

An Examination of Deterrence Theory: Where Do We Stand?

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DETERRENCE THEORY HAS been the underlying foundation for many criminal justice policies and practices throughout the course of American history. Although it was once the dominant theory within the realm of criminology, it now competes with other developing, more comprehensive and integrated theories about criminal behavior such as life course theory or Agnew's general theory of crime. Criminologists have relentlessly tested deterrence theory using scientific methods to assist in informing and educating policymakers, as well as to unravel the mystery of crime reduction. This essay first examines the theory, including the main tenets, the inherent assumptions of the theory, and the goals set forth by the theory. An inductive content analysis of numerous scholarly, peer-reviewed articles was conducted to identify key themes in the literature pertaining to deterrence and to ascertain whether or not the goals of the theory have been met, as evidenced by scientific testing. Whether or not the theory did achieve its intended goals will be addressed throughout the essay. Last, I present a summary of the major findings and commentary on the overall utility of the theory.

Overview of Deterrence Theory

Modern deterrence theories have their foundation in classical criminological theory derived mainly from an *Essay on Crimes and Punishments* written by Cesare Beccaria, an Italian economist and philosopher, in 1764, and from *An Introduction to the Principles of Morals and Legislation (Introduction to the Principles)*, written in 1781 by Jeremy Bentham an English philosopher, jurist, and

social reformer. Beccaria's treatise was notably the first concise and orderly statement of standards governing criminal punishment and called for major reform in the criminal justice system. Although not the main purpose of his work, contained within his essay was an underlying theory of criminology which argued that individuals make decisions based on what will garner them pleasure and avoid pain, and unless deterred, they will pursue their own desires, even by committing crimes (Beccaria, 1986 [1764]). Bentham's work has developed a more broad and general theory of behavior than did Beccaria's, and his work has been credited with being the forerunner to modern rational choice theory (Bentham, 1988 [1789]).

Additionally, classical theory posits that punishments should be swift, certain, and proportionate to the crime in order to appropriately deter individuals from violating the law. Beccaria called for laws that were clearly written and for making the law and its corresponding punishments known to the public, so people would be educated about the consequences of their behavior. These basic principles of classical theory would later come to be known as deterrence theory.

Deterrence theory was revived in the 1970s when various economists and criminologists began to speculate about the topic again, not only as an explanation for why people commit crime but also as a solution to crime (Pratt et al., 2006). The principal assumptions made by the theory include: (1) a message is relayed to a target group [e.g., it is wrong to murder, and if you take another's life you could go to prison or receive the death penalty]; (2) the

target group receives the message and perceives it as a threat; and (3) the group makes rational choices based on the information received. Assumption one is the easiest to achieve: Most people are aware that it is wrong to murder or steal, etc., although they may not be aware of the specific penalties for crimes other than murder. Assumptions two and three, however, are more problematic. The conjecture is made that everyone will be threatened by the sanction for the crime; however, this is not always the case. For some individuals, being arrested and serving time in jail or prison is a way of life. In addition, people do not always make rational choices, especially while under the influence of drugs and/or alcohol, which research shows a fair number of arrestees are at the time of their offense (Chapman et al., 2010).

As a final comment, it might be noted that deterrence theory is both a micro- and macro-level theory. The concept of specific deterrence proposes that individuals who commit crime(s) and are caught and punished will be deterred from future criminal activity. On the other hand, general deterrence suggests that the general population will be deterred from offending when they are aware of others being apprehended and punished. Both specific and general deterrence, however, are grounded in individuals' perceptions regarding severity, certainty, and celerity of punishment. It is essential to understand how perceptions of these factors do or do not translate into criminal behavior.

Perceptions of Punishments

Much of the scholarly literature pertaining to deterrence theory examines the certainty,

celerity (or swiftness) of punishment, and severity, and their intended effects on offenders (Bailey & Smith, 1972; Geerken & Gove, 1977; Paternoster, 1987; Howe & Loftus, 1996; Maxwell & Gray, 2000; Nagin & Pogarsky, 2001). For example, if when a person commits a crime the likelihood of being apprehended is high and that he or she will be swiftly punished and severely enough, these outcomes and their teaching effect will deter the person (as well as others) from committing future crimes. Any delay between the commission of an offense and commencement of its associated punishment is postulated to reduce the deterrent effect of the sanction. Furthermore, if the punishment for the crime is not severe enough to cause sufficient discomfort or inconvenience to the actor, he will not be deterred from engaging in additional criminal acts. These underlying assumptions of the theory point toward a linkage between perceptions and the actions on which they are based.

