new colony that Mrs. Hutchinson and her followers, the Antinomians, were labeled as heretics and the colony began to fear outsiders, for more heretics might appear in their midst. First the General Court issued a law in 1637 that no stranger could remain in the colony longer than three weeks without the permission of a magistrate. Then a religious synod was called and a list of "unsafe opinions" was promulgated and a trial of the Antinomians was held. At the trial Mrs. Hutchinson claimed her views were based on a personal revelation from God and in response all of the ministers agreed that the age of revelation was over. In the end Mrs. Hutchinson and a minister were banished and went to Rhode Island, deputies were dismissed, eight people were disenfranchised and 75 were disarmed. In 1648 a comprehensive code of law, written by a minister, was adopted by the colony and further established the administrative mechanisms of the community.

The second crime wave appeared with the Quakers who arrived from England bearing quite a different theology from the Calvinist tradition. The Quakers also carried the new notion of religious tolerance that paradoxically had developed out of the time of the Puritans and Cromwell in England. This crime wave had

moved from theological concerns to a concern over the outer forms of social life. The Quakers who challenged the authority of the magistrates (they kept their hat on in court), showed no respect for Puritan discipline or the ritual observances of community life (they did not attend church), and who gathered together and asked for a subjective freedom the colony could not give, were met with fierce opposition, rigid discipline, and harsher and harsher punishments. Many Quakers were banished, flogged and hanged. The harsher the punishments, the more the Quakers seemed to present themselves to the Puritans for punishment.

Finally Charles II in England ordered the colony to stop the executions and decreed that freedom and liberty of conscience be permitted to all residents of the colony. This meant that franchise was no longer limited to members of the church. Once the hangings stopped the crime wave disappeared and the colony became like most other states where the Quakers had largely been ignored as a force.

The third crime wave from 1692 to 1693 concerned the witches of Salem and represented a shift from a concern about outer discipline to a concern about

inner resources or possession. The community believed the women who were accused of witchcraft had made a compact with the devil and rejected God. A similar understanding of witchcraft had first emerged in Europe in the middle 14th century, then made a serious impression in England in the 16th century and was a late but important arrival in the colony (Erikson, 1966). The focus of the power to punish moved from a judgment of acts that were a threat to the society to a judgment of the inner person. For example, one deranged woman who confessed to having made a covenant with the devil and to having frequent carnal knowledge with the devil was hanged. The words of a witness to the execution show us that the community was unsure whether the hanging was ridding society of a witch or curing a woman of an illness. "Upon this confession, the woman was executed, whereupon Ann Cole was happily delivered from the extraordinary troubles wherewith she had been exercised." It was the practice at the time for a minister to give a sermon before all public executions and explain the religious meaning of the event and those assembled.

By the end of this third crime wave 22 people had died and 19 had been executed. The end of the witch's crime wave essentially coincided with the end

of the Puritan project. The Royal charter had been revoked and the political order was gone. The sense of mission that had sustained the colony no longer existed. Erikson argues, however, that although the city upon a hill may have disappeared that Puritan and New England ideas and images about deviancy still play a vital role in America's penal policy and practice. I shall argue later that Puritan thought which linked predestination and deviancy together is a thread that links some of the penal practices of the monarchial, the post-enlightenment and present day societies.

The early political and religious structures of the colonies were superceded by new structures that stemmed from the Enlightenment. By the time the American Revolution (1775 –1783) was over American society had clearly shifted from the monarchial society to which the early Puritans first belonged to what is perhaps the nation that most epitomizes a society founded upon the notion of free individuals entering upon a social contract. As I have discussed above, America like Europe adopted the ideal of a crime free society and the prison as its main mechanism for an extended mapping of the penal body that would bring about rehabilitation. But in the late eighteenth and early nineteenth century two rival systems of imprisonment emerged in the newly born America. The first to

emerge was the Quaker system in Philadelphia and the second was the Auburn system in New York. The Auburn system, after a sometimes-bitter struggle, finally emerged as the dominant system and it is the Auburn system that Erikson suggests carries on some of the Puritan and New England philosophy of understanding and addressing deviancy.

The Quaker System in Philadelphia

It is ironic that it should be the Quakers, persecuted as criminals by the Puritans who came to set up in 1790 the first penitentiary in America as a separate wing of the jail at Walnut Street in Philadelphia. The Quakers brought the new idea of religious tolerance that had established itself in England and Europe to America and founded Pennsylvania on the principle of tolerance. The Quakers did not tend to exclude people on the basis of their religious beliefs or practices nor were they concerned to force people to their particular persuasion. The Quaker system also differed from the Puritan system in that it encapsulated the beliefs and values of the Enlightenment.

Quaker theology differed in certain essential ways from the Calvinist theology of the first settlers. George Fox the founder of the Quakers was not interested in

predestination; rather he counseled his followers to "walk cheerfully over the earth, answering that of God in every one". Thus, for the Quakers God was in everyone and a respectful interaction with other people, even with those who had committed crime, would bring God to the surface. Quaker spirituality emphasized silence, a silence that would allow the spirit of God that is in everyone to quicken and manifest itself. Fox also put more emphasis on a person's response to the Bible rather than on the authority of the Bible per se: "You will say, Christ saith this, and the apostles say this; but what canst thou say?"²⁹ This religious anthropology found its way into the prison at Walnut Street and its successor penitentiary-the Eastern Penitentiary built just outside the city of Philadelphia.

The reformation of a criminal can never be effected by a public punishment. Experience proves, that public punishments have increased propensities to crimes. A man who has lost his self-respect at a whipping post, has nothing valuable to lose in society. Pain has begotten insensibility to the whip; and shame and infamy. Added to his old habits of vice, he probably feels a spirit of revenge against the whole community, whose laws have inflicted his punishment upon him, and hence he is stimulated to add to the

²⁹ From the testimony of Margaret Fox concerning George Fox at Ulverston steeple house in 1652 as reported in *Faith and Practice*, 1972, Philadelphia Yearly Meeting, Philadelphia, Pennsylvania.

number and enormity of his outrages upon society.³⁰

Bibles and other books of religious practice are provided; the clergy of the different obediences to be found in the town and suburbs perform the services once a week and any other edifying person may have access to the prisoners at any time.³¹

Clearly the intention of the Quakers was to use the penitentiary to bring about a spiritual conversion and a rehabilitation of the criminal that would restore them to "virtue and honesty". Foucault also makes the point that from the very beginnings of the prison system in Europe and America, it was intended by all that the prison should be a place of rehabilitation. However, different understandings of the meaning of rehabilitation existed. The Quakers were more optimistic than the Puritans about the souls of their criminals. The Quakers believed that grace lay in the inner man and that it would emerge in even the worst of men under the right circumstances of penitence and solitude. Dishonest men could become honest men and in this sense the Philadelphia system was a grand and hopeful experiment that reached out to embrace rather than punish or exact vengeance on people.

³⁰ Harry Elmer Barnes and Negley K. Teeters, *New Horizons in Criminology* (New York: Prentice-Hall, 1943).

³¹ Teeters, 1935, 53-54

The Auburn System in New York

The intention of the rival Auburn or more Calvinist system was also to rehabilitate. However, the religious view of human nature held by the Auburn proponents was somewhat more pessimistic and it is in this view of human nature that Erikson sees a connection to and a continuation of the Puritan way of thinking about deviancy. The Auburn system believed in discipline and hard labor, not in solitude as in Philadelphia, but in congregation. The prisoners worked and ate in common areas although speaking was absolutely forbidden. Corporal punishment - floggings and solitary confinement - was used, often brutally, to enforce the no speaking and other rules.

The Auburn system was cheaper to run and seemed more bent on curbing man's inherent wickedness rather than on rehabilitating their wickedness to honesty. Alexis de Tocqueville had this to say about a conversation with Elam Lynds, the first warden of Auburn. "During the whole of this conversation which, with intervals, lasted several hours, Mr. Elam Lynds came continually back to the idea that it was most important of all to break the prisoner into a state of *"passive obedience"*. Mr. Lynds, in fact, makes a good spokesperson for the

Auburn system:

We must understand each other; I do not believe in a *complete* reform, except with young delinquents. Nothing, in my opinion, is rarer than to see a convict of mature age become a religious and virtuous man. I do not put great faith in the sanctity of those who leave the prison; I do not believe that the counsels of the chaplain, or the meditations of the prisoner, make a good Christian of him. But my opinion is, that a great number of old convicts do not commit new crimes, and that they even become useful citizens, having learned in prison a useful art, and contracted habits of constant labor. This is the only reform I ever have expected to produce, and I believe it is the only one which society has the right to expect.³²

Gustave de Beaumont and Alexis de Tocqueville who visited both the Auburn and the Philadelphia systems on a penal fact finding mission from France had this evaluation of the two rival systems.

Perhaps, leaving the prison (Auburn), he is not an honest man; but he has contracted honest habits. He was an idler; now he knows how to work. His ignorance prevented him from pursuing a useful occupation; now he knows how to read and write; and the trade which he has learned in the prison furnishes him the means of existence which formerly he had not. Without his loving virtue, he may detest the crime of which he has suffered the cruel consequences; and if he is not more virtuous he has become at least more judicious; his morality is not honor, but interest. His religious faith is perhaps neither lively nor deep but even

³² Erikson.

supposing that religion has not touched his heart, his mind has contracted habits of order. Finally, if he has not become in truth better, he is at least more obedient to the laws, and that is all which society has the right to demand.

The Philadelphia system, being that which produces the deepest impressions on the soul of the convict, must effect more reformation than that of Auburn. The latter, however, is perhaps more conformable to the habits of men in society, and on this account effects a greater number of reformations which might be called "legal", inasmuch as they produce the external fulfillment of social obligations. If this be so, the Philadelphia system produces more honest men, and that of New York more obedient citizens.³³

Table 1 sets out and contrasts some of the predominant concerns of the two rival systems.

Table 1: Predominant Concerns of the Silent and Separate Penal Systems

The Auburn or Silent System	The Philadelphia or Separate
Desire for obedient citizens	Desire for honest citizens
By developing habits and skills	By developing virtue and happiness
Emphasis on power as control	Emphasis on power as co-operation

³³ Gustave de Beaumont and Alexis de Tocqueville, *On the Penitentiary System in the United States, and Its Applications to France*, trans. Francis Lieber (Philadelphia: Carey, Lea and Blanchard, 1833).

In Erikson's view the Philadelphia system mostly took root in Europe and the Auburn system in the U.S. Puritanism, he believes, started as an international movement but its ethos mainly took root in the U.S.

Religion and the Ethics of the Current Penal System

In the years following the introduction of the Pennsylvania separate system and the Auburn silent system there was such an ongoing clash between supporters of both systems that a rivalry developed between the two sides over which model should be the standard for emerging prisons around the country. The eventual victory of the Auburn system as the dominant model is well documented in such works as McKelvey and Skotnicki. Political, philosophical, theological, economic, and penal pressures had meant that The Auburn system prevailed in the U.S and became the model for a nation-wide expansion of prisons throughout the country.³⁴

Whatever the relative merits of the two rival systems, it is important to

³⁴ Blake McKelvey, *American Prisons: A History of Good Intentions* (New Jersey: Montclair, 1977), A. Skotnicki, "Religion and the Development of the American Penal System" (Doctoral Dissertation, Graduate Theological Union, 1992).

understand that behind both systems there lay a culture that was self-consciously guided by a theological anthropology in its approach to crime. This gave the founders of the U.S. penal system, whatever theological side they were on, a guiding moral vision for the development of the penal system that was rooted in a religious understanding of life.

Skotnicki argues that this moral and religious vision provided the emerging penal system with a sense of direction and gave a meaning and weight to the system that enabled it to legitimately carry its heavy burden of forcibly incarcerating men and women against their will. Over time, however, cultural shifts meant that the influence of a guiding moral and religious vision waned and Skotnicki believes that the waning of a clear moral and religious understanding of the human person has left the penal system essentially rudderless today and thus unable to chart a meaningful course of action.³⁵

Religious symbols, language, and ethics provided the American correctional system with intelligible philosophy and direction throughout much of its history. The process of differentiation, and the conflation of liberal theology and progressive theology,

³⁵ Skotnicki, Andrew Skotnicki, "Continuity and Change in the Pursuit of Criminal Justice," *The International Community Corrections Association Journal* 9, no. 1 (1998).

gradually terminated the conditions under which the religious community could supply such a role. The present status of corrections is aimless and vacuous due to its loss of a moral language, which alone can provide the meaning and motivation required for a system to function coherently.³⁶

The cultural shifts that reduced the influence of a guiding moral vision for the penal system were shifts toward a more secular and rational view of society that enlarged the role of society over against individuals in the production of problems like poverty and crime. At first:

18th century Americans did not define either poverty or crime as a critical social problem they did not interpret the presence of the poor as symptomatic of a basic flaw in the citizen or the society, or indications of personal or communal failing. The fact of the need, not the special circumstances which caused it, was the critical element in the definition.³⁷

This view, however was to undergo a radical change. As we have seen crime was at first identified with sin but the influence of the Enlightenment challenged both the deterministic Calvinistic view of sin and the more hopeful Quaker view of sin as the cause of crime. Ironically this change toward a more secular and rational

³⁶ A. Skotnicki, *Religion and the Development of the American Penal System* (Maryland: University Press of America, 2000).

³⁷ David Rothman, *The Discovery of the Asylum: Social Order and Disorder in the New Republic* (Boston: Little, Brown, 1971).

understanding of crime and its causes was carried forward by changes in Protestant thinking from the 18th to the 19th century that focused more and more concern and attention on social reform. Rothman documents this movement from religious concern about individual conversion to concern about social reform. The change in religious viewpoint took place amid the profound set of social, intellectual, and economic changes that occurred from 1790 to 1830. The population was growing; towns were developing and people began to move around the country looking for work and they became displaced from place. More and more people looked to social engineering to solve problems of poverty and crime. New ideas about crime and punishment emerged led by Beccaria who has been called the Father of Criminology: "The severity of punishment itself emboldens men to commit the very wrongs it is supposed to prevent." And again, "Do you want to prevent crimes? See to it that the laws are clear and simple and that the entire force of a nation is united in their defense".³⁸ People began to blame society for social problems and then to believe that by reforming society these problems could be solved. If the environment was responsible for crime it must be possible to correct society and eradicate crime. Major prison reformers like Louis Dwight, a man of strict

³⁸ (ibid, 59, 60)

puritan morals and founder of The Boston Prison Discipline Society in 1825 and William Channing, a Unitarian minister and founder of the New York Prison Association in 1845 were deeply motivated by their religious faith, however, they were instrumental in helping the rational and secular social discourse of this time replace the moral and religious discourse that had guided the earlier penal system. "Channing and Dwight echoed prevailing social anxieties; they did not make a uniquely religious perspective relevant. This vision of the well-ordered society did not indicate the influence of their special training. In this sense, they, unlike their predecessors, followed the pack rather than heading it."³⁹

By 1887 the "penitentiary" in Philadelphia had given way to the "reformatory" in Elmira, New York. The reformatory was a prison run by Zebullion Brockway who is one of the most famous of wardens in U.S Prison History. Brockway himself had undergone a profound religious conversion experience and his life was directed by this religious influence, however, Brockway has been called the creator of Pedagogical Penology. His reformatory was inspired by principles, which had been enunciated by people before him such as Sir Walter Crofton in Ireland who had developed an Irish model for prisons. Crofton's system graded

³⁹ (ibid, 75)

prisoners in their degree of reformation, he had a system to check progress and restrain disorders, he used education, religion, and congregate labor as reformatory agents, and had a system where people could earn their "ticket of leave" for release. Brockway was inspired by these methods and he developed the reformatory system from them. Notions of reform and rehabilitation through human rather than divine intervention had taken root and these notions were worked and reworked under different forms throughout the 1800's.⁴⁰ American society had become optimistically responsible for the reformation of criminals and a type of outward or behavioral education had become its choice method for rehabilitating offenders. In this approach we can see the consequences of the fourth and last of Foucault's general rules for his study on discipline and punishment: regard the entry of the soul into penal justice as the effect of a transformation of the way in which the body itself is invested by power relations, i.e., how man and woman, the soul, the normal or abnormal have come to duplicate crime as the objects of penal intervention.

According to McKelvey the 1900's ushered in the end of an era as professors, teachers, the social sciences and an interest in social reform replaced the

⁴⁰ McKelvey, Skotnicki, "Religion and the Development of the American Penal System".

influence of chaplains, religious leaders, scriptural guidance and an interest in individual conversion. All that remained of religion in the penal system was the mission chaplain whose role has survived in the prison to this day. These new prison chaplains

however, tended to follow the dominant concerns of the penal system in practice and in large measure only symbolically kept the religious traditions alive.⁴¹

The 1900's continued this trend of social science innovation and waning religious influence, but also slowly ushered in a new element of disillusionment to temper the optimism of the 1800's as crime continued to be a constant problem for society and as efforts to rehabilitate offenders seemed to fail. The disillusionment with reform efforts and the notion of rehabilitation finally came to a head in the 1970's when a criminological doctrine named "nothing works" emerged from the very social scientific community that had worked for so long

⁴¹ McKelvey, Skotnicki, "Religion and the Development of the American Penal System", Jody Sundt and Francis T Cullen, "The Role of the Contemporary Prison Chaplain," *The Prison Journal* 78, no. 2 (1998), Jody L. Sundt, Harry R. Dammer, and Francis T. Cullen, "The Role of the Prison Chaplain in Offender Rehabilitation," *Journal of Offender Rehabilitation* (Forthcoming).

to bring about reform and rehabilitation. In 1974 a sociologist published a review of 231 rehabilitation studies from 1945 to 1967 and he concluded that “nothing works” because he felt the studies provided little evidence that the treatment or reform programs had reduced repeat crime among offenders .

