
Setting Aside Criminal Convictions in Canada

A Successful Approach to Offender Reintegration

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Expunging a criminal conviction in the United States is a rare event and often limited to persons who committed offenses as juveniles or adult misdemeanants. Criminal convictions in Canada, however, are routinely set aside through pardons after offenders have demonstrated a period of crime-free behavior. Sealing an offender's criminal record, the practice in Canada, is a significant step in his or her reentry into society and official acknowledgment of society's forgiveness. This exploratory study of pardons in Canada has two clear findings: First, despite the relatively easy process, few individuals with criminal records make application for pardons. Second, of those who do apply, few applications are ever denied, and a very small percentage of successful applicants reoffend. Although setting aside criminal convictions seems inconsistent with the increasing use of collateral consequences for U.S. offenders, taking this approach might contribute to increased public safety in the long term by easing offender reintegration.

Keywords: *expunging criminal convictions; pardons; offender reentry*

Since the late 1970s, the United States has embarked on an experiment in mass imprisonment unprecedented in the history of democratic first world nations. Despite falling crime rates and state budget crises, the United States remains a world leader in the use of imprisonment (Tonry, 2004; Walmsley, 2005). At mid-year 2005, there were 2.2 million inmates

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residing within American jails and prisons (Harrison & Beck, 2006), in addition to a further 4.9 million individuals under some form of community control—either on probation or parole (Glaze & Palla, 2005). Harrison and Beