

# The Pursuit



*“You are to appoint judges and officers for all your gates [in the cities] your G-d is giving you, tribe by tribe; and they are to judge the people with righteous judgment. You are not to distort justice or show favoritism, and you are not to accept a bribe, for a gift blinds the eyes of the wise and twists the words of even the upright. Justice, only justice, you must pursue; so that you will live and inherit the land your G-d is giving you.”*

**Deuteronomy 16:18 – 16:20**

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## About *The Pursuit* Journal

*The Pursuit*, a publication of the Criminal Justice Association of Georgia (CJAG) is a peer-reviewed journal that focuses on the broad field criminal justice. *The Pursuit* publishes scholarly articles relevant to crime, law enforcement, law, corrections, juvenile justice, comparative criminal justice systems and cross-cultural research. Articles in *The Pursuit* include theoretical and empirically-based analyses of practice and policy, utilizing a broad range of methodologies. Topics cross the spectrum of policing, criminal law and procedure, sentencing and corrections, ethics, juvenile justice and more, both in the United States and abroad.

Authors interested in submitting manuscripts for consideration should use the link on the CJAG website (<http://cjag.us>) or email the Editor of *The Pursuit* at [cjagjournal@gmail.com](mailto:cjagjournal@gmail.com)



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Michael B. Shapiro  
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## **About the Criminal Justice Association of Georgia**

The Criminal Justice Association of Georgia is a not-for-profit organization of criminal justice faculty, students and professionals. It exists to promote professionalism and academic advancement in all areas of inquiry related to the Criminal Justice field.

The Association holds its annual meeting in October. Those interested in presenting at the conference should contact Dr. Lorna Alvarez-Rivera ([llalvarezrivera@valdosta.edu](mailto:llalvarezrivera@valdosta.edu)).

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# *Collins v. Virginia*

Does Justice Thomas's Concurrence Harbinger a  
Return to the "Silver Platter" Doctrine?

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## Abstract

In *Collins v. Virginia*<sup>1</sup> the Supreme Court of the United States addressed whether the Fourth Amendment's "automobile exception" permits the warrantless entry of a home or its curtilage in order to search a vehicle therein. The majority opinion was authored by Associate Justice Sonya Sotomayor, and held that an officer's warrantless entry onto private property, and subsequent removal of a tarpaulin covering a motor cycle parked in the driveway to retrieve the Vehicle Identification Number and license plate violated the Fourth Amendment and did not fit under the "automobile exception" as contemplated by *Carroll v. United States*,<sup>2</sup> and its progeny. Rather, the warrantless search ran afoul of the Fourth Amendment's "protection extended to the curtilage of a home." Associate Justice Clarence Thomas authored a concurring opinion questioning whether the federal courts, and more specifically the Supreme Court of the United States, have the authority to impose the Exclusionary Rule on the states. This paper explores that concurring opinion and posits the possible ramifications of following Justice Thomas' opinion to its conclusion.

The 2017-2018 term of the Supreme Court of the United States has ended. There were several momentous cases, addressing issues as wide-ranging as arbitration, immigration, redistricting and, of course, the Fourth Amendment. Tucked away in one of the last cases decided by the Court is a concurring opinion by Associate Justice Clarence Thomas that questions whether nearly sixty years of law is truly well settled. While, in the opinion, Justice

Thomas carefully addresses some of the history of the applicability of the Exclusionary Rule to the states, he just as shrewdly avoids other perhaps more significant case law.

*Collins v. Virginia*<sup>3</sup> answers the question of whether the Fourth Amendment’s “automobile exception” permits the warrantless entry of a home or its curtilage in order to search a vehicle therein. In an opinion authored by Associate Justice Sonya Sotomayor, the Court details the facts of the case wherein Officer David Rhodes of the Albemarle County, Virginia Police Department was investigating two separate traffic infractions committed by the driver of a distinctive orange and black motorcycle with an extended frame. The investigation suggested that the motorcycle was likely stolen and in the possession of Appellant, Ryan Collins. Facebook photographs depicted a matching motorcycle parked at the top of Collins’ driveway and Officer Rhodes travelled to that location, the residence of Collins’ girlfriend and where Collins stayed several nights each week. While parked on a public street, Officer Rhodes observed what appeared to be a motorcycle with an extended frame, covered by a tarpaulin, parked in the same location as that in the Facebook photograph. Without a warrant, Officer Rhodes walked up the driveway, removed the tarp and ran both the license plate and vehicle identification numbers which confirmed that the motorcycle was stolen. When Collins returned to the location, Officer Rhodes questioned him at the residence’s front door. Collins admitted to purchasing the motorcycle without a title and was arrested. Indicted for receiving stolen property, Collins’ motion to suppress the evidence obtained as a result of Officer Rhodes’ warrantless search and trespass into the curtilage of the house was denied. Collins was convicted, and the Court of Appeals of Virginia affirmed. While assuming that Officer Rhodes entered the curtilage without a warrant, the appellate court believed that probable cause that the motorcycle in the driveway was the same one involved in the traffic infractions and that “numerous exigencies justified both [Rhodes’] entry onto the property and moving the tarp”. While the Supreme Court of Virginia affirmed, it did so based on the “automobile exception” to the Fourth Amendment, reasoning that probable cause to believe the motorcycle was contraband justified the warrantless search.

Writing for eight members of the Court, with Associate Justice Samuel Alito dissenting, Associate Justice Sonya Sotomayor quickly noted that “[t]his case arises at the intersection of two components of the Court’s Fourth Amendment jurisprudence: the automobile exception to the warrant requirement and the protection extended to the curtilage of a home.” The majority opinion tracked the “automobile exception” from its origination in *Carroll v. United States*,<sup>4</sup> through *South Dakota v. Opperman*,<sup>5</sup> and *California v. Carney*.<sup>6</sup> The mobility of automobiles, as well as “pervasive and continuing governmental regulation” differentiates them from houses for constitutional purposes. The opinion then moved on to briefly detail the Fourth Amendment’s protection of the curtilage, citing, among other cases, *Florida v. Jardines*.<sup>7</sup> Holding that “[t]he automobile exception does not afford the necessary lawful right of access to search a vehicle parked within a home or its curtilage because it does not justify an intrusion on a person’s

separate and substantial Fourth Amendment interest in his home and curtilage” the Court declined to extend the “automobile exception to permit a warrantless intrusion on a home or its curtilage.” The Court left open, on remand, whether Officer Rhodes’ warrantless entry into the curtilage of the residence might have been reasonable under a different basis, including exigent circumstances.

The reader might well wonder, at this point, what the issue is. After all, the Fourth Amendment specifically mentions protections of “persons, houses, papers, and effects” and the Court has historically carefully guarded protections of the home. What then, was the thrust of Associate Justice Clarence Thomas’ concurring opinion? He questions whether the federal courts, and more specifically the Supreme Court of the United States, have the authority to impose the Exclusionary Rule on the states.

As recently deceased Associate Justice Antonin Scalia posited in *Hudson v. Michigan*,<sup>8</sup> Justice Thomas questions what historical remedies exist for violations of the Exclusionary Rule. However, Justice Thomas goes much further, following the history of the Exclusionary Rule from its first mention in a criminal case in *Weeks v. United States*,<sup>9</sup> through the mid-20<sup>th</sup> century’s *Wolf v. Colorado*,<sup>10</sup> and echoing Benjamin Cardozo’s lament in *People v. Defore*,<sup>11</sup> that “criminal[s should not] . . . go free because the constable has blundered.” The concurring opinion reaches back to Wigmore on Evidence<sup>12</sup> touching on the Common Law and long-standing premise that evidence illegally seized should still be admissible in court.

Turning to the landmark case of *Mapp v. Ohio*,<sup>13</sup> the opinion acknowledges that “the States must apply the federal exclusionary rule in their own courts” and that the Exclusionary Rule was required by the United States Constitution. In a nod towards “originalism” Justice Thomas laments that “[t]he exclusionary rule appears nowhere in the Constitution, postdates the founding by more than a century, and contradicts several longstanding principles of the common law.” Certainly one must acknowledge that the Exclusionary Rule is a “judge-made” rule. All authors in *Hudson v. Michigan, supra* (Scalia’s majority opinion, Kennedy’s concurring opinion and Breyer’s dissenting opinion), address appropriate remedies for Fourth Amendment violations, recognizing that a right without remedy is no right at all.

Seeking to justify his position, Justice Thomas cites *Davis v. United States*,<sup>14</sup> (quoting from *Hudson*) that the Fourth Amendment is silent about suppressing evidence, but ignores Associate Justice Samuel Alito’s clear statement in *Davis* that “[t]he rule’s sole purpose, we have repeatedly held, is to deter future Fourth Amendment violations”. Should not the Court address and resolve the purported conflict between the Fourth Amendment’s protection of one’s curtilage from unreasonable searches and that same Amendment’s “automobile exception” (all such exceptions also not being addressed in the Constitution)?

Turning to whether the federal courts, and federal law, “trumps” state law, the opinion touches on the Supremacy Clause but limits its application to “federal statutes, not federal common law”. Because the Exclusionary Rule is judicially made, and not found “in the Fourth and Fourteenth Amendments, expressly or implicitly” Justice Thomas suggests that the federal government is powerless to impose it upon the states. He concludes his opinion encouraging the Court to revisit *Mapp* and its holding that the Exclusionary Rule is applicable to the states.

What is missing from this analysis? What stone has Justice Thomas failed to overturn in his efforts to permit evidence seized illegally by state authorities to be introduced in our criminal courts? Clearly his concurring opinion avoids the delicate and difficult line of cases addressing the so-called “Silver Platter Doctrine”. That doctrine allowed state law enforcement officers to seize and use evidence that would have been deemed inadmissible if taken by federal officers. Even more damning, until the Court issued its ruling in *Elkins v. United States*,<sup>15</sup> federal officers could use evidence provided to them by state agents even if they could not have secured that evidence on their own. In *Elkins*, Associate Justice Potter Stewart noted “[t]he question is this: may articles obtained as the result of an unreasonable search and seizure by state officers, without involvement of federal officers, be introduced in evidence against a defendant over his timely objection in a federal criminal trial? In a word, we reexamine here the validity of what has come to be called the ‘silver platter’ doctrine. For the reasons that follow, we conclude that this doctrine can no longer be accepted.”

Like Justice Thomas, Justice Stewart returned to the seminal Exclusionary Rule case, *Weeks v. United States*. He noted that, for nearly fifty years, there had been “unquestioning adherence” by the federal government to the Rule, but that federal prosecutors had, for the following thirty-five years, “avail[ed themselves] of evidence unlawfully seized by state officers” citing *Byars v. United States*,<sup>16</sup> and *Feldman v. United States*.<sup>17</sup> The opinion continued that the *Weeks* Court likely could not have envisioned the expansion of federal criminal jurisdiction, nor the “commendable practice” of state and federal agents cooperating with one another to the degree we now experience.

*Byars* held that “when the participation of the federal agent in the search was ‘under color of his federal office’ and the search ‘in substance and effect was a joint operation of the local and federal officers,’ then the evidence must be excluded. More than twenty years later, the Court unanimously acknowledged in *Wolf* that the Fourth Amendment, by virtue of the Due Process Clause of the Fourteenth Amendment, prohibited unreasonable searches and seizures by state officers, but did not require state adoption of the Exclusionary Rule. That determination was left to the Court in *Mapp*, announced but one year after the *Elkins* decision. It should be noted that the very same day that *Wolf* was decided, the Court issued its opinion in *Lustig v. United States*.<sup>18</sup> Therein the Court stated “[w]e find that the unquestioned facts disclose that the evidence on which the conviction rests was illicit, (city officers used an ordinance requiring

“known criminals” to register to gain access to and search a hotel room for counterfeit currency at the behest of a Secret Service agent, and then gave the incriminating evidence to federal authorities for prosecution) and the motion to suppress it should have been granted.”

Consider for a moment the intertwining of state and federal law enforcement in the present day. Funding streams from Washington to the fifty states and local law enforcement. Data travels in both directions through NCIC and the various state equivalents. The “participation” mentioned by Justice Stewart is even more ever-present than he could have imagined. Now envision Justice Thomas’ concurring opinion to its logical conclusion. If the Exclusionary Rule is no longer applicable to the states, then what prevents a return to the “Silver Platter Doctrine” such that state officers seize evidence unobtainable by federal officers, only to turn it over to federal prosecutors?

Add to that, the risks to what was previously believed to be well-settled law in the Fifth Amendment (protection against forced confessions, *Brown v. Mississippi*,<sup>19</sup> and self-incrimination, *Miranda v. Arizona*<sup>20</sup>) and Sixth Amendment (right to counsel, *Gideon v. Wainwright*<sup>21</sup>) arenas. Without an Exclusionary Rule applicable to the states, these are rights without remedy. While Justice Thomas might have been expressing wishful, or wistful, thinking, the implications for Fourth Amendment rights, and far beyond, are staggering.

## Endnotes

- <sup>1</sup> *Collins v. Virginia*, Docket No. 16-1027, decided May 29, 2018
- <sup>2</sup> *Carroll v. United States*, 267 U. S. 132, 153 (1925)
- <sup>3</sup> *Collins v. Virginia*, Docket No. 16-1027, decided May 29, 2018
- <sup>4</sup> *Carroll v. United States*, 267 U. S. 132, 153 (1925)
- <sup>5</sup> *South Dakota v. Opperman*, 428 U. S. 364 (1976)
- <sup>6</sup> *California v. Carney*, 471 U. S. 386, 390 (1985)
- <sup>7</sup> *Florida v. Jardines*, 569 U. S. 1 (2013)
- <sup>8</sup> *Hudson v. Michigan*, 547 U.S. 586 (2006)
- <sup>9</sup> *Weeks v. United States*, 232 U. S. 383 (1914)
- <sup>10</sup> *Wolf v. Colorado*, 338 U. S. 25 (1949)
- <sup>11</sup> *People v. Defore*, 242 N. Y. 13, 150 N. E. 585 (1926)
- <sup>12</sup> 4 J. Wigmore, Evidence §2183, p. 626 (2d ed. 1923)
- <sup>13</sup> *Mapp v. Ohio*, 367 U. S. 643 (1961)
- <sup>14</sup> *Davis v. United States*, 564 U.S. 229 (2011)
- <sup>15</sup> *Elkins v. United States*, 364 U.S. 206 (1960)
- <sup>16</sup> *Byars v. United States*, 273 U.S. 28 (1927)
- <sup>17</sup> *Feldman v. United States*, 322 U.S. 487 (1944)
- <sup>18</sup> *Lustig v. United States*, 338 U.S. 74 (1949)
- <sup>19</sup> *Brown v. Mississippi*, 297 U.S. 278 (1936)
- <sup>20</sup> *Miranda v. Arizona*, 384 U.S. 436 (1966)
- <sup>21</sup> *Gideon v. Wainwright*, 372 U.S. 335 (1963)



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# Analysis of LSI-R Critiques

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## Abstract

Greater interest in the Level of Service Inventory-Revised (LSI-R) and related evaluation instruments is consistent with greater interest in assessing offender risk and needs in the process of determining conviction, evidence-based sentencing and correctional supervision. Assessment instruments, properly administered, by trained individuals remain a very helpful tool for such initiatives. Additional research and examination remains crucial as the LSI-R's use is established into other jurisdictions and circumstances, particularly for which it might not have originally been intended or envisioned.

## Introduction

The veil of oblivion seems to have been lifted with Oklahoma Statute O.S. 22, 988.18 of the Community Sentencing Act, directing the court to order any defendant being considered for Community Sentencing to undergo a Level of Service Inventory -Revised (LSI-R) Risk-Need Assessment.

Multi Health Systems Inc. (MHS) (n.d., 2018) refers to it as a 54-question semi-structured interview that can be administered using software or hand-scored configuration. Life areas explored are criminal history, leisure/recreation, employment/education, presence or absence of companions, financial condition, tribulations due to use of drug(s) or alcohol, emotional/personal situation, family/marital status, mental condition, living conditions, and individual attitude/orientation. These include "criminogenic" (crime- generating) factors, some of which may be changed, and some may not. Some criminogenic needs or 'dynamic' risk factors which may or can be changed, if addressed, the probability of subsequent reduction in the

possibility of further criminal behavior is decreased. Also, the level of service(s) provided ought to complement the level of offender risk. ‘High risk’ cases need higher levels of service. Matching the ‘officer style’ and type(s) of intermediation to the characteristics of the offender satisfies the “responsivity principle”.

According to the Pew Center on the States, a risk/needs assessment tool is essentially a uniform report card that measures offenders’ criminal risk factors and specific needs that, if addressed, will reduce the likelihood of future criminal activity. Assessment literature insists that judgments must (as far as possible) be valid - one which measures what its designers believe it measures. Additionally, it should be reliable - where equivalent results will be given for equivalent performance, regardless of where the assessment is conducted, or who conducts it (Jarvis, Holford & Griffin, 1998). Basing that such is the case, the defendant must score within the moderate range (19 - 28) of the Risk Score on the LSI-R assessment in order to be eligible for a Community Sentence.

This article does not pose a question regarding the efficacy of LSI-R or the Adult Substance Use Survey (ASUS). The ASUS, it can be noted, encompasses a 96 item psychometric-based, adult self-report survey comprised of 15 basic scales and three supplemental scales (Wanberg, n.d.). The ASUS self-report instrument is often used in conjunction with LSI-R instrument as a component of a possible convergent validation method to the appraise patterns and predicaments usually linked with the consumption of alcohol and other drugs (AOD). It is considered suitable for assessment of individuals 18 years or older, and may be self or interview administered.

“The Level of Service Inventory-Revised (LSI-R) is a validated risk/need assessment tool which identifies problem areas in an offender’s life and predicts his/her risk of recidivism. ... .. Addressing need areas through prison rehabilitative interventions can ultimately reduce an offender’s probability of re-incarceration. Addressing need areas through prison rehabilitative interventions can ultimately reduce an offender’s probability of re-incarceration” (Rhode Island DOC, April, 2011). The state of Oklahoma followed the lead of North-Carolina and Colorado’s pioneering work in standardized offender assessment and at this point only history will be able to tell how much difference such evaluation process impacted the sentencing

process and especially the desired outcome of sentences. This article does look into how the practitioners assigned to conduct such assessment weigh against each other, and compare the scores arrived at and accrued by LSI-R interviewers. From the first interview date to the last collected and compared, the time stretched out over a period of six months.

### **Purpose**

Essential to successful utilization of the LSI-R is the successful execution of its administration. Practitioners of LSI-R carry out a semi-structured, one-on-one interview with the offender, using an interview guide that aid the gathering of necessary score (Lowenkamp et al., 2004; Flores et al., 2006) .

Lowenkamp et al., (2004) and Flores et al., (2006) additionally point out that at a minimum, involvement in related training facilitated by persons with a high level of proficiency both in offender classification in general, and specifically the LSI-R, is necessary in order for practitioners to attain the skills indispensable to conduct proper assessment.

The purpose of this article is to throw some light on the realities of how LSI-R's have been conducted and "critiqued" in the then (1998-2000) Northeast Region of the Community Sentencing Division of the Oklahoma Department of Corrections. It is also hoped that the practitioners will take a look at the data presented here, learn from it, and utilize it to maintain the areas of excellence and further enhance on areas that may need attention.

### **Significance of the Analysis**

Marx famously wrote, "to leave error unrefuted is to condone intellectual immorality". Aggregating the information from individual critiques from all the sources in Oklahoma can point out the reality of how LSI-R, along with Adult Substance Use Survey (ASUS) is being incorporated in this state.

Oklahoma currently uses cut off scores low-moderate-high based upon Colorado state norming. However, "in the ever changing 'real-world', we cannot solely depend on delegating such to a few experts and need to be able to assess our own work. Learning involves an active engagement between the learner and what is being learnt. Therefore, to assess ourselves is in itself very worthwhile (Jarvis, Holford & Griffin; 1998).

“Norm”, as we know, adheres to what statisticians call a “normal distribution” (bell curve). According to Jarvis et al. (*ibid*), “this approach compares a person’s performance with what is the norm for other people, and is called a norm-referenced approach to assessment” (p. 140). This study is a tiny step in accomplishing a sense of what really is the “norm” of LSI scores in this part of the USA.

## **Method & Procedure**

Data utilized in assessing the status of LSI-R instrument was gathered as a part of the Quality Assurance protocol designed to teach practitioners to track and provide feedback on interview skills, length of interview, and scoring errors described in the Skill-Critiquing Manual of the Justice System Assessment & Training. A literature search for relevant studies was conducted. Any available article or training material relevant to LSI-R was included.

The samples of individuals were randomly chosen for critique by the author’s regional office at the time. The population evaluated includes all the 35 usable critiques submitted for review between March and September 2000. Unusable critiques or incomplete LSI-R interviews are not included. Of all the LSI-R conductors 31.43 % of the individuals (11) worked in Probation and Parole, 20% (7) were private Service Providers, 45.71 % (16) worked in a correctional facility and 2.86 % (1) were from the Sheriff’s department. Of the 35 individuals critiqued, 13 or 37 % were female and 22 or 63 % were males. For a descriptive study like this statistical significance testing was not conducted. Basic, statistical information like the mean, median, mode and standard deviation is provided.

## **Results**

The results offered give the LSI-R/ASUS interview/assessment practitioners an additional tool to compare their scores with others encompassing the sample group utilized in this study. This can potentially allow an individual to conduct his or her own assessment (self-referenced). The comparison is criterion-referenced based on the fact that the following (highlighted) criteria have been utilized in “critiquing” a LSI-R interview. The results follow the (LSI-R interview) critiquing format. The mean **Skill Balance** for the group evaluated is .255; the median is .21, with a mode of .13 and a standard deviation of .154. Such rating is “a

compound summary measure of clinical skills to be used primarily for heuristic and research purposes. This rating is a function of the balance across preferred skills”.

The maximum Skill Balance score attained by an individual was a female, from the Probation & Parole/Community Corrections Division with a score of .59. A male employed in a correctional facility attained the minimum score of .04. The reported national Skill Balance of Probation & Parole Officers is .35 with a standard deviation score of .25 and .45.

The **Length** of an average LSI-R **interview** was about 34.83 minutes. The median score was 30 and the mode was 13 minutes with a standard deviation of 17.33 minutes. The maximum time utilized in conducting a LSI-R interview by an individual was 91 minutes and the lowest time utilize was 10 minutes.

Between overall **Closed and Open question**, the individuals surveyed tended to ask more Closed question (.53) than Open question (.37). Open questions “seek broad bands of information as opposed to closed questions, which seek very narrow information content and are much more readily answered with a yes or no statement”.

**Summarization’s** in essence restates or sums up the main points of what someone has said. It makes it evident that the interviewer is making genuine efforts to listen and also help the interviewee take some responsibility for the makeup of the interview content. The maximum proportion of time spent on summarizing was .23 with many not summarizing at all. The mean score was .07, the median was .05 and the mode was .04.

**Affirmations**, the developers of the instrument and the champions of Motivational Interview (Miller, and Moyers, 2006), (Miller, and Rollnick, 2009) say, if done appropriately, can rarely be overused in an assessment interview. This style is clearly the ability to recognize and affirm the interviewee’s experiences in a tender and affectionate manner with due respect to the individual. About .058 % was the mean scores for the extent of contents that utilized affirmation. The median score was .03 with a maximum score of .29 %.

**Reflections** are the heart of active listening”. When the interviewer states back to the interviewee the sensitive or emotional content, or grapple with cognitive or cerebral meaning of what they are saying is reflection. Subjects in this study did not utilize Reflections any better.

The mean score was .049. Both the mode and median scores were .03. There were individuals who did not Reflect at all. The maximum score by an individual was .35.

Whether it is simply problem-recognition, or an expression-of-concern, or is optimism expressed for change or as remorse, theories behind **Soliciting Self-Motivating Statements** in effect present arguments for change. The idea suggests that “the more verbalizations a person makes toward a given path of action, the more likely they are to take that path”. The scores did not fare well. Both the median and mode score were zero and the average score was .0036.

Deliberate transmission of information or knowledge is **Teaching** or **Advice**. Though related research encourages only limited and cautious use of teaching or advice, there are evidently times when this skill is essential. Judgmental, cynical, punitive or exceptionally sardonic or ridiculing interactions are considered **confrontive** and are not encouraged. Though the mean score was .035, the median and mode scored 0 with a maximum use of such one time by an interviewer.

The N of the following items varied and will be pointed out. These are additional items that are calculated in the process of conducting a critique. The, **hourly rate** (timed length of the interview divided by 60 minutes), with an N of 33 for example was on an average .58, with a median score of .50 and a mode of .40. The minimum hourly rate calculated in this study was .16 and the maximum was 1.52.

The average **Protective Factor** with an available N of 29 was 24.241; the median score was 25 and the mode was 24. This score is the sum of the 13 rater boxes in a LSI-R questionnaire. “The significance of the protective factor is realized when an offender is reassessed”.

On an average, with an N of 30, the **Rate of Recidivism** (defined as reincarceration within one year following release) of the individuals interviewed was 19.052. The median recidivism rate was 18.82 and the mode is 19 with a standard deviation of 5.6. The highest recidivism rate scored was 38 % and the lowest score was 10.58 %.

The average **Disrupt scores** from 27 individuals is 20.22. The median score is 12 and the mode is 11 with a standard deviation of 19.078. The lowest disrupt score was zero and the

highest disrupt score was 68. The disrupt score is derived from the ASUS's Disruption sub-scale which is "combined with the LSI score to actuarially prescribed treatment level. The highest **Defensive score** was 23 and the lowest was 2 with a mean score of 7.96. The median was 7 and the mode was 10. From the same ASUS instrument, defensive score provides a measure of the degree to which the interviewee is able to divulge personal and sensitive information on the ASUS.

### **Additional Interviewee Profile**

There were a total of 35 offenders who participated in the LSI-R interviews. Twenty-six or 74 % were males and nine or 26 % were females. Racial profile was available from 25 individuals; 22 or 88 % were defined, as Anglo/White and three or 12 % were African American/Black. Out of 30 individuals six or 20 % were married, seven or 23.33 % were divorced. One person or 3.33 % was Engaged and another individual or 3.33 % was Separated. Fifteen or 50 % of interviewee's claimed to be Single. Also out of thirty 21 or 70 % claimed to be employed and nine or 30 % were unemployed.

The oldest interviewee was 44 years old and the youngest interviewee was 18 years. The mean age of the interviewees was 29.83; the median age was 31 with a mode score of 23. On an average of all the available information on 29 individuals, interviewees attended 11.27 years of school; both the median and modal score was 12th grade. The highest educated was a Junior in college and the lowest educated individual claimed to have a 6<sup>th</sup> grade education.

Seven or 23.33 % committed Property crime, six or 20 % were involved in Sex crime, and eleven or 36.67 % committed Drugs related crime. Additional category of Others included six individuals or 20 % who committed the crimes of Arson, Burglary and Robbery.

### **Summary and Conclusion**

Risks and needs assessment tools have been developed over a period of many years. Andrew and Bonta (undated) points out that a *caseworker* gathers information on a client, facilitates interactions among relevant professionals, arrange for protection where judgment is questioned and analyses changes with the passing of time. Proper and accurate diagnosis can

*assist an offender* address his or her focused needs; only appropriate finding can lead to suitable and needed treatment. For the *management* the assessment instrument offers decision-making consistency, prudent allocation of available resources, and makes quality information available for the purposes of auditing and funding. *Researchers* get to obtain valid and reliable information regarding offenders. The more effective ones can not only assess but predict risk &/or needs by measuring both dynamic and static factors (Bonta, 1996). Though its capabilities appear to prevail in appraising subjective topics, the LSI-R is not totally objective (Colorado DOC, 1998).

To summarize in the words of Andrew, Dowden and Gendreau (1999) the “only game in town” is appropriate cognitive-behavioral treatments, which embody known principles of effective treatment. Relevant utilization of the LSI-R in conjunction with Adult Substance Use Survey (ASUS) can only be achieved when fitting and congruous treatment providers are available equipped with corresponding appropriate LSI-R and ASUS training.

It can be concluded that the modest gift from this simplistic sample analysis has been a brief comparison of the Colorado model versus Oklahoma’s current reality in its endeavor to utilize the LSI-R/ASUS instruments. It is likely that relevant training and education impacts the validity of the assessments. Success of the application of such an instrument lies on its proper administration by individuals having specialized interviewing and assessment training/education in the field of case-management and/or counseling. This ought to be supplanted by quality control procedures and systematic training encompassing the spheres of its use.

The reality of Oklahoma, as it appears from this “mini-research”, is that Assessment tools, appropriately administered, by skilled individuals continue to be a very effective instrument for such undertakings. Additional research and investigation remains crucial as the LSI-R’s use is established into other jurisdictions and situations, particularly for which it might not have been primarily intended or expected.

Film and theme park entrepreneur Walt Disney (1901 -1996) once said, “get a good idea and stay with it, and work it until its done and done right”. Only through the maximum use of all the skills highlighted in this study can LSI/ASUS achieve the intended goal of prescribing



suitable treatment or punishment as appropriate. Let's not be bogged by worrying "about what's ahead. Just go as far as you can go - from there you can see farther"!



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# Individual Change Perspectives of Offender Rehabilitation:

A Narrative of Their Strengths

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## Abstract

This study attempts to carry out a narrative of individual change perspectives of offender rehabilitation. Individual change perspectives of offender rehabilitation include but are not limited to moral-development perspective, social-psychological development perspective, and opportunity perspective. These perspectives can be sociological, psychological, and economic deterministic in nature. However, there have been a lack of adequate analysis of the strengths of the perspectives. The studies that have attempted to carry out such analysis, have done so in passing. They seemed to stop precisely at a point where a much more analysis is needed. To fill the gap, a narrative of the strengths of the perspectives with a recognition of their weaknesses is carried out here. This analysis may be too important and too costly to ignore in 21<sup>st</sup> century corrections research, practice and policy.

**KEYWORDS:** Individual change perspectives; Offender rehabilitation; Prison-based education; Recidivism

## **Individual Change Perspectives of Offender Rehabilitation: An Introduction**

Prison inmate rehabilitation is one of the goals of the correctional system. But is inmate rehabilitation possible? If so, how, and if not, why not? There is a body of perspectives that are based on the notion that a degree of inmate rehabilitation and reintegration can be achieved through prison-based education programs, that is, that inmates' exposure to such education program is a contributing cause of lowered recidivism and productive citizenship (e.g., Linden, 2015; Ubah, 2014; Ubah and Robinson, 2003; Lilly et al., 2010; Ward and Maruna, 2007; Williams and McShane, 2010). These perspectives can be sociological, psychological, and economic deterministic in nature. The perspectives, collectively, can be referred to as individual change perspectives. Individual change perspectives include but are not limited to moral-development perspective, social-psychological development perspective, and opportunity perspective (e.g., Ubah and Robinson, 2003; Ubah 2014). Individual change perspectives can also be referred to as idealistic/optimistic rehabilitation perspectives. Therefore, these two conceptual frameworks (individual change perspectives and idealistic/optimistic rehabilitation perspectives) are used interchangeably in articulating the three perspectives that are the focal analytical approaches utilized in this study. Thus, perspectives of individual change focus directly on the individual offender as the point of analysis and only indirectly on the larger society (Ubah and Robinson, 2003).

However, there has been a lack of serious analysis of the strengths of individual change perspectives of offender rehabilitation. The very few studies that have attempted to carry out such analysis, have done so in passing without much serious attention to the strengths of the perspectives. They seemed to stop precisely at a point where a much more analysis of the strengths of the perspectives is needed. To fill the gap, a critical narrative of the strengths of the perspectives with a recognition of their weaknesses is carried out here. This analysis may be too important and too costly to ignore in 21<sup>st</sup> century corrections research, practice and policy.

The question, then, is what is it about individual change perspectives of offender rehabilitation? Central to individual change perspectives as articulated by penologists, criminologists, sociologists, educators, and public figures, is an assumption that correctional education programs can enhance the successful reintegration of some individual inmates from a correctional institution into the general society (e.g., Linden, 2015; Bui and Morash, 2010; Bushway and Apel, 2012; Hipp et al., 2010; Wang, et al., 2010; Cullen, 2007; Ubah and Robinson, 2003).

On the basis of the above, the questions, therefore, are what is it about rehabilitation theory and what is it about prison-based education program that reduces offender recidivism--is it its building of moral character, self-esteem, and self concept? Is it its provision of a new perspective on life, with attendant reorientation of action; its function as a coping mechanism; the know-how it provides; new interests; its function as a credential in the labor market? The theoretical perspectives of individual change of offender rehabilitation and related issues that will be explored here address some of these questions (e.g., Ward and Maruna, 2007; Ubah and Robinson, 2003). The analysis, therefore, is organized into six sections: moral-development perspective, social-psychological development perspective, opportunity perspective, strengths of individual change perspectives, weaknesses of individual change perspectives, and conclusion.

### **Moral-Development Perspective**

As Ubah and Robinson (2003) assert, moral-development perspective is a perspective of individual change that is very optimistic about the potential of correctional rehabilitative programs. The perspective hypothesizes that prison-based education programs that offer liberal-arts classes such as philosophy, sociology, history, or literature can be rehabilitative in their effect because these courses seem to strengthen people's conscience as they confront the moral and ethical dilemmas addressed in the study of liberal arts (also see for example, Szifris, 2017; Letessa, 2012; Ward and Maruna, 2007; Peterson and Seligman, 2004; Jablecki, 2000; Lockwood, 1991; Arbutnot and Gordon, 1986; Duguid, 1981).

This perspective is based on the assumption that role-taking opportunities are crucial to producing positive movement in people's morality and behavior through the various stages of cognitive-moral development processes. It predicts that role-taking leads to empathy--the awareness of others as having thoughts, feelings and needs like one's self (Letessa, 2012; Ubah and Robinson, 2003). The ground-breaking ideas of this approach were formulated by George Herbert Mead, as discussed in his influential book titled, *Mind, Self, and Society: From the Standpoint of a Social Behaviorist*, where Mead provided a model of how interaction processes are the basis of moral development in humans (Mead, 1934; Morris, 1962; Ubah and Robinson, 2003). Perhaps his model can best be captured in the idea that individuals were the product of society and social interaction.

Although, the perspective originated from the work of Mead, however, Herbert Blumer's ideas on the subject are profoundly significant in this discussion and as such deserve to be referenced. Thus, Blumer suggested that individuals act toward things on the basis of the personal meanings that the things have for them and that the meanings of things arise out of social interaction and handled and modified through an interpretative process, thus, coining the term "symbolic interactionism" to describe the perspective (Blumer, 1969; Ubah, 2003).

It is because of the power of Mead's and Blumer's ideas of the perspective as well as other distinctive authors such as Best, Garfinkel, Cooley, and Goffman to mention but a few that courses that are believed to improve role-taking abilities are often recommended as central components of correctional education programming (Szifris, 2017; Ubah and Robinson, 2003; Jablecki, 2000; Hobler, 1999; Fabiano, 1991; Rose, 1985; Samenow, 1991). However, it is important to note that the values of such programs in the transformative process of offenders' experience are not uniform across gender and some other social groupings and categories and perhaps may have more to do with the meanings offenders give to the programs, their self-perception of personal roles/statuses and the things they encounter in the process (Szifris, 2017; Letessa, 2012; Herrschaft et al., 2009).



Nevertheless, research has demonstrated that moral reasoning programs produce attitudinal change in inmates in various degrees and some of that can be very significant in their effect (e.g., Wilson, 2011; Brewster, 2010; Hobler, 1999; Lockwood, 1991). For instance, Hobler (1999) postulates that moral education can enable individuals to look at themselves in different ways and to begin to make decisions based upon moral reasoning rather than self-satisfaction. Such insights suggest that if we teach inmates to think in a rational, moralistic mode, it will follow that their behavior and actions would probably adjust appropriately (Ubah and Robinson, 2003).

Jablecki (2000) in his work “Prison Inmates Meet Socrates,” articulates that inmates of Texas Department of Corrections (TDCJ) exposed to educational programs fashioned upon Socrates’ teachings especially on his concepts of “unexamined life is not worth living” and his “identification of knowledge and virtue” experienced profound positive changes in their thinking and conduct and consequently reduced their recidivism rates by enhancing their successful reintegration into the general society. Thus, Jablecki’s (2000, p.3-4) suggestions of the positive changes in the thinking and conduct of the inmates in the Texas program can be captured in the following findings:

The students find that courses in history, literature, and philosophy profoundly deepen their sensitivities and expand their horizons. TDCJ students may come from pockets of economic and intellectual poverty from which they have never escaped—they have literally no knowledge of other ways of living. Humanities courses open new realities to them, wholly changing their perspectives about who they are and what the world is about ... Such courses are truly revelations, showing ways of living and thinking that they have not encountered before.

Despite Goffman’s (1961) suggestion that once an individual is tainted it is impossible to regain normalcy unless that person’s stigma could be hidden. Jablecki (2000) on the other hand, suggests otherwise in light of his findings. His findings are particularly relevant to the issue of

identity transformation (see, for example, Goffman, 1961; Ebaugh, 1988; Veysey, 2008) and the evaluative aspect of offender rehabilitation process which entails the development of the ability to reexamine self and begin to make better practical judgments, and to formulate and implement life plan that embody socially acceptable values (Ward and Maruna (2007). Thus, Ebaugh (1988) and Veysey (2008) seem to support Jablecki's suggestion by arguing that role exit is possible and could take the process of realization and dissatisfaction with the current role, consideration of alternative roles, gradually modeling a new role and transition into the new role (see also Latessa, 2012 for another example). Hence, Herrschaft et al, (2009) put it well when they assert that one catalyst of a change process can begin a cascade of changes. These processes in the offender rehabilitation effort in part or in whole are in line with the premise of moral development theory.

On the same token with the above assertions, Ward and Maruna (2007, p.36) seemed to capture the profound relevance of the resources of moral and ethical values in the offender rehabilitation process by asserting that “ethical values are a particularly important set of resources as they represent foundational or core standards used to construct ways of living and behaving. They bestow a sense of meaning, significance and purpose on human lives and are at the heart of the rehabilitation process.” Arguing within the framework of this perspective, Duguid (1992) stresses that if there is such a dimension of latent human development and growth in us all, then perhaps more than anything else, education becomes a potential key, a means of identifying, liberating, and exploring that humanness. Johnson (1964, p.610) concurs with Duguid's views by asserting that “the school is viewed as a cure-all for social problems....’Good parenthood’ and high moral values are supposed to come from classroom experience. Since education deals with the development and change of human behavior, the faith in education as a treatment tool is well placed.”

As interesting and insightful as this perspective might seem, some issues remain unaddressed and some of those issues will be examined and addressed more so after we take a look

at the other two individual change perspectives we are focusing on in this study. On that note we now turn to social-psychological development perspective.

### **Social-Psychological Development Perspective**

Social-psychological development perspective is another perspective of individual change that can be used to justify correctional rehabilitative programs (Ubah and Robinson, 2003). The perspective emphasizes the potentially transformative and liberating processes set in motion by educative experiences. This perspective assumes that social cognitive processes play a prominent role in the acquisition and retention of new behavior patterns. But the general assumption of this perspective was that cognitive shifts--new behavioral patterns can be elicited in an individual through exposure to certain modes of treatment such as correctional education programming (i.e., academic and vocational) (e.g., Link and Williams, 2017; Crabtree et al., 2016; and Linden, 2015; Ward and Maruna, 2007; Ubah and Robinson, 2003; Ward and Stewart, 2003; Jablecki, 2000; Orpinas et al., 1996).

Social psychological development perspective has been described as a personality perspective (e.g., Versey, 2008). A personality perspective draws on an empirical research base which suggests that personality noncriminogenic constructs (such as low self-control, poor self-esteem, personal distress and interpersonal distrust) are necessary contributing factors in the process of antisocial behavior both within and outside the wall (Latessa et al., 2015; Andrews et al., 2006; Ogloff and Davis, 2004). Hence, Mears and Mestre (2012) assert that because of the values of such constructs they should be considered in a holistic offender desistance process.

In "Rethinking Reentry," Veysey (2008, p.4) makes an insightful observation that "treating addiction, symptoms of a mental illness, or criminogenic needs will have limited success when the person receiving treatment perceives other things to be the primary problems." According to Veysey, this is because what led people into criminality is not necessarily the pathway out in

reverse. Ward and Maruna (2007, p.102) underscore Veysey's observation by asserting that there is utility in targeting noncriminogenic needs in a therapeutic process because:

Focusing only on the reduction of criminogenic needs may reduce risk, but without inculcating other methods to achieve goals risk is likely to reemerge ... In other words, attending to features of individuals' lives such as personal distress or the interpersonal manifestations of low self-esteem is a mandatory not a discretionary aspect of effective therapy.

Thus, the premise of social psychological development perspective rests in part on the promise that certain prison-based offender rehabilitation programs would help alleviate the individual's crime supportive attitudes, values, beliefs and emotions and consequently lead to desistence from criminal behavior and consequently resulting in lowered recidivism rates (Latessa, 2012; Wilson, 2011; Wormith, et al., 2007; Andrews and Bonta, 2003).

Theorists using this approach to correctional education programs, are of the view that inmates' completion of or participation in education in prison will enhance their psychological well-being through their development of cognitive and physical abilities that could enable them to relax better than before, release tension more maturely, express themselves more constructively, and build self-esteem and a favorable self-concept that can help them work toward a crime-free future (e.g., Brennan, 2012; Mears and Mestre, 2012; Karstedt, 2008; Ubah and Robinson, 2003).

On the same token, Ubah and Robinson (2003, p.117-118) postulate that "according to the theory, correctional education would make prisoners feel more human, make prison more bearable by limiting the effects of some of its degradation, and foster the prisoner's health and safety because he or she has more mental and physical stimulation than previously." In addition, it would enable inmates to cope more maturely than before and be more able to envision and signal a

replacement of a criminal self and identity to prosocial self and roles (Bushway and Apel, 2012). On that note, Hackman (1997, p.74) underscores that:

Education is an opportunity for an improved lifestyle. An inmate who has been locked up with no opportunity for self-improvement could be released with pent up anger and a “society owes me” attitude. This, in turn could start the cycle of crime spinning again. However, through education, those who did not realize they have the capacity to succeed or improve their life with a saleable skill could be released from prison with a positive attitude and become a productive member of society. Education is an opportunity to turn a negative experience (incarceration) into a positive experience (rehabilitation).

If Hackman’s assertion is correct, inmates’ participation in prison-based education programs becomes a way to cope maturely and constructively with the complex difficulties of prisonization, dehumanization, and contracted life of prison-based correctional institutions (Delisi and Conis, 2019, 2013; Mears and Mestre, 2012; Welch, 2004; Ubah and Robinson, 2003; Irwin, 1985; Clemmer, 1958; Gerfinkel, 1956). When this happens, time spent in prison can be viewed as a constructive painful experience. All these potentials of correctional education programs suggest that inmates earning a college degree tend to look at the world more positively, set a higher standards and goals for themselves, and learn to manage their time better (Pendleton, 1988). On the contrary, without correctional education programs, inmates are left to their own, limited resources and all-defeating criminogenic imagination and tendencies.

However, after all is said and done, education cannot be considered a panacea for solving all the problems that exist in inmates or society; yet, it can set in motion the process of developing inmates’ social psychology and a prosocial outlook on life, which is capable of helping them to address some of their problems to the benefits of not only to themselves and immediate families and communities but also the larger society as a whole (e.g., Linden, 2015; Bui and Morash, 2010; Ubah

and Robinson, 2003; Jablecki, 2000; Austin, 1987). These insights suggest that improving an individual through education, no matter who that person is, will ultimately help society at the end.

In conclusion, as social-psychological development perspective suggests, it was because of the potentials of correctional education programs in the rehabilitation process of prison inmates that made their participation in correctional education program the right step in the right direction in the transformation process of offender rehabilitation and reintegration efforts.

### **Opportunity Perspective**

Opportunity perspective another perspective that can be used in the attempts to justify college level correctional education programs (e.g., Latessa et al., 2015; Ubah and Robinson, 2003; Cloward and Ohlin, 1960). This perspective suggests that most crimes, especially crimes on the street--which are usually carried out by poor, undereducated, unemployed/underemployed, and disenfranchised members of a society--can be explained by a lack of viable, legitimate means to the attainment of economic gains (i.e., external conditions) (Brown and Philo, 2017; Mutchnick and Lewis, 2017; Bui and Morash, 2010; Hipp et al., 2010; Herrschaft et al., 2009; Ward and Maruna, 2007; Warner, 1999; Lockwood, 1991). Perhaps this notion originated with Merton's (1938) strain theory. Thus, strain theory postulates that deprivation, either absolute or relative, heightens feelings of anger, frustration, and confusion which in turn could result in crime (e.g., Barkan, 2018; Wang, et al., 2010; Agnew, 2001; Bernard, 1990).

The opportunity perspective, therefore, suggests that acquiring college education credentials in prison will provide inmates with legitimate human capital (resources that influence future activities in people, such as marketable legitimate skills, trades, network relationships) that can open up better job opportunities, which in turn, can build social bonds that protect against criminal behavior (e.g., Brown and Philo, 2017; Mutchnick and Lewis, 2017; Bushway and Apel, 2012;

Hipp et al., 2010; Wang et al., 2010; Herrschaft, 2009; Kubrin and Stewart, 2006; Ubah and Robinson, 2003).

Research documents that going to college enables one to obtain credentials for the labor market that could open up considerable opportunities and social networks relationships for social mobility (e.g., Barkan, 2018; Mutchnick and Lewis, 2017; Bui and Morash, 2010; Wang et al., 2010; Ubah and Robinson, 2003; Johnson, 1964; Ellis and Lane, 1963). For example, Johnson (1964, p. 610) asserts that “the higher the attainment of education, the greater one’s earning power and the greater the possibility of improving one’s station in life.” Higher education credentials are widely known to help open up legitimate opportunity structures and wider positive social network relationships that can lead to considerable legitimate decent living and success and therefore could help reduce the pushes and pulls into street-level negative social resources and criminal capital (i.e., relationships with street-level nonconventional, antisocial people) (Bui and Morash, 2010; Hipp et al., 2010; Wang et al., 2010; Kubrin and Stewart, 2006).

On the basis of this well-established finding, opportunity perspective suggests that inmates’ completion of, or participation in a college-level correctional education program is a likely evidence of being engaged in the process of upward mobility. In the sense that such endeavor has the capacity to provide inmates with some necessary legitimate human and social capital resources (i.e., skills, knowledge, and network relationships) that can serve as a liberating and transformative force in their process of “going straight” and transforming from antisocial behavior to pro-social one and hence positively impact their successful reintegration when released into the general society (Barkan, 2018; Mutchnick and Lewis, 2017; Kurlychek et al., 2012; Travis, 2005; Irwin, 1970; Ubah and Robinson, 2003).

