

REENTRY, DESISTANCE,
AND THE RESPONSIBILITY
OF THE STATE

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REENTRY, DESISTANCE,
AND THE RESPONSIBILITY
OF THE STATE

LET THEM BACK IN

BY

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INVESTOR IN PEOPLE

CONTENTS

<i>About the Authors</i>	vii
Introduction: Let them Back In	1
Punishment Contracts	5
Punishment Is Not Really About the Punished	7
1. Inclusion	13
Process(es) of Desistance	15
Eleven Years in Prison and Now Out of Prison	18
2. Isolation	23
Isolation and the Life Course Model	26
Anton Carcera's Journal	29
3. Powerlessness	41
Cognitive Transformations	43
Default "Choice"?	45
"Crystallization of Discontent?"	47
Anton Carcera's Journal	50
4. Normlessness	59
Normlessness and Dual Taxonomy Theory	60
Anton Carcera's Journal	64
5. Meaninglessness	75
Meaninglessness and Redemption Scripts	76
Anton Carcera's Journal	80

Conclusion: Acceptance and, Perhaps, Assimilation	85
Afterword: Punishment Revisited	91
Awareness and Forgiveness	93
<i>References</i>	97
<i>Index</i>	107

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Anton Carcera (alias) spent 11 years in prison for armed robbery. He was released in 2017.

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INTRODUCTION: LET THEM BACK IN

We clearly like prison in the United States. We put a lot of people in prison. We use prison to punish people. We punish people for crimes they have committed and we punish them for who they are – we have data that tells an ugly story about our justice system: we like to incarcerate people of color; we like to incarcerate the poor; we like to incarcerate the uneducated (National Research Council, 2014; Pettit, 2012; Sampson & Loeffler, 2010). It might have been their choice – they might have chosen not to complete high school; they might have chosen to sell drugs on the corner; and they might have chosen to engage in criminal acts and to act up and to act out against their community, their families, our world. They may have picked up guns, hustled, threatened people. They may have done bad things. This may all be true. I do not deny this.

And I do not excuse these actions. I am horrified and disgusted by many criminal actions. I want to protect my family; I want people to not do terrible things to one another or to people I know or to people that I do not know. I do not want

terrible and *unnecessary* things to happen to people. I do not want the world to be

violent;
 angry;
 vindictive;
 helpless;
 hopeless;
 meaningless;
 fearful.

I abhor violent criminal action. The pain people cause each other overwhelms me. But I do not confuse crime with criminal; I do not simply negate context because it is less complicated; and I do not wish to revisit the pain of the victim on the victimizer. He should be forced to be like us. He has no right – I give him no right – to make me like him.

But this is not so easy for us because we are emotional and caring and rational and we are emotional and hurtful and irrational. And crime *is* intimate to us – it is not theoretical, magical, philosophical. We *feel* crime and it is often extraordinarily painful, debilitating, horrific. I recognize the intimacy of crime, how deeply it impacts our lives, transforms our trajectories, leaves us emptied, hopeless, primal. I recognize that pain.

We are angry;
 We are harmed;
 We are in shock;
 We bleed.

We have been harmed. Crime is an affront. My instinctive reaction to being hit is to hit back. The attack *is* personal; so, the need for retaliation is also personal, even human. And this reaction is directed *toward* someone, *toward* the bad actor. The need for punishment therefore is also intimate. It

is intimate because it is a response to pain. The act was done to *me*. The need for retaliation is human. And my resulting call for blood may even be a socially acceptable – albeit legally unacceptable – response.

I *react* to your action and attempt to repeat your action onto you.

I understand this desire; so do most people. But crime, even violent crime, is not simply an attack of one against another. These isolated, individual attacks are often considered to be attacks on our very way of life, our existence. Due to the threats they pose to our collective health and well-being, individual attacks often represent challenges to who we are as people. They are attacks against our very social fabric. In such an adopted equation, no reaction is too big. This becomes: *your violence has challenged the right for our state to exist*.

And this does not lead us to good places. This really is not a good way for us to begin the punishment exercise. If we feel strong solidarity with victims, then we probably do not want to repeat the actions of the victimizer. A state that hits back – violently, viciously, brutally – engenders fear, not love and loyalty.

We do not actually want to do violence to people.