Research regarding severity, certainty, and celerity has shown mixed results. Severity of punishment was once thought to deliver the main deterrent effect; the more severe the consequence for law-breaking, the less likely an individual is to commit a crime. However, this assumption has not been supported in the literature (Paternoster, 1987; Schneider & Ervin, 1990; Kovandzic, et al., 2004; Kleck et al., 2005; Paternoster, 2010). Kleck et al. commented that although increased punishments may in fact reduce crime, this reduction can also be attributed to incapacitation effects (large number of offenders incarcerated), not necessarily to general deterrence (2005). The United States has experienced an incarceration binge over the last several decades; in 1980 there were approximately 501,886 incarcerated persons in prisons and jails, and at year-end 2009 there were 2,284,913. These figures do not include probation or parole; when probation and parole figures are added in, the total number of individuals under some form of correctional supervision in 1980 was 1,840,400, increasing to 7,225,800 in 2009 (BJS, 2010). Although crime rates in the U.S. did steadily decline over several decades, this cannot be solely attributed to deterrence, but to incapacitation effects and possibly to changes in police activity (Paternoster, 2010). And in fact crime rates in the U.S. remain higher than in any other Western nation.

Several forms of punitive, deterrence-focused legislation are responsible for this dramatic increase in imprisonment rates. Sanction threats such as three strikes laws in

the early 1990s were partly responsible for the increase in incarcerated offenders, as well as other sentencing initiatives such as mandatory minimums and truth-in-sentencing laws. Three strikes legislation was touted as a deterrent to serious offenders due to reduced judicial discretion (increasing certainty) and increased severity in penalties. Yet, after much empirical testing, researchers have found no significant deterrent effects for such laws (Males & Macallair, 1999; King & Mauer, 2001; Kovandzic, 2001). This may be because these laws did not take into account a person's many other factors that have been correlated with criminal conduct, such as age, gender, impulsivity, mental illness, antisocial personality disorder, etc. (Ellis, Beaver, & Wright, 2009). In addition, some research has shown that these laws may have an inverse effect—that is, to increase crime (Kovandzic et al., 2004).

Schneider & Ervin's (1990) research showed that people who had been punished more severely actually engaged in more crime; this could be due to the punishment creating a chain reaction of other events which reduce individuals' opportunities for conventional behavior (e.g., stable employment, close family ties) and weakening of social bonds. One study examining perceptual deterrence of active residential burglars found that severity alone did not have a significant impact on offenders' decisions to commit burglary. Only when severity was factored into the expected gain from the illegal activity did it have an effect (Decker et al., 1993). This finding does speak to the rational decision-making process of offenders proposed by the theory, at least in some crime categories, but it also points to a weakness of a central assumption of the theory that severity of punishment deters people. Additionally, chronic offenders, or those known as career criminals, have been shown to perceive the chance of apprehension as quite low (Bridges & Stone, 1986). This may be related to perceptions involving the erroneous dichotomization of specific versus general deterrence, certainty of punishment, and the notion of punishment avoidance.

Deterrence in general, whether contextualized as specific or general, depends on an offender or would-be offender's perceptions of sanction threats, the probability of apprehension, and the like. Also, the frameworks for both specific and general deterrence in the early literature discussed these as if they were mutually exclusive occurrences. However, researchers have documented the

illogical fallacies of this mode of thinking and proposed a reconceptualization of deterrence theory that takes into account the reality that a person could experience both general and specific deterrence (Stafford & Warr, 1993; Paternoster & Piquero, 1995). Although the researchers did not explicitly state it, actually what is being used to conceptualize the erroneous dichotomization regarding specific versus general deterrence is the bifurcation fallacy. This fallacy presents a false dilemma or a premise only allowing two choices, when there is actually at least one other option, if not more.

Stafford and Warr (1993) proposed that it is possible for most individuals to have an experience with both general and specific deterrence, or a mixture of indirect and direct experience with punishment. They argue classical deterrence theory suggests that those affected by general deterrence are assumed to have never had a direct experience with punishment, and this is simply not the case. There are individuals who may be affected by seeing others being punished, but who also may have committed crime in the past. Likewise, those categorized as experiencing specific deterrence are assumed not to be affected by vicarious punishment. It is likely that a person who has committed a crime (specific experience) is also aware of friends or acquaintances who have been apprehended. The complex nature of social context, human interaction, and individual decision making cannot be accounted for by the basic model of deterrence theory.

Additional research supports Stafford and Warr's reconceptualization model. For instance, Paternoster and Piquero (1995) found support for the concurrent effects of both specific and general deterrence in their study involving self-report measures and college students' perceptions of punishment. Their findings suggested "the overall deterrent effect of perceived risk to self [on minor forms of illegal substance use] was due to a combination of personal (specific deterrence) and vicarious (general deterrent) experiences" (1995, p. 281). It should be noted however, that conducting this type of research on college students may introduce a bias, as college students may not be representative of the total population of criminals. One could propose that college students differ from "criminals" in some systematic way, that they have more self-control, have goals and can follow through with them, are more naïve and higher in risk-sensitivity because they have more to lose.

In addition, not only has research shown a concurrent effect of both general and specific deterrence, but it has also revealed an effect of punishment avoidance.

Much of the early scholarly discourse surrounding the deterrence theory ignored the possibility of punishment avoidance and its effect on individuals. This can be attributed to oversimplification of a complex issue—making broad over-generalizations and only examining formal sanction threats and their effects on individuals, while not taking into account informal influences. Punishment avoidance refers to the situation where a person commits a criminal offense, but is not caught and punished by the criminal justice system. Stafford and Warr, in their reconceptualization of deterrence theory, proposed a model incorporating punishment avoidance into both specific and general deterrence; hence, general deterrence includes “indirect experience with punishment and punishment avoidance and specific deterrence refers to the deterrent effect of direct experience with punishment and punishment avoidance” (1993, p. 127). Individuals who experience punishment avoidance may increase offending behaviors because of the perception that the likelihood of being caught is low. This type of thinking on the part of offenders contains several logical fallacies, one being confirmation bias—a form of selective thinking that focuses on evidence that supports what believers already believe while ignoring evidence that refutes their beliefs. Secondly, observation selection is at play here when offenders point out favorable circumstances while ignoring unfavorable ones—“I have gotten away with many crimes thus far and the chances are I will never get caught,” or “I am not hurting anyone in the process,” but they are hurting someone in some way and risking their freedom in doing so. The reconceptualization model is a significant advancement of classic deterrence theory.

The reconceptualization model has a number of advantages over the traditional deterrence model (Stafford & Warr, 1993). First, it allows for both specific and general deterrence to have an effect on a person concurrently. Second, it recognizes the discrete operation of punishment avoidance, separate from experiencing punishment. Third, it allows for congruence with other theories such as learning theory, and is more comprehensive in its ability to explain offending behaviors. In essence, the model includes four types of effects that may impact an individual's choice to violate the law: (1) personal encounter with

sanction threats; (2) personal encounter with punishment avoidance; (3) indirect experience with punishment; and (4) indirect experience with punishment avoidance (Stafford & Warr, 1993; Paternoster & Piquero, 1995). Thus, the original deterrence model is expanded to incorporate perceptions of risk based on both personal experiences and vicarious experiences of others, tries to expand the linkage between perceptions and actions, and helps to explain the complex interaction of these variables upon individual decision making in relation to crime. At its core is the idea that certainty of punishment is more important to an individual contemplating crime than is severity or celerity. Moreover, such findings deteriorate the simplistic assumptions asserted by the original theory; particularly because the original theory only focuses on legal sanction threats and does not account for informal influences. Certainty of punishment has garnered much attention in the research when severity of punishment failed to deliver expected results.