The determination and motivation which inmates who participate in prison-based education program may have can have a generating effect beyond the immediate successes inmates might achieve in prison-based academic programs. This is because those successes in the programs can be

catalysts and hooks for further successes in higher academic education programs or on-the-job training when released into the general society (Delisi and Conis, 2019; Bui and Morash, 2010; Hershberger (1987). Perhaps, this assumption about the power of prison-based education in the liberating and transformative efforts of inmates is shared so greatly by no other group than the “Convict Criminology” movement. To be clear, “Convict Criminology primarily takes the shape of essays and empirical research by convicts or ex-convicts, in possession of a Ph.D. or on their way to completing one, or enlightened academics who make critiques of existing literature, policies, and practices, and contribute a new perspective on criminology, criminal justice, corrections, and community corrections” (Richards and Ross, 2001, p.180).

In part or in whole, the above assumptions of opportunity perspective on offender rehabilitation are in line with a major feature of the Good Live Model (GLM) especially in the way the model analyzes the notion of criminogenic needs in terms of internal and external conditions (Latessa, 2015). Ward and Maruna (2007, p.160) stressed this idea very well by submitting that:

In order to achieve primary goods effectively in particular circumstances, it is necessary to meet two sets of conditions. First, individuals require the capabilities or skills required to perform good-directed actions and, by doing so, engage in the valued activity or else reach it via a series of secondary steps. Second, in order to meet human needs it is necessary to have access to relevant opportunities, and to be supported – or, at the very least, not thwarted – by others in the process. Deficits in either of these two sets of factors would therefore make it unlikely that a person would be able to achieve what he or she sets out to. He or she would be unable to have his or her needs met and therefore to secure the relevant primary goods. Criminogenic needs constitute the relevant deficits in the internal and external conditions.



Thus, there is a point in Ward and Maruna's assertion and it has to do with the extent of the complexities in the offender desistance process and some of the complexities are discussed in some details in form of weaknesses and/or challenges below. Nevertheless, the individual change perspectives suggest that the provision of prison-based college education programs in correctional institutions indicates the right step in the right direction because the programs can promote change in some inmates, improve their psychological well-being, and offer them credentials for the labor market. The premises of individual change perspectives form the arsenal, from which proponents of correctional education programs draw their arguments for the continued provision, funding and improvement of prison-based college education programs (Ubah and Robinson, 2003).

Regardless of the above strengths of individual change perspectives of offender rehabilitation and recidivism illuminated here, further consideration of the issues with the perspectives needs to continue because, for one thing, such endeavor would enable a much more serious attention and imagination on the issues as well as enable deeper insights and lessons for research, policy, and practice. On that note, we will now take a further look at the strengths of individual change perspectives of offender rehabilitation.

### **Strengths of Individual Change Perspectives Of Offender**

#### **Rehabilitation: A Further Look**

Irrespective of the strengths of individual change perspectives of offender rehabilitation presented in this study thus far, some questions still remain and some of those questions include, what are additional strengths of individual change perspectives that can be considered and the importance of such considerations for criminology and public policy?. The additional strengths of the perspectives that can be considered include but may not be limited to the recognition and appreciation of the idea that individual change perspectives of offender rehabilitation are part and parcel of the philosophies of crime causation and control that are most commonly referred to in criminological literature as the "positivistic" tradition (i.e., one of the dominant traditions in

corrections in particular and criminology in general). In short, positivistic tradition are philosophies of crime causation and control which suggests that human behavior is shaped by individual and structural factors that can be identified through scientific methods rooted in the act of grouping and/or categorizing the subjects of interest (e.g., Barkan, 2018; Blevins, 2017; Lilly et al., 2010; Williams and McShane, 2010).

In the context of offender rehabilitation and reintegration, individual change perspectives form of the positivistic tradition, operate mainly under the assumption of the risk-need-responsivity (RNR) model (e.g., Latessa et al., 2015; Andrews, et al., 2006). Risk-need-responsivity model of offender rehabilitation suggests that offenders' deficits and risks can be identified, manipulated and managed with prison-based rehabilitation programs. That is, that the programs have the propensity to enable offenders acquire new, pro-social ways of feeling, thinking and acting, that could help them make successful transition into the larger society as well as give them skills and trades that could enable them aim their human goals and needs in a legitimate socially approved ways (Latessa et al., 2015; Ward and Maruna, 2007, Ubah and Robinson, 2003).

By implication, the perspectives directly or indirectly suggest that education rehabilitation programs can help offenders manage their criminogenic needs and strive to meet their primary human needs in a socially acceptable way. As such, the perspectives are instruments for promoting primary human goods and needs (i.e., providing the offender with the essential ingredients for a good life) as well as reducing or avoiding risk for reoffending (e.g., Delisi and Conis, 2019; Ward and Maruna, 2007). To be clear, note that while moral development and social psychological development perspectives have more to do with internal conditions (i.e., skills, beliefs, attitudes, moral values etc.), the opportunity perspective, on the other hand is more in line with external conditions (i.e., opportunities, network relationships, supports etc.).

As a whole, the perspectives collectively are optimistic about humanity with the view that the skills and trades offenders may gain from participating in rehabilitation programs, could enable

them to begin to see themselves differently than before and work toward their role transformation and transition from a criminal culture and identity to law-abiding ones (Latessa et al., 2015; Herrschaft et al., 2009). Ward and Maruna (2007, p.22) seem to capture this transformative and liberating process inmates can embark upon by postulating that “an important component of living an offense-free life appears to be viewing oneself as a different person with the capabilities and opportunities to achieve personally endorsed goals.” This process has also been described as the “whole person” perspective (e.g., Ward and Stewart, 2003). The experience seems to be a necessary element in any transformative and enduring change process including but not limited to those embarked upon by offenders.

After all is said and done about the strengths of individual change perspectives of offender rehabilitation, when their perspectives are examined critically, some serious issues and questions are raised which point to their weakness. Recognizing and understanding the weaknesses of individual change perspectives of offender rehabilitation are important because, for one thing, such endeavors would enable us to have a broader and deeper insights on the perspectives. On that note, we now turn to such endeavor.

### **Weaknesses of Individual Change Perspectives:**

#### **A Critical Look**

A critical examination of individual change perspectives of offender rehabilitation with regards to their weaknesses is scholarly appropriate, in that, such efforts would enable us have a broader and deeper insights and understanding of the subject and gleaned some important lessons in the process. The questions, then, are what are the weaknesses of individual change perspectives and the importance of such weaknesses in the understanding of offender rehabilitation and recidivism process? There weaknesses include but may not be limited to, the charge that the perspectives operate under flawed assumptions in the view that offenders are essentially different from all other human groups; that reducing offender problems will reduce criminal behavior; that if services are

made available, offenders will use them; that services actually accomplish what they are designed to do; that the perspectives fail to specify the length of inmate exposure, which can lead to a reduction in recidivism; and that in terms of perceived differences between men and women the perspectives fail to specify which process tend to work better for men and for women when applying them (e.g., Ubah, 2003).

Furthermore, that the perspectives are stated so cautiously as to raise the question of whether any available data could show any one of them to be preferable to others; and that generally one may wonder how education, which so often seems ineffective in the general society, has the capacity to accomplish so much, under the harsh and degrading conditions of prison life (e.g., Latessa et al. 2015; Ubah, 2003, 2002; Garfinkel, 1956). Also that individual change perspectives are limited in their utility because they are narrow and not broader in nature. As a result, they have been described as “local theories of change” and not “complete rehabilitation theories” (e.g., Delisi and Conis, 2013; Ward and Maruna, 2007).

Thus, Ward and Maruna (2007, p.33) offered a summation of what constitutes a complete rehabilitation theory:

a complete “rehabilitation theory” is broader in nature and refers to the overarching aims, values, principles, justifications and etiological assumptions that are used to guide interventions and help therapists translate these rather abstract principles into practice. Rehabilitation theory, therefore, is essentially a hybrid theory comprised of values, core principles, etiological assumptions and practice guidelines. In effect, it contains elements of normative, etiological and practice/treatment theories within it while being somewhat broader than the sum of these parts. It contains multiple levels and enables correctional workers to intervene in diverse but coherent ways.

These observations and recognitions are insightful and instructive in that it is conceivable that, with regard to the reduction of recidivism, program's principles and assumptions matter because some types, levels and process of prison-based educational programs may be more effective than others across institutions and/or jurisdictions (e.g., Linden, 2015; Brennan, 2012; Herrschaft et al., 2009; Marlowe, 2006; Veysey, 2008). This is so because "education should not be viewed as some uniform and homogenous entity exposure to which gives skills and alters thinking and motivation invariably in the same fashion" (Ubah, 2002, p.18).

In recognizing additional weaknesses of individual change perspectives, McAdams (1994) attests that a person's personality attributes involve three domains: traits, personal strivings and self-narratives. This is an idea which individual change perspectives failed to fully address. Ward and Maruna (2007) postulate that prison-based rehabilitation programs that are informed and grounded by individual change perspectives operate mainly from the assumption of risk-need-responsivity (RNR) model which overly view offenders from the risk lens and his or her criminogenic needs while given discretionary and not mandatory attention to the individual's whole personality attributes (i.e., the humanity of offenders). In attesting to the weakness of programs informed by these perspectives, Herrschaft et al. (2009, p.467) postulate that "these types of programs often disregard the ability of an offender to personally initiate positive change during the reentry process. Reentry programs commonly treat desistance as a conclusive event. They operate under the assumption that offender needs to be fixed by an external agent because they are incapable of doing so themselves."

By focusing too much on the criminogenic personality needs of offenders, the individual change perspectives fail to sufficiently consider that humans are active, goal-seeking beings with the capacity to detect and pursue human needs and goods (e.g., Latessa et al., 2015; Brennan, 2012). This insight of the Good Lives Model (GLM) is in line with the perspective of niche construction which emulates from gene-culture co-evolution theory developed by Odling-Smee and colleagues

(2003). Niche construction suggests that organisms in their striving for primary human needs and goods have the capacity to alter their environment and thereby modify the relationship between their characteristics and the features of their environment. These insights and lessons on the capacity and agency of human beings are very important and need to be seriously taken into account in any individual change perspectives considerations. Unfortunately, that has not been the case thus far with individual change perspectives of offender rehabilitation.

Furthermore, by overemphasizing on the offender's criminogenic personality traits, RNR model perspectives neglect the important role of the other two levels of personality in the individual's life course. Ward and Maruna (2007) epitomize this situation by postulating that the other two neglected domains of personality tend to control the individual actor (that is, they are more dynamic and agentic)). As a result, these two domains of personality offer the best opportunity for changing personality over the life course. These observations and recognitions seem to form the premise of a growing body of literature challenging the assumptions of RNR model (e.g., Latessa et al., 2015; Herrschaft et al., 2009; Veysey, 2008). The suggestions of these emerging literature on RNR model can be captured very well in the following assertion by Ward and Maruna (2007, p.105):

The narrowness of its basic assumptions and value commitments means that the primary etiological elements of RNR revolve around the detection and role of risk factors in the generation of crime. The failure of RNR explicitly to consider a broader range of human needs and the role of identity and agency in offending means that it ultimately pays insufficient attention to core therapeutic and intervention tasks (e.g. treatment alliance, motivational issues).

It seems that another issue with individual change perspectives was that it lacks external consistency about human functioning. That is so because the perspectives fail to sufficiently consider the contextual nature of human behavior. As a result, they present general principles that

are applied without adequate consideration of the social contexts and macro-economic forces imparting returning offenders lives (e.g., Morenoff and Harding, 2014; Kirk, 2012; Maruna, 2012; Miller, 2012; Bui and Morash, 2010; Hipp et al., 2010; Kubrin and Stewart, 2006). The need to adequately consider all these interacting social processes in the offender desistance efforts is important but unfortunately that has been greatly underplayed in the individual change perspectives assumptions.

In closing, in their study entitled, “Parolee Recidivism in California: The Effect of Neighborhood Context and Social Service Agency Characteristics,” Hipp et al., (2010) not only underlined the importance of adequately considering the social context in which offenders return but also the socioeconomic context and the context of nearby neighborhoods. They accounted not only the economic characteristics of the census tract to which offenders return but also other structural characteristics of those tracts. Recognizing the interacting processes of those contexts of returning offenders and adequately accounting for them are important in a desistance effort because human beings are interdependent and rely on other people and social institutions in their context to function. As such, it is imperative that care is taken to ensure that any rehabilitation idea takes into account the contexts in which offenders are likely to be returned (e.g., Delisi and Conis, 2019; Krisberg et al., 2019; Morenoff and Harding, 2014; Hipp et al., 2010; Travis, 2005). Unfortunately, that important lesson seems not to be given sufficient consideration by individual change perspectives of offender rehabilitation.

### **Conclusion**

Several conclusions can be drawn from this study. The first conclusion that can be drawn from the study is that individual change perspectives of offender rehabilitation such as moral development perspective, social-psychological development perspective, and opportunity perspective are plausible ways of understanding, explaining and predicting the rehabilitative potentials of correctional education programs especially at the post-secondary levels. However, the

perspectives are not without serious issues that need to be recognized and taken note of in any consideration of their usefulness. As a result, this article makes serious effort to carry out a narrative of the strengths of the perspectives with a recognition of some of their weaknesses and in the process gleaned some insights and lessons. These are insights and lessons that might be too important and too costly to ignore in 21st century corrections research, practice and policy.

Because theories are used both to explain and predict phenomena, therefore, offender rehabilitation theory is supposed to guide research, practice and policy on offender rehabilitation. It should aid in part or in whole the explanation and/or prediction of the phenomenon of offender rehabilitation. It should be an explanation of how the process is supposed to work (e.g., Simon, 1993). It should ask the question of “how it works” which in turn leads to the determination of “what works and what doesn’t in reducing recidivism” (e.g., Link and Williams, 2017; Crabtree et al., 2016; Latessa et al., 2015; Lin 2000; Martinson, 1974). In effect, offender rehabilitation perspectives such as individual change approaches presented and analyzed here should attempt to explain and/or predict prison-based education programs as mechanisms for offender rehabilitation and reintegration into the general society. Nevertheless, the approaches on their own capacity alone might not account for the full truth of both why inmates exposed to such programs had a certain outcome and what exactly are possible with the programs as much as other forms of theoretical perspectives might. Ward and Maruna (2007, p.31) put it succinctly well, “we accept that even our best theories may only be partially true and that it is possible that for any given scientific problem there could be more than one way of solving it.”

Therefore, this analysis does not in any way claim to be a comprehensive analysis of theories of rehabilitation nor does it pretend to account for the full truth of the phenomena under analysis. Instead, it takes a closer look at some important individual change perspectives on prison-based education rehabilitation programs and makes serious efforts to carry out a systematic



narrative of their strengths and a recognition of their weaknesses for 21st century corrections research, policy and practice.

The strengths based premises of individual change perspectives articulated here form the arsenal from which proponents of correctional education programs draw their arguments for the continue provision, funding and improvement of prison-based college education programs. On the other hand, the weaknesses of individual change perspectives pointed out here are part and parcel of the arsenal from which scholars of pessimistic persuasion of offender rehabilitation programs draw their arguments against prison-based correctional education programs (and Robinson, 2003). Their arguments include but are not limited to recommendations for cut-back or even outright elimination of correctional education programs in the penal systems. But after all is said and done about the strengths and weaknesses of individual change perspectives of offender rehabilitation programs and their implications for corrections research, practice and policy, it will be a serious mistake to use the evidence based recidivism rate outcomes of offender rehabilitation programs as the sole indicator of prison-based rehabilitation program usefulness or lack of it as Ubah (2014) study epitomized.

All the technocratic language of individual change perspectives of offender rehabilitation notwithstanding, the issues surrounding offender rehabilitation programs continue to divide scholars, policy makers, correctional practitioners, and the general public. As Ubah (2002) demonstrated succinctly, literature on the subject are contradictory, some argue that, to a considerable extent, it accomplishes its purpose, whereas others think that it does not work. And current empirical evidence seem to suggest the same situation.

In the final analysis, it cannot be overemphasis to note again that the assumptions of individual change perspectives of offender rehabilitation do not, in any way, hold the notion that the perspectives have all the answers of both why inmates exposed to rehabilitation programs had a certain outcome and what exactly are possible with the programs. Rather, the perspectives should be viewed as some of the plausible approaches with which we can explore the issue of offender

rehabilitation. As such, more studies need to be conducted on the subject. Such studies are important for criminology, criminal justice, and public policy as they would add more imagination in the discussion of the subject and in the process provide deeper insights and lessons for corrections research, practice and policy.



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# **Siren Call to Syringe:**

## **Cases in the Use of Anabolic Steroids in Public Safety**

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### **Abstract**

The public may not grasp the pervasive use of the illegal drugs by firefighters and law enforcement officers in the form of anabolic steroids. Anabolic steroids are Schedule III substances in accordance with Controlled Substances Act; it is a felony to possess, sell, use, and distribute these drugs. Yet, sworn public employees are using and abusing anabolic steroids and leadership in public service agencies is not proactive. This article highlights the use of illegal anabolic steroids by examining case studies of police officers and firefighters in a single Georgia community, and the failures of leadership to take the initiative to stop the use of these drugs.

Solutions to the illegal use of anabolic steroids by public service employees are offered and further research is discussed.

### **Siren Call to Syringe: Cases in the Use of Anabolic Steroids in Public Safety**

Employees serving in positions of trust in communities across America have a dirty little secret: the use and abuse of anabolic steroid drugs. Although infamous cases of anabolic steroid drug use by athletes in a variety of sports are well known and newsworthy to the masses, many people do not realize the widespread use of anabolic steroid drugs by law enforcement officers and firefighters in their own community. This article will highlight the use and abuse of anabolic steroid drugs in public safety occupations and the failures of leadership to acknowledge the problem and take the moral and ethical road to fixing the problem.

Anabolic steroids, technically known as anabolic-androgenic steroids, have been around for about eighty years. Synthetic substances related to testosterone, the male sex hormone, are “anabolic” revealing the drug’s ability to create skeletal muscle growth. The “androgenic” in the name denotes the drug’s ability to promote male sexual characteristics. Anabolic steroid drugs are Schedule III substances in accordance with Controlled Substances Act, the Anabolic Steroid Control Act of 2004 (Public Law 108-358 and 21 USAC 801 note), and state law. Only a small number of anabolic steroids are approved and prescribed for human or animal use. Often used to increase muscle mass and stimulate protein production, medical practitioners may have a legitimate use for such drugs. More commonly, however, the drugs are made illegally, sold illegally, and used illegally. Anabolic steroids improve physical strength and reduce body fat levels. Researchers also note users report a heightened sense of self-esteem and a sense of euphoria (Nordquist, 2012). Nordquist (2012) lists the additional behavioral and psychological side effects of anabolic steroid use as aggressive behavior, mood swings,

forgetfulness, distraction, depression, hallucinations, and delusions. Commonly abused steroids include these substances: Anadrol (oxymetholone), Oxandrin (oxandrolone), Dianabol (methandrostenolone), Winstrol (stanozolol) and Deca-Durabolin (nandrolone decanoate), Durabolin (nandrolone phenpropionate), Depo-Testosterone (testosterone cypionate), Equipoise (boldenone undecylenate), and Tetrahydrogestrinone (THG) (*Anabolic Steroid Abuse*, 2006).

Many law enforcement officers, firefighters, and other public safety employees are using anabolic steroids in an effort to improve their appearance and job performance. With their ego-driven attitudes as crime-fighters and danger seekers, these public safety employees not only put the citizens they serve in danger, they are criminals using illegal drugs. Further, “One police psychologist in Spokane, Washington, Gene Sanders, estimates that one in four officers working in high-crime cities ...are juicing...,” (*When the Police*, 2008). Anabolic steroids “appeal to officers wanting a tactical edge or an intimidating appearance,” (Humphrey et al., 2008). Visions of muscle-laden police officers busting down a meth lab makes one wonder: Is it okay for those officers to be pumping an illegal anabolic steroid into their system, like Equipoise (boldenone undecylenate), before hitting the “mean” streets? And firefighters have been found to be “juicing” for years. Research also indicates that steroid users may turn to “opioids to counteract insomnia and irritability resulting from anabolic steroids,” (U.S. Department of Health and Human Services 2006). Apparently the desire to be admired and viewed as invincible motivates public safety employees to become criminals. Erdely (2005) quotes Professor Larry Gaines, “Steroids are inviting for cops to deal in because they know there’s not a lot of enforcement.” One officer admitted to a morning cocktail of Depo-Testosterone, Sustanon, Deca-Durabolin, and Anadrol before he headed off to work (Erdely, 2005). A Georgia scandal revealed steroid use for years by firefighters and police officers (Gillooly, 2013; Wiley, 2013).

In the recent steroid scandal in Georgia, former Cobb County Police Officer Eric Meadors admitted to the purchase and use of illegal anabolic steroids after testing positive for

anabolic steroids. Meadors admitted to buying steroids when he worked in a gym before becoming a police officer and admitted to purchasing steroids from firefighter Phillip Wilbur who worked for the same county where Meadors was employed. The investigation notes, “Officer Meadors said he purchased three vials of testosterone cypionate (Deca) for approximately \$100.00 per vial from Phillip Wilbur” (Cobb County Department of Public Safety Internal Affairs, 2013b, synopsis, p.1). The report continues, “Officer Meadors admitted to buying, possessing, and using illegal anabolic steroids prior to being employed which he failed to disclose on his application for employment. Officer Meadors also purchased, possessed, and used illegal injectable steroids while employed as a Cobb County Police Officer,” (Cobb County Department of Public Safety Internal Affairs, 2013b, synopsis, p. 3).

When asked about other police officers in the department using steroids, Meadors offered,

“I don’t....I don’t have proof but, I mean there’s people I suspect. I mean, you can look at any of the guys that are more than above average in their PT tests and have substantial muscle...I mean it’s...I’m only 192 pounds so it’s not like I’m some huge guy but, again, I don’t have...I have suspicions of certain people who may or may not be using but that’s not here nor there. I’ve never discussed it with anybody....,” (Cobb County Department of Public Safety Internal Affairs, 2013b, p. 31). Near the end of former Officer Meadors’ testimony, he stated, “No, I mean...I just apologize that I wasn’t forthcoming with my use of it since I’ve been a police officer because again... human nature...I just...it’s kind of like a, I know what happens from here so....”(Cobb County Department of Public Safety Internal Affairs, 2013b, p.31).

Officer Meadors knew he had lied on his job application, admitted to buying and using illegal anabolic steroids, and was well aware his law enforcement career was over. Meadors

admitted to using illegal anabolic steroids for three to four years (Cobb County Department of Public Safety Internal Affairs, 2013b, synopsis, p.2). After his voluntary drug screen, the internal affairs investigator asked former Officer Meadors if he had ever heard of the drug Boldenone to which Officer Meadors responded, “Only after I researched it after I was contacted by the drug lab...” (Cobb County Department of Public Safety Internal Affairs, 2013b, p.57). “On June 28, 2013, Internal Affairs received the drug screen results for Ofc. Meadors which indicated he tested positive for the drug Boldenone which is an injectable steroid used in the growth of repair of muscles in a horse or other animal,” (Georgia Peace Officers Standards and Training Council, Investigative Report 0078741013, page not numbered).

When asked for his motivation to buy and use illegal anabolic steroids, Meadors admitted, “...given our profession, some guys that, you know, use those types of substances that maintain a level of fitness or, you know, ability to do their job...” (Cobb County Department of Public Safety Internal Affairs, 2013b, p. 30). And while Meadors vacillates between “...my actions are inexcusable...” to “I just was doing what I thought I needed to do to maintain my, my edge...” (Cobb County Department of Public Safety Internal Affairs, 2013b, p.63). Meadors did not hesitate to resign from the department before being fired. The investigation of former Officer Eric Meadors revealed sustained allegations of violation of rules (Code of Conduct 1.01), unbecoming conduct (Code of Conduct 1.02), lack of conformance to laws (Code of Conduct 1.04), and use of alcohol, drugs, or narcotics (Code of Conduct 1.14). Interestingly, documents contained in the Georgia Peace Officers Standards and Training Council (GaPOST) investigation revealed former Officer Meadors had 1,468 hours of training, with 6-hours of training on drug treatment and abuse trends and no ethics training beyond the basic police officer course mandated training.

On July 19, 2014, former Officer Meadors certification as a peace officer (law enforcement officer) was revoked by GaPOST. He will never be a police officer again in

Georgia. However, what about the dealer, the firefighter Phillip Wilbur who sold drugs to Meadors? Who were the other public safety customers of Wilbur?

On July 1, 2013, news outlets released information on the illegal anabolic steroid scandal in Cobb County, Georgia, (the same day Officer Meadors resigned), which included information on Officer Meadors and five firefighters employed by the county (Gillooly, J.,2013; Wiley, N., 2013). Before the scandal was over, one seven-year veteran firefighter resigned, one 26-year firefighter was fired, two firefighters were suspended, and one firefighter was cleared (Wiley, N., 2013). And just when the dust had settled, in October of 2013, a homicide detective was fired for use of illegal anabolic steroids.

The first firefighter investigated was Darnell Musgrove. Firefighter Darnell Musgrove admitted to internal affairs investigators he had used illegal anabolic steroids as far back as 2007 and was using them currently (Cobb County Department of Public Safety Internal Affairs, 2013a). Firefighter Musgrove admitted to the purchase and sale of anabolic steroids to other firefighters (Cobb County Department of Public Safety Internal Affairs, 2013a). Musgrove was in possession of illegal anabolic steroids and turned over two bottles of an illegal controlled substance he had at his home (Cobb County Department of Public Safety, 2013a). When asked “why did you find it necessary to buy illegal steroids and inject those?” Firefighter Musgrove responded, “The thought process is um, it...it helps ah, ah, sexual performance...” (Cobb County Department of Public Safety Internal Affairs, 2013a, p. 148). Musgrove admitted to buying his illegal anabolic steroids from Phillip Wilbur (p.147) and when asked if he understood buying illegal drugs was illegal, Musgrove responded, “Correct,” (Cobb County Department of Public Safety Internal Affairs, 2013a, p. 148). Further, Musgrove admitted to selling drugs, illegal anabolic steroids, to firefighters Rick Bennett and Charlie Zellers, (Cobb County Department of Public Safety Internal Affairs, 2013a, p.150). When asked how rampant is the use of anabolic steroids in the fire department, Musgrove responded, “I think it’s all over the nation, actually

public service,” (Cobb County Department of Public Safety Internal Affairs, 2013a, p.164). When asked would you classify that there is an issue, a problem (use of illegal anabolic steroids) with the Cobb County Fire Department, Musgrove responded, “I would think so,” (Cobb County Department of Public Safety Internal Affairs, 2013a, p.165).

There was an obvious issue with the next firefighter, Charlie Zellers, a purchaser of illegal anabolic steroids from Wilbur and Musgrove. The second interview with Firefighter Vaughn “Charlie” Zellers produced insight to the firefighter steroid use. In his first interview, “There had been some untruths and some flat out deception,” so a second interview was conducted (Cobb County Department of Public Safety Internal Affairs, 2013a, p. 531). Zellers motivation for buying and using illegal anabolic steroids was quickly established, “...I wanted to get back in shape and start to date again and, uh, I started working out and then, um, I started to take some steroids to get in better shape...”(Cobb County Department of Public Safety Internal Affairs, 2013a, p. 534). Zellers admitted to using the same firefighter drug dealer, Phillip Wilbur, as his supplier of testosterone cypionate, (Cobb County Department of Public Safety Internal Affairs, 2013a, p. 534) and paying Wilbur for three or four bottles at \$50 to \$60 dollars per bottle, (Cobb County Department of Public Safety Internal Affairs, 2013a, p. 535). However, later in the interview, a crying Zellers admitted to more buys from Wilbur (Cobb County Department of Public Safety Internal Affairs, 2013a, p. 539). Zellers denied buying from Firefighter Musgrove, but Musgrove was clear in his testimony that he sold to Zellers. Zellers admits, “...I’ve taken it, I’ve bought it, I’ve done it...” (Cobb County Department of Public Safety Internal Affairs, 2013a, p.550).

Although Zellers often seems unable to remember conversations or deals of steroids, Zellers second interview ended with insights on others using illegal anabolic steroids in the fire and police departments. Zellers named Eric (Meadors), a guy named Will (at the police department), and Frank Adams at the fire department. When asked, “How widespread with the

fire department and uh, police department do you think this is?” Zellers responded, “If you...if you went through everyone’s personnel files and found out who is on testosterone, I would guess that 90 percent of them are abusing” (Cobb County Department of Public Safety Internal Affairs, 2013a, p. 553). When asked, “Does it make that big a difference?” Zellers stated, “Oh yeah. I mean you feel like you’re 20 years old and can do anything. And you look good,” (Cobb County Department of Public Safety Internal Affairs, 2013a, p. 554). “I felt like I could lift a house,” (Cobb County Department of Public Safety Internal Affairs, 2013a, p. 555). Did that same attitude surface in other firefighters?

Seven-year veteran of the fire department, Craig A. Nemeth, quickly admitted to Internal Affairs investigators his use of illegal steroids (Cobb County Department of Public Safety Internal Affairs, 2013a, p. 242) and named Wilbur as the person he got the illegal drugs from (Cobb County Department of Public Safety Internal Affairs, 2013a, p. 243) paying him \$40.00 for the drugs (Cobb County Department of Public Safety Internal Affairs, 2013a, p. 244) the first time and then purchasing multiple vials of steroids (Cobb County Department of Public Safety Internal Affairs, 2013a, p. 258). Nemeth shares that the drug transaction took place at Wilbur’s home, possibly when Wilbur’s wife and children were at home (Cobb County Department of Public Safety Internal Affairs, 2013a, pp. 244-243 & 255). Wilbur provided the needles for Nemeth to inject himself (Cobb County Department of Public Safety Internal Affairs, 2013a, pp. 247 & 251). Nemeth goes on to share what the drug dealer (Wilbur) told him, “There are people...there’s ...there’s more people than you would think that are taking it,” (Cobb County Department of Public Safety Internal Affairs, 2013a, p. 255). Nemeth again revealed drug transactions at the Wilbur home when he stated he sold some of the steroids back to Wilbur (Cobb County Department of Public Safety Internal Affairs, 2013a, p. 263). When Craig Nemeth stated “...I want to add is just I’m sorry,” (Cobb County Department of Public Safety Internal Affairs, 2013a, p. 262). Is he sorry he became a criminal or sorry he was caught?



When Firefighter Jody Cochran was interviewed, he quickly offers up his purchase of steroids from an internet site, “*TradeKey*,” (Cobb County Department of Public Safety Internal Affairs Investigation, 2013a, p. 435), but admitted that Phillip Wilbur gave him steroids (Cobb County Department of Public Safety Internal Affairs, 2013a, p. 436) and needles to use (Cobb County Department of Public Safety Internal Affairs, 2013a, p. 440). When asked if Cochran understood taking a vial of steroid (testosterone) was illegal, Cochran responded, “Yeah,” (Cobb County Department of Public Safety Internal Affairs, 2013a, p. 442). However, as liars often cannot remember their last lie, Cochran admitted to purchasing a vial or maybe two from Wilbur in later testimony (Cobb County Department of Public Safety Internal Affairs, 2013a, page 448), as well as, having knowledge Wilbur was selling to a number of firemen in the county (Cobb County Department of Public Safety Internal Affairs, 2013a, p. 542). Firefighter Cochran eventually admitted to drug transactions at Wilbur’s home (Cobb County Department of Public Safety Internal Affairs, 2013a, p. 452) and at a park where Wilbur’s young son was playing in a football game (Cobb County Department of Public Safety Internal Affairs, 2013a, pp. 456 and 461). Firefighter Cochran was a customer of Wilbur’s illegal steroids sales; that was evident. When polygraphed about his illegal steroid usage, Jody Cochran attempted to beat the test: “It is the belief and opinion that Jody had knowingly and purposefully engaged in an attempt to beat the test by manipulating his breathing and excessive foot movements,” (Cobb County Department of Public Safety Internal Affairs, 2013a, p. 520).

When asked about finding out about these types of issues (steroids), Fire Lieutenant Rick Bennett replied, “I have a responsibility to report it if I know it. I don’t have a responsibility to dig for it,” (Cobb County Department of Public Safety, 2013a, p. 716). Ignorance is bliss; especially if you are a past steroid user as Bennett later admitted. Bennett ignored accusations and rumors that Wilbur used steroids (Cobb County Department of Public Safety Internal Affairs, 2013a, p. 202). Yet, when Rick Bennett was asked if he knew who offered his name up

as having taken testosterone cypionate Bennett quickly replied, “I would be willing to bet that it would probably be um, ah, Phillip Wilbur cause he’s the only person that I know whose name has been specifically linked to steroids and his name is the only name that I know that...I say I’ve known. It’s been talk that when he was at ah, Smyrna Fire Department that they found his car full of um, illegal steroids,” (Cobb County Department of Public Safety Internal Affairs, 2013a, p. 700). When Lieutenant Bennett learned Firefighter Musgrove provided information that he (Musgrove) sold steroids to Bennett, Bennett denied it. Bennett did admit, “Ever ingested oral steroid? In high school. In high school,” (Cobb County Department of Public Safety Internal Affairs, 2013a, pp. 216 and 217). Bennett admits to taking Dianabol (methandrostenolone) as early as the ninth grade (Cobb County Department of Public Safety Internal Affairs, 2013a, p. 217).

Multiple documents in the case file on Bennett show he failed the polygraph test administered to him which included questions such as: “Since you’ve been employed by Cobb County have you used any type of illegal steroids? Since you’ve been employed by Cobb County have you sold any type of illegal steroids? Since you’ve been employed with Cobb County have you purchased any type of illegal steroids?” (Cobb County Department of Public Safety Internal Affairs, 2013a, pp. 710 & 711). The polygraph examiner stated, “After conducting three polygraph charts utilizing a Modified General Question Technique, it is the opinion of this examiner that there were SIGNIFICANT PHYSIOLOGICAL RESPONSES (capitalized in original documents) present at the above listed questions,” (Cobb County Department of Public Safety Internal Affairs, 2-13a, pp. 421 & 711).

Clearly, Firefighter Phillip Wilbur has been established as the anabolic steroid dealer in the cases examined. An examination of the steroid dealer reveals sustained allegations of unbecoming conduct, failure in conformance to laws, use of drugs, and false testimony under oath (Cobb County Department of Public Safety Internal Affairs, 2011, p. 1). Firefighter Wilbur

first came to the attention of internal affairs investigators after two arrests: one arrest for multiple charges in a domestic violence incident and another arrest for theft. In his second interview with investigators (May 5, 2011), Wilbur admitted to taking the anabolic steroids Trenabol (Cobb County Department of Public Safety Internal Affairs, 2011, page 146) and Deca (Cobb County Department of Public Safety Internal Affairs, 2011, page 147), knowing that each was an illegal anabolic steroid (Cobb County Department of Public Safety Internal Affairs file 11-00010, p. 156) and lying to investigators previously (Cobb County Department of Public Safety Internal Affairs, 2011, pp. 152 & 162). Wilbur resigned from the fire department on May 6, 2011, before the results of his May 4, 2011, drug test results for steroids were available (Cobb County Department of Public Safety Internal Affairs, 2011, p. 005). It was only after the drug test that Wilbur returned to tell the truth. Wilbur's drug test results showed he was positive for illegal anabolic steroids, Boldenone and Nandrolone (Cobb County Internal Affairs, 2011, p. 51). But the Wilbur drug story continued at a new fire department.