The general collective may want a symbolic representation of suffering to sate their *imagination* but not necessarily an actual instrument of barbarism. Indeed, we would be prudent to reject demonstrations of physical violence. We want to assign blame for horrific action, we want to judge, and we want to mete out – *or believe we are meting out* – harsh sentences. In part, I think we have learned some of the dangerous lessons of the past; how the visible and physical attack of the body can undermine state authority (see, e.g., Foucault, 1975). But I also believe that the practice of punishment is not actually intimate to the punisher.

It is cold;
Calculated;
Removed;
Robotic;
Unmoved.

In practice, we distance ourselves from the punished individual. Isolate him and give him an indistinct uniform, an unremarkable cell. This de facto dehumanization allows us to discard – or at least disregard – the punished, and by connection, our pact with the punished. He essentially becomes an outcast. By his actions, he attacked the delicate skin of the state. I am reminded only of his transgression and not of his individuality. I am not forced to consider him. He becomes part of the collective of people who reject our way of life through illicit action; he joins a team defined only as pariah, with public suspicion deeming them all traitors.

Of course, none of this thinking serves us very well. It is a terrible way to approach punishment. We should think differently. We will get better results. Here, I promote two overlapping philosophical improvements to our punishment thinking:

- (1) Recognition of our obligation to the sentenced man and woman.
- (2) Recognition of the individual punished actor.

It will become apparent that these require a modest change in how we view punishment and the place of punishment. Modest and yet significant because it recasts the entire prison population as populated by individuals, *people*. There can be more humanity.

PUNISHMENT CONTRACTS

We should be careful with revenge. It does not serve us very well. We should be careful because there are only casualties in a war of this nature – there are no protected people. But there is another issue here. A really important issue. Regardless of what we *think* of the crime and of any particular action, when the case is resolved we have made a bargain with the man or woman responsible for the action.

The men and women in prison have been

- Judged and
- *Sentenced.*

And their sentences are rarely for life. Sure, some of them might not respond as we wish they would respond; some of them might not respect the rules of the world; some of them might not be willing to become members of our state; some of them might be terrible people, terrible contributors, terrible actors. And yet, we made a commitment to them.

We gave them a sentence and the sentence was *time*. We told them that they owed us time and we told them how much time they owed us. We did not – and do not – ask for our emotional loss or personal pain to be alleviated, fixed, remade. We do not even really ask for behavioral change (not as a requirement). Here in Connecticut – as with most states – I can look up release dates.

Maybe the commitment is foolish, dangerous, nearsighted, naïve – fine, change the commitment; but do so in a way that clearly defines our demands, our expectations, and *our* responsibilities, *the state's accountability*. It is better for us to be who we say we are, to eschew arbitrary action, to eschew norms that we simply accept because they have been in place for all our lives. Punishment is not simply assigning blame or

accountability to the offender; punishment also assigns accountability to the punisher.

Let's be clear. If we require
 remorse,
 responsibility (beyond time),
 an apology,
 a supplication,

then we must ask for it. But keep in mind that if we ask for more than time we will probably also need to provide programming, services, treatment. *A way to meet those other ends.* Certainly, if we do not believe that time is an adequate measure of change, then we need to adopt another strategy (but any other strategy will most certainly ask for rehabilitative measures).

Criminal justice policy is not simply about *what we know* or *what works*; it is also about *who we are* and what deals we agree to; what commitments we make. The empirical reality is not sufficient if it does not have a philosophical narrative that holds policy accountable to commitments and not simply to behavioral outcomes. Too long has this relationship been one-sided, inequitable. When a man who is imprisoned for murder is released, he may or may not be the same man who was initially imprisoned. Reasons for his potential change are essential to the social sciences, to understanding change and persistence, to understanding criminal onset and desistance. Important questions. But once he is released, it is no longer his duty to defend his right to walk free. He was promised an end to that punishment. And because, in many ways, we have walked so eagerly away from the rehabilitative ideal, *time* has become the main condition of his release. When that time ends, so must the state's punishment.

Time has few demands on behavior except aging. He will age and he will slow down because he ages (Gottfredson &

Hirschi, 1990); but he will not magically learn a trade, or magically learn productive coping mechanisms, or magically overcome poverty, addiction, joblessness. These are things for us to consider, but they are beyond the specifics of our current contracts.