Martinson’s article, which was published in a conservative and neo-liberal political context, produced a storm of news coverage, which very quickly generated a widespread negative view about the effectiveness of rehabilitation programs. Both academics and the general public began to believe that reform programs to reduce crime and recidivism were not effective .

Despite the fact that Martinson reversed his own findings in a later article the “nothing works” doctrine took hold and was in part responsible for a paradigmatic shift of the criminal justice system from a focus on the reformation of society and the person of an offender to a return to punishment as the most appropriate way to address and deter crime. Although the balance between reformation and punishment tipped toward an emphasis on punishment in the 1970’s it is important to understand that both of these opposing views of what is most effective in terms of rehabilitation emerged out of the non-theological anthropological search to establish a rational and essentially secular system of criminal justice that would bring about reform of both the individual and of

society. It is this rational and secular system of criminal justice that is the immediate context for the present study of the influence of religion on the rehabilitation of prisoners and so it is time to examine the present system of crime and punishment in greater detail.

Crime and Punishment in the U.S. Today

Since the 1990's the crime and victimization rate in the U.S. has been falling steadily but this welcome drop in crime and victimization rates can all too easily obscure the fact that overall crime rates in the U.S. have been rising at least since 1960. Both violent and property crime rates have fluctuated over time in the U.S. For example, between 1971 and 1981 the violent crime rate rose, then it fell until 1985 but rose again until 1991. Since 1991 violent crime rates have been falling substantially. In 1996 there were 634 violent crimes a year for every 100,000 Americans, a lower rate than 1991 but a rate of violent crime that was 60 percent higher than the 1971 rate (396 per 100,000). The rate of property crime fluctuated in a similar manner and was 18 percent higher in 1996 than in 1971. However, most types of crime had their highest peak in the 1980s and

were at lower levels in 1996 than 1980.⁴²

When American rates of crime are compared to the rates of crime in other countries we find that American crime rates for many property and violent crimes are not higher than those in other Western industrialized countries. For example, the overall victimization rate in 1995 was lower in the U.S. than in England, Wales and the Netherlands and only slightly higher than in Canada, France, and Sweden.⁴³ Criminologist Michael Tonry explains in more detail:

Crime rates in the U.S. in the 1990s are, for the most part, not higher than in other Western countries. We know this from the International Crime Victimization survey which has been conducted by national governments in most major Western countries since 1989 _____. For property crimes, the U.S. is in the middle of the pack. Chances of being burglarized, having your pocket picked or your car stolen, are considerably higher in England and several European countries. For most violent crimes, American rates are among the highest, along with Australia, Canada, Spain and France, but not the highest. Chances of being robbed, assaulted, or victims of stranger rape are higher in several other Western countries. Where the U.S. stands out is in gun violence; our rates of robberies and assaults involving guns, and of gun homicides, are substantially higher than elsewhere.⁴⁴

⁴² Michael Tonry, "Crime and Punishment in America, 1971-1996," *Overcrowded Times* 9, no. 2 (1998).

⁴³ Leena Kurki, "International Crime Survey: American Rates About Average," *Overcrowded Times* 8, no. 5 (1997).

⁴⁴ Tonry.

In 1997 about one out of every 25 Americans over the age of 12 suffered a violent crime (rape, sexual assault, robbery, assault), and about one in every four American households suffered a property crime (household burglary, motor vehicle theft, theft). Minority groups are victimized at far higher rates of victimization in the U.S. A Harvard law school professor gives us some of the basic facts about unequal victimization rates among African Americans. Black teenagers are nine times more likely to be murdered than their white counterparts. In 1996 young black men were murdered at the rate of about 45 per 100,000. By 1990 the rate was 140 per 100,000. By contrast, in 1990 for young white men the rate was 20 murder victims per 100,000. One out of every 21 black men can expect to be murdered at death rates double that of American soldiers in World War II.⁴⁵ Similarly higher states of victimization are found among Hispanics and Native Americans.

There are many forms of punishment for those who are caught and convicted of crime in the U.S. Punishment can include probation, fines, community service, home arrest, electronic monitoring, intensive supervision, chain gangs, court ordered drug treatment, extradition, deportation, boot camps, loss of rights like

⁴⁵ Randall Kennedy, *Race, Crime and the Law* (New York: Pantheon Books, 1997).

the right to vote, to serve on a jury, and to hold public office, incarceration in jails and prisons and the death penalty. Today American punishment policies are exceptionally severe when compared to earlier policies in the U.S. and to current punishment policies in other Western countries throughout Europe. In the 1960s the death penalty in the U.S. was falling into misuse and the incarceration rate was dropping. At that time U.S. penal practices were not significantly different from other Western countries. Since the 1960s everything has changed. In 1990 the imprisonment rate in America was 458 per 100,000 and in 1997 it was 668 per 100,000. This rate of imprisonment was 6 to 12 times higher than other Western countries where the rate of imprisonment was between 50 and 135 per 100,000.⁴⁶ By the end of 2000 the number of prisoners (federal and state prisons and state jails) in the U.S. grew to 2,071,686. Thus the rate of imprisonment in America had risen again to 699 per 100,000 in 2000. This means that at the end of 2000 one in every 143 U.S. residents was incarcerated. Other indications of American severity of punishment can be seen in the reduction of constitutional and other safeguards afforded to criminal defendants at a time when these safeguards are being extended throughout

⁴⁶ Andre Kuhn, ed., *Sanctions and Their Severity*, ed. K Kangasunta, M Joutsen, and N Ollus, *Crime and Criminal Justice Systems in Europe and North America 1900-1994* (European Institute for Crime Prevention and Control (HEUNI), 1998).

Europe under the influence of the European Human-rights Convention and Court. Most Western countries have abolished the death penalty whereas the U.S. has retained and uses the death penalty with increasing frequency. Other examples of American severity of punishment relative to comparable countries include the use of long mandatory minimum sentences, life-without-the-possibility-of-parole sentences and extremely long prison terms .

Because we have seen above that the rates of crime in the U.S. are not significantly higher than the rates of crime in other Western countries we know that the use of severe punishments in the U.S. stems from a series of policy decisions by legislators since the 1960's that were backed by public opinion to treat crime severely. This has often been called the "get-tough" or "just desserts" movement.⁴⁷ This decision by politicians in America to "get tough" in the face of crime is unique, for example when politicians in Germany and Finland were faced with the same steep rise in homicide and violent crime rates they chose to either maintain or lower their incarceration rates. In other words

⁴⁷ For a detailed discussion on why U.S. incarceration rates are so high see Eliot Curie, *Crime and Punishment in America: Why the Solutions to America's Most Stubborn Social Crisis Have Not Worked and What Will* (New York: Henry Holt, 1998), Michael Tonry, "Why Are U.S. Incarceration Rates So High," *Overcrowded Times* 10, no. 3 (1999)..

other countries have not relied as heavily as America on a punitive response to the rising rates of crime that began in the 1960's. In spite of the fact that current levels of nearly all types of criminal activity are lower than they were in 1980, the U.S. continues to incarcerate more people per capita than any other industrialized country. From 1970 to 1996 the prison population rose over sevenfold (from 250,000 in 1972 to 2 million in 2000). Just as we saw that members of minority groups are victimized at higher rates so too members of minority groups are incarcerated at higher rates. African-Americans make up 12% of the population but are nearly 50% of the imprisoned (nationally, one in ten African American males are in prison, on probation or parole). Latinos are 9% of the population but 14% of the incarcerated.

Among those who are incarcerated we also see a high proportion of other social problems besides criminal activity. According to the Department of Justice, the following statistics help to describe the 2 million people currently behind bars. Forty percent of court commitments to prisons are for drug offenses. Seventy percent of inmates are illiterate and as many as 200,000 suffer from some mental illness, while sixty to eighty percent of inmates have a history of substance abuse.

While the vast majority of people who are under some form of punishment in our country are men it is also true that women are being punished by the criminal justice system in increasing numbers. Largely as a result of tougher drug laws, the number of women being incarcerated has seen a dramatic increase: a full 300% since 1980. This rate of increase is higher than the rate of increase for men. Seventy percent of women behind bars are nonviolent offenders and 75% have left children behind as they go to prison.

In 46 states and in the District of Columbia people who are convicted of a felony lose their right to vote while in prison. By way of contrast the Irish Courts recently held that prisoners must be allowed to vote by postal vote in national elections in Ireland. The irony with regard to the Irish situation is that Irish citizens who are abroad at the time of elections are not allowed a postal vote. Thirty-two states also disenfranchise felons on parole and twenty-nine deny the right to vote to those on probation. Under laws that are apparently unique to the U.S. and unknown in other countries throughout the world fourteen states disenfranchise for life ex-offenders who have fully served their sentences. The results of policies to punish offenders with the loss of their right to participate in elections include the following: An estimated 3.9 million Americans have

currently or permanently lost the right to vote because of a felony conviction; 1.4 million disenfranchised persons are ex-offenders who have completed their criminal sentences; 13 percent of the black adult male population is disenfranchised because of a felony conviction, a rate seven times the national average; and in Alabama and Florida, 31 percent of all black men are permanently disenfranchised.⁴⁸

Nationally, we now spend over \$35 billion annually on Corrections. In many states the budgets for education, health and human services, and public transportation systems have remained stagnant or declined while more and more prison construction projects are funded with rising correctional budgets. Surveys and studies have shown that public attitudes toward crime are extremely complex, often times very nuanced and often times contradictory.⁴⁹ For example, despite increasing public support for punitive responses to crime,

⁴⁸ Jamie Felner and Marc Mauer, *Losing the Vote: The Impact of Felony Disenfranchisement Laws in the United States* (Washington DC: The Sentencing Project and Human Rights Watch, 1998), Jamie Felner and Marc Mauer, "Nearly 4 Million Americans Denied Vote Because of Felony Convictions," *Overcrowded Times* 9, no. 5 (1998).

⁴⁹ Julian Roberts, "Public Opinion, Crime and Criminal Justice," in *Crime and Justice: A Review of Research Vol 16*, ed. Michael Tonry (Chicago: University of Chicago Press, 1992), Mark Warr, "The Polls-Poll Trends: Public Opinion on Crime and Punishment," *Public Opinion Quarterly* 59 (1995).

when the public are given the choice most Americans believe that money spent on educational and job-training programs is more effective as a crime fighting measure than money spent on building prisons. The general public believes in rehabilitation and wants to see this as one of the goals of the criminal justice system.⁵⁰

There is evidence, however, that the public tend to follow the lead of politicians and the media in forming their views about crime and punishment. This means that current criminal justice policies may not simply be a reflection of popular sentiment.⁵¹ Ironically, as crime has declined, news coverage of crime has intensified, increasing fear and polarization. For example, the U.S. homicide rate dropped by 20 percent from 1992 to 1996 and yet during that period coverage of homicide on evening news reports went up by 721 percent.⁵²

⁵⁰ Francis T. Cullen and others, "Public Support for Correctional Treatment: The Tenacity of Rehabilitative Ideology," *Criminal Justice and Behavior* 17 (1990), J. Doble and J. Klein, *Punishing Criminals: The Public's View* (New York: Edna McConnell Clark Foundation, 1989).

⁵¹ Katherine Beckett, *Making Crime Pay: Law and Order in Contemporary American Politics* (Oxford University Press, 1997), Francis T. Cullen, Gregory A. Clark, and John F. Wozniak, "Explaining the Get Tough Movement: Can the Public Be Blamed," *Federal Probation* 49, no. 2 (1985).

⁵² Center for Media and Public Affairs, 2000

Offender Rehabilitation in the U.S.

As we saw above the dramatic rise in the punitiveness of the American Penal System since the end of the 1960's has been driven in part by a widespread disillusionment among academics and the general public about the effectiveness of programs to rehabilitate offenders and prevent crime. Because the belief that "nothing works" is so prevalent we need to examine that belief closely.

There are many ways to understand and to operationalize the concept of rehabilitation. Two important proxies for rehabilitation among incarcerated people have received close attention in the literature: 1) infractions or disciplinary violations that occur after an offender is convicted and while he or she is serving a jail or prison term; and 2) repeat crimes after an offender is released from their jail or prison term.

The question is, therefore, does anything work to prevent or reduce in-prison infractions or recidivism upon release from jail or prison?

More sophisticated and nuanced reviews of the rehabilitation literature since Martinson's review have concluded that treatment does reduce infractions and repeat crime. These reviews have used a statistical technique called meta-analysis that allows researchers to combine and compare, in one study under a common metric, the results of hundreds of studies. The proponents of those meta-analytical reviews claim that they have been able to demonstrate that treatment programs do work to reduce crime. These studies are controversial for both their methods and findings and some researchers claim they are flawed in their findings. The findings from those studies are gaining ground, however, and they are becoming more accepted as at least a far closer approximation of the truth about the effectiveness of rehabilitation programs than the "nothing works" view. These studies have also found that no one type of treatment or rehabilitation program works for every offender. The effectiveness of rehabilitation programs depends on many things such as program context, type of offender, content of program, and style of program. Some types of programs or interventions have been shown to actually increase recidivism or repeat crime. In general, however, treatment programs that follow certain criteria (see below) are deemed to be "appropriate" interventions and these "appropriate"

interventions have been found to reduce recidivism. Other kinds of intervention, which do not follow these criteria, are called "inappropriate" interventions and these interventions either have no effect on recidivism or slightly increase recidivism. Programs or interventions that follow a "get tough" or "just desserts" model of criminal justice intervention (such as boot camps, longer sentences and intensive supervision programs) have been found to belong in the "inappropriate" category.⁵³

One review of the literature examined 321 comparisons of offenders who had either spent more time in prison than their counterparts or had gone to prison for brief periods of time compared to being kept in the community on sentences like probation. On average those with the longer prison sentences and those who were sentenced to prison had 5% more recidivism than those who had spent less time or were sentenced to community sentences. Length of time in prison was also found to be associated with increases in recidivism with the overall effect size being an 18% increase. The authors of this review explain their results from a socio-learning point of view. Social learning theory predicts

⁵³ D.A. Andrews and others, "Does Correctional Treatment Work? A Clinically-Relevant and Psychologically-Informed Meta-Analysis.," *Criminology*, no. 28 (1990).

that prisons are "schools of crime". "On the reasonable assumption that there are few treatment programs in place in most prisons, the prison culture should reinforce pro-criminal sentiments. In my view, this iatrogenic effect should be more pronounced for lower risk offenders. They have the most negative things (i.e. antisocial attitudes) to learn".⁵⁴

The socio-learning point of view that Gendreau refers to is a theory of how people learn to behave in the way they do. The clearest and most developed expression of the use of social learning theory in the context of criminology comes from the work of people like Albert Bandura, James Bonta, and Don Andrews.⁵⁵ This theory postulates that criminal behavior is essentially a learned behavior that must always be understood in the context of a person's environment. Because it is a learned behavior it is possible for people to learn other behaviors that are not criminal. The theory holds that people are not born criminals and disputes the notion of "once a criminal always a criminal".

⁵⁴ Paul Gendreau, "Rational Policies for Reforming Offenders," *The International Community Corrections Journal on Community Corrections* 9, no. 2 (1999).

⁵⁵ D.A. Andrews and James Bonta, *The Psychology of Criminal Conduct*, 2 ed. (Cincinnati, OH: Anderson Publishing, 1998), A. Bandura, *Social Learning Theory* (Englewood Cliffs, NJ: Prentice-Hall, Inc., 1977), A. Bandura, "Human Agency in Social Cognitive Theory," *American Psychologist* 44 (1989), Patricia Van Voorhis, "Social Learning Models," in *Correctional Counseling & Rehabilitation*, ed. Patricia Van Voorhis, Michael Braswell, and David Lester (Cincinnati: Andersen, 2000).

Support for social learning theory also comes from work on social attachment and life-cycle theory which has found that offenders who manage to become attached to family and work through developing a rewarding relationship with a spouse or a job as they grow older can move out of the cycle of crime.⁵⁶

Social learning theory does not remove personal responsibility for one's actions when it holds that a person's environment is a crucial and partially determinative factor in a person's behavior, for the theory also holds for the concept of moral agency. Each person has a choice about how to behave in any given context. Indeed if a person chooses to behave in a criminal or anti-social way they must first disengage their own moral reasoning to allow themselves to behave in that way.⁵⁷ Common methods of disengaging one's moral agency are to: 1) vilify one's victim by dehumanizing or blaming them "he deserved a kick in the head because he was moving in on my girlfriend"; 2) link one's actions to worthy purposes – "I was doing the community a service by stealing the car because its owner had left it blocking the road"; 3) obscure personal causal agency by

⁵⁶ Robert J. Sampson and John H. Laub, "Crime and Deviance over Life Course: The Salience of Adult Social Bond," *American Sociological Review* (1990).

⁵⁷ Albert Bandura and others, "Mechanisms of Moral Disengagement in the Exercise of Moral Agency," *Journal of Personality and Social Psychology* 71, no. 2 (1996).

diffusion and displacement of responsibility – “it was John who made me shoot the guy, John was the leader of the gang”; and 4) deny or minimize the injurious effects of one's action on others – “it was OK to steal her VCR because she was insured and it didn't hurt her at all, in fact she got a new VCR out of it”.