The impact of certainty of punishment for criminal acts is just as murky as the research on severity of punishment. Some studies indicate perceived certainty of sanction threats has very little effect on re-offense rates (Kleck et al., 2005), whereas other research claims it does have an effect on some people but not others (Matthews & Agnew, 2008). Early deterrence theory research recognized the importance of certainty of punishment and the methodology of testing went through several waves. Sociologist Matthew Silberman was one of the first researchers to use individual survey research in conjunction with aggregate crime data in his examination of deterrence theory, and found that certainty of punishment was differentially affected by the type of crime committed (1976). Geerken and Gove found similar patterns in their research, including perceived certainty of punishments that differed according to crime type (1977). Chambliss also articulated that those who commit “expressive crimes” such as drug use, murder, or sex offenses are less deterred when compared to “instrumental crimes” or economic crimes (1967). One should contemplate the fact that the seriousness of the offense affects the individual's perception of being caught, as it is more difficult to avoid detection of these acts, whereas lesser crimes of an economic nature may be easier to commit without detection. Beyond the early research, which relied mainly on objective measures (e.g., number of arrests, number

of convictions), new methods of testing the certainty facet of deterrence were employed in later scholarship.

The next phase in testing the certainty of deterrence involved use of individual surveys; this went beyond aggregate measures and attempted to tap personal perceptions, which is integral to understanding individual-level decision making to engage in crime. Individuals were asked about their perceptions of the certainty of punishment in relation to past or future criminal behavior, and correlations were tested amongst these variables (Schneider & Ervin, 1990; Maxwell & Gray, 2000). These studies primarily used cross-sectional designs and received much criticism due to problems with temporal ordering of variables. In effect, people were mainly being asked about perceived certainty of punishment on past criminal offending. Researchers recognized this issue and began to employ longitudinal studies in testing the effect of certainty. One such study specifically addressed the temporal sequencing issue and found offenders who had direct experience with the criminal justice system actually perceived a decrease in certainty of sanction threats (Saltzman et al., 1982). Again, to this writer, this finding clearly points to the fact that individuals commit more crimes than those for which they are caught and punished, so when they actually are caught once or a couple of times, their past experiences with punishment avoidance affect their future decision making regarding reoffending. They are basing decisions on flawed calculations and false confidence in avoiding future punishment. Furthermore, deterrence theory really boils down to individual decision making more than macro-level considerations, although many crime control policies are based on both specific and general deterrence. Consequently, research attempting to refine deterrence should be conducted with individuals, as opposed to using aggregate-level analysis, when the main goal is to tap perceptual deterrence and its linkage to behaviors based on those perceptions.

More recently and contradictory to the immediate previous discussion, Wright et al. found those predisposed to crime are more likely affected by perceived certainty of punishment (2004). Several studies examined the perceived certainty of sanction threats with a group of probationers entering a court-ordered drug rehabilitation program. Although violations of probation are not always considered law violations (violations

such as positive urine tests for illegal drugs indicate risk of reoffending and continued disregard for the law), the authors argued their study attended to the temporal issue by gathering information on perceptions of certainty of sanctions before violations occurred and with individuals who have engaged in serious offenses (Maxwell & Gray, 2000; Marlowe et al., 2005). Results revealed “support for the positive effect of the offenders’ perceptions of the certainty of sanction on their outcome status and their lengths of time in the program” (Maxwell & Gray, 2000, p. 132). This finding is not surprising considering offenders in this program were being monitored closely by probation officers and were receiving regular drug testing. They were already in a “real” situation that threatened their freedom instead of being surveyed about past involvement in crime. Furthermore, Pogarsky et al. stated that perceptions of sanction threats change over time according to experiences of the individual and other moderating factors (2004). This is an important postulate because it is naïve to think that humans are primarily static and impervious to any external forces or social contexts, as well as internal changes brought about by these external stimuli, which may lead to an increase in self-reflection or maturity. Nonetheless, certainty of punishment has elicited various responses by scholars.