PUNISHMENT IS NOT REALLY ABOUT THE PUNISHED

Amazingly, the punished man or woman is mostly unimportant to us. His utility rests in our ritual of reaffirming cultural and societal fidelity. This might be a surprising or even unusual claim. Indeed, we hate crime because it challenges our perception of inherent, even divine, rights. Therefore, the immediate reaction to crime is often visceral, primal. And yet we do not really want to openly brutalize fellow citizens because that would undermine our superiority. We would appear barbaric. We do not really want to be like them – we tell ourselves we are not like them. But we want them to feel pain.

So, we hide them.

And we hide their punishment.

We build high prison walls, severely restrict public access, store men and women in cages behind wire and concrete. We recognize that punishment must not be visible. The emotional or mental – or even physical – attack on the man must not be seen. The punishment *itself* is important to us, but it is sufficient if it is a symbol, a representation. The imagination, in this way, becomes paramount. Menacing and monstrous buildings. The collective imagination begins to define *perceived* punishment practice. Perhaps we believe that this maintains order:

[Punishment] *does not serve, or serves only very incidentally, to correct the guilty person or to scare off any possible imitators [...]. Its real function is to*

maintain inviolate the cohesion of society by sustaining the common consciousness in all its vigour [...] The consciousness must therefore be conspicuously reinforced the moment it meets with opposition. The sole means of doing so is to give voice to the unanimous aversion that the crime continues to evoke, and this by an official act, which can only mean suffering inflicted upon the wrongdoer. Thus, although a necessary outcome of the causes that give rise to it, this suffering is not a gratuitous act of cruelty. It is a sign indicating that the sentiments of the collectivity are still unchanged, that the communion of minds sharing the same beliefs remains absolute, and in this way the injury that the crime has inflicted upon society is made good. (Durkheim, 1964 [1895], pp. 62–63)

So long as punishment practice does not directly and overtly contradict our righteous and sheltered moral self-perception, the act of punishment itself makes us feel like we belong to something special and important. Our club is valuable, precious, worth protecting. I can remain supercilious and sanctimonious as long as *reality* does not replace or overwhelm *perception*. Witnessing deprivation and the harm of forced confinement may challenge my moral superiority. Simply assuming that the choices people make warrant harsh confinement – but never witnessing that confinement – allows for deniability.

Prisons become real when we see them: suffocating, insurmountable, vicious, unfair, and unequal. As caricatures, as ghosts, incarceration is the result of personal choice, of personal weakness, populated vaguely by people of poor character. It is important that we have the punished; it is not important who the punished are. We punish to remind us how

resilient and motivated and good we are. The punished are simply a class of people, an underclass, that allows us to flourish. We need them as a representation, a symbol, so we seek to warehouse them, not do anything with them or for them. In this way, “corrections” is and becomes what many already see it as:

- Custody-oriented facilities *that prioritize safety and security*;
- Programming to *pacify incarcerated populations*;
- Amenities *such as television to encourage complacency, acceptance, reduce chaos*.

Perhaps this is an open secret (birthed in part by DiIulio, 1987). Even the pretense of fear or shame or cost, recognized often profoundly through visibility, is lost. The direct and observational power is diluted and we do not seem to care about the powerful and meaningful symbol that public and witnessed punishment provides:

At the heart of society, on the public squares or highways, the convict is a focus of profit and signification. Visibly, he is serving everyone; but at the same time, he lets slip into the minds of all the crime-punishment sign: a secondary, purely moral, but much more real utility. (Foucault, 1975, p. 109)

To us, the punished person is only a fleeting image. He does not need to be real. Modern punishment: behind closed doors, furtive. Our focus is not on the actual image of the person in prison. We have adopted a seductive, alluring, and perhaps fantastical perspective of punishment: practices that have little to do with the incarcerated man and everything to do with maintaining order through the *imagination*. It relies heavily on a fantasy, reinforced by stereotype and fictive

portrayals, and callously creating an entire prisoner class. Without strict focus on the punished, the purpose becomes to increase the fidelity to the state for *free man and free woman* by appealing to what is essentially invisible, unspeakable. When we lose sight of the punished, we lose sight of their individuality and all that makes them human. When the specifics of punishment are obfuscated and the individuals are no longer recognized, the practice becomes an abstraction.

At least, to the public it is an abstraction. On the inside, it becomes a warehouse.