Wilbur moved around to other fire departments and settled in at Smyrna Fire Department in Georgia. Soon Wilbur came to the attention of internal affairs investigators in the city. Wilbur was found in possession of "...a number of syringes, vials and pills as follows: the vials containing a liquid were of different sizes and were marked as either "Stanozolol", "Sustanon", "Ondansetron", or "Drostanolone Propionate", there was a small bottle of Nitrostat" (nitroglycerine) tablets," and the pills Wilbur had on October 17, 2012, included, "seven pills marked "Ondansetron" in bubble packs, and an unmarked pill bottle with two separate pills inside,"...the drugs were confiscated (Smyrna Police Department Internal Affairs Report, 2012, p. 3.).

A second investigation was conducted by Smyrna Police Department. The second internal affairs investigation clarified issues surrounding Phillip Wilbur. "Deputy Chief Acree (Smyrna Fire Department) said he was present when Wilbur removed the two bags from his

vehicle and gave them to Lt. Johnson...Deputy Chief Acree said he was also present when Chief Lanyon (Smyrna Fire Department) talked with Wilbur and, when it appeared he was going to return Wilbur to full duty, D.C. Acree spoke to Chief Lanyon in private and pointed out that Wilbur needed to be fired because he was in possession of illegal drugs while on duty. Chief Lanyon agreed and called Wilbur back into the office and gave him the chance to resign in lieu of termination, in which he did resign,” (Smyrna Police Department Internal Affairs Report, 2013, p.2). The second report indicates Wilbur should have been charged with multiple felony counts of illegal possession of Schedule III anabolic steroids: Stanozolol, Sustanon, and felony possession of other drugs for which he had no prescription: Ondansetron, and Nitrostat. Astonishingly, the steroids were returned to Wilbur from the evidence room of the police department after he resigned. On November 12, 2012, Phillip Wilbur signed his illegal steroids out of the Smyrna Police Department Evidence Room and was off to another fire department.

Leadership, initiative, and critical thinking do not seem to flow from administrators when bad news and negative publicity surrounds public safety agencies. Instead of moving quickly to identify and take action when steroid use was identified in Cobb County government, leadership took a figurative nap. Clearly, mandatory testing in the fire and police departments was warranted, but no actions were taken. Was leadership concerned that the past incidents were just the tip of the proverbial iceberg?

On July 10, 2013, only 9-days after the Cobb County Firefighter and Police Steroid Scandal was announced in the news media, Cobb County Police homicide detective Tracey Richie’s wife was found dead of a gunshot wound in their home at 140 Birchwood Drive, Temple, Georgia. Tiana Richie may have committed suicide. However, within one week, a witness came forth who worked with Tiana stating, “she had disclosed that as recently as the last four to six weeks, Tracey had been completing a cycle of steroid use Testosterone Cypionate and Winstrol, both of which are an illegal steroid,” (Cobb County Department of Public Safety

Internal, 2013c, p. 3). When internal affairs investigators interviewed Detective Richie, he stated that he had “never” used steroids (Cobb County Department of Public Safety Internal Affairs, 2013c, p. 61); yet, when tested, he had the anabolic steroid Boldenone in his urine sample, (Cobb County Department of Public Safety Internal Affairs, 2013c, p. 84). When asked if he knew Eric Meadors, Richie confirmed that he did and that he “heard he was taking steroids,” (Cobb County Department of Public Safety Internal Affairs, 2013c, p. 89) “along with ah, several firefighters,” (Cobb County Department of Public Safety Internal Affairs file 13-0019, page 090). Richie vacillated between, “I want to be 100% honest with you. I have taken a lot of stuff over the years that...”(Cobb County Department of Public Safety Internal Affairs, 2013c, p. 91) to telling his Sergeant, “he thought that there was a possibility that Tianna had somehow been spiking his stuff, that she had somehow gotten a hold of steroids and was putting it in his drinks...”(Cobb County Department of Public Safety Internal Affairs, 2013c, p. 208). “On or about 08/08/13, the investigator received the results of the drug screen. The officer tested positive for the steroids (Boldenone,” (Georgia Peace Officer Standards and Training Council Investigative File 0076831013, no page number). On September 11, 2013, Tracey Richie was fired from Cobb County Police Department for multiple violations of the Department of Public Safety Code of Conduct: Unbecoming Conduct (having an illegal substance in his body), Conformance to Laws (illegal use of anabolic steroids), Use of Alcohol, Drugs, or Narcotics (a positive drug screen), and Violation of Rules. No one in internal affairs ever asked Richie where he bought his illegal anabolic steroids and no one asked about his relationship with the steroid dealer Wilbur. Richie was later reinstated by the Cobb County Civil Service Board.

The case studies of public safety officers abusing anabolic steroids can be found around the country and around the globe. Police officers in England and Wales are abusing steroids and “steroid abuse was found to be a major factor in corruption, with officers forging relationships with drug dealers while bodybuilding in gyms,” (International Business Times, 2013). In

Canada, “use of performance-enhancing pharmaceuticals was discussed openly among officers in station-house change rooms, despite their status as controlled substances that are illegal to buy, sell or import,” (Gillis, 2008). On April 11, 2013, a 13-year veteran of the Niagara Regional Police was sentenced for smuggling steroids across the border (Fairbanks, 2013). Two Indiana law enforcement officers were arrested in a reverse sting to sell a Jeffersonville police officer and a Clark County corrections officer steroids (“S. Ind. law enforcement”, 2013). Boston police officer Roberto “Kiko” Pulido was accused of smuggling steroids from Greece (Johnson, 2008). A Tampa, Florida police officer gave a drug dealer a thousand Ecstasy tablets from a police-impounded car in exchange for steroids, (Erdely, 2005). William A. Rice, a Taylor County, Kentucky, sheriff’s deputy, sold bottles of Equipoise for \$150 to an FBI undercover informant, (Estep, 2013). Arlington, Texas veteran officer Thomas Kantzos was arrested and “accused of buying and distributing steroids to fellow officers, while on the clock using city computer and equipment,” (CBS DFW, 2013). New South Wales (Australia) case studies revealed police officers using non-prescribed steroids (Gorta, 2008).

Steroid use and abuse is not a new phenomenon. A 1991 article in the *FBI Law Enforcement Bulletin* noted, “However, one area of substance abuse that has been ignored, for the most part, is police officer use of steroids,” (Swanson, Gaines, & Gore, 1991, p. 19). The article, “Abuse of Anabolic Steroids”, discussed a 1989 U.S. Customs investigations on smuggling steroids, termination of three troopers in North Carolina, and the use of anabolic steroids by a female officer. In 2004, the U.S. Department of Justice, Drug Enforcement Administration, Office of Diversion Control, produced a pamphlet entitled, “Steroid Abuse by Law Enforcement Personnel: A Guide for Understanding the Dangers of Anabolic Steroids.” The DEA guidance suggested education concerning the dangerous and harmful side effects and symptoms of abuse is the most important aspect to fixing the problem. The term “vocational steroid use” was defined by Fogel (2012) as persons using steroids for the purposes of increasing

their performance in their work. Fogel (2012) puts it plainly, “There is strong evidence to suggest that steroids are used widely by police throughout North America.” “Investigations into steroid use by police officers have simultaneously revealed the use of steroids by firefighters through tracing chains of distribution. One investigation revealed the use of steroids by 53 firefighters in New Jersey” (Fogel, 2012). The research also finds that some medical doctors will cover for steroid using public safety officers. William Howard, M.D., of the Sports Medicine Center at Baltimore’s Union Memorial Hospital admitted that he covered for an officer when asked by a police supervisor if the officer was on steroids; “This guy was on the worst beat...that is why I covered for him” (Erdely, 2005).

Leadership must take proactive steps to curb the use of illegal anabolic steroids. “A plan to randomly test all police for steroids in Arlington will make the city among the most stringent in North Texas in testing for the drug,” (CBS, 2013). Unfortunately, “... general drug test do not detect the presence of anabolic steroids: a separate test is required” (Swanson et al., 1991, p. 22). A survey of nine major police department in 2008 found that none test regularly for steroids; officers are tested for narcotics, but only checked for steroids if they are suspected of using them (Cramer, 2008). Research indicates that most law enforcement agencies do not test for steroids as the panel testing for steroids is more expensive that testing for marijuana and cocaine (Humphrey et al., 2008). Public safety leadership explains, “It cost at least \$100 to test for anabolic steroids, but only about \$25 for a test that determines whether an officer has taken marijuana, opiates, cocaine, amphetamines, or PCP,” (Cramer, 2008). Erdely (2005) quoted Chief Gary Schira of Bloomington, Illinois, “It’s expensive, but worth it for the deterrent effect.” The Arlington (Texas) Police Department leadership began anabolic steroid testing after a federal investigation found three Arlington officers buying and distributing steroids. In 2005, The Phoenix (Arizona) Police Department added anabolic steroids to the random testing process after incidents involving police officers using anabolic steroids, (Humphrey et al., 2008). Also,

“Recent revelations that 248 police officers and firefighters were tied to a Jersey City, N.J physician,” (Perez, 2010), may have been the impetus behind, “New Jersey lawmakers want to start testing police and firefighters for steroids,” (“New Jersey Moves,” 2011).

Leadership is lacking in most agencies examined in this study. Ken Harms, a former Chief in Miami during the 1980’s era amazingly suggested leadership should examine whether it is acceptable for officers to take illegal steroids (Gillis, 2008). Yet, “there have also been significant instances of unusual and/or violent police behavior associated with anabolic steroid use, which have the potential to cause serious public relations and other problems for police administrators,” (Swanson, et al., 1991, p. 21). When Constable Roger Yeo came forward in a Peel Regional Police disciplinary hearing with information on anabolic steroid use by him and his peers, “Chief John Metcalf hastily called an internal investigation into Yeo’s allegations, but the department has been doing its best to downplay them ever since,” (Gillis, 2008). In Arlington, Texas only tested eight officers in 2010 and 2012; ten were tested in 2011, less than two percent of the force (*Police Officer Testing Rare*, 2013).

As of the writing of this paper, the Cobb County government has not conducted an anabolic steroid screening for all firefighters and police officers. The fire chief in Cobb County fired Musgrove, allowed Nemeth to resign, and figuratively slapped the wrist of Zellers and Cochran. Both firefighters lied under oath, both admitted to felonies by purchasing schedule III anabolic steroids, both violated the drug policy of the county, and both kept their jobs. Amazingly, firefighter Jody Cochran, a supervisor (Engineer/Sergeant) was only suspended for three days without pay; firefighter Charlie Zellers was only suspended for ten days without pay. The fire chief was recently promoted to Public Safety Director for Cobb County. And Phillip Wilbur...he has not been arrested. Amazingly, the Fire Chief, now the Public Safety Director, made the following comment on Wilbur’s Separation from Service document, dated May 6,



2011, “Would consider re-hiring after several years without issues” (Cobb County Department of Public Safety Internal Affairs, 2011, p.47).

The use and abuse of anabolic steroid drugs in public safety occupations and the failures of leadership to acknowledge the problem and take the moral and ethical road to fixing the problem is clear. Decades of bad publicity, arrests of public safety officers, and reported incidents of violence by juicing officers indicates there is serious problem that must be addressed. Mandatory and random testing on persons serving in positions of public safety is required. Officers choosing to use anabolic steroids are criminals and must be fired, prosecuted, and convicted. There is no grey area; there are only ethical, moral, and legal responsibilities to take action.

Manifold research paths surfaced as this effort was prepared. An examination of public safety agencies with past anabolic steroid issues and the efforts, successful or unsuccessful, to curb the use of illegal substances would provide sound footing for the development of policy and procedures to guide leadership decision-making. Elucidating the use of force incidents by those public safety employees with a history of illegal anabolic steroid use may offer insight into liability issues facing agencies that continue to ignore felony drug use by employees. And lastly, research on the ancillary health effects on anabolic steroid using law enforcement officers and firefighters may reveal hidden costs of ignoring the illegal use of anabolic steroids by public safety employees.



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