



What Must Be Done to Fix America's Criminal Justice System Using Humane, Discreet, Restorative Justice and Reconciliation

This document provides a proposed approach to fix the criminal justice system by using humane, discreet, private, restorative justice and reconciliation.

Since many of our public servants appear to have forgotten the meaning of justice and other pertinent words, we will begin with definitions:

Justice is *the administration of law according to the principles of **just behavior** and treatment.*

Just behavior is that which is *morally right and fair, appropriate or deserved, well founded, done very carefully.* Origin Latin *justus*, from *jus* 'law, right'

The legal definition of “**humane**” is: *Kind, tender, compassionate. Disposed to eliminate the cause of suffering of man or beast. Humane differs from the ordinary use of “merciful,” in that it expresses active endeavors to find and relieve suffering, and especially to prevent it, while “merciful” expresses the disposition to spare one the suffering which might be inflicted.*¹

The Geneva Convention requires that the people of an occupied country, detainees, and prisoners of war be treated **humanely**. Obviously, harsh interrogation techniques, abuse and torture does not constitute humane treatment.

Restorative justice is a natural, proven form of justice that seeks to restore victims and offenders to whole, contributing members of society. It emphasizes preventing additional harm and repairing the harm caused or revealed by criminal behavior. It is best accomplished through humane cooperative processes that include all stakeholders. Paraphrased from “Restorative Justice web site, RestorativeJustice.org” which provides additional information about restorative justice and Prison Fellowship International <http://www.pfi.org/>

The dictionary definition of “**reconciliation**” includes *the restoration of friendly relations, making or showing to be compatible or making someone accept a disagreeable thing.* ORIGIN Latin *reconciliare*, from *conciliare* 'bring together'. In this document we are referring mainly to reconciliation between and among individuals not “national reconciliation.”

Alfred Adler (1870-1937), the renown psychologist and founder of the School of Individual Psychology and Clarence Darrow (1857-1938), one of the most famous American lawyers, *civil libertarians and advocates of the downtrodden*, provide outstanding insights into criminal behavior, serious flaws in criminal justice systems and measures that should be taken to help provide restorative justice.

¹ Ballentine’s Law Dictionary, 3rd Edition. The Lawyers Co-operative Publishing Company.

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Alfred Adler devotes chapter nine of his book **What Life Could Mean to You, to Crime and its Prevention**. Everyone interested in restorative justice should read at least this chapter. Pertinent points paraphrased from this chapter include:

*Individual Psychology can help us recognize all the various types of human beings and understand that, despite this variation, **human beings are not remarkably different from one another**. We find, for example, the same kind of failures exhibited in the behaviour of criminals as in that of **problem children, neurotics, psychotics, suicides, alcoholics and sexual deviants**. They all fail in their approach to the problems of life; and, in one very definite and noticeable area, they fail in precisely the same way: **every one of them fails in social interest; they are not concerned with their fellow human beings**. Even here, however, we cannot distinguish them from other people. No one can be held up as an example of perfect co-operation or perfect social feeling, and **criminals only differ from the common run in the severity of their failure**.*

***Corporal punishment is ineffective** because it only confirms to criminals that society is hostile and impossible to co-operate with. Something of this sort happened to individuals who became criminals, perhaps, at school. **They were not trained to co-operate** and so they did their work badly, or misbehaved in class. ... **They feel that people are against them**. ... The children lose whatever shreds of confidence they had. They are not interested in their schoolwork, their teachers or their school friends. They begin to play truant and to hide where they cannot be found. In these places they find other children who have had the same experience and have taken the same road. ... , since they are not interested in the social demands of life, they see these other children as their friends and society in general as their enemy. These people like them and they feel better in their company. It is in this way that **thousands of children join criminal gangs**, ... if in later life, we treat them in the same way, this will only bear out their view that we are their enemies and only criminals are their friends.*

*There is no reason at all why such children should be defeated by the tasks of life. We should **never allow them to lose hope** and we could prevent this very easily if we organized our schools so that such children were given confidence and courage.*

*Corporal punishment is ineffective for other reasons too. **Many criminals do not value their lives very highly**. Some of them are very near suicide at certain moments of their lives. **Corporal or even capital punishment hold no terrors for them**.*

*... No one need be defeated by the problems of life. Criminals have chosen the wrong way of dealing with them; we must show them where they have made the wrong choice and why, and **we must develop in them the courage to be interested in others and co-operate**.*

*I would like to emphasize that **this ability to co-operate must be learned**. There is no question of its being hereditary. There is a potential for co-operation, and this potential must be regarded as inborn, but it is common to every human being, and **to be developed it must be trained and exercised**. **All other points of view about crime seem to me irrelevant**, unless we can produce evidence of people who were trained in*

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co-operation but still became criminals.

*The value of co-operation can be taught in the same way that geography can be taught, for it is a truth and we can always teach the truth. ... **All our problems require a knowledge of co-operation.***

*... We know, therefore, exactly what we must do: **we must train criminals in co-operation.***

*... **we ought to make it possible for everyone who wants to work to secure a job.** This would be the only way to realize the demands of life in our society so that a great part of humankind would not lose the last remnants of their ability to co-operate. There is no question at all that if this were done the number of criminals would go down.*

*We should also avoid in our society everything that can act as a temptation to criminals or to poor and destitute people. If great extremes of poverty and luxury are apparent, it offends those who are badly off and incites them to envy. **We should, therefore, cut down on ostentation:** it is not necessary to flaunt one's wealth.*

***It would be very helpful if we increased our efforts to improve our crime-solving record.** As far as I can see, at least forty per cent of criminals, and perhaps far more, escape detection, and this fact is always at the back of every criminal's mind. ...*

*... **Criminals should never be threatened. It is also important that criminals should not be humiliated or challenged** either in the prison itself or after they leave prison.*

It would be much better if we were more discreet and did not mention the names of criminals or give them so much publicity. This implies that before indictments are made public, criminal proceedings and the documentation should be kept, discreet, confidential and private and not revealed or "leaked" to the public.

***An increase in the number of probation officers would be useful,** if the right type of person is appointed; and probation officers themselves should be taught about the problems of society and the importance of co-operation.²*

In his book, **The Story of My Life**, first published in 1932, Clarence Darrow outlines the serious problems we have with our criminal justice system, i.e. *On my return from Europe I was deeply grieved and somewhat surprised to see **the cruel results of the steady and unscientific campaign against crime.** This was well under way before I left America. **The whole movement was directly in conflict with modern psychology** and, in fact, with all the teachings of science.*

Darrow also provides an outstanding strategy for restorative justice: *All of those who for any reason cannot or do not adjust themselves to important rules [i.e. have violated a serious law] **should be examined by experts to find out why it is and what can be done;** if need be they should be kept under proper and sufficient inspection. They*

² Alfred Adler, Colin Brett (1992). *What Life Could Mean to You*. Hazelden Foundation, Center City, MN

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*should be helped in every way possible. Regardless of what they have done they should be released when it seems safe; meantime they should be kept under supervision in kindness and sympathy instead of harshness. It is entirely possible that a person guilty of homicide could safely be set free in a short time, and that a sneak-thief or a beggar could never be changed or cured or released. Each individual should be considered by himself. To subject every inmate of prisons to the same treatment is like giving every hospital patient the same doses of medicine, or the same surgical operation, and, of course, however absurd this might seem to those who do not think, the time will come when something like this will take the place of the archaic, costly, and pernicious system that has long since been outworn.*³

Conclusions:

1. **America's criminal justice system** practices are unscientific and directly in conflict with modern psychology.
2. Individuals accused of crimes and prisoners in the U.S., are in general, not being treated humanely and have few opportunities to pay restitution, apologize to and reconcile with their victims.
3. Corporal punishment, threatening, humiliating and challenging criminals (children or anyone for that matter) are ineffective and counterproductive.
4. The names of the individuals and the documentation being prepared for their prosecutions should be kept confidential and private and not revealed or "leaked" to the public until after official indictments are made.
5. Wars begat violence and crimes
6. Human beings are not remarkably different from one another
7. In general criminals fail in their approach to life, in that they do not care about their fellow human beings, have not learned to cooperate and lack empathy. Criminals only differ from the average person in the severity of their failure.
8. Cooperation and caring for others can be taught to all age groups. Teaching cooperation and caring for others to very young children is extremely important.
9. To fully develop cooperation and caring, this training must be exercised and practiced.
10. Being humane and discreetly providing opportunities for restorative justice and reconciliation will help identify those individuals who should be confined and better protect the public from criminal behavior than current criminal justice programs do.
11. If restorative justice is initiated after an arrest or summons and before a grand jury is impaneled, contrite perpetrators could make amends, apologize and pay restitution to their victims and make an Alford's Plea (a plea of guilty that may be accepted by a court, normally as part of a plea bargain when the defendant does not admit guilt). This way the need for lengthy indictments and trials could be reduced and the perpetrator and the victim could get on with their lives sooner.
12. Humane, discreet, restorative and reconciliatory approaches to criminal justice should be used now, because this:
 - a. Is the right and proper thing to do
 - b. Will not in anyway detract from the severity of crimes committed, excuse or exonerate anyone who has committed a serious crime or cause the criminal justice

³ Darrow, Clarence (1932), *The Story of My Life*. New York: Da Capo Press. pg. 355-356

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system to fail to protect the public.

- c. Can be utilized to reduce the huge number of people the US has in its prisons.
- d. Will greatly improve America's criminal justice system

Proposed Improvements to America's Criminal Justice System

1. Government investigators, prosecutors, prison officials, guards and others involved in the Criminal Justice System must:

a. Apply humane, discreet, restorative justice and reconciliation practices to all phases of the criminal justice process and begin as rapidly as possible to prevent additional crimes being committed.

b. Keep the names of the individuals and the documentation being prepared for their prosecution confidential and private and do not reveal or "leak" to the public until after they are actually indicted.

c. Treat all defendants and prisoners humanely, kindly and with dignity while at the same time insuring prison guards and prison inmates are protected.

d. Screen all prisoners on a case by case basis, to find out why they are the way they are and what should be done.

e. Counsel and release all those who are not threats to society. **Insure that all released have employment opportunities, health care, affordable shelter, counseling and a network of supporters.** Releasing individuals from prison's that are not a threat to society, will allow more attention to be applied to those that cannot yet be released.

f. Keep those that are threats to society confined. Counsel them and insure that they are taught to be cooperative and how to be interested in their fellow human beings. Provide them with the opportunity to be employed at a living wage in particular in work that benefits others. Provide them the opportunity to pay restitution and apologize to victims of their crime(s).

2. Congress and the Administration

a. As rapidly as possible provide employment opportunities at living wages for all by implementing the plan [Put America and the World to Work, Jumpstart the Economy and End the Recession](#) including in particular:

i. Those being released from and remaining in prisons.

ii. Additional counselors and probation officers.

b. Provide justice, restitution, reparations and sincere counseling to those individuals who have been illegally detained, abused and/or tortured. This is a right thing to do. It will also help prevent these individuals from becoming threats to the U.S. or turn to terrorism once released.

c. End the war on drugs and provide counseling in lieu of confinement.

d. Phase out all privately owned prisons.

e. Provide funding for all this work by implementing the plan to [Reform, Regulate and Revitalize Financial Systems](#)

f. Provide meaningful responses to numerous petitions and requests for investigations, hearings, impeachments, commissions and special prosecutors.

Food for Thought

Please think about and answer the following two questions to yourself:

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- 1. Would you stop an emotionally disturbed person from killing a baby, if you had the wherewithal?*
- 2. If you knew that a group of individuals intended to burglarize an old age home, then kill the habitants and burn down the home to cover up their crime, would you report this to the police?*

I believe your answers will be obviously and correctly "Yes". My point is that several of our government officials are planning and committing much worse crimes. Please help stop them by working with me on the **Actions required to Humanely and Discreetly Prosecute Lawbreakers with Opportunities for Restorative Justice and Reconciliation** on this website.