If we punish to simply reaffirm our solidarity as free peoples and we use the place of punishment as a symbol of torment or pain, then we can remove the human from the prisoner. The population of individuals so confined today are not treated as requiring particular and individualized evaluation and assistance but rather as uniform representatives of a criminal underclass. The prison rationally prioritizes security and deems the confined population as one aggressor, one assailant against the state. One brush stroke across the entire face of millions of men and women. Warehousing is the only option for one face of prisoner. As such, it is not the action toward rehabilitation that the institution relies on – for that is recognition of individual difference, individual need; instead, it is the action toward population control, crime control (see Savelsburg, 1992). Programming becomes simply a useful management tactic to improve internal control. The goal is to avert chaos; the goal is not to improve the condition of the incarcerated man or woman. The adequacy of treatment is not the rigor or quality of the intervention but rather its assistance to security concerns. Sincere fidelity to the rehabilitative ideal becomes a thin bandage on top of an immutable organization, an immutable tradition, an immutable practice.

Prison can't rehabilitate because of what it is. A menacing cage. Programming cannot overcome the power of persistent institutional assault on character and individuality.

And yet certainly, in such a place, let us be honest, the visitor must ask, the prison worker must ask: *would we need such menacing buildings, such confined spaces, such attacks on freedom if the population inside were not monsters?* Perhaps poetically, and certainly tragically, the prison proves its utility because it exists.

Fear them!

Safety and security first!

Security must trump all other endeavors because, after all, this is prison. And there are monsters in here – and they all could be, might be, monsters.

I too have been beaten down by this narrative. I worked on Rikers Island in New York City. I cannot even write this passage without feeling the need to acknowledge that there are terrifying people locked up in this country. But this confession illustrates the value of this argument (and is compatible with my position). We've allowed the most dangerous people in prison to represent all people in prison. And they don't. We've allowed the predator to dictate the terms of management and he shouldn't. We've allowed prison to prove itself worthwhile because of what it is and not because of what it does.

The entire premise is misguided.

There is acceptable and reasonable risk. You can punish the individual actor *differently* than the entire population. But when we adopt a security first premise we are likely to view all challenges to established protocol as potentially undermining safety. All captives become dangerous and angry and untrustworthy. If the prison reinforces this

narrative, then how can the prisoner change his or her perception of his own worth? This very perspective is antithetical to assimilation, change, and rehabilitation. And yet it directly reflects our general disinterest in the well-being of the captive. With the imposing and menacing image of the prison, we have proclaimed that those we send to prison are the enemy, the traitor to our way of life – but not because of what they did but *because they are sent to prison*. Prison is the place for the outcasts, the untouchable Americans. This entire narrative is unfortunate and tragic. We should not tell it to those of us who are trying to change their lives and move away from crime.

Perhaps the earlier attacks on the body were too severe, the events too sadistic for the common spectator, and the reactions toward the state were disgust, horrification. I do not ask for the return of public executions but rather for individualized treatment, individual recognition, transparent and accessible punishment. *Isn't that actually American? Aren't we individuals first and not responsible for our group's waywardness?*

This is a short book that asks us to rethink the things that we seem not to think enough about and stop assuming that the world as it is today is the only world that it could be. It is also a book aimed at making our justice practices about people and not about populations. I ask the field to reconsider the criminal desistance literature as assimilation (or re-assimilation). Meaning, empowerment, hope, and relationships all help to pull people out of crime.

Let them back in or

Let them in for the first time.

CHAPTER 1

INCLUSION

The United States currently houses 2.17 million men and women in prisons and jails (Kaeble & Glaze, 2016). This dependence on incarceration is a modern phenomenon: six times as many men and women are detained in prisons and jails today as compared to the early 1970s (Pettit & Western, 2004). Since incarceration is responsible for 6.8% of states' general fund spending in the US (NASBO, 2015), reductions in prison populations are arguably politically and economically attractive. But two-thirds of men and women released from prison are rearrested within three years (Durose, Cooper, & Snyder 2014; Langan & Levin, 2002; see also Petersilia, 2001), and two in five of those released from state prison return to state prison within three years (Pew Center on the States, 2011). Jail recidivism studies appear to reflect these phenomena (Uchida, LoBuglio, Flower, Piehl, & Still, 2009). Most people who go to prison reoffend after prison. There are considerable financial and social costs associated with these failures. Understanding desistance, or why people stop crime, really is in our best interest.

There are reasonable debates and disagreements within the literature as to why people stop crime. This book does not directly discuss those debates and does not attempt to settle any potential disagreements. Instead, this work unifies the literature in a way that allows us to see commonality. This is not an attempt at theoretical integration. The purpose of this unification is to advance general awareness and propose practical solutions. The processes that allow for positive change – for desistance – largely require acceptance: *self*-acceptance and forgiveness and recasting; *social* acceptance and forgiveness and recasting.