In addition to moral agency, however, social learning theory also holds that context and environment are important factors in determining how a person learns to behave. In other words context conditions consciousness. Thus if a person's friends are all involved in criminal activity then he or she has far more opportunities and incentives to learn about doing crime as a way to survive and meet one's needs than a person whose friends are not involved at all in criminal activity. In effect a person is not an isolated being, we are persons-in-community and our behaviors are not totally individually determined. This nuanced understanding of the mixed influence of personal responsibility, learning patterns and environment runs somewhat counter to more polarized beliefs about individuality and personal responsibility that inform much of U.S. culture. On one-side of the spectrum there is the view, held by some evangelical religious traditions, which holds that “crime is a moral problem” whose solution

is an individual "change of heart".⁵⁸ On the other side there is the view, held by a liberal secular tradition, that environmental conditions like poverty, unemployment, and class struggle are the causes of crime.

Social Learning Theory provides a theoretical basis for why "appropriate" correctional treatment has been found to reduce recidivism, and why "inappropriate" correctional treatment has been found to have no effect on or increase recidivism. One review of the literature on treatment compared 159 comparisons (involving about 50,000 offenders in total) of so called "intensive supervision programs" versus regular supervision programs of offenders who were sentenced to probation in the community. The intensive supervision programs involved interventions like: 1) greatly increasing contact between supervisors and offenders; 2) confining offenders to their homes; 3) enforcing curfews; 4) submitting offenders to random drug testing; 5) requiring offenders to pay restitution to victims; 6) electronically monitoring offenders; and 7) requiring offenders to pay for being supervised. This has been referred to as the "nail em, tail em, and jail em" approach by some people in probation. The cost of the intensive supervision programs was about 23 times the cost of

⁵⁸ Charles Colson, *Born Again* (Virginia: Chosen Books, 1976), Charles Colson and Daniel Van Ness, *Convicted: New Hope of Ending America's Crime Crisis* (Westchester, Illinois: Crossway Books, 1988), Chuck Colson, "Speech to National Press Club," (1993).

regular probation. The overall effect of these intensive supervision programs on recidivism was zero. Other "get tough" type interventions like "Scared Straight" programs produced a 6% increase in recidivism. Those few intensive supervision programs that included some treatment elements along with the justice or "get tough" type elements were associated with a 10% reduction in recidivism while the ones that did not include any treatment elements were associated with a 10% increase in recidivism.⁵⁹

According to social learning theory the more punitive approaches to offenders fail because they are not helping people to learn new behaviors. The punitive or restrictive type of approaches focus on stopping people from engaging in behaviors they have already learned instead of teaching and motivating them to engage in new behaviors. It could be said therefore that punitive responses to crime rely more on dykes to keep the floodwaters of crime at bay while treatment approaches attempt to redirect the floodwaters to more fruitful pastures.

⁵⁹ Paul Gendreau, Claire Goggin, and Betsy Fulton, "Intensive Supervision in Probation and Parole Settings," in *Handbook of Offender Assessment and Treatment*, ed. C.R. Hollin (Chichester, UK: John Wiley & Son, 2000).

Many other reviews have looked at the effect of treatment programs or interventions on recidivism.⁶⁰ All of these reviews have supported the proposition that certain programs work for certain offenders under certain conditions. One of the latest of these reviews examined 215 comparisons and concluded that when all of the different types of treatment programs - behavioral, non-directive, psychodynamic, etc., - were added together as a whole they were associated with an average reduction in recidivism of 13%.⁶¹ When the review categorized the different types of treatment according to the principles of effective treatment - (see below for more on these principles) the average effect size of the 45 instances of treatment that fell into the

⁶⁰ Andrews and others, "Does Correctional Treatment Work? A Clinically-Relevant and Psychologically-Informed Meta-Analysis.", Gerald G. Gaes, "Adult Correctional Treatment," (Springfield: University of Chicago, 1999), M.W. Lipsey, "Juvenile Delinquency Treatment: A Meta-Analytic Inquiry into the Variability of Effects.," in *Meta-Analysis for Explanation*, ed. T.D. Cook, Cooper, H., Cordray D.S., Hartman, H., Hedges, L.V., Light, R.J., Louis, T.A., Mosteller, F. (New York: Sage, 1992), Mark W. Lipsey, "What Do We Learn from 400 Research Studies on the Effectiveness of Treatment with Juvenile Delinquents?," in *What Works: Reducing Criminal Reoffending*, ed. James McGuire (New York: John Wiley, 1995), Lipton, "The Effectiveness of Treatment for Drug Abusers under Criminal Justice Supervision," in *Paper presented at the conference on criminal justice research and evaluation* (Washington, D.C.: National Institute of Justice, 1995).

⁶¹ Don Andrews, Craig Dowden, and Paul Gendreau, *Psychologically Informed Treatment: Clinically Relevant and Psychologically Informed Approaches to Reduced Re-Offending: A Meta-Analytic Study of Human Service, Risk, Need, Responsivity and Other Concerns in Justice Contexts* (Carlton University, University of New Brunswick, 1999).

“appropriate” category was a 29% reduction in recidivism. By way of comparison a study that summarized the results of 20,000 psychological treatment studies found that the average effect size for psychological treatments is a 25% reduction in the problem behavior in question.⁶² These effect sizes are similar to the effect sizes that are found in medical treatments such as the treatments for diabetes and heart disease.

Treatment programs therefore seem to be associated with rehabilitation while punishment interventions seem to be related to continued criminal behavior. These findings lead one to ask, “what is it about treatment programs that work and what is it about the more punitive interventions that does not work?” Several studies have examined the literature on effective programs closely and have postulated answers to these questions. On the treatment side several “principles of effective programming” have been articulated. These can be summarized under five principles: 1) risk; 2) criminogenic need; 3) responsivity; 4) professional discretion; and 5) program integrity. When we understand what these five principles concern it is easier to understand the theories about why

⁶² Lipsey and Wilson, "Effect Sized and Psycho Treatment," (1999).

the more punitive type of interventions are not related to rehabilitation.⁶³

1) The Principle of Risk

Not all offenders are at equal risk of engaging in repeat or recidivistic crime.

Compare the following cases. A woman in her sixties shoots and kills her husband. The woman had worked all her life, raised three children, never been arrested and managed to cope with life despite the fact that her husband was a binge drinker who beat her when he was drunk. Finally she decided she could take no more and provoked her husband into a fight and then shot him. A young man aged 35 who has never been able to hold down a steady job, is addicted to heroin, and supports his habit by burglary with a group of friends who are also addicted to heroin. The young man's crimes of burglary are on face value far less serious than the woman's violent crime of pre-meditated murder; however, the risk of him repeating his criminal behavior is far higher than for the woman. The principle of risk says that as a person's level of risk for repeat crime increases their level of treatment should also increase. The thinking behind

⁶³ Paul Gendreau, "Correctional Treatment: Accomplishments and Realities," in *Correctional Counseling & Rehabilitation*, ed. Elisabeth Ebben Roszmann (Cincinnati: Anderson, 2000), Patricia Van Vooris, "An Overview of Offender Classification Systems," in *Correctional Counseling & Rehabilitation*, ed. Elisabeth Ebben Roszmann (Cincinnati: Anderson, 2000).

these principles comes from a number of counter-intuitive findings about rehabilitation.

Take the following study where offenders on probation were first divided into two groups of risk (depending on their criminal history and other risk factors), high-risk cases and low risk cases.⁶⁴ These offenders were then divided into two groups, group A and group B. Group A contained low risk cases and group B contained high risk cases. Half of the people in both groups were given regular probation services and the other half of both groups were given regular probation services plus treatment services. Regular probation carries the requirement to report to a probation officer for a quick meeting on a regular basis and may also imply some attendance at work or treatment programs. The intensive services group was given much more treatment services such as counseling and job placement than the regular probation group along with regular supervision. The recidivism rate for the high-risk cases in Group A was 78%. The high-risk cases in Group B had a recidivism rate of 56% i.e. a reduction of 22 %. The low risk cases in Group A had (as expected) a lower rate of recidivism than the high-risk cases at 16%. The low risk cases in Group B,

⁶⁴ There are several validated and reliable instruments for measuring a person's risk of recidivism such as the Level of Service Inventory Don Andrews and James L Bonta, *Lsi-R: The Level of Service Inventory - Revised* (North Tonawanda, NY: Multi-Health Systems, Inc., 1995).

however, had a recidivism rate of 22%, i.e. an increase of 6%.⁶⁵

This finding of higher risk cases doing better with treatment and lower risk cases doing worse with treatment has been found in several studies . Although the risk principle is not a firmly established principle and is open to some question it is a principle that needs to be considered in trying to help offenders in their rehabilitation process. The thinking behind the principle is twofold. First, do not try to fix something that is not broken. Low risk offenders are unlikely to repeat crime and therefore they do not need treatment to prevent them from committing repeat crime. Second, do not put low risk offenders into the company of high risk offenders because the high risk offenders will influence them and make them worse. As risk increases treatment should increase, this is the principle. However, it should be noted that there are a few (estimated at about 4% to 8% of the offender population) cases at the very high end of the risk continuum for who increased levels of treatment do not seem to result in reduced levels of crime. Offenders at the very high end of the risk continuum are more sociopathic in nature than the general offender population. At present most treatments do not seem to reduce recidivism for this group of offenders

⁶⁵ O'Donnell, (1971).

and so it is wiser to seek to contain these people so as not to allow them to commit further crime. On the other hand people with very low risk are best diverted from the justice and treatment systems to community sanctions that should be the least intrusive as possible.

2) The Principle of Criminogenic Need

Closely related to the principle of risk is the principle of criminogenic need that states that programs should target criminogenic needs. Criminogenic needs are needs that are known to be predictive of crime if they are not met. Areas of need which have been shown to be predictive of recidivism include: to have satisfying work or education; to manage one's finances well; to have supportive and satisfying social and family relationships; to not have supportive relationships with people who are anti-social in their behaviors; to be free from addiction and attachment to substance abuse; to have pro-social attitudes and ways of thinking; to use one's leisure time in a constructive manner; and to have satisfying accommodation.

Areas of need that have been found not to be very predictive of crime include: the need for self esteem, the need to work psychodynamically with issues of

one's childhood, the need to reduce depression, and the need to be confronted with one's issues of denial and wrongdoing. For example, contrary to popular opinion, if one helps offenders to increase their self-esteem it has only a weak relationship to reductions in crime. What tends to happen is that the offenders feel better about themselves, they are really good criminals, but their level of crime does not substantially taper off.

3) The Principle of Responsivity

The principle of responsivity states that people learn in very individual ways and need to be matched to programs and people who work with them in a way that best suits how they respond to the world. Certain kinds of offenders will be more suited to and will benefit more from certain kinds of programs and staffing and care should be taken to match particular offenders to particular programs and particular staffing. Some offenders are very shy and will not do well in a group situation. Some offenders learn by doing and need to be in an active program. Some offenders and treatment personnel understand alcoholism as an uncontrollable disease that can only be overcome by surrendering control over the disease to a higher power, while others believe people are in control of their alcoholism and can overcome it only by taking more control of their lives and

learning new ways of coping with life. The offenders who see alcoholism as an uncontrollable disease need to be matched with treatment providers who share the same belief or at least can work with that belief. Likewise it is best if offenders who see their alcoholism as something they control can be paired up with treatment providers who also hold this belief or model of what alcoholism is.⁶⁶ The point of this principle is to remove obstacles to learning from offenders. The particular model one believes in is not as important as finding someone who can help you work your model. Also, different offenders have different obstacles and so need different styles of programming and staff interaction.

4) The Principle of Professional Discretion

There are several instruments that have been developed to help people who work with offenders to determine their level of risk for recidivism, their types and intensity of criminogenic needs, and their learning styles.⁶⁷ Several studies have

⁶⁶ James Bonta, "The Responsivity Principle and Offender Rehabilitation," *Forum on Correctional Research* 7, no. 3 (1995), Sharon Kennedy and Ralph Serin, "Treatment Responsivity: Contributing to Effective Correctional Programming," *The International Community Corrections Journal on Community Corrections* VII, no. 4 (1997).

⁶⁷ Andrews and Bonta, *Lsi-R: The Level of Service Inventory - Revised*, Brad Bogue, *Repeat Offender Profile Evaluation* (Boulder: Justice System Assessments and Treatments, 1998), Peter B. Hoffman and James L. Beck,

shown that the predictions of these assessments, when conducted properly, are more predictive than the unaided or intuitive predictions of professionals about offenders they are working with. In other words the assessments usually outperform the professionals in their judgments about offenders.⁶⁸ It is good practice therefore for professionals to rely on the use of assessment instruments and not just on their professional judgments in working with offenders.

However, it is still accepted as the best practice that a decision on how to treat or work with someone is made not on the basis of an assessment score alone, but by a professional who interprets an assessment score. Thus a professional may properly choose in a given situation not to follow a course of action that would be indicated as a result of an assessment process alone. This is often called the principal of "professional override or discretion".

"Recidivism among Released Federal Prisoners: Salient Factor Score and First-Year Follow-Up," *Criminal Justice and Behavior* 22, no. 4, December (1985).

⁶⁸ Paul Gendreau, Patrick G. Madden, and May Leipciger, "Predicting Recidivism with Social History Information and a Comparison of Their Predictive Power with Psychometric Variables.", Peter R Jones, "Risk Prediction in Criminal Justice," in *Choosing Correctional Options That Work: Defining the Demand and Evaluating the Supply*, ed. Alan T Harland (Thousand Oaks: Sage, 1996), J. Stephen Wormith and Colin S. Goldstone, "The Clinical and Statistical Prediction of Recidivism," *Criminal Justice and Behavior* 11, no. 1 (1984).

5) The Principle of Program Integrity

There is a mounting degree of evidence that strongly suggests that treatment programs for offenders are, in general, poorly implemented. In practice this means that most treatment programs are not using what are accepted as “best practices” in the field of criminological treatment. Treatment programs are vulnerable to poor implementation at a number of levels. For example they may fail to use any theory to guide their practice, they may use poorly trained staff, they may fail to use any risk, need, and responsivity assessments, or the content of their programs may be inadequate to the task at hand. The Correctional Program Assessment Inventory is an instrument developed to assess the program integrity of correctional programs in terms of their potential for reducing recidivism.⁶⁹ This instrument assesses a program on the presence or absence of over 60 program variables that are taken as proxies of best practices in the treatment field. The higher a score a program obtains on the instrument the more in line it is with best practices, and in theory, the more likely it is to bring about rehabilitation with its clients. There are three possible CPAI grades: 1) Very Satisfactory - 70% or more of the items: 2) Satisfactory - 50% to

⁶⁹ The Correctional Program Assessment Inventory was revised and updated in the year 2000.

69% of the items; and 3) Unsatisfactory (failing grade) - less than 50% of the items.

The majority of programs that have been assessed with this instrument have received a failing or unsatisfactory grade. In a survey of 101 adult offender substance abuse programs the average overall score on the CPAI was 25%. Only 8% of the programs got a "Satisfactory" rating and only 2% got a "Very Satisfactory" rating. The rest of the programs (90%) scored in the "Unsatisfactory" category. A second survey of 135 agencies providing services for juvenile offenders found the average CPAI score for all programs to be 35%. Once again most programs (90%) scored in the "Unsatisfactory" range with only 10% of programs scoring in the "Satisfactory" or "Very Satisfactory" categories.⁷⁰ Thus, even though treatment programs have been shown to be effective agents of rehabilitation it seems as if most treatment programs could be greatly improved in quality and presently have an even greater impact on rehabilitation.

In the next chapter I will evaluate the quality of the religious programming that

⁷⁰ Gendreau, "Correctional Treatment: Accomplishments and Realities."

is offered in two state prison systems - South Carolina and Oregon - using the CPAI. This will allow me to compare the quality of religious programming in prisons to other correctional treatment programs. The findings from the CPAI assessment will also reveal how closely religious programming in our prisons is following the principles of effective programming that have emerged from the research into what works to bring about rehabilitation.

An interesting finding which falls under this category of treatment or program integrity is that programs who include an evaluator or consultant on staff and who include an evaluation component in the program are more likely to reduce recidivism compared to programs who do not have an evaluation component. The reason for this seems to be that the advice and scrutiny for a program that an evaluator provides forces a program to tighten up the various components of the program and thus improve program integrity.⁷¹

The reader will have noticed that in this current review of the situation of crime, punishment, and rehabilitation in the U.S. I made no mention of religion or the

⁷¹ Andrews, Dowden, and Gendreau, *Psychologically Informed Treatment: Clinically Relevant and Psychologically Informed Approaches to Reduced Re-Offending: A Meta-Analytic Study of Human Service, Risk, Need, Responsivity and Other Concerns in Justice Contexts.*

role of religion in rehabilitation. Martinson's study of 231 rehabilitation studies did not include any studies of religion. An earlier review of 100 rehabilitation studies by Bailey and a later review by Prichard of 71 studies also did not include any studies of religion and rehabilitation.⁷² This pattern of having no studies on the impact of religion on offenders to include in empirical reviews of the literature on rehabilitation has lasted to this day. None of the more recent meta-analytical reviews mentioned above in this paper considered religion as a variable. There is a great deal of literature on the relationship between crime, deviance and religion in the broader community, however, there is very little direct literature on the nature or impact of religious involvement among offenders.

This lack of empirical study concerning prisoners and rehabilitation is surprising given the substantial influence of religious thinking and movements on the formation of the U.S. prison system as a system of rehabilitation and the long standing belief among the general public and many academics since Durkheim

⁷² W.C. Bailey, "Correctional Outcome: An Evaluation of 100 Reports," *Journal of Criminal Law, Criminology, and Police Science* 57 (1966), David A. Pritchard, "Stable Predictors of Recidivism: A Summary," *Criminology* 17, no. 1 (1979).

that religion plays an important role in influencing offenders to desist from crime. The paucity of study is also very surprising given the fact that since the first prison opened in this country religious practices have played an important role in the day-to-day life of prisoners. Almost every prison has a chaplain who presides over the constitutional right of all inmates to practice their religion. In 1991 a national survey found that about one out of every three inmates (32%) participate in worship services, Bible study groups and other religious activities, making religious involvement one of the most common forms of "programming" in U.S. state prisons.⁷³

This oversight of the religious variable in the literature reviews discussed above has been due, in part, to the fact that few studies have ever been conducted on the religious variable and offender rehabilitation; but why so few studies?

