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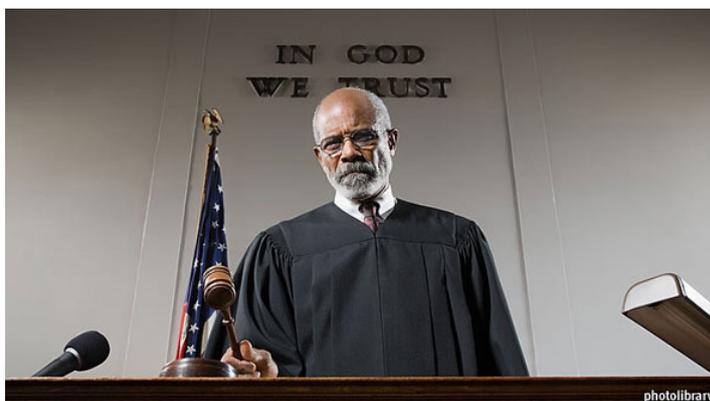
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American politics

Democracy in America

Glorious failures

Aug 13th 2010, 17:42 by J.P.P



WHEN it comes to criminal justice, Winston Churchill's saying that Americans can be relied on to do the right thing after they have tried everything else has to be modified: the right thing tends to get its day only when states run out of cash. A squeezed budget is one reason why Los Angeles County's DA, Steve Cooley, [is hostile to three strikes laws](#). Lack of money also explains why [Republicans in South Carolina are considering a halt to imprisoning non-violent drug offenders](#). Sending someone to prison at a cost to the taxpayer of some \$50,000 a year for trying to steal \$29 worth of plumbing supplies is not only a daft idea; it is strictly a bull-market approach to criminal justice.

With some unlikely people now receptive to the idea that it would be good to imprison fewer people, a new book looking at failed experiments in criminal justice over the past decade or so is well timed. The premise of "[Learning from Failure](#)" by Greg Berman and Aubrey Fox of New York's [Center for Court Innovation](#) is that research into criminal justice suffers because so much attention is paid to programmes that succeeded and so little to the flops. The effect is familiar to pharmaceutical companies: a handful of successful drug trials get headlines while thousands of failures, with all the promising hypotheses they entail and data that they can yield, are forgotten.

The authors try to correct this bias by examining six programmes that excited lots of interest from fellow researchers (and even from the White House) but ultimately failed. A handful of problems recur, killing off the best experiments:

1. Promising programmes can be sabotaged by police departments.

The St. Louis police force ran a scheme in which officers went to houses and asked permission to search them for stolen or unregistered firearms. In exchange for co-operation, the officers explained, the search would not result in a prosecution, even if drugs or stolen goods were discovered. Parents in crime-ridden neighbourhoods were delighted to have gun-free homes and sometimes asked officers to come back next week and look again. 98% of those who were asked allowed the police to enter their homes, with the result that in 1994 the small unit running the programme seized 402 guns. This cost much less than an earlier programme of gun buybacks and did not result in people selling their guns to the police force and then going and buying better ones with the proceeds.

But "Consent to Search" in St. Louis was killed by a change in personnel at the top of the police department, and the officer responsible for creating it was reassigned. By the time anyone noticed what had happened it was too late. An attempt to recreate the programme was ill-thought through and so it died a second death.

2. Good schemes can wither when transplanted.

Drug courts are one of the most promising recent ideas in criminal justice. For non-violent drug users, conventional courts tend to lead to a cycle of drugs/court appearances/more drugs/more court appearances/some petty theft/prison/some less petty theft. This is unjust and expensive. A drug court presided over by a paternalistic judge, who can sentence non-violent drug users to mandatory treatment programmes and monitors their progress, with the threat of imprisonment as a sanction, can get better (and ultimately cheaper) results. The authors cite a study that suggests that every dollar spent on drug courts accrues a saving of \$2.21. While it is possible to pick holes in such estimates, the point holds: not sending people to prison saves money

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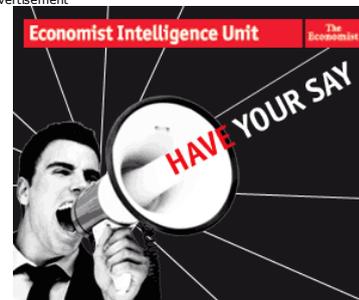
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Yet the idea flopped in Minneapolis and in Denver. The reason, the authors reckon, is that the drug courts were overly dependent on a single charismatic judge who started them up. The programmes suffered when these judges moved on. They had failed to win over the police, prosecutors and journalists, who observed that the scumbags were never sent to prison. Stories of violent dealers being sentenced to treatment abounded, and the drug courts in Minneapolis and Denver withered.