Desistance from criminal behavior is unlike onset of criminal behavior. Criminological theory largely explains the onset of criminal participation in these ways:

People are *freed* to engage in crime (control);

People are *pushed* into crime (strain);

People *learn* crime (learning);

People *choose* crime (rational choice);

People are *made* into an offender (labeling).

These explanations of onset are perhaps incompatible with one another – they assume different things about human nature and the social order. But the process *out of crime* is similar: people stop because they are brought back in. Regardless of why they start, allowing people to come back in helps them to stop. The practical approach, therefore, is one of acceptance. Desistance is a process of empowerment, meaning construction, and integration. Law breaking reflects an actor's disconnect from the collective's shared morality. Rehabilitation, by definition, is demonstrated through behavior that abides by rule of law and lives according to this shared morality. We are not naturally required to obey; we

can resist, but we are restrained by social forces; we are shaped and molded by opportunity and environment. Desistance is the process by which one becomes reconnected to people, to culture, to society, to *oneself*. This may be achieved by individual relationships or by individual choice, but the process is one that requires

inclusion;

empowerment;

assimilation;

acceptance.

We would all be better off if we understood that inclusion is safer. Although this book only reviews the most influential desistance arguments and is somewhat technical in places, the point of this discussion is for us to remember that we make ourselves safer by bringing people in and letting people come back.

PROCESS(ES) OF DESISTANCE

The key processes in desistance revolve around an individual's ability to shape his/her own life, derive meaning from that life, and live that life within a durable social context. We may have strong personalities and personal ambitions and unique skills – but we do not and cannot fight crime alone, we do not and cannot fight fire alone. Fighting crime is in my best interest. But we are not fighting people when we fight crime; we are fighting *and repairing* broken socialization vehicles. A stern and healthy social entrenchment shields us and our offspring. The forces that encourage our morality – determined by the actions that we choose not to take – protect us. But we must want to be moral and we must be forced

to be moral. We do not need to be moral. When the forces that promote moral living lapse or do not reward moral behavior, we are no longer protected. Morality here has nothing to do with celestial spirits; morality here is simply the choices we make that reflect the rule of law. When we choose not to break the law we make a moral choice. Our societal morality is codified, is our legal code (and yet our local and cultural morality might contradict or oppose the legal code). We decide right and wrong action through our laws; this is our morality. We punish according to these laws; this is also our morality.

But if the laws do not protect me – either in substance or in enforcement – then I am probably less likely to adopt them. I might actively reject them. In this way, my children’s survival in many ways depends upon my immediate environment and on that environment’s faith in

the rule of law;

justice;

social justice;

equal protection;

due process.

Protection and respect breed respect and obedience. I obey the law because I benefit from the law. There is incentive for me to obey the law; it is better for me to obey the law. We all must feel like this for our laws to be just and for morality through our legal code to have real meaning.

This is how desistance appears to work as well. Desistance requires assimilation into a culture – a social order, a system of instruction and prohibition – that can protect and mold children, as well as ensure positive progression through individual choice and individual action. Contextual factors do

shape available choices and increase or decrease the ability to assimilate to the official sanctioning culture. But rule adherence must come with benefits; there must be gain to the individual and to the community: *a way forward, a way out*. Social structures become impotent if they are unable to generate desired outcomes. If there is no way out *within the rules*, then the rules will be abandoned and replaced by independently developed and informally codified prescriptions and proscriptions (Anderson, 1999; Cohen, 1955; Merton, 1938). The breakdown of the rule of law because the rule of law does not protect you, does not defend your rights, does not defend your family, does not defend your property. In this way, desistance is a tall but possible task. But we must bring people in and let them back in.

We want them to come back in, to play by the rules.

Ultimately, therefore, desistance is a process of reducing alienation. Theoretical models that target alienation as the underlying causal mechanism inherent in the desistance process simultaneously acknowledge geographical location, individual choice, and individual context. The alienation model also prioritizes – and clearly specifies – power as an essential component to desistance and to human agency.