Drawing on the work of Skotnicki I would argue that one of the reasons why is because of the shift to a more rational and secular context for corrections that took place in the 18th and 19th centuries. There is also the shift in the knowledge base of political power that Foucault documents from a socio-religious way of knowing to a social scientific way of

⁷³ Beck and others.

knowing. These shifts have helped to make religion what one author calls "forgotten variable" of criminology.⁷⁴

Today, however, there is an emerging public discourse, which is at times contentious, about whether society might benefit from recovering a more explicit role for religion in addressing issues of crime, punishment, and rehabilitation. Indications of the diversity and vitality of this latest chapter in the religious-rehabilitation-punishment dialogue include: the formation by President Bush of a White House office for Faith-Based and Community Partnerships in the first two weeks of his term; a call from the U.S. Catholic bishops (recently endorsed by the Pope on American soil) for an end to capital punishment, the growth of the Restorative Justice movement which often draws on Biblical notions of justice; the widespread influence of Islamic, Native American and other religious practices such as Transcendental and Buddhist meditation among the prison population; and the growth of faith-based prisons or prison units in several states such as Texas, Ohio, and the Federal Prison System which explicitly place the role of religion at the center of the correctional process. One could easily argue that society has arrived at another critical point in the

⁷⁴ W.S. Bainbridge, "The Religious Ecology of Deviance," *American Sociological Review* 54 (1989).

dynamic relationship between faith, crime, and rehabilitation.

From a hermeneutical perspective a study of the historical and changing relationship between religion, crime and offender rehabilitation that is unable to ground its interpretation of the relationship in concrete judgments about the way in which the relationship manifests itself in the lives of offenders is inadequate. If the current public debate about whether or not to increase the role of religion and faith-based programs in the correctional strategies of society is to be an informed debate, society must have access to the results of the hermeneutic of recovery that I have undertaken in the forgoing sections of this paper but also to the results of a hermeneutic of discovery that I will undertake in the forthcoming parts of the paper. Chapter three shifts, therefore, from the broader historical, cultural, and situational analyses of these first two chapters to a more descriptive presentation of religion as it is practiced in the lives of prisoners and to a concrete analysis of the influence of that practice on rehabilitation.

CHAPTER THREE: A SOCIOLOGICAL STUDY OF THE INFLUENCE OF RELIGIOUS BEHAVIOR ON PRISONER REHABILITATION

The General Literature on Religion and Deviance

In the last chapter I pointed out that while little research has been conducted on the relationship between religion and offender rehabilitation there has been a lot of research on the relationship between religion and deviancy in the general population. This literature on the relationship between religion and deviance in the general community has been extensively reviewed elsewhere.⁷⁵ These studies on religion and deviance usually relate to rates of crime across different religious groups or communities or regions of the country. The studies also tend to focus on delinquency (drug use, petty crime, and sexually acting out, etc,) among juveniles or college students. For these reasons this body of literature is not directly germane to this paper, however, we can learn a lot from these studies about methodological considerations that need to be addressed in the

⁷⁵ Baier, Johnson, "Religious Commitment within the Corrections Environment: An Empirical Assessment.", Knudten and Knudten, Sumter and Clear, Tittle and Welch.

present study. Recently Baier and Wright conducted a meta-analysis of 60 studies and concluded:

In this article, we have analyzed the effect of religion on crime as reported in previous empirical studies. We examined data from 60 studies, and we found that religion had a statistically significant, moderately sized effect on crime of about $r=-.12$. Since Hirschi and Stark's (1969) finding of religious nondeterrence, many sociologists have questioned whether religion has any effect on crime. Our findings give confidence that religion does indeed have some deterrent effect.⁷⁶

Sumter and Clear came to essentially the same conclusion but explored the methodological limitations of the research they reviewed in a more complete fashion than Baier and Wright.

The majority of research examining the relationship between religiosity and deviance since 1985 has provided evidence of a statistically significant and inverse relationship between some measures of religiosity and deviance. Although associations have been detected, the studies have not been successful in establishing evidence of causal relations between these measures which primarily results from two inherent problems (research design and measurement error) and other methodological flaws in studying religiosity and deviance that will be discussed later in this section.

⁷⁶ Baier.

In conclusion, the preponderance of research in this review provides evidence that religion is an effective social control mechanism which reduces the likelihood of an individual participating in delinquent or criminal behavior.⁷⁷

Sumter and Clear pointed out that previous reviews of this literature had identified four central methodological problems:

1. Research Design Problems

Most of the research is not based upon a theoretical explanation that develops a hypothesis to be tested in the research. The research uses quasi-experimental designs at best as it is not possible to use a random experimental design and the research usually does not try to investigate causal ordering over time.

2. Statistical Analysis Problems

Bivariate analysis tends to be the norm especially in earlier studies, so there is a need for more complex statistical models to fully identify the relationship.

3. Measurement of Religiosity Problems

Religion is difficult to measure because there are many dimensions or aspects of

⁷⁷ Sumter and Clear.

religion. This means that operational definitions of religion vary widely in the literature. Quite often the studies use only a single indicator of a multifaceted phenomenon.⁷⁸

4. Research Finding Problems

These studies tend to rely on case studies without control groups or variables: They tend to find only moderate to weak associations, and seldom attempt to explore the conditions under which religion might make more of a difference. Furthermore, there are conflicting findings and theories.

In their study Sumter and Clear found that eighteen of twenty-three studies published since 1985 produced evidence of a statistically significant inverse relationship between some measures of religiosity and various indicators of deviance. They also found that there were three main concerns about this more recent literature:

⁷⁸ Todd R. Clear, Bruce Stout, and Linda Kelley, "Measuring Religiosity among Prison Populations," in *Paper presented at the annual meeting of the Association for the Sociology of Religion* (New York: 1996).

- a. Most studies rely upon self-report survey measures of religion and delinquency or criminal behavior, not actual measures of behavior. Official records of criminal histories are rarely used, and where official records are used sample sizes are small.

- b. The problem of statistical controls is poorly addressed in these studies. Many studies use only three or fewer controls. Studies also use different operational measures of religiosity and statistical controls. Few rely on prior research or theory to determine which variables to include in their models.

- c. Most studies are conducted with samples of general citizens, primarily adolescents or college students. Thus, prisoners are a special sample that has not been the subject of much study.

The few studies that have looked directly at the influence of religion on adult offender rehabilitation tend to follow the same pattern as the wider body of literature on deviance and religion. There is some evidence of a significant relationship between religious involvement and rehabilitation accompanied by

methodological weaknesses that leave us with unanswered questions and inconclusive findings. These studies of the influence of religion on adult offender rehabilitation all tended to use either prison infractions or recidivism as their measure of rehabilitation. In the next section I review the main findings from these studies while paying careful attention to their methodological strengths and weaknesses.

The Literature on Religion and Adult offender Rehabilitation

Johnson did not find a significant correlation or relationship in a path analysis between self-reported religiosity, church attendance, or prison chaplain's rating of inmate religiosity and amount of time spent in confinement for disciplinary infractions (controlling for race, age, offense type, maximum sentence, denomination, and religious conversion) among 782 men in a minimum security prison who were serving their first term of incarceration. While Johnson's study had many strengths (good controls and statistical analysis) one weakness of this study was that he relied on self-report data.⁷⁹

⁷⁹ Johnson, "Hellfire and Corrections: A Quantitative Study of Florida Prison Inmates".

Young et al., however, did find a significant long-term impact on adult criminal recidivism of a prison ministry program in the Federal prison system known as the Washington DC Discipleship Seminars. These Seminars were sponsored and run by Prison Fellowship Ministries (PF) which was founded in 1975 by Charles W. Colson, a former presidential aide to Richard M. Nixon, following his own incarceration in Federal prison on a conviction of obstructing justice. Young et al identified 180 men and women who had participated in the seminars and used a stratified proportional probability sampling method to select a matched control group of 185 federal inmates from a cohort of 2,289 inmates who were released around the same time as the PF inmates. The two groups were carefully matched on age, race, gender, and Salient Factor Score (a risk index that is predictive of recidivism). The study examined the re-arrest patterns of the two groups over a period of 8 to 14 years after each person's release from prison. Logistic regression analyses with recidivism (yes or no) as the dependent variable, controlling for race, gender, age at release, risk level, and time on the street showed that the PF group had a significantly lower rate of recidivism. Survival analysis also showed that the PF group who did recidivate took significantly longer to recidivate compared to the comparison group recidivists. Further analyses revealed that most of the program effects were

concentrated in PF women (white and black) and in white PF men who were in the low risk of recidivism category. Compared to their respective controls religious women had much lower rates of re-arrest than the religious men. No impact of the program could be discerned among white men in the high-risk category or among black men across all risk categories. These findings indicate the importance of controlling for gender, race and risk factors when examining the influence of religion on offender rehabilitation. An important methodological weakness of this study lay in the fact that the subjects in the religious program group were selected for participation in the PF program according to strict criteria. It could easily be, therefore, that the subjects who were most likely to succeed were chosen. However, the essence of the selection criteria was that the subjects should be heavily involved in religious activities in prison prior to the program. This means it may also be that the intensity of their religious involvement was an important factor in their success and that the program facilitated or augmented that intensity.⁸⁰

Clear et al also found a significant relationship between religiosity and

⁸⁰ Mark Young and others, "The Impact of a Volunteer Prison Ministry Program on the Long-Term Recidivism of Federal Inmates," *Journal of Offender Rehabilitation* 22, no. 1/2 (1995).

rehabilitation. Clear's study used in-prison adjustment (a psychological measure of how well an inmate was able to cope with the deprivations and difficulties of prison life) and in-prison infractions as its measure of rehabilitation. Clear et al studied 769 men in 20 prisons across 12 states in the U.S. chosen to represent different regions of the country as well as different security levels of prisons. A drawback to this study was that it was based on a non-random sample of subjects as each subject volunteered to be in the study. Clear et al reasoned that religion might interact with other personal and situational variables within the prison context to affect in-prison adjustment as well as in-prison infractions. Religiosity was measured using a self-report instrument that included 33 questions from the Hunt and King scale,⁸¹ and a set of 12 hypothetical questions about what the inmates would do in different prison situations of conflict. Based on their answers to these religious questions the subjects who scored in the top 20th percentile of the sample or religiosity were. Classified as "religious" subjects. These "religious" subjects were then compared to the "non-religious" subjects, that is, those subjects who scored in the bottom 20th percentile on religiosity. This method of measuring religiosity could also be said to be a

⁸¹ The Hunt and King scale is a set of statements about a person's religious beliefs that are an attempt to measure a person's mythological symbolic religious commitment

limitation to the study as its meaning or reliability for measuring religiosity is unclear. The subjects also answered questions on depression, self-mastery, self-esteem, demographics and criminal histories. In-prison adjustment was measured using the Wright adjustment scale.⁸² Infractions were measured by the self-reported number of disciplinary infractions. Although people's adjustment and infractions scores were significantly correlated with each other, analysis showed that these two variables were measuring different constructs.

Clear et al found strong significant correlations between religiosity and both adjustment and infractions at a bivariate level. Controlling for demographic and criminal history variables, ordinary least squares regression revealed that high religiosity directly predicted fewer infractions and indirectly predicted better adjustment. Religiosity was one of the strongest predictors of the number of infractions along with variables like number of prior convictions and age. Religiosity fell out of the regression equation on adjustment when the control variables were introduced, but was indirectly related to better adjustment through depression. Of particular interest is that the study findings were "prison specific": the religious effects on adjustment and infractions were found in some

⁸² Kevin N. Wright, "Developing the Prison Environment Inventory," *Journal of research in crime and delinquency* 22, no. 3 (1985).

but not all of the prisons, and the two effects were not found together.

Depending on the prison there was either a religious effect on adjustment or on infractions. Religious factors, therefore, can interact with other situational and demographic variables to produce different results. This means that context is a vitally important variable for the study of the relationship between religion and rehabilitation.⁸³

A second study using some of the data from the Clear et al study found that the religious/non-religious dichotomy of subjects did not predict post-release success further subjects. Once again the finding points out the difficulty of measuring religiousness in a reliable way. Interestingly, however, the study did find that the more involved offenders were in religious activities in prison and the more offenders believed in a transcendent God, the less likely they were to be re-arrested after release to the community .

A small exploratory study in New York's Sing Sing prison also found some

⁸³ Clear and others, *Prisoners, Prisons, and Religion: Final Report*, Todd R. Clear and Marina Myhre, "A Study of Religion in Prison," *The IARCA Journal on Community Corrections*, no. June (1995), Todd R. Clear and Melvina T. Sumter, "Prisoners, Prison, and Religion: Religion and Adjustment to Prison," *Journal of Offender Rehabilitation* (Forthcoming).

evidence of a relationship between high levels of religious involvement in a ministry training program conducted by the New York Theological Seminary and higher levels of successful re-entry into the community as measured by re-arrest rates. The major weakness in this study was its inability to identify a good comparison group and to control for several variables that were known to be relevant to the outcome .

All of the above studies also suffered from what is called "self-selection bias". This problematical feature arises in research when the subjects of the study are not randomly assigned to groups, but rather self select themselves to be in their groups. I shall discuss this methodological limitation in greater detail later. The basis of the limitation is that whatever causes this self-selection to be religious or not religious not the program itself, may be the actual of any program effects that are found.

A study by O'Connor et al, found that religious involvement had no relationship to the presence or absence of in-prison misconducts or infractions but had some relationship to recidivism. This study controlled for self-selection bias by using a multivariate matched sampling procedure to draw a one-to-one matched

comparison group for the religious group from over 40,000 inmates from the general population of inmates based on their propensity to self-select into the religious program. Over two hundred men who had participated in a religious ministry program in four New York prisons did not differ from the matched comparison group on whether or not they had a prison misconduct. This study also compared the prison ministry and comparison groups on recidivism and found no overall difference between the two groups on whether or not they were re-arrested or on time to re-arrest. The study did, however, find some significant differences in recidivism when it compared those who had high rates of ministry participation to those who had low or no ministry participation and controlled for level of risk of recidivism⁸⁴. A weakness in this study was the relatively small amount of information the study had on the other religious participation of the prison ministry group and the complete absence of information on the religious participation of the comparison group. Because the study had no way of telling for sure that the comparison group was not involved in religious activities the study may even have been comparing religiously involved inmates to other religiously involved inmates, thus canceling out any

⁸⁴ Thomas O'Connor, "The Impact of Religious Programming on Recidivism, the Community and Prisons," *IARCA Journal on Community Corrections* 6, no. 6 (1995), O'Connor and others, "Religion and Prisons: Do Volunteer Religious Programs Reduce Recidivism?."

religious or prison ministry program effect.

A secondary analysis of the data from the O'Connor et al study by a different team of researchers confirmed their main findings when it also found no evidence of a significant overall difference between the religious participants and their "non-religious" controls on either in-prison infractions or re-arrest within one year, of

release but did find some evidence of a significant relationship between high religious attendance and lower rates of recidivism.⁸⁵

Pass did not find any influence of self-reported religiosity on in-prison infractions among 345 randomly selected inmates from the prison population at Eastern Correctional Facility in New York. Subjects were asked about their agreement or disagreement with three statements: 1) Religion is important; 2) Religion gives

⁸⁵ Byron R. Johnson, David B. Larson, and Timothy C. Pitts, "Religious Programs, Institutional Adjustment, and Recidivism among Former Inmates in Prison Fellowship Programs," *Justice Quarterly* 14, no. 1 (1997).

people special privileges⁸⁶; and 3) Some people in religious groups joined for protection. Pass also used a 10-item "Intrinsic Religious Motivation Scale" to measure the religious motivations of the sample. The motivation scale seeks to measure how much a person's religiosity is motivated by internal reasons (using religion to find meaning in life) or external reasons (using religion to develop social relationships)⁸⁷. Pass hypothesized that only internalized religion would lead to a reduction of in-prison infractions.

Pass found that a higher number of people reported a religious affiliation since prison than before prison and fully one third of the sample reported a change of affiliation once in prison. Using ANOVA Pass also found that religious motivation scores differed significantly among the religious groups. Muslims were the most internally religiously motivated, followed by Protestants, other religions, Catholics, and those with no religion. Logistic regression revealed that levels of

⁸⁶ A relatively small percentage (33%) of the sample in Pass's study agreed that "religion gives people special privilege". This finding provides further support for Harry Dammer's finding that many people who practice religion in prison are not doing so for selfish or utilitarian reasons like increasing their chances of parole Harry R. Dammer, "The Reasons for Religious Involvement in the Correctional Environment," *Journal of Offender Rehabilitation* (1999)..

⁸⁷ D.R. Hoge, "A Validated Intrinsic Religious Motivation Scale," *Journal for the Scientific Study of Religion* 11 (1972).

internal motivation were not significantly related to the presence or absence of infractions during the month period prior to the survey when controlling for religious affiliation, importance of religion, views on protection and privilege, race, age, educational level, and first offender versus multiple offender status. Two limitations of this study were that Pass relied on self-reported data, and a short period of time (one month) in which to measure infractions .

Another study of the impact of religion on infractions by O'Connor et al took place in a medium/maximum security prison for men called Lieber Correctional Institution in South Carolina. This study, which I shall call the Lieber study, laid the ground for the study I will present in chapter three. There were essentially two parts to the study. Part one was an exploration of the nature, meaning and cost of religious practice in a prison. I shall discuss part one of the study in chapter three because it helps to set the context for the study in chapter three. Part two concerned the impact of inmate religious behavior on infractions and so more properly belongs to this section of the paper. The study collected data on 1,597 inmates who had been incarcerated in Lieber prison during 1996. Forty-nine percent of the men (779) had attended religious services during the year and were called the "religious" the group. The "non-religious" the group was

made up of the 51% (816) of the men who had not attended religious services during the year. There were no significant differences between the two groups on marital status, having children, or race. Nor were there any differences between the two groups on the number of prior sex or violent convictions, the number of current offences, or the number of current offences that involved alcohol or drugs.

The religious and non-religious attending groups did differ significantly on the following variables. The religious attendees tended to be younger than the non-religious attendees with an average age of 33 compared to 34, and to be a little more educated with an average of 11 years of education compared to 10 ($p < .05$). The "religious" inmates had an average of 5 prior convictions compared to an average of 4 for the "non-religious", and were more likely to have a current sex offense (24% versus 15%), and a current violent offense (61% versus 52%). These differences mean that the religious inmates were probably more in need of rehabilitation than the non-religious inmates, as they have more serious criminal histories. In other words, the religious programs at Lieber were not "creaming" the easiest inmates to work with.

For a variety of reasons, such as new incarcerations, sentence completion, changes in custody level, lockup, administrative needs, court and parole hearings, inmates are moved in and out of Lieber regularly. Therefore, most of the inmates in the study did not spend the entire 365 days of 1996 in Lieber. They averaged 230 days, with a range of 0 (full days) to 365. The religious inmates had been in Lieber for a significantly longer part of 1996, averaging 276 days, while the non-religious inmates averaged 186 days. This probably means that the longer a man was at Lieber the more likely he was to attend religious programming or services, at least once or a couple of times.

A bivariate analysis of religious involvement and infractions found two things. First of all, when religious inmates were compared to non-religious inmates, there was no difference in the propensity to have infractions. Secondly, when the study looked at rates of participation in religious programming, higher rates were always associated with less chance of infractions. The more religious sessions an inmate attended, the less his chance of having infractions. When all of the control variables - number of prior convictions, number of violent prior convictions, sex offender status, maximum sentence length, number of days in Lieber, age, race, and marital status - were entered along with the religious group variable and the variable measuring rates of participation in a forward-

step logistic regression there was no difference between the religious and non-religious groups in their likelihood of having an infraction. However, the more religious sessions an inmate attended, the less likely he was to have an infraction. The study findings were similar to the findings from the Clear et al study: intensity of religiosity or religious programming seems to help reduce infractions. The likelihood of an inmate committing an infraction went down as his rate of attendance across religious programs in the prison went up, within categories of current age, ever married, and days spent in Lieber (the other variables that remained in the model). To help communicate what it means to say that the more often inmates attended religious programs the less infractions they had, the study looked at the percentage of inmates who had little or no religious involvement and found that 21% of them had infractions during the study period. By way of contrast only 11% of those inmates who had a medium or a high level of involvement with religious programs had infractions during the study period.⁸⁸

The quasi-experimental research design of this study was considerably strengthened by the ability of the study to collect excellent data on the religious

⁸⁸ Thomas O'Connor, "Prison Religion in Action and Its Influence on Offender Rehabilitation," *Journal of Offender Rehabilitation* (forthcoming).

involvement, demographics, criminal histories, and infractions of the entire population of inmates who were present in the prison during the study period. None of the data in this study was self-report data, the subjects were not selected according to a set of criteria to be in the religious group, and the study used control variables that were chosen according to theoretical considerations. The main limitation of the study was the usual limitation: it was unable to rule out the self-selection factor.

Each of the foregoing studies have strengths and weaknesses. As a group, the studies have helped us to understand more about the nature and impact of prison religion. Prison religion varies in its meaning and practice across individuals, prisons, and different religious groups. Intensity of involvement (or “dosage” in treatment jargon) seems to be a crucial factor in whether or not it has an impact on offender rehabilitation. Furthermore, other variables such as gender, race, risk level, and prison context influence both the kind and depth of impact that religion may have on rehabilitation. Certain things are needed to make these intimations that religion “works” more conclusive: Future studies need to be more informed by theoretical considerations, become more precise in their measurements of religion, and model the impact of religion on rehabilitation using better research designs and statistical methods.

The findings from the previous eight studies on religion and rehabilitation are somewhat mixed. Two studies were unable to find a positive relationship, two found some evidence of a positive relationship, and four found better evidence of a positive relationship. Each of the eight studies had their own particular strengths and weaknesses from a scientific methodological point of view. The studies tended to differ in their data collection methods, research designs and methods of measuring religiosity and rehabilitation. This makes it difficult to compare them, especially given the fact that some of the studies had better research designs and data than others. This variation in quality may also help to explain the different findings across some of the studies. The mention of quality means that it is time to return to Sumter's point above about two inherent problems in studies of the influence of religion: research design and measurement error.

In general, studies that seek to measure the impact of religion on some aspects of life such as offender rehabilitation, mental health, or physical health suffer from two major research difficulties. First, it is not possible when studying religion to have the type of research design that is called a "true experimental"

design. In a study with a true experimental design subjects are randomly assigned to be in either the treatment group or the group that receives no treatment. Random assignment ensures that any particular differences between the subjects in the study are equally distributed between the two groups. Thus, if you find an impact of the intervention in question you can be reasonably certain that the impact is because of the intervention and not because of differences in the subjects. Practically speaking, as well as legally and ethically, one cannot randomly say to some people "you will be religious" and to others "you will not be religious". So it is not possible to have a true experimental design when one is studying the impact of religion on individuals. Such a study would not be very interesting anyway because religious behavior, by definition, involves a personal choice; so a study with random assignment to two groups would not be a study of religion, as it exists in life. The need to choose the best research design to study life as it is lived has led some researchers to argue that true experimental designs are never desirable, even where they are possible, when one is studying human subjects.

The best design therefore for studies of religion as an intervention is called a "quasi-experimental" design. In this design you select a representative sample of religious people and compare that sample to a comparison group of non-

religious people. Because it was not possible to measure self-motivation in this study I decided to find out as much as possible about the subjects or variables that are known to be associated with rehabilitation. In this way I sought to reduce the self-selection bias that is inherent in this study. The drawback with this design is that if you find an impact of the religious element in the study you can never be as sure as you can be with a true experimental design that you are not over-looking some difference between the two groups that you have not measured. One of the biggest differences between groups in religious studies, that is hard to measure, has been called the "self-motivation" or "self-selection factor. By definition people are self-motivated to become religiously involved. Usually people choose to go to church; they are not forced to do so. So it may be possible that when we see positive benefits among people who go to church, as compared to people who do not go to church, that these benefits are not related to the actual church involvement but are related to the self-motivation (or some other difference) that causes people to choose to go to church in the first place. In other words, even if there were no church to go to, people argue that the self-motivation of the subjects could have resulted in the benefits that were observed in the study. This would mean that findings of a positive relationship between religion and less crime in a community would

be spurious, and some researchers have argued that this is the case. The best way to overcome this limitation is to include a measure of self-motivation or to find out as much as possible about the groups in your study. Knowledge of the differences between the groups or variables that are theoretically related to the study outcome allows one to control for any differences that exist between the two groups. By controlling for these differences one can determine if the intervention or program in question is having an impact that is apart from and not explained by the differences in the two groups.

The second major research difficulty in studying religion relates to the question of how one measures religiosity or religion? Religion is a very complex and multi-dimensional phenomenon. Scholars have identified several different aspects or dimensions to religion such as doctrine, belief, faith, private devotion, behavior, worship, and tradition. How does one measure such a complex phenomenon? In this study I have chosen to measure only one aspect of religion i.e., religious behavior as measured by attendance at religious programs and services. I do not attempt to measure the sincerity or authenticity of the religious faith of our subjects. Nor do I measure the religious beliefs and doctrines they hold or the depth of their personal relationship with God. The

study examines only a small part of what makes up the religious life of the subjects in our study. Essentially I am using religious behavior - time in the pew or class - as a proxy for the complex phenomenon we call religion. There is evidence to suggest that when one is studying religion and outcomes it is best to focus on concrete measurable expressions of a person's religious life rather than on internal aspects of that religious life. Such behavioral measures are quantifiable and may be the kind of religious measures that are most related to outcomes or impacts in a person's life.⁸⁹

The study that I will present later builds upon and/or advances the scientific or methodological rigor of the previous studies I have discussed above in a number of ways. The study expands the study described above by O'Connor et al that took place in Lieber prison in South Carolina and is designed to overcome some of the scientific limitations that have been noted in the reviews of the literature concerning religion and crime.⁹⁰ The study uses a quasi-experimental research design that includes a causal element. The study also utilizes a reliable system

⁸⁹ John Gartner, Dave B. Larson, and George D. Allen, "Religious Commitment and Mental Health: A Review of the Empirical Literature," *Journal of Psychology and Theology* 19, no. 1 (1991).

⁹⁰ Baier, Evans and others, Sumter and Clear, Melvina T. Sumter, "Religiousness and Post-Release Community Adjustment" (Ph.D, Florida State University, 1999).

for collecting more complete data than has been collected in the past, an articulated theoretical framework to guide the study, good statistical methods and controls and a large number of subjects. All of these factors strengthen the quality of the research design and hence the reliability of the findings from this study.

Theoretical Framework

The theory that guides the present investigation integrates a theological view of religious conversion and faith development with criminological views of how rehabilitation comes about through a treatment process that facilitates social attachment and social learning. The theory also draws on research into the principles of effective programming to hypothesize why religious programming might be effective.

The theory of religious conversion posits that we are spiritual as well as physical, emotional, and intellectual beings. Our spiritual nature means that we are both capable and desirous of having an ultimate and meaningful sense of connection or relationship with other people, our world, and God. The extent to which we have not fully achieved this connection or personal relationship is the extent to

which we are in need of religious conversion or development. Saint Paul states a Christian understanding of the source of religious conversion when he says, "The love of God has been poured out in our hearts through the Holy Spirit who has been given to us (Rm: 5:5)". Just as a parent's love awakens life within a child, God's free gift of love is constantly awakening and deepening life within us. From this perspective spirituality is the integrative principle of our lives. One inmate at Lieber prison involved in religious programming seems to be referring to this sense of spiritual conversion or awakening when he says: "Before [prison] it was all me. Now I know life is also about relationships. I have to think of others and God. If you're serious about God, you have to take on the nature of God, and God cares about other people too". The lack of a spirituality was expressed by another inmate who was not religiously involved when he insisted: "Life is dog eat dog and I will do anything I have to - lie, cheat, steal, or kill - to stay out of here [prison] when I get out". Religious conversion is thus argued to be a process that releases positive resources within us and helps bring about a personal transformation of feelings, beliefs and attitudes that results in more compassionate behaviors. The more one grows in the process of

conversion the more one becomes involved in religious behavior.⁹¹

Social attachment theory holds that the more attached a person is to the major social institutions of life - family, education, work, politics and religion - the less likely he or she is to commit crime for he or she has something of value to lose by committing crime. If one is able to gain satisfaction from family, work, education, etc., one will be able to break the cycle of crime in one's life. Religion helps people to establish bonds to society and these bonds act as informal methods of social control^{92, 93}

Society has both informal and formal methods of understanding, judging and responding to crime. Informal methods of ensuring social order and healing the

⁹¹ Colson, *Born Again*, W Conn, *Christian Conversion: A Developmental Interpretation of Autonomy and Surrender* (New York: Paulist Press, 1986), James Fowler, *Stages of Faith: The Psychology of Human Development and the Quest for Meaning* (San Francisco: Harper & Row, 1981), Lonergan.

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⁹³ John V. Baiamonte, "The Limited Capacity of the Criminal Law as a Method of Social Control," in *Paper presented at the Southwestern Social Science Association annual meeting* (Austin, TX: 1992), Travis Hirschi, *Causes of Delinquency* (Berkeley, California: University of California Press, 1969), Robert J Sampson and John H Laub, *Crime in the Making: Pathways and Turning Points through Life* (Cambridge: Harvard University Press, 1993), Sampson and Laub, "Crime and Deviance over Life Course: The Salience of Adult Social Bond."

social disorder that comes from crime include everything that individuals, families, churches and communities do on a personal and community level to bring about a just and good social order. A grandmother's affection and guidance helps to teach her grandchildren the difference between right and wrong, a friend prevents his friend from driving home drunk, a man assists his brother to enter substance abuse treatment when he learns that his brother is drinking and abusing his wife when drunk. Criminologists recognize the immense role that informal mechanisms play in preventing and reducing crime in the community. Formal methods operate at the public level of government and include the actions of policy makers and legislators, law enforcement personnel, prosecutors, judges, defense attorneys, and correctional staffs (probation, jail, prison, parole, and community correctional treatment centers) as they pertain to crime. Religion can operate as a major source of informal control because it can help place boundaries of action around people and tie them into the major social institutions of life.

Social learning theory posits that criminal attitudes and behaviors are learned responses in a given social and cultural context. Because criminal attitudes and behaviors are essentially learnt, it means that offenders are capable of learning

non-criminal attitudes and behaviors should they have a change of context or a change of heart. People learn these new behaviors and attitudes through positive reinforcement, role modeling and practice and by replacing one's criminal friends and acquaintances with non-criminal friends and acquaintances.⁹⁴ I have already discussed social learning theory in greater detail in chapter two.

My observations of religious programming in prison and my reading of the rehabilitation literature have led me to believe that all three of these processes—religious conversion, increased social attachment, and new social learning—may become accelerated when an inmate becomes immersed in the religious milieu of a prison. This is because the religious milieu can open an inmate to the realm of the Divine and to a variety of religious traditions and teachings. The religious milieu also places prisoners among chaplains and volunteers (and perhaps some other inmates) who are very attached to the major social institutions of life and very committed to pro-social behaviors and attitudes. A national study of correctional chaplains found that 79% of them had a Masters degree or higher. In addition, prison chaplains had an average of 10 years of correctional

⁹⁴ Andrews and Bonta, *The Psychology of Criminal Conduct*, Bandura, *Social Learning Theory*, Bandura, "Human Agency in Social Cognitive Theory."

experience and believed strongly in a philosophy of rehabilitation. The chaplains reported spending most of their time counseling inmates and used methods of counseling that treatment studies have found to be effective in reducing recidivism such as cognitive and behavioral-based

counseling.⁹⁵ The fact that Chaplains are knowledgeable and skilled role models for inmates can be discerned in the comments of one of the chaplains at Lieber.

With regard to corrections and ministry its not just about getting people to go to church – “save those wretched souls” - that is part of it. Salvation is very important from a theological perspective. More, however, is needed from a sociological perspective. To reduce recidivism we have to work with psychological, sociological, mental, and physical problems also.

Chaplains are also responsible for coordinating the work of the thousands of religiously motivated volunteers who work in prisons. In the Oregon Department of Corrections, for example, there are approximately 1,500 religious volunteers who minister to approximately 11,000 inmates. An exploratory study in South Carolina surveyed 82 ministry volunteers and compared these

⁹⁵ Sundt and Cullen, "The Role of the Contemporary Prison Chaplain.", Sundt, Dammer, and Cullen, "The Role of the Prison Chaplain in Offender Rehabilitation."

volunteers to the general population of the Southeast region of the U.S. using South Carolina Census data and data from the General Social Study. The study found that the volunteers had the same gender and ethnicity demographics as the general population, but tended to be older. The volunteers were also more involved than the general population with the major social institutions of life. For example, the volunteers who earned more from their jobs, were more likely to be married (80% versus 54%), had more education (57% versus 23% had some college education), were more involved in politics (86% voted versus 64%), and 90% of the volunteers compared to 30% of the general population went to church once a week or more.⁹⁶ In other words, the volunteers were a group of people who had learned how to successfully negotiate and derive satisfaction from the different worlds of work, family, education, politics, and religion. In contrast, offenders tend to have trouble negotiating these areas of life, and we know that problems in these areas are predictive of crime and recidivism. Thus the volunteers are well poised to work on areas of need that lead to repeat crime among offenders.

⁹⁶ Thomas P O'Connor, Crystal Parikh, and Patricia Ryan, *The South Carolina Initiative against Crime Project: 1996 Volunteer Survey* (Silver Spring, Maryland: Center for Social Research, Inc., 1997), Evaluation.

One inmate who had attended a volunteer religious program in a prison in Texas explained to me how the modeling of religious volunteers, some of whom were successful ex-offenders, provided him with hope by their example of overcoming adversity:

I have to come to my own place of healing... I've seen myself do some things, or think some things, or say some things, or act in a manner that I know was inappropriate. And still it makes me unhappy. And so, the question still comes to me, why did I do that? So what do they [the volunteers] do? The hope, the hope says that these people [the volunteers] have changed their lives, and if they can do that so can I.

The final piece of the theoretical framework that guides the present study derives from the principles of effective programming that I outlined in chapter two. As you will recall, in chapter two I outlined five principles for effective programming that have been extrapolated from the research on correctional programs that have been found to be effective in bringing about rehabilitation.

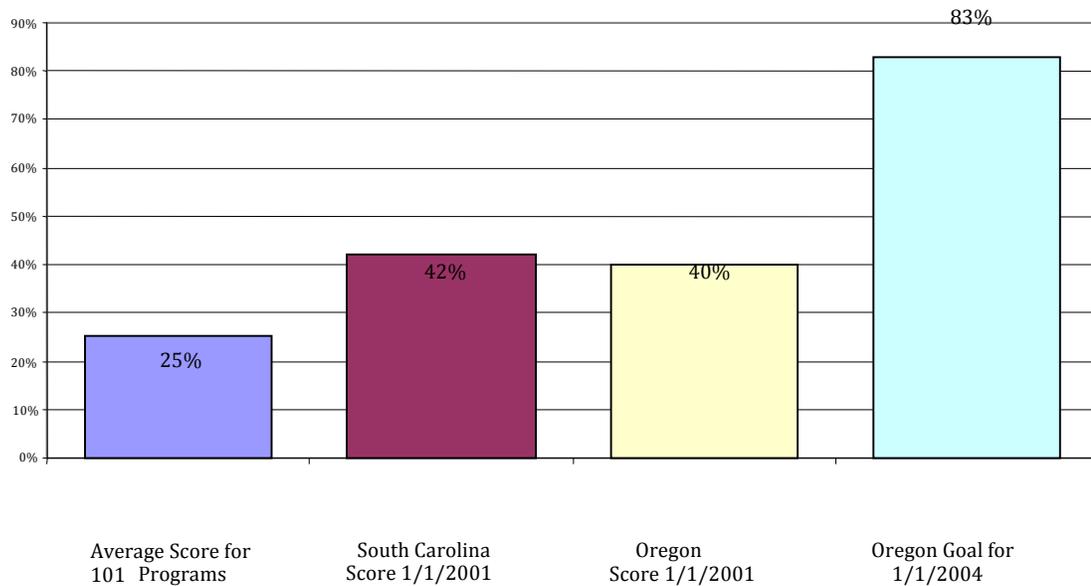
I also discussed how an instrument called the Correctional Programming Assessment Instrument measures correctional treatment programs against these principles to determine their level of program quality. To help develop the treatment context for this paper, I measured the quality or appropriateness of the overall Religious Services program within the South Carolina and Oregon

Departments of Corrections using the Correctional Program Assessment Inventory. I measured the South Carolina program at 1/1/2001. I also assessed the Oregon program at this date (1/1/2001) but then projected an assessment for Oregon in 1/1/2003 based on a current plan for development of the Oregon program.⁹⁷ Figure 1 compares the average score for 101 adult offender substance abuse programs⁹⁸ to the South Carolina and Oregon score at 1/1/2001 and to the potential Oregon score at 1/1/2003. . The chart shows that the average score for the 101 substance abuse programs was 25%, for South Carolina Religious Services 42% and Oregon 40% (assessed as of 1/1/2001). The figure also shows that if the Oregon Religious Services division successfully implements its development plan over a three-year period that it will score 83%.

⁹⁷ Thomas O'Connor, *The Correctional Program Assessment Inventory and Religious Services in the South Carolina and Oregon Department of Corrections* (Salem: Oregon Department of Corrections, 2001).

⁹⁸ Gendreau, "Correctional Treatment: Accomplishments and Realities."

Figure 1: The Quality of Religious Programs in South Carolina and Oregon as Compared to a Sample of 101 Correctional Adult Substance Abuse Programs



These assessment results reveal that while both the South Carolina and Oregon Religious Service program scores in the unsatisfactory range (below 50%) according to the Correctional Programming Assessment Inventory and need to develop if they are to conform to the principles of effective programming both programs score well compared to a sample of other correctional programs. Interestingly, the results also show that the Oregon program could develop to a score of 83% if it successfully completes a planned series of developments for the program over a three year period.

In other words, religious programming in at least two state prison systems seems to be of similar quality with most other correctional programs and also have the potential to considerably improve their quality. The meta-analytical studies of the effectiveness of correctional programs in general estimate that, on average, these programs result in a reduction of between 13% and 25% in recidivism. These findings come from programs that were likely to have been of similar quality to the 101 programs I have just referred to, that is, they were in need of development. Despite their need for development, however, they were still able to produce positive effects. I am arguing, therefore, that the existing quality level of the religious programs in at least South Carolina and Oregon should be sufficient to produce positive rehabilitation results. I am also arguing that the Religious Services programs in Oregon and presumably in most other states across the country have the potential to improve the quality of their programming and in theory to increase any positive impact they currently have on the rehabilitation of the prisoners who are involved in that programming. Finally, I am arguing that these religious programs bring something unique to the rehabilitation process that is not measured by the Correctional Program Assessment Inventory: the dimensions of spirituality and community that are represented by the volunteers who bring with them a language of morality and

religiosity that is rooted in their own particular religious traditions. Essentially this is a language about goodness and compassion and this language is capable of setting the skill and knowledge based traditions of our secularized correctional system within a broader context of a community of people who care for the well being of the inmates.

Accordingly, it seems natural and theoretically valid from a "what works" correctional treatment viewpoint to hypothesize that the social attachment and learning which takes place between the chaplains, volunteers and offenders in each area of life, not only in the religious domain, is likely to aid the process of rehabilitation. Awakening the religious or spiritual domain in a person and attaching him or her to a living community brings additional inner hope, motivation, and community resources for learning how to address the domains of work, family, education, church and citizenship in a pro-social manner.

Furthermore the religious services programs that are conducted in prisons are of sufficient correctional treatment quality to bring about some level of rehabilitation. Based on the treatment literature we also know that the amount of treatment or "dosage" a person completes also affects the rates of program effectiveness. This is consistent with the findings from the few studies that have

looked at the impact of religious programming on rehabilitation and found that intensity of religious involvement seems to be related to good outcomes. We would not expect a person who went to 52 religious meetings during a year of incarceration to have the same success rates as a person who went to only one religious meeting during the year. Therefore, the hypothesis for the study was: as religious programming increases, in-prison and re-entry success rates will also increase.

Data Collection

To help explore the concrete nature and impact of religious programming on prisoner rehabilitation I obtained religious attendance and other data on the entire population of inmates in a prison called Lieber Correctional Institution (Lieber) over a four-year period. Lieber is a large medium/maximum security prison in South Carolina that incarcerates approximately 1,500 men, including death-row inmates, during a one-year period. From 1996 to 1999 the Pastoral Care Division of a South Carolina Department of Corrections and the chaplain's office at collected attendance sheets for every religious activity that occurred in the prison. The chaplains and their clerks entered this data into a computerized system that maintained a count of times each

person attended any religious program by month and year. In addition, they recorded what activities were held on what dates of every month.⁹⁹

The South Carolina Department of Corrections Division for Resource and Information Management provided additional demographic, criminal history, and release data on all of the inmates who spent any part of 1996 to 1999 in Lieber. This was the entire population of inmates at Lieber over the course of four years and included those inmates who had and who had not attended religious programs.¹⁰⁰ Within the demographic and criminal history data there are measures for the subjects on their risk for recidivism (a composite score based on the number of criminal convictions a subject had), as well as measures for ethnicity, age, marital status, education, children, race, sex offense status and length of sentence. These controls help to eliminate the influence of all these

⁹⁹ The data for attendance at religious program contains a few missing cases. Some inmates did not always sign the sheets when they attended programs or services, and occasionally, volunteer program leaders did not turn in sign-up sheets. However, the chaplains and their clerks made every effort to monitor the quality of the data, and we feel satisfied that the extensive data they collected is a very good representation of the actual attendance of inmates at religious programming.

¹⁰⁰ The study uses a behavioral measure (attendance at religious services or programs) to distinguish between religious and non-religious inmates. I realize that many people who do not attend religious programs or services are religious people, and therefore the study is not a study of religiousness per se but of religious involvement.

different factors on our outcome variable of interest - the rehabilitative impact of religious participation – for past research has found that these control variables can be predictive of infractions and/or recidivism and so they are important controls to include in the study.¹⁰¹.

I also obtained information on the prison infractions each of the subjects had committed during their incarceration at Lieber. I divided the measure of infractions into two categories-minor and major infractions. Minor infractions are less serious and cover infractions like disobeying orders and being in the wrong place in the institution. Major infractions include more serious offenses such as having possession of contraband, assault and escape. For the non-religiously involved subjects I counted their infractions during their entire time in Lieber. For the religiously involved subjects, however, I counted their infractions during the time in Lieber that occurred after their first documented appearance at a religious meeting. This enabled me to examine the causal effect of participation on subsequent behavior.

¹⁰¹ Andrews and others, "Does Correctional Treatment Work? A Clinically-Relevant and Psychologically-Informed Meta-Analysis..", Moira A. Law, "Predicting Prison Misconducts" (University of New Brunswick, St. John, 1993), Lipton, L. Motiuk, "Antecedents and Consequences of Prison Adjustment: A Systematic Assessment and Reassessment Approach." (Ph.D., Carlton University, 1983).

Finally, I obtained information from the South Carolina State Law Enforcement Division on who had been re-arrested or re-incarcerated (returned to prison for a new conviction or a parole violation) since they had been released. The average follow-up period for re-arrest was 2.3 years and for re-incarceration was 1.6 years.¹⁰² This rich collection of information allowed me to examine the influence of religious programming on the rehabilitation of these prisoners as measured by freedom from prison infractions, re-arrest and re-incarceration. Each of these three measures of rehabilitation—infractions, re-arrests and re-incarceration—may be measuring different aspects of rehabilitation. Criminologists disagree on whether or not the predictors of infractions are the same as re-arrest and/or re-incarceration. Some believe, the causes of infractions in prison and recidivism upon release are the same but others believe infractions and recidivism measure two different outcomes.¹⁰³ Likewise with regard to re-arrest and re-incarceration. In general, many researchers believe that the best measure of recidivism is re-

¹⁰² I collected the re-incarceration data earlier than the re-arrest data and this explains the shorter follow-up period for re-incarceration.

¹⁰³ Law.

arrest.¹⁰⁴

The quasi-experimental design which compares the non-randomly assigned religious and non-religious groups on the study outcomes does not include a measure for self-motivation, and so the design has not completely solved the bias of self-motivation or self-selection into the religious group that was discussed above. The design, however, has helped to mitigate the potential influence of self-selection bias by collecting as much information as possible that relates to the outcome variables for the two groups.¹⁰⁵ The study did not collect any information on one other potentially important variable - the amount or type of other programming in prison (education, job training, drug and alcohol counseling etc.) - because this information was not kept by the South Carolina Department of Corrections. This information could be important, for suppose all of the subjects in the religious group and none of the subjects in the non-religious group were involved in an educational or work-based program in Lieber. Might it not be that it was these programs and not the religious

¹⁰⁴ M.D. Maltz, *Recidivism* (New York: The McMillian Company, 1984), C.P. Visher, Lattemore, and R. Linster, "Predicting the Recidivism of Serious Youthful Offenders Using Survival Models," *Criminology* 29, no. 3 (1990).

¹⁰⁵ James J Heckman, "Sample Selection Bias as a Specification Error," *Econometrica* 47, no. 1 (1979).

programs that were responsible for any observed effects? Yes it might, however, during the time of the study budget cuts within the Department had resulted in a reduction in programming and so there was little, if any, other programming available to inmates in Lieber. This relative lack of programming significantly reduces any concern about not collecting other program participation information.

To help understand the meaning of and contextualize all of the above quantifiable data or information I also visited Lieber prison on four separate occasions to observe the religious programming in action and to gather ethnographic data from individual and group conversations with security staff, chaplains, inmates and volunteers. On one of these occasions I was a participant observer in a three-day intensive retreat program run by a prison ministry group called Kairos. By “participant” I mean that I

was on the receiving end of the program with the group of incarcerated men who took part in the program.¹⁰⁶

¹⁰⁶ I used the data for the outcome part of the study in aggregate form only to maintain the confidentiality of the inmate records. Whenever I talked to individual subjects for the qualitative or ethnographic sections of this study I

The Nature, Extent, and Cost of Religious Programming at Lieber

I begin my description of the nature, extent and cost of religious programming at Lieber with a written testimony that Adam, a man who was incarcerated in Lieber, gave to me. Adam's words eloquently present the interplay of forces such as religious conversion, social attachment, community support, compassion, hope, role modeling, and social learning that I outlined above as the theoretical basis of why religion in prison may effect rehabilitation.

November 12, 1997

Dear Friends,

I was just sitting here thinking that for us to get to know each other better and be able to share the good and bad or whatever Christ puts on our hearts, I need to share with you what I used to be like and how God has now changed my life and is continuing to change it daily. This is somewhat difficult at times but as you know it is really necessary to be cleansed every day.

I really believe I was born with all the trademarks of an alcoholic, because that is exactly what I became in adult life and as a result of the drinking and all the things that accompany, it eventually led to my demise.

obtained a signed informed consent. In this paper I have also changed all proper names of the subjects quoted.

I abused drinking all through high school, college and early twenties, even into my numerous marriages. I had no earthly idea about Jesus Christ nor did I show a lot of concern. The only things that mattered to me were drinking, women and nice cars. That order always suited me just fine. I was kicked out of college for drinking and fighting, a disaster which broke my parents' heart. But it didn't stop there; as a matter of fact, things got progressively worse.

I abused my first wife Jennifer in drunken rages and as a result of the abuse our marriage finally ended. As I reflect back on these occasions the finger of God is easily recognizable. Our son James also suffered as a result of my misbehavior. But thanks be to God, he made it through all the conflicts and graduated from the Citadel in June 1996.

I hope this is not boring you, but I feel it's important for you to hear it as well as it is for me to share it with you. The drinking continued and I was getting deeper and deeper into spiritual bankruptcy. Virtually the same thing happened in my second marriage. Yet the Lord blessed us with a beautiful daughter. Lisa will be a senior in high school in Charleston and is continuing her dancing career. In 1995 she had a part in a movie titled "The Face on the Milk Carton" which aired on NBC. It really bothers me that I couldn't be there when it made its debut.

Then, in 1987, with my mother dying in a nursing home, my childhood sweetheart reentered my life. I thought I was living on top of the world, except for my mother's condition. That was covered up by the alcohol. We began seeing each other and after about a year, we decided to get married. My alcoholic ways continued and so did the abuse. The big difference was my wife was just as big an alcoholic as I was. The abuse got worst and in June of 1989 I was arrested for criminal domestic violence. After spending two long weeks in the Charleston County Jail, I figured the best thing for me to do was to try to quit drinking. With the aid of AA and some great friends, this last for almost three years.

In 1992, my sister, who was living in Mobile decided that due to

my father's long term illness, it would be best for everyone concerned that we sell the family house. The problem was, it was supposed to be mine but my sister said the money from the sale was needed to help with my father's medical expenses. It is important that you understand that I had always had my way and had everything given to me on a silver platter.

So we had a big decision to make.[my wife] Susan and I had to find a place to live and didn't have a dime to put towards even a cheap apartment. I was still trying to stay sober, but my wife was drinking more and more. There were embarrassing moments after embarrassing moments and I couldn't handle it anymore. Her children and I finally convinced her that she needed to be in a treatment facility. After much persuasion she finally gave in. After treatment, I believe Susan blamed me for removing the alcohol from her life. She seemed to miss it so much and it seemed to cause us to drift further apart. Everything seemed to be closing in on me and I had nowhere to turn. Most of my friends seemed to have deserted me and really didn't seem to care.

Satan started putting all kinds of crazy ideas in my head and really deceived me. He had me believing that if I killed my wife and myself that we would be together forever. My anger and his deception were both getting stronger. I didn't have a chance, because I didn't know the Lord. On February 15, 1992, I went out and really got drunk. I went home and as soon as I walked in the door she knew I had been drinking and started making smart accusations. I later learned that that day she had been to see an attorney concerning a legal separation. Satan put his all into what was coming next. I got real mad, went into the bedroom, and brought out my pistol. She started running her mouth and out of complete control, I let the pistol do my talking. I didn't even know what I had done until I saw her lying on the floor. I dropped the gun and went over to where she was lying and closed her eyes and kissed her. I still didn't realize what was going on and didn't know until the next morning.

I went to a motel and continued to drink until I passed out. The next morning when I woke up, that old devil kept telling me I needed to finish what I had started. I really didn't remember pulling the trigger but I knew I had done something terribly wrong. Satan's hold on me was stronger than ever. In a last ditch effort I called my sister in Mobile and she told me what I had done. The police in Mobile were even looking for me. My only thoughts then were to go ahead and end it all. She began to cry profusely, begging me not to pull the trigger. A little voice told me not to do it, a voice I didn't know or understand. My sister was still pleading with me to call my lawyer and put the gun down. After several minutes, she convinced me to call Fred, my attorney.

Fred had apparently heard about the shooting on the television news. I told him what I was about to do and he talked me into talking with him about turning myself in. I told him if he brought any police to the motel, there would be some serious trouble. When he arrived about twenty minutes later, I had gotten really scared and was ready again to end the whole matter. I will never forget what he said to me when he walked into that motel room: Adam, I hate what you did but I love you. I came here for two reasons, to try to save your life and to introduce you to someone who can save your soul. This terrible burden was more than I could stand; Fred hugged me and I cried like a baby.

Fred carried me to the county jail where I turned myself in. The next thirty days were probably the worst of my entire life. Fred kept coming to see me and trying to help me spiritually. Every time we met in one of those little conference rooms, I kept thinking my wife (Susan) would walk around the corner one day with him. She would look at me and say, "we fooled you this time, didn't we?" Of course that never happened. One day Fred asked me why I kept looking like I was expecting someone else to be with him. I told him, and we both cried and prayed. He said, "Adam, you know she is not coming back, don't you?" It took a long time to get over that, and I am not sure I am supposed to ever get over it entirely. The Lord requires that as part of the healing process.