Several common responses can be seen in the literature with regard to the mixture of findings on certainty of punishment. First, some scholars have posited that threatening individuals with sanctions from the State does not matter, because crime is largely a function of informal social control and other variables such as criminal associates and morality (Paternoster, 1987). Second, others have argued that some people are deterred while other types of people are not; therefore, certainty of punishment will have no effect, at least on some people. Third, criminologists have begun studying factors affecting perceptions about certainty of punishment that may explain the differential effects measured in the research literature. Still others claim that certainty of punishment mostly deters those with a high predisposition (or low “risk-sensitivity”) from offending because those with a low predisposition (“high risk-sensitivity”) are not likely to engage in crime at all (Matthews & Agnew, 2008). All of these claims seem to have merit and have been scientifically tested, and therefore it is difficult to reconcile these differences. Or, is reconciliation even the proper answer? Last, the position on celerity is

a little more definitive than the state of either severity or certainty.

The tenet of celerity has received the least support in the scholarly literature with regards to deterrence. Bentham proposed that the promptness of the sanction after commission of a criminal act is integral “for punishment to keep its superiority over the profit of the offense...” (Howe & Loftus, 1996). Nonetheless, some social scientists have even argued that celerity is irrelevant and only applies to animal behavior (Grice, 1948; Kamin, 1957; Mackintosh, 1974, as cited in Howe & Loftus, 1996). Nagin and Pogarsky found “variation in sanction certainty and severity predicted offending, but variation in celerity did not” (2001, p. 865). The delay in meting out punishment, a common occurrence in the American criminal justice system, is a logical consideration not to be overlooked. In many cases, those arrested and prosecuted may not receive a final disposition until two years after they are arrested. Cases are continually passed and reset in the legal maneuvering game by both prosecutors and defense attorneys. Paternoster stated that the system does not sufficiently make use of the rationality that individuals supposedly employ when weighing the costs and benefits of their actions because of such delays (2010).

Mendes reviews several explanations for the differential and confounding findings pertaining to the three central fundamental elements of deterrence theory. First, the element of risk taking—the degree to which individuals are willing to take risks and how they perceive risk factors—in certain situations plays a key role (2004). This component was actually asserted by Becker (1968), an economist who has been credited with the revival of deterrence theory in the 1970s. Second, extralegal factors such as morals, beliefs, and informal social consequences come to bear on decision-making, which may account for variability across severity, certainty, and celerity (Mendes, 2004). Furthermore, there are several underlying fallacies of logic I see within the theory of deterrence and tangential issues such as punishment avoidance. One is the “argument of adverse consequences,” which refers to the assumption that if a person who commits a crime is not caught and punished, others will commit crime due to the failure of the criminal justice system. Also, one can see the fallacy of *argumentum ad baculum*, which is an argument based on an appeal to fear or a threat (if you don’t obey the law, you will

go to jail). These threats plainly do not deter all people from committing crime, as the theory asserts. This has led some to propose that components of deterrence theory be incorporated with other criminological theories, and this was a consistent theme which emerged from the content analysis of articles for this essay.

Integration of Deterrence with Other Theories

Traditions in criminological research have often centered on the development of one particular theory by which all crime can be explained. Throughout the early twentieth century numerous theories regarding criminal behavior were developed to account for offending, and were sometimes pitted against each other in this effort. Criminologists recognize the importance of theory integration explaining complex human behavior such as criminal offending, even as far back as Cesare Lombroso in the 1800s. Some of Lombroso’s later work proposed integration of biological, psychological, social, and other factors to fully explain criminal behavior (Cullen & Agnew, 2006). There are a couple of useful models for theory integration that will be described briefly, followed by an analysis of proposals found within the articles examined for this essay.

The two main types of theory integration include conceptual and propositional integration. Conceptual integration involves overlapping concepts from one theory onto another, or examining similarities in concepts between two, or amongst several, theories. Several decades ago Akers discussed the manner in which “social learning theory concepts and propositions overlap with and complement social bonding, labeling, conflict, anomie, and deterrence theories” (Akers & Sellers, 2009, p. 303). However, he did point out that conceptual integration does not necessarily translate into propositional integration. Propositional integration refers to how two or more theories make similar predictions about crime even though each theory may begin with different concepts and assumptions, as well as taking explicative features from different theories and developing them into some kind of causal pattern or sequence (Akers & Sellers, 2009, p. 303).