I am aware that alienation is often characterized by inadequate nuance, reflective of the negative consequences of industrialization (see Marx, 1995[1867]). Yet there is evidence that even Karl Marx had a more complex definition of alienation (see Bell, 1959). According to Marx's early propositions (see Bell, 1959), alienation was not simply due to the division of labor and the loss of individual meaning and identity in the production of goods; Marx initially recognized a "second term, of *Entfremdung*, [implying] simple estrangement, or the detaching of one's self from another, of divorce" (Bell, 1959, p. 933). The perspective of alienation useful for desistance is closer in meaning to Marx's *Entfremdung*. And

I propose that ostensibly divergent theoretical advancements in criminal desistance actually target an analogous latent trait best seen in alienation. It is the isolation of the individual, the inability to influence and predict outcomes, to generate meaning and understand normative behavior, that prevents the actor from ending her criminal participation. Dominant desistance perspectives share more in common *in process* than is currently acknowledged. This is a useful perspective. The pillars of criminological theory – control, strain, learning, rational choice, labeling – may help to explain how people arrive at crime. But easing alienation brings them out of crime.

Prior research has succeeded in transforming early abstractions of alienation into academic taxonomies (Aiken & Hage, 1966; Dean, 1961; Seeman, 1959). It is these taxonomies, and not the early writing of Karl Marx, that are of particular importance in understanding alienation as it relates to criminal desistance.

ELEVEN YEARS IN PRISON AND NOW OUT OF PRISON

In his discussion of alienation, Seeman (1959) insisted on five related yet independent processes: isolation, powerlessness, normlessness, meaninglessness, and self-estrangement. I believe that four of these processes represent current explanations for desistance (I did not find a home for self-estrangement). It is likely that the relationship between these processes is intimate, intricate, entangled. These processes are conceptually coherent yet not entirely distinct. In the following chapters, I walk through the significance of each of these processes and its relation to the desistance literature. But

I also connect each of these processes to the experiences of a recently released man in Connecticut.

I asked Anton Carcera,¹ a man who spent 11 years in prison for armed robbery, to write a journal documenting his experiences after prison. For six months, he kept a journal and documented his life. I have included portions of his journal at the end of each chapter. The journal was kept in real time; Anton writes as he is living. It is not retrospective. And the inclusion of this journal is not simply to demonstrate how he is alienated. Instead, I include this journal in order to show how actions that *allow Anton back in* reduce his isolation, give him power and agency, and have real impact on his life. Anton navigates the often contradictory requirements for his release; we see the value of bonds, of independence. And we see what we are: the human actor.

It is helpful to remember the person that is in prison; the person that returns home.

We know the numbers and the themes of mass incarceration. I began this chapter stating many of the numbers that we know. But when we become too accustomed to numbers it is possible that we no longer appreciate their value. These numbers represent people. And I believe that the acknowledgment of the human actor as human first is essential to the study of desistance from criminal activity. This also helps us to remember that those who are reentering are attempting to navigate a landscape that is filled with barriers and that those barriers create real problems, real dilemmas, real hardship.

They are people.

They know how society sees them.

But if the least forgiving of us demand retribution and suffering from those who violate our laws, then identifying the struggle of those same men and women should be embraced because it proves – even to the most rigid and unsympathetic

of us – that with punishment (and often before punishment) there was hardship and there was pain.

The journal is only intended to compliment a new narrative about desistance and post prison experiences. It is intended to remind us about the decisions we make, the laws we write, and to remind us that policy and practice have consequences and shape lives.

It is worth noting that I do not include a complete biography of Anton. This book does not have a chapter on the life of Anton Carcera before prison. I do not include this information because *it is not relevant* to the task at hand. The reasons for criminal participation are essential for crime prevention, for adopting effective treatment and best practices, and for implementing worthwhile programming.

We should adhere to “what works” in treatment and in programming.

We should fix what can be fixed.

But this book is not about why Anton became involved in crime. This book is about *after* punishment: *after* Anton held himself accountable; *after* Anton spent eleven years in a cell. The punishment only ends because we let it end, because we demand that it ends.

This is not a debate as to whether or not we should let them back in. We have already agreed to let them back in – the contract is a sentence and the sentence is time. We simply don’t honor that agreement.

For all of us, if we choose to engage in crime there are consequences to that choice. But those consequences are clear and are almost always limited by time.

Let the research untangle individual difference and explore why some reengage in criminal activity while others do not; let the research inform policy, construct prevention strategies, and inform institutional practices.

Let us abide by our contracts, our agreements. Much of the purpose of this text is to remind us of our obligation, our responsibility, to those we punish, *after* their punishment.

NOTE

1. In order to respect his privacy, I have changed his name.