I was sitting on the bed in the jail one night, crying because I didn't know what to do. My heart was broken, and I didn't know how or who would fix it. I had been reading a lot in my bible and little tracts every chance I could. My crying finally became uncontrollable sobbing. Salvation didn't seem that important to me right then. I just wanted someone to heal my broken heart and take away the pain of what I had done. I asked the Lord to do just that. He did and has been with me ever since. That was the greatest day of my life.

It was about two months later, I had a dream about my crime. I know it was from God because there was no pain, just the truth laid out in its simplest form. In the dream, the Lord showed me that I needed to confess my sins, admit the truth in court, and trust him for the outcome. I immediately got up and called Fred and asked him to come to the jail so we could talk. When he arrived, we went in one of those little conference rooms and I told him the truth about the crime and that I felt the need to do the same thing in the courtroom. He warned me of the consequences, not only that I would get a life sentence, but that Satan would try his best to completely wreck God's plan. He also warned me of the devil's attempts to gain back control of my life. He sure wasn't kidding. All I heard for a while was this little voice telling me, all I have to do is tell one little lie and I would probably just get a 15-year manslaughter sentence. For about 10 days, he really beat me up. By the Grace of God, I didn't succumb to his tricks.

On June 20, 1992, I was sentenced to life with parole eligibility in 20 years. This was truly a blessing because at first they were trying to seek the death penalty. Just before the judge sentenced me, he asked if anyone had promised me anything. I thought for a minute and told him no. Just as he was going to accept my plea, I said your honor someone did promise me something. He nearly fell out of his chair. He looked at me and in a kinda rough voice he asked who promised me something and what. It had to be the Spirit of God because I blurted out without hesitation that God had promised me eternal life through his Son Christ Jesus. Everybody in the judge's chambers began to cry and for a short period of

time, complete silence. My concerns during this were not for myself but for the people I had hurt. The Lord had truly changed me. All things really are new.

I said all this to share with you that Jesus will do for you or anybody else exactly what he did for me. He is no respecter of persons. No matter what a person has done or how bad it seems, God still loves us and forgives us. His joy and peace is the only thing that keeps me going and it is available to anyone just for the asking. People will always talk about us because that is human nature, but it is when we are able to forgive ourselves that we can really understand God's forgiveness and His Love for mankind.

It is my hope and prayer that this testimony has in some small way been a blessing to you, knowing that Christ is our only Hope and Salvation.

Adam was faced with a moral dilemma during his trial. Should he tell what seemed like a harmless lie about his crime (that is was not pre-meditated) and receive a lighter sentence or should he tell the truth and receive a severe sentence. Motivated, at least in part, by his recent religious awakening and supported by his friend Adam chose to tell the truth. This vignette reveals that perhaps the most interesting stories about what is often derogatorily called "jail-house" religion are not those stories of inmates faking it to make it at the parole hearing but of inmates undergoing profound changes. Seven years into his sentence Adam had never received a disciplinary write up. He had continued to be actively involved in religious activities in the prison and was generally

respected by inmates, volunteers and staff alike as a kind and generous man.

Adam's story also helps to give meaning to the following numbers.

From 1996 to 1999 the chaplain's office recorded 28 different kinds of religious programming at Lieber, most of them offered on a weekly basis. These programs include worship services, Bible studies, religious seminars and retreats, alcoholics and narcotics anonymous, and fellowship gatherings. Many different denominations or church groups offer religious services at Lieber such as Catholics, Protestants, Jehovah Witnesses, and Muslims. Volunteers from outside the prison lead the majority of the programs, while a few are run by the chaplain's office or by inmates themselves. There is a religious program of some kind offered every day of the week. Table 1 helps describe an average year of programming in Lieber by listing the general type of religious activities along with the frequency of meetings that took place during 1996.¹⁰⁷

¹⁰⁷ For security and movement reasons prison officials discontinued three Bible study programs at the end of October. During the course of the year there were times when programs could not be held due to not having enough security officers or volunteers, which causes the total meetings reported for 1996 to be less than the total that would have been possible for a full year.

Table 1. Religious Programs at Lieber during 1996

Activity	Type of Program	Frequency of Meetings	
Alcoholics Anonymous	12-Step	Every Thursday	36
Catholic Communion	Worship Christian	First and third Friday	22
Christians in Action	Fellowship	3 or 4 times a month	
Christmas Programs	Worship/Fellowship	Several in December	6
Evening Light Fellowship	Bible Study	Every Saturday (canceled 10/24/96)	40
Faith, Praise and Worship	Bible Study	Every Sunday (June to 10/24/96)	20
Full Word Fellowship	Bible Study	Every Sunday (canceled 10/24/96)	35
Jehovah's Witness	Education/Worship	Every Sunday	51
Kairos Choir	Choir	Approximately twice a week for practice and fellowship	90
Kairos Journey	Bible Study	Every Thursday	45
Kairos Reunion	Fellowship	Monthly	13
Kairos Weekend	Retreat/Worship/ Fellowship	Two weekends a year	8
LCI Choir	Choir	Approx. 1 practice and 1 service per week	102
Muslim Community	Education/Worship	Once to twice a week	50
Narcotics Anonymous	12-Step	Every Tuesday	37
Prison Fellowship Bible Study	Bible Study	Every Monday	44
Prison Fellowship Seminar	Retreat/Fellowship	Three weekends a year	8
Prison Fellowship			
Starting Line	Retreat/Fellowship	One weekend	3
Revival Meeting	Evangelism	One weekend	2
Saturday Night Service	Protestant Worship	Every Saturday	46
Sunday Morning Service	Protestant Worship	Every Sunday	50
Sunday Night Service	Protestant Worship Protestant	Every Sunday	38
Sunday School	Teaching	Every Sunday	41
Through the Bible in Three Years	Bible Study	Every Tuesday	41

Wednesday Bible Study	Bible Study	Every Wednesday (ended 1/31/1996)	3
Total Number of Meetings			869

During this one-year period (1996) 779 of the 1,597 inmates who spent time in Lieber that year- 49% - attended at least one religious program or service. This is a higher level of religious involvement than the estimated 32% average attendance at religious services in state prisons throughout the country.¹⁰⁸

Lieber is located in the "Bible Belt", which is a highly church region of the U.S., and its location may help to explain this high level of inmate attendance, together with the fact that the religious program at Lieber seems to be well organized. On the other hand the location may not explain this high rate because I recently calculated that of the religious attendance of prison inmates in a prison in Oregon (a region of the country with a much lower rate of church attendance than the South) found that 52% of that prison's population had attended religious services at least once during a one year period.¹⁰⁹ In the light of these findings from both South Carolina and Oregon it may be that the 1991 study by Beck et al, which was based on self-reported data, underestimated the extent of religious involvement among state inmates.

¹⁰⁸ Beck and others.

¹⁰⁹ Thomas O'Connor, *Review of Religious Services in Oregon* (Salem: Oregon Department of Corrections, 2001).

Many of the religious programs in Lieber attract the same set of attendees but some of them attract a distinct set of inmates. Bivariate correlations across the different programs that were help in the month of July in 1996 revealed that those who attended Alcoholics Anonymous were highly likely to also attend Narcotics Anonymous, but both groups were less likely to attend any other religious programming.¹¹⁰ Compared to the group of inmates who attended across the wide variety of Protestant services the Muslim community tended to be a separate group, as did the Jehovah Witness attendees and Catholics. Because there was so much attendance overlap across programs it is difficult to give exact percentages for attendance by the main religious groupings, however, approximately 73% chose Protestantism as their main religious grouping, while the figures for AA/NA were 10%, Islam 9%, Jehovah Witness 4% and Catholic 3%.

Attendees at any of the Protestant services or programs were likely to also

¹¹⁰ I realize that Alcoholics and Narcotics Anonymous are more aptly considered "spiritual" rather than "religious" programs. I decided to include them in the religious program group, however, because of their direct connection to spirituality. I also wanted to separate out, as much as I could, those inmates who were directly involved in religious or spiritual behavior.

attend other Protestant worship services or Bible studies. Using a cut-off correlation of .30 as an indication of a meaningful relationship, the weekend worship services showed relationships with the largest number of other programs and were most highly correlated to each other. That is, inmates who attended a Protestant worship service at the weekend were likely to attend other worship services and also a Bible study or two during the week.

A team of two full-time prison chaplains, four inmate clerks to the chaplains, several inmate religious leaders, and approximately 232 volunteers from the community organized the religious activities at Lieber. The 232 volunteers donated about 21,316 hours of work to the prison: the equivalent of 11 full-time paid positions.¹¹¹ The estimated yearly cost of these religious services could be considered a bargain at about \$150 to \$250 per inmate served.¹¹² By way of

¹¹¹ To estimate a full-time position I multiplied 48 working weeks by 40 hours. Elsewhere I have reported this figure as 10.2 full-time positions because I multiplied 52 working weeks by 40 hours. The 48 working week figure seems more accurate as it reflects a more realistic working year. Thomas O'Connor and Michael Perryclear, "Prison Religion in Action and Its Influence on Offender Rehabilitation," *Journal of Offender Rehabilitation* (Forthcoming).

¹¹² I arrived at the cost of the religious services program by adding the salaries of the two chaplains for the year to an amount that would cover the running costs of the chaplains' offices (rent, equipment, supplies etc.) and the religious programs (books, supplies etc.). The South Carolina Department of Corrections did not keep exact figures on the operating costs for the chaplains' offices or the

contrast, Joan Petersilia estimates that programs that “work” to reduce recidivism, cost about \$14,000 per inmate per year.¹¹³ Therefore, the first major finding from the Lieber study is that religious and spiritual involvement in prison is extremely varied and extensive, and it costs very little.

Levels of Religious Participation

During the four years of the study period 1,755 inmates were released from Lieber back into the community. I selected these 1,755 people to be the study subjects and divided them into two groups. The first group was those prisoners (1,142 or 65%) who attended no religious programming at all. The second group was made up of those prisoners (613 or 35%) who attended a mix of religious programming. Table two presents some basic figures on the religious involvement of these two groups. On average, those who had participated in religious programs attended about four different types of religious programs or services and went to services about six times each month once they started

programs. The best estimate for these costs including the salaries of the chaplains was \$150 per inmate served that year. The \$250 estimate is a more conservative estimate to allow for hidden costs. These cost figures do not include the “in kind” services of the volunteers. The costs are costs to the South Carolina Department of Corrections.

¹¹³ Joan Petersilia, "A Crime Control Rationale for Reinvesting in Community Corrections," *The Prison Journal* 75, no. 4 (1995).

participating in faith-based programming. Table two also shows that about half of the religiously involved inmates went to services less than four times a month and about half went four or more times a month.

Table 2: Religious Involvement for the Two Study Groups

		No Religious Involvement (N=1,142)	Religious Involvement (N=613)
Religious Status	No religious involvement	65%	
	Religious Involvement		35%
Number of different types of religious program or service attended	0	100%	0%
	1	0%	21%
	2	0%	15%
	3	0%	15%
	4 to 7	0%	36%
	8 to 18	0%	12%
	Average Number	0	4
Number of meetings attended each month since arrived in Lieber or since first religious meeting	Zero times a month	100%	0%
	Less than four times a month	0%	51%
	Between 4 and 8 times a month	0%	25%
	8 or more times a month	0	6
	Average Number		

The average attendance of 6 meetings or services per month that is shown in Table two is a relatively high level of attendance given that many of the people in the general community who go to church would do so about four times a month or once a week. Earlier in this paper in the literature review we saw that in 1999 Pass found that a higher number of inmates reported a religious affiliation since prison than before prison and fully one third of his sample reported a change of religious affiliation since being incarcerated. An ethnographic study of the meaning of religion in prisons found that the unique context of prison makes the religious experience for many inmates more intense.¹¹⁴ Prison, therefore, can become almost like a monastic setting that encourages increased religious participation for some inmates. This process can be discerned in a comment made to be by Shawn, one of the inmates at Lieber – “I guess when I was out in the world ... I was raised where I went to church, was in the church. The difference is out there I didn't have the time to stop, think, study, get a chance to know who Jesus was, and what He was about. Whereas back here you got nothing but time.” Furthermore, Shawn’s comment and reflections seems to indicate that his in-prison religious process is more

¹¹⁴ Clear and others, *Prisoners, Prisons, and Religion: Final Report*, Harry R. Dammer, "The Reasons for Religious Involvement in the Correctional Environment," *Journal of Offender Rehabilitation* (Forthcoming).

about personal transformation or spirituality than just rote religious attendance.

Demographics and Criminal Histories

Next I compared the demographics and criminal histories for the two groups in the study: the non-religious group and the religious group. Table 3 shows that the two groups did not differ significantly in terms of age, having children, average years of education, marital status, sentence length, or risk of recidivism score. The fact that the two groups did not differ on their risk of recidivism score (based on prior criminal history) is very important.¹¹⁵ A very good predictor of future criminal behavior is past criminal behavior and so it is important, when comparing different groups on recidivism to take the past criminal behavior of the groups into account. Those with a high number of prior convictions and present offenses are more likely to recidivate upon re-entry than

¹¹⁵ I computed a risk of recidivism score by using information on four measures of risk relating to criminal history from the Level of Service Inventory Andrews and Bonta, *Lsi-R: The Level of Service Inventory - Revised*.. The LSI is the most widely used instrument for measuring an offender's risk level for future criminal Involvement. I gave each person a score of 0 to 4. One point was assigned to each person for a yes answer to the following questions: 1) did he have one prior conviction; 2) did he have two prior convictions; 3) did he have 3 or more prior convictions; and 4) did he have three or more offenses for the present incarceration?

those with a low number of prior convictions and present offenses.

The three groups did differ in the percentage of people with a prior or current sexual offense. The non-religious group had 9% with a prior or current sexual offense, compared to 18% for the religious group. The two groups also differed in terms of race; the non-religious group had the highest percentage of whites. Table 3 also shows that there was a big difference across the groups in the average number of days they were incarcerated at Lieber during the study period since their first attendance at religious meetings or their first day in Lieber for those who did not attend services. On average, the prisoners in the non-religious group spent much less time in Lieber.¹¹⁶ This will be important to remember when we look at the number of infractions each group committed during their stay in Lieber. Because the religious groups had more time in Lieber and therefore a greater possibility of committing an infraction we will have to take account of this difference in time at Lieber when we compare the two groups on their infraction rates.

¹¹⁶ We are not certain about the reason why the two groups differed in the amount of time they spent in Lieber. We checked to see if the groups differed in terms of their maximum stay may have been that the longer a person was incarcerated at Lieber the more likely they were eventually to go to a religious meeting and thus show up in the religious group?

Table 3: Demographics and Criminal Histories for the Three Study**Groups**

		No Religious Involvement (N=1142)	Religious Involvement (N=613)
Average Age		36.7	36.4
Do you have children? (Total N=1107)			
	Yes	40%	43%
Average Years of Education (Total N=1107)		10.0	10.4
Marital Status			
	Married	19%	17%
	Not Married	81%	83%
*Race			
	White	36%	28%
	African American	64%	71%
	Others	1%	1%
Average Sentence Length in years		11.7	12.3
Average Risk of recidivism score		2.7	2.8
*Any prior or current sex offense?			
	Yes	9%	18%
*Average number of days in Lieber since first or no religious involvement		168	341

Infractions, Re-arrests and Re-incarceration

Having examined the demographics and criminal histories of the two groups, as well as their level of involvement with religious programming, it is now time to examine the impact of that programming on the pro-social behavior of the groups. My measure of pro-social behavior within the prison setting is the success rate for the two groups in staying free from both major and minor infractions (violations of prison rules) during their time in Lieber. The measure of pro-social behavior upon re-entry into the community is the success rate of re-entry as measured by the group rates of freedom from re-arrest and re-incarceration.

Table four presents the findings on the three measures of success: 1) no infractions; 2) no re-arrests and 3) no re-incarceration. The religious group had an 86% and 87% success rate in terms of having no minor and major infractions respectively compared to an 85% and 85% success rate for the non-religious group. Because each of the groups differed in the length of time their subjects were incarcerated at Lieber the two groups had different opportunities for committing infractions. Thus, a better way of comparing the groups on their

success rates is to compare them on their rate of infractions per 100 days in Lieber. Table 4 shows that the religious group had a .06 and .07 rate of minor and major infractions respectively for every 100 days incarcerated in Lieber compared to a rate of 1.25 and 1.53 for the non-religious group. The sizable differences in these rates of infraction suggest that the religious involvement of the prisoners may be reducing the number of infractions.

The issue is more complicated, however, than just controlling for the differences in the length of time incarcerated in Lieber for the two groups. In tables 1 and 2 we saw that the groups had different amounts of religious involvement and also differed in racial makeup, sex offender status and the average number of days in Lieber. A comparison of the rates of infractions per 100 days for the two groups does not capture the potential complexity of the variety of factors that differentiate the two groups that could affect their rates of infraction. This is also true for the success rates shown in table 4 for re-arrest and re-incarceration.

Table 4 reveals that 50% of the religious group had no re-arrests as compared to 48% for the non-religious group. Table 4 also shows the religious group had an 88% success rate for not being re-incarcerated compared to an 88% success rate for the non-religious group. The study question is: after controlling for any

differences in race, sex offender status, risk of recidivism, marital status, time in Lieber, age, and maximum sentence length; are the varying success rates among the two groups statistically different and substantially meaningful?

Table 4: Infractions, Re-arrests and Re-incarcerations for the Three Study**Groups**

		No Religious Involvement (N=1142)	Religious Involvement (N=613)
Infractions	Average number of follow-up days for infractions	168	341
	No minor infractions	85%	86%
	No major infractions	85%	87%
	Average rate of minor infractions per 100 days in Lieber	1.25	.06
	Average rate of minor infractions per 100 days in Lieber	1.53	.07
Arrests	Average number of follow-up days for re-arrest	851	864
	No re-arrests	48%	50%
Re-incarceration	Average number of follow-up days for re-incarceration	569	582
	No re-incarceration	88%	88%

The study hypothesis was: do the success rate of prisoners in prison and upon

re-entry into the community increase as their religious involvement increases during their time in prison? Table 4 cannot answer this question for us because it does not present the complexity of all the variables that are influencing success rates for the subjects in the two groups. To answer the study question we need to move to a higher and more complex level of analysis than is shown in tables 2, 3, and 4.

Analyzing all of the Variables Together

The statistical method of analysis called logistic regression allows one to inter-relate many variables in complex ways and to examine the relative influence of each variable on an outcome such as successful pro-social behavior in prison or upon re-entry into the community. I used this statistical technique to examine the relationships between the study variables and the three success measures. Table 5 presents the final models or statistical results from that analysis.

**Table 5: Coefficients for Forward Step (Wald) Logit Models Predicting
Offender Infractions, Re-Arrest and Re-incarceration***

	Minor Infractions	Major Infractions	Re-arrest	Re- incarceration
Number of religious meetings attended	-.0045	-.0037	-.0025	
Non-religious vs. religious	-.5583	-.5999		
Age	-.0247	-.0564	-.0339	-.0421
Days in Lieber since first or no religious involvement	.0033	.0034		
Risk of recidivism	.1600	.1621	.3897	.4139
Non-white vs. white	-.6362		-.3486	
Maximum sentence length				.0000
Non-married vs. married				
Non-sex offender vs. sex offender				
Days from release to end of follow-up for re-arrest			.0011	
Days from release to end of follow-				

up for re- incarceration				
Constant	-1.8039	-.9607	-.5059	-2.8616
- 2LL	1264.508	1229.420	2230.185	1076.033
Model Chi Square	199.590	213.446	195.488	107.492
Degrees of Freedom	6	5	5	4
N	1751	1751	1751	1723
Cox & Snell R- Square	.108	.115	.106	.060
Nagelkerke R- Square	.190	.204	.106	.122

* All variables showing a coefficient remained in the model at $p < .05$.

Table 5 reveals that the following variables were important for predicting minor and major infractions: number of religious meetings attended, belonging to the religious group, age, number of days in Lieber since arrival or since becoming involved in religious programming and risk of recidivism. Several other factors such as marital status, sex offender status and maximum sentence length did not have an influence on whether or not subjects had a major or a minor infraction. Race had an influence on whether a person had a minor infraction but not a major one. Consistent with the study hypothesis: the more often people went to religious programming the more likely they were to have no minor or major

infractions. To say this in another way: as intensity of religious programming increased among the prisoners there were fewer minor and major infractions. Also, the subjects in the religious group were more likely not to have a minor or major infraction as compared to the non-religious group. In addition, older inmates, and those who had a fewer number of days in Lieber or a lower risk of recidivism score were more likely not to have a minor and a major infraction. To repeat the main finding that related to the study hypothesis: greater levels of religious participation were associated with greater levels of success in having no minor or major infractions while in prison. An unexpected finding was that just being in the religious group (irrespective of how often a person attended meetings) also increased the probability of a person's success while in prison.

For the second measure of rehabilitation – freedom from re-arrest during the average follow-up time of 2.3 years - the following variables were important predictors of success: number of religious meetings attended, age, risk of recidivism, race and number of follow-up days. Other factors such as sex offender status, being in the religious group and marital status were not related to re-arrest. Once again the hypothesis was confirmed: the more often people went to religious programming the more likely they were not to have a re-arrest.

The analysis also showed that older inmates, whites, those with a lower risk of recidivism, and those with a fewer number of follow-up days were more likely not to have a re-arrest.

There was a different pattern of influence for the third outcome – freedom from re-incarceration. Contrary to the hypothesis the level of religious participation was not associated with greater levels of success. Nor was belonging in the religious group. Once again, however, older offenders, those with lower risk of recidivism, and shorter follow-up time were more likely not to be re-incarcerated. Additionally those with shorter prison sentences were also more likely not to be re-incarcerated. The findings for the third outcome reveal that there was something different for our subjects about the process of being re-arrested and being re-incarcerated after they were released into the community. For some reason, intensity of in-prison religious involvement was not related to preventing the re-incarceration process from taking place. Ex-offenders are often re-incarcerated after their release from prison because of technical parole violations. So, even though one would think that re-incarceration is more serious than re-arrest it is not necessarily the case. The religious effect that we observed with regard to minor and major infractions and re-arrest did not attach

itself to re-incarceration as one would expect. I am not sure why there was no influence of religious involvement on re-incarceration but it may relate to the fact that re-incarceration relates to parole violations which can be for technical violations as well as for new criminal behaviors. This was the only outcome variable for which maximum sentence length mattered. People with longer prison sentences were more likely to be re-incarcerated. This suggests that the offenders who had long sentences were more likely to be paroled during their sentence and they were therefore more likely to be re-incarcerated for a technical violation such as failure to appear before the parole officer or going into public drinking places. In one sense, being violated on these failures to follow the conditions of parole depends upon the actions of a released person's parole officer and not upon the released person themselves. If this is so it would help to explain why there was no religious effect on re-incarceration: the re-incarceration was not related to new criminal activity on the part of the released person but on a failure of the person to meet their conditions of parole. Both the religious and the non-religious groups may have been equally open to having a technical violation irrespective of any repeat criminal activity.

Discussion

The findings from the study have several significant implications for religious services within a correctional context. Overall, the findings confirm the study hypothesis: There is a relationship between higher levels of attendance of religious programming and successful rehabilitation. The more often an offender attends religious meetings, the more likely they are to succeed in the process of rehabilitation as measured by major and minor infractions and by re-arrest rates. In addition, being in the religious group in prison (apart from number of meetings attended) was also related to success in prison. This greater potential for success that is associated with being religiously involved is independent of and cannot be explained away by other influences on success such as age and risk of recidivism.

In table 4 we got a glimpse of what these findings mean when we saw that the rate of major infractions per 100 days in Lieber for non-religiously involved inmates was 1.25 as compared to .06 for religiously involved inmates. But, these figures do not take into account the complexity of all the other contributing variables that affect the rate of infractions. A better way to understand the meaning of the study findings is to examine certain statistics (the

beta coefficients and their exponents) that are produced in a logistic regression analysis. These statistics tell us that the subjects in the religious group were approximately half as likely as the non-religious subjects to have either a major or a minor infraction. On top of this reduction a religious subject was increasingly less likely to have a major or minor infraction for every additional religious meeting that he attended. This is both a statistically significant and meaningful difference for it translates into a lot less trouble for staff and inmates alike in the prison setting.

Increasing involvement in religious programming is also related to increasing success rates upon re-entry into the community as measured by re-arrests. In the case of re-arrest each religious meeting attended by a prisoner was associated with a 0.25% reduction in the probability of having a re-arrest. So if a prisoner attended a total of 100 religious meetings they would have a 25% reduction in the probability of having a re-arrest as compared to a prisoner who attended no religious meetings holding all other variables equal. This means that the influence of religious programming is both statistically significant and practically meaningful in helping to reduce both infractions in prison and re-arrests in the community. This amount of reduction in infractions and crime

means less victimization, less crime and lower law enforcement costs. The relative strength of the statistical models to predict infraction and re-arrest also tell us that the influence of religious programming is stronger in terms of reducing infractions than re-arrests. This is to be expected because the full impact of the religious programming is more likely to be felt immediately and in the given context in which the programming takes place.

At the time of this study the religious groups and volunteers who conducted the programming at Lieber did not provide any formal faith-based aftercare to the religiously involved inmates upon their re-entry into the community. Even without aftercare it is important to note that the provision of religious programming in prison has an influence on success rates after prison. Would aftercare services have improved the success rates? Probably, however, while some have asserted that without transition or re-entry services there is no effect of religious programming on successful re-entry into the community this view is not supported by the study. This important finding of a religious program impact on re-entry success rates is also in line with the findings reported above by Young et al and Sumter. The findings do suggest, however, that if the religious groups were to provide re-entry or aftercare services upon release the

best time to do so would be in the first six months after release. The first six months to one year was the most likely time for the released offenders to be re-arrested.

The work of the chaplains, volunteers and religiously involved inmates ensures that the life of faith or the spiritual dimension of life is brought into being and fostered in the prison setting. Religion brings into the correctional setting the much needed element of hope and motivation to change, and introduces important ethical and religious ideas of forgiveness and the love of one's neighbor. The involvement of members of the "outside" community also helps to normalize the prison experience and ameliorates the sense of isolation from the community that incarceration brings. Isolating people from the community can actually separate offenders from the pro-social sources of behavior and support they need to learn how to live without crime.¹¹⁷ Such a practice of isolation is directly contrary to most theologies of religious community that emphasize the importance of a faith community in helping people live a good life. The pro-social benefits of this human interaction between volunteers and offenders in a prison setting, that by definition is not a very pro-social context,

¹¹⁷ T Clear and Dina R Rose, "Examining the Criminogenic Effects of Imprisonment," in *American Sociological Association* (New York: 1996).

ought not to be on underestimated.

If inmates are to benefit from this human interaction and communal experience when they are released it seems they must become involved at a certain level of intensity. Mere attendance at the odd worship service, Bible study, or Jumuah prayer simply is not enough to bring about post-release change or development. As with other correctional programs, religion is not a panacea, rather, religion works for some people in some circumstances. One of these circumstances seems to be a certain level of attendance at religious programs. The findings suggest that correctional theory and practice should include the religious variable among those factors that are predictive of in-prison infractions and re-arrest such as age, criminal history and other risk factors like attachment to work and family.

As is usual for most studies, there are methodological limitations to this study, which mean that we must interpret its findings carefully. The major threat to the validity of these findings arises from what is called selection bias or specification error and the fact that the subjects in our two groups - religious and non-religious attendees - were not randomly assigned, in the experimental fashion,

to those two groups. This means that we may have failed to measure both groups on some crucial variable that relates to reduced levels of infractions and/or re-arrest, such as motivation to change, and so have a spurious effect with regard to religious participation and successful rehabilitation. Following Heckman we believe that the lack of random assignment is not a critical methodological limitation. "Selection bias arises because of missing data on the common factors affecting participation and outcomes. The most convincing way to solve the selection problem is to collect better data. This option has never been discussed in the recent debates over the merits of experimental and econometric approaches and has only recently been exercised.¹¹⁸ Collecting better data is precisely the strategy I followed in this study. I was able to account for the religious participation level of a very large number of inmates in a setting or context that was the same for each of the subjects. Unlike previous studies, which either relied on self-reported religiosity or very incomplete measures of participation in religious programming, I tied the measure of religiosity to a concrete behavioral measure and gained a complete picture of the in-prison religious programming involved for each of the subjects in the study. In addition, I collected as much information as possible on the

¹¹⁸ Heckman.

demographics and criminal history risk factors of the subjects to control for many of the factors that might influence both participation and outcomes. Given the inherent limitations, therefore, the research design was methodologically robust. The study was guided by a theory, collected thorough data, used a quasi experimental design that included a longitudinal element so as to examine the issue of causality, and used multivariate statistical measures and controls.

The study looked at religion from a global perspective and did not make any distinction between different types of religious programming among different religious groups. I suspect the influence of different types of religious programming on rehabilitation is not uniform. Undoubtedly, based on such factors as training, style, content, frequency and quality of leaders or presenters, there will be different effects of various religious programs on the rehabilitation process for offenders. I leave the question of the differential impact of different kinds of religious programs to future studies. Thee value of this study is that it was able to discern patterns of a global religious impact on reducing infractions and re-arrest. In this way, the study supports the widely held cultural belief in the U.S. that religion plays a role in the creation and maintenance of a law-abiding community. The study also provides evidence to suggest that the

religious variable is an important correctional variable and one that should properly be considered in the mix of variables and “best correctional practices” that are predictive of offender rehabilitation.

Theologies of redemption essentially examine the process of turning evil into good or transforming a bad situation into a good situation. Rehabilitation is often thought of as the movement of a person from committing infractions or crime to not committing infractions or crime. But such a purely functional definition of rehabilitation does not do justice to the profound changes that can and must take place in a person’s life or situation as he or she renounces criminal behavior and adopts pro-social behavior. Ultimately religion in a correctional setting seeks to influence offenders not only to desist from crime but also to grow in a compassionately and just relationship with God or the Divine, with others and with the world. That such a transformation from selfishness to self-giving is taking place among the incarcerated men at Lieber can be discerned in the findings of this study and illustrated by the words of one of the subjects in the study: “Before [prison] it was all me. Now I know life is also about relationships. I have to think of others and God. If you’re serious about God, you have to take on the nature of God, and God cares about other people

too.”

In chapter one I worked with the insights of Michel Foucault who established that there is always an intimate connection between the politics of power and knowledge and the penal response of society to crime. Religious impulses and structures are necessarily interwoven into this public discourse between power, knowledge and crime. With the advent of the Enlightenment the nature of the dialogue between society and crime went through a paradigmatic shift as a collective society gave way to a society that was founded on the notion of the individual. This shift mirrored a political change from a monarchical society to a society that was based in law and the idea of a social contract. The structures of power and knowledge that had maintained the authority of the crown were dismantled and replaced by newer structures more fitting to the maintenance of a new social order. Along with the rise of the social scientists there came an extended penal mapping of the social body and this extended mapping induced, with the help of religion, the notion of the “criminal” as well as the notion of “rehabilitation”. These new penal notions were later developed and operationalized in a secular context of rationality and a search to establish a just society on the basis of reason.

Drawing on the insights of MacIntyre and Lonergan I argue against Foucault, that the shift from a monarchical society to a society based upon law contained an ethical search on the part of society alongside its search for power and knowledge. This ethical dimension within the public discourse on crime and rehabilitation can be seen in the form of resistance to the excesses of royal power to punish and to in efforts by prison reformers to establish a more humane penal system. Both MacIntyre and Lonergan point out that this ethical dimension can only be sustained in the context of community and therefore of tradition. Rationality and individuality are not sufficient, even if they are necessary, conditions for the establishment of a just and loving society. The basis for a just and loving community is to be found in authentic co-operation among people.

Chapter two becomes less abstract and describes the formative cultural and religious influences on the early development of the U.S. penal system. The Puritans who settled the Massachusetts Bay area in the 1600's seem to have indelibly influenced the tendency of the American penal system to seek to enforce social compliance through punitive measures. As Calvinists the Puritans placed great emphasis on the concept of obedience to law for it was the external law that helped keep "sinful" human beings in right relationship with

God. Although church and state were somewhat separate - church ministers could not be elected to civil office - both church and state answered to the same authority of the Christian scriptures at that time. Thus it became the job of the clergy, the people who were the authorities on the Bible, to keep order among the various communities and to be the final arbiters of the law. So began a recurring pattern of discourse in the history of the relationship between religion, the community and the justice system in the U.S.

Later, as the Enlightenment exerted its influence, this evolving dialogue reached a critical and different point in the late 1700's and early 1800's when a less "sinful" or more optimistic Christian theological anthropology provided momentum for the construction of the first penitentiaries in America. The Quakers in Pennsylvania believed that penitentiaries and their penal regimes (which included religious instruction, practice and reflection) could bring about an internal spiritual conversion that would restore criminals to a virtue and honesty that more than a passive obedience to law.

Throughout the 19th and 20th centuries, under the ongoing influence of Enlightenment ideas and other broadly based cultural, religious and political developments, the U.S. penal system became less self-consciously directed by religious views of the human person and society and developed a more secular and social scientific rationale to guide its development. Relying on reason more than spirituality, this new viewpoint helped to change "penitentiaries" first to "reformatories" and then to "correctional institutions" that relied on a varying mixture of punishment and treatment to bring about rehabilitation. The balance

between punishment and treatment swung heavily toward punishment in the 1970's and quickly established the U.S. penal system as one of the most punitive among the developed countries of the Northern Hemisphere. Today, however, an emerging public discourse, which is at times contentious, considers whether society might benefit from recovering a more explicit role for religion in addressing issues of crime, punishment, and rehabilitation. Given the socio-political strength and acceptance of this desire to recover a more explicit role for religion in corrections one could easily argue that society has arrived at another critical point in the dynamic relationship between faith, crime, and rehabilitation.

In an attempt to answer some of the relevant questions about this newly emergent desire to recover a more explicit role for religion in corrections chapter three employed a sociological methodology to empirically examine the role and rehabilitative impact of religious involvement among prison inmates. Despite the rational and social scientific context for corrections a varied, extensive and inexpensive religious practice flourishes among approximately half of the state prison populations of South Carolina and Oregon. Some inmates involved in this practice speak of a transformation from selfishness to a concern for others and of positive interactions with volunteer and chaplain role models. They also describe profound internal changes in their thinking and attitudes that results in new and more pro-social behaviors. Official data on in-prison infractions and re-arrest rates upon re-entry into the community lend

support to the theory that the more one is involved in this kind of religious practice the greater the positive influence of that practice on rehabilitation. Although there is room for improvement, the treatment quality of religious programming that sustains the practice of inmate spirituality is comparable to that of other treatment programs. So it is consistent with the literature on effective correctional treatment that religious programming might “work” and might properly be considered among the scientifically validated list of practices that are related to rehabilitation. The core of this religious practice is structured co-operation in a contained space among community volunteers chaplains and inmates. Perhaps the current generation of people who are religiously involved in the U.S. penal system have learnt from the Puritan tradition that structure is necessary to prevent crime. Perhaps they have also learnt from the Quaker tradition that structure which does not take place in a communal context and is devoid of meaningful content produces men and women who are spiritually bereft and cut off from the community: the very source of their healing and rehabilitation.

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