A consistent theme emerged in many of the articles reviewed for this essay, which simply stated that deterrence theory alone is not sufficient to explain criminal behavior, nor is it the be-all and end-all solution for reducing crime. Many of the articles called for integration of

deterrence with other criminological theories (Nagin & Paternoster, 1993; Paternoster & Piquero, 1995; Nagin & Porgarsky, 2001; Wright et al., 2004; Matthews & Agnew, 2008). Social control and social bond theories were explained to impact rational choices of offenders (Nagin & Paternoster, 1993; Nagin & Porgarsky, 2001). It seems logical that a person's criminal propensity, which is directly affected by the individual's level of self-control, could be a significant factor impacting his or her decision to commit crime. Also, there is much value in the assertions made within social bond theory that the more positive the attachment, commitment, involvement, and prosocial beliefs an individual possesses, the lower the likelihood he or she will engage in crime (especially coupled with high self-control), regardless of the threats made by the State for law-breaking behavior. On the other hand, deterrence theory cannot account for these individuals' behavior. Some may argue the theory is not designed to address those that would not consider crime anyway, but if one finds truth in the theory of self-control, which asserts that all individuals would commit crime if given the chance, then how would one reconcile these two theories? Yet, additional research calls for integration of deterrence with other theories.

Paternoster & Piquero argue that "deterrence variables are inextricably part of the causal process of social learning/differential association, rational choice, and social control theories" (1995, p. 281). People who associate with undesirables learn processes and techniques for offending, as well as learning the thinking and beliefs that neutralize culpability for law-breaking, or they acquire an excess of definitions favorable to violating the law. There is merit in the assumptions made by this theory as well. Delinquent peers do have an effect on the decision to commit crime; perceived certainty has been shown to have an inverse correlation among those with a high number of delinquent peers (Matthews & Agnew, 2008). Wright et al. comment the "study of crime is intrinsically social-psychological" (2004, p. 208), meaning crime cannot be evaluated or explained absent the social environment and without consideration of psychological traits of individuals. Deterrence theory lacks contemplation of psychological traits, although it does incorporate some element of social context (vicarious experiences of others in thwarting an individual's consideration to commit crime).

Conclusion

In sum, the state of deterrence theory is still confusing. The mixture of findings in the literature indicates that additional research is needed as new concepts and models are formulated. Early deterrence research focused on severity, certainty, and celerity of punishment, as well as the dichotomy of specific versus general deterrence. More recent studies have introduced new ideas such as punishment avoidance, deterrability, defiance, and the effect of informal factors that impact a person's decision. It seems as though deterrence works for some people, but not for others. Some individuals are "detrable," while others are not (Jacobs, 2010). The scientific evidence "leads to the conclusion there is a marginal deterrent effect for legal sanctions, but this conclusion must be swallowed with a hefty dose of caution and skepticism; it is very difficult to state with any precision how strong a deterrent effect the criminal justice system provides" (Paternoster, 2010). This is especially true considering how many crimes, especially domestic violence and sexual assault, are not reported to the police. This represents significant information about criminal behavior, or human behavior, not objectively measured—notwithstanding the inevitable biases and inaccuracies of existing data.

Overall, the empirical evidence points toward non-legal factors, such as marriage, employment, peers, morality, disapproval from loved ones, ostracism, and shame, having a more significant impact on conformity than do sanction threats (Nagin & Porgarsky, 2001; Paternoster & Piquero, 1995). Furthermore, the research also shows that in *some* cases *some* criminals do act rationally, but due to the inadequacies of the criminal justice system deterrent effects are diminished or even vanish. The plight of the mentally ill and the effect of deterrence on these individuals were not addressed in this particular set of articles. However, that is yet another complicated issue to be examined. Additionally, classic deterrence theory assumes the propensity to commit crime is equal across all persons. This is a pretty bold assumption that has yet to be proven. What one can deduce is that deterrence theory may work for some people in certain contexts if carried out appropriately. However, it should not be considered a "general" theory of crime, or a "general" solution for all crime.

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