3. Fights over who should take the credit for success can kill a programme.

Operation Ceasefire was launched in Boston in 1995 at a time when the city police were being called out to six or seven shootings a night. In what is perhaps the best example of criminologist as crime fighter, a group of Harvard academics crunched the numbers and realised that 1% of young people in the city were responsible for 60% of youth homicides. The police often knew who these people were and a strategy was put in place: officers would go after these people for any violations they could, from parking fines to petty theft, harassing them until the murders stopped. (This plan may be familiar to people who watched "The Wire"—David Simon, the main writer on the series, was a crime reporter in Baltimore in the mid-1990s.)

The results were striking: homicides in Boston dropped from 152 in 1990 to 31 in 1999. Operation Ceasefire was imitated in other cities. A priest involved in its implementation was hailed as the "Saviour of the Streets" in a *Newsweek* cover article. But at the height of its fame a vicious squabble broke out: who deserved credit for Ceasefire? Amid the squabbling, the programme imploded in the city that had invented it. Boston's murder rate subsequently climbed between 1999 and 2005.

4. Many of the problems eating criminal justice in America stem from a wholesale transfer of power to the legislative branch.

Since the 1980s America has fallen into a pattern when it comes to sentencing. A horrible crime is committed. Politicians call for new tough laws, tougher than the last set of tough laws, to make sure nothing of the sort will ever happen again. Sometimes the new law is lent the name of the victim (Megan, Kendra and Laura all have eponymous laws). Three-strikes laws exacerbate the problem. The whole process is repeated again and again, with the result that judges often have no discretion as to how offenders are punished and America sends nine times more people to prison (as a share of its population) than Germany.

Yet it doesn't have to be this way. Mike Lawlor, a Connecticut state senator, successfully fought off a ballot initiative to bring in a three-strikes law after [a particularly horrible triple-murder in 2007](#). With the blessing of the family's sole survivor, Mr Lawlor pointed out that a three-strikes law would not have prevented the crime; that the state could not afford to build the prison places it would need if the ballot initiative passed; and that the whole idea was a distraction from the real failure, which was that the parole board had not been handed a report that would have told its members that the man they were about to release early for good behaviour was considered extremely dangerous. Mr Lawlor won the argument and the law was never passed.

"Learning from Failure" aims to prompt changes in America but it has lessons for other countries too. Aubrey Fox, one of the authors, is in London at the moment trying to create a British branch of the Center for Court Innovation. The authors are careful to temper expectations about what enlightened schemes can achieve. Their book cites [Joan Petersilia](#) of Stanford to the effect that, "there is nothing in our history of over 100 years of reform that says we know how to reduce recidivism by more than 15 or 20 percent." In a country as keen on prison as America, that's still a lot of people.

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bampbs wrote:

Aug 13th 2010 5:03 GMT

The media-as-entertainment, by exploiting and sensationalizing crime, bears a heavy responsibility for public demands that "something" be done. How many Americans are aware that violent crime has fallen dramatically? I'm sure they've never heard it from the TV news.

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RestrainedRadical wrote:

Aug 13th 2010 5:48 GMT

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Of all the Christian acts of mercy, visiting the imprisoned is the one most ignored. Rick Warren and other American Christian leaders should get together and start an "adopt a prisoner" program. With a friend behind bars, you can't but oppose harsh punishments.

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Doug Pascover wrote: Aug 13th 2010 5:50 GMT
Has any police force tried framing legislators yet? I think that could work.

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gtgator wrote: Aug 13th 2010 6:09 GMT
On point one, DiA you make it sounds like guns are growing like grass in homes and they were delighted the police trimmed it. They were happy I imagine, because if you didn't cooperate, the police would get warrants and they would go to jail. If people were so happy by not having guns in their home, who did they just not get rid of em.

Agree with you in that many of our drug laws are not effective and send pointless #'s to prison. As for learning from failure, we all need to take a page out of that playbook, not just republicans.

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Tzimisces wrote: Aug 13th 2010 6:20 GMT
gtgator,

A lot of gang violence is caused by youths still living at home. Parents were probably thrilled to have police search the home in a way that provided a stern warning to their child when the parent was probably concerned that if they did something similar themselves their rather violent child might retaliate. There's a lot of parents out there trying to do their best to get a difficult child through a rough patch that are at a complete loss as to how to exert control.

In other words, I'd be rather shocked if the person letting the cops in to do the search was the same one that had the drugs/guns in the home.

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jomiku wrote: Aug 13th 2010 7:20 GMT
I worked in the criminal justice system in Detroit. Spend any time with the system and you know that history is stacked against success. While the press does a good job of portraying the heartless criminals, white people who've never been in those homes, in the courts have no idea how bad life is and how hard it is for kids, especially young men, to escape it. You want to believe that fixing poverty would do the job, but you know that is unlikely. You also learn immediately that harder sentencing doesn't do squat to change the patterns of behavior of young men. They simply can't think that far into the future. If they could, if they could see the course of their lives and how they can make a different future, they'd stay in school and get educated. There is a steady stream of kids reaching their teens who won't listen to their elders' warnings, even when they come from former bangers of the worst kind.

The imposition of punitive sentencing laws always seemed to me to manifest two somewhat contradictory impulses: to punish out of hatred and to direct out of love. There is a strong thread of hatred in the urge to punish, especially when race is involved, and yet many proponents of mandatory harsh sentencing see this as a club to nudge people toward change. They want a better world and see this as a way to bring that about. I've long viewed criminal justice as a strong argument against the facile arguments about the efficacy of nudging people toward desirable conduct.

You spend some time in the Detroit courts and you'll know what I mean. We understood we were pushing the rock uphill and that it was only going to roll back down. I knew it wasn't for me when I thought about another myth, that of Prometheus bound to a rock so every day an eagle would eat his liver only to have it grow back to be eaten again.

I remember when Reagan fired the air controllers who struck illegally. They complained about the stress of their job. No, I'd say, try being a Detroit cop when there's a car in the alley with guys in it and you have to walk up to it knowing you could end up paralyzed or dead and your little boy will never know his dad. Try doing that every single day. Then try standing there as you hear yet another kid who shot another because he was disrespected or another guy who stabbed his girlfriend 17 times with a screwdriver and then ran her head over with his car or the guy who just made bail that you know is never going to trial because the drug barons up the chain will kill him and you want to tell him to run but you know it doesn't matter because he's dead already and you hope it won't be too painful.

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Heimdall wrote: Aug 13th 2010 7:32 GMT
"Learning from Failure" certainly seems to be wise. It strikes me that "Learning from Success" might also.

It would be intriguing to see studies of cities/countries *worldwide* that seem to have minimal crime and see if there are any ideas we can lift from them.

Given how draconian our criminal justice system currently is (i.e., we imprison more citizens per capita than any other country, by far, for relatively trivial offenses at times), even Singapore might be a warmer, fuzzier solution...

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Jomiku: Aug 13th 2010 7:58 GMT
 "You also learn immediately that harder sentencing doesn't do squat to change the patterns of behavior of young men. They simply can't think that far into the future. If they could, if they could see the course of their lives and how they can make a different future, they'd stay in school and get educated." - jomiku

I don't think I've ever heard it put quite that succinctly and cogently before.

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Geo Angle wrote: Aug 13th 2010 8:13 GMT
 I most respectfully disagree with bampbus by presenting a different opinion. I believe that media as entertainment has been the common practice of general news providers since time immemorial, and public reaction has also been the same. The concept of "If it bleeds, it leads" is what sells local news, and this is because it is what the public wants, just as many people enjoy a good horror film.

What matters is how politicians react. As this article points out, over-reacting politicians who are concerned with gaining votes in the next election are too quick to show toughness over reason.

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don ho wrote: Aug 13th 2010 8:29 GMT
 And they are all dependent on charismatic individuals, who can't work forever. If you want permanent change, you need to change the bureaucracy.

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jbay wrote: Aug 13th 2010 9:36 GMT
 It's not that young men can't see into the future. It's that if you put a dog on a shock pad and shock him to try and teach him he becomes more and more depressed and aggressive until he stops responding entirely. That is of course until the hand shocking is close enough to attack. I think our law enforcement needs to read a little Skinner, "operant conditioning" along w. behavior and learning psychology.

Speaking from experience, I grew constantly being harassed because I'm a red head. When I was young this made me confused and angry. Because it was illogical abuse I turned inward. I stopped being able to tell the criticism meant to help from the criticism meant to harm. There was one other kid that had the same childhood at the school that I did. We looked the same, thought the same and were treated the same by teachers and peers. The only difference was that my father and mother where around to teach me while he was raised by a single mother working two jobs.

I went on to study philosophy, psychology and business, seek out mentors and try to understand why people are the way they are. Eventually I became less angry and I've now done pretty well for myself. The last time I heard anything about him he had spent the better part of the last 5 years in jail and brutally beat his sister w. a gun.

When everything around you seems unjust and someone comes along to tell you to obey the injustice it is like someone telling you to stop crying over being whipped or you'll be whipped with two whips instead of one whip. There is no difference in your mind between bad and more bad and all you're thinking about is how to fight the injustice before you lose yourself.

As long as laws exist for profit, monetary or political, there will always be injustice. As long as the motives of punishment are not based on helping people the cycle of hate will continue and violence will follow close behind. The difference between me and the other kid is that I found and learned: compassion, love, kindness and understanding to temper my anger. I had people to pick me up and dust me off. When I reached the tips of despair and rage there was always a stranger around to stand up for me or pat me on the back with sympathy. His experience was that if he didn't fight for himself he would be left in the cold and die because no one ever came to his aid. He learned that if he didn't push back then he'd be abused mentally in addition to physically. My experience was that if I held fast and controlled my anger then a hand would appear to lift me.

This has nothing to do with not seeing into the future. Trust me; they see quiet clearly into the future. It has everything to do with experience, adding and subtracting, from how we understand what the future will bring. When your past and present has been brutality how can you see anything in the future but more brutality?

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General Wolfe wrote: Aug 13th 2010 10:31 GMT
 Here in Canada our right-wing government wants to spend billions for new prisons. When it was pointed out that the crime rate has been declining the minister claimed that the decline was the result of crimes going unreported. In other words we need to build new prisons to house criminals that commit crimes that are never reported.

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Prudent Man, CFA wrote: Aug 13th 2010 11:39 GMT
 Pandering to the Criminal Mind only encourages recidivism. To believe there aren't any evil people is naive; to do so while in a position of power is idiotic, malfasant and virtually criminal. The limousine liberal mind set has contributed to the homelessness of those who are incapable of living in and contributing positively to civilized society.

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Most of the problems of America, not just in criminal justice, can be attributed to the wholesale transference of power to the legislative branch.

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equineannie wrote: Aug 14th 2010 12:51 GMT
Excellent commentary and too bad it will never make a difference in the US. Part of the political game here is that you must be tough on crime and criminals to get elected. If you aren't your opponent will destroy you.

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jbay wrote: Aug 14th 2010 1:07 GMT
Evil is present in us all. Its causes are fear, mistrust, apathy and a lack of inquiry. The acts of subjects in experiments lend plenty of evidence to that effect. The end result is the accumulation by the confederate of the evils passed on to him by a lifetime of subjects misgivings.

I am not a liberal. I was a registered republican until a few years ago. I'm now registered independent and could never call myself a democrat. It seems incredibly naive to me to trust anyone. Why then would I trust my government? To justify the legal today you have to be incredibly naive, inexperienced and unlearned.

The real contribution to poverty is oversimplification of that which is complex and the resulting contribution to collective stupidity. The real homelessness is to call civilized that which is barbaric.

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Lulu7 wrote: Aug 14th 2010 4:42 GMT
Another appalling failure of the criminal justice practices in this country which I just recently learned about: the number of women who are in prison for killing their abusive partners (having never committed a crime before that one) and are granted parole only to have it systematically overturned by governors:
<http://www.newslook.com/videos/238193-parole-rejected-for-jailed-abuse-v...>

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Forlornehope wrote: Aug 14th 2010 8:59 GMT
To anyone familiar with management change programmes in business, these scenarios are dreadfully familiar. One organisation develops an approach that they apply with due rigour and commitment. The results are positive and are widely publicised. If the reporting is sufficient other organisations copy but with each successive wave there is less rigour, less commitment and consequently less benefit. In the end the whole programme is deemed a failure. Those old enough will remember TQM, Business Process Re-engineering and a whole menagerie of acronyms. I wish I knew the answer to this one but I suspect that it lies in something fundamental about the human condition.

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stanfordboy wrote: Aug 14th 2010 12:48 GMT
have no idea at this point

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Nirvana-bound wrote: Aug 14th 2010 1:24 GMT
The trouble with the Justice System, as with everything else in America, is the abject paucity of humility & a surfeit of vanity & pride. Nobody is willing to admit the flaws inherent in the system or do anything to correct them.

Those in charge appear only to want to work within the safety of the existing status quo rather than risk failure by attempting to bring any radical changes, to the system.

And so the flawed & broken system lurches on, sputtering calamitously from one anomaly to the next. And all at the expense of the hapless taxpayer, but of course.

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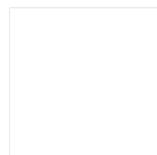
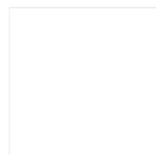
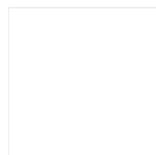
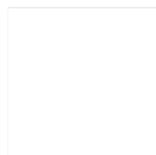
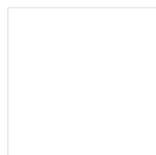
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