

Unintentionally Doing Harm

Justice system decision-makers perform a critically important role under challenging circumstances: protecting the community, restoring crime victims (where possible), holding people accountable to laws, and promoting positive behavior change. Sometimes, their decisions unintentionally cause harm. Research has provided some insight into these iatrogenic impacts.

Iatrogenic While originating from the medical field, social scientists use the term “iatrogenic” when describing actions by decision-makers that lead to worsening outcomes. In the justice system, this might include, for example, increases in rearrest rates, violation behavior, mental health episodes, and destabilization.

Securing a conviction for unlawful behavior is essential in upholding the rule of law and affirming community values necessary for safety and social order.

However, a conviction on a person’s record can trigger collateral consequences that limit their ability to successfully engage in prosocial activities such as employment, housing, driving, voting, and securing financial aid.

Therefore, diversion and deferred prosecution can be effective ways to hold someone accountable for their actions without negatively impacting their ability to support themselves and their families.

The use of incarceration is necessary to protect the public.

However, the longer the incarceration, the more likely the person will experience economic hardship, exposure to violence, stress reactions (e.g., hypervigilance, interpersonal distrust, psychological distancing), family distresses (e.g., divorce, parent-child detachment, adverse issues for their children), stigma, and rearrest.

Therefore, the benefits of incarceration should be carefully weighed against anticipated, negative consequences.

Some services and programs sound promising and seem as if they should work, especially those that appear to be commonsense approaches (e.g., boot camps, yoga, Scared Straight experiences, and self-help groups).

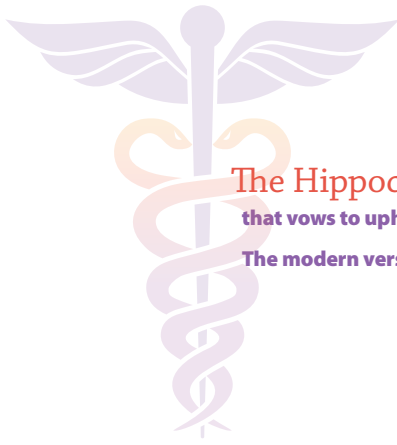
However, many of these programs are not only ineffective but they can result in higher rearrest rates than if the person did not participate in the program.

Therefore, the justice system will be more successful if it uses only those programs proven to yield positive outcomes or if it tracks outcome data on unproven programs to determine if they are, in fact, effective.

Probation can have a profound, positive impact on recidivism if it diligently and routinely applies evidence-based practices.

However, applying evidence-based practices requires intentional and effective leadership, resources, quality assurance, and an unwavering commitment. Probation departments that do not apply EBP with fidelity will likely not impact recidivism.

Therefore, probation can best contribute to public safety when it aligns its personnel, contracted services, training, policies, and resources with research findings as put forth by the Standards Committee of the Pennsylvania County Adult Probation and Parole Advisory Committee.



The Hippocratic Oath is an expression of ethics in the medical field that vows to uphold certain standards, including avoiding harming patients.

The modern version of the oath is “First, do no harm.”

The following are additional ways that, according to research, the justice system can cause harm or, conversely, increase success rates.

10 Ways...

...the justice system can unintentionally do harm

1. Overrespond to people who are not likely to violate the law again.
2. Lecture, blame, shame, and argue.
3. Mix people who are low risk and people who are high risk in programs.
4. Guess a person’s criminogenic needs.
5. Overload people with too many conditions, especially conditions that are not related to their criminogenic needs.
6. Hamstring probation and service providers’ ability to apply what works in reducing recidivism.
7. Apply a one-size-fits-all approach.
8. Over-rely on incarceration to induce behavior change.
9. Withhold rewards and affirmations when a person demonstrates changed behaviors.
10. Use programs that are not evidence-based or evidence-informed.

10 Ways...

...the justice system can increase success rates

1. Use actuarial risk and needs assessments to determine who could benefit from a justice system intervention.
2. Use parsimonious responses (e.g., citation, diversion, nonsupervised probation) for people who are lower risk.
3. Provide nonjustice system responses for those who are low risk but have significant needs in noncriminogenic areas.
4. Target the dominant criminogenic need that is driving the behavior of people who are moderate and high risk
5. Match the amount and intensity of programming to the person’s risk level.
6. Limit the length of supervision to no more than 18–24 months whenever possible.
7. Use a combination of rewards/incentives and sanctions, with an emphasis on rewards/incentives.
8. Be certain and swift when sanctioning violation behavior, and use alternatives to incarceration or, if needed, short jail terms (e.g., 3–5 days) to correct behavior.
9. Insist that the local probation department adopt evidence-based practices in all that they do.
10. Ensure that all justice practitioners (law enforcement, correctional officers, judges, prosecutors, defense counsel, etc.) serve as role models in reinforcing prosocial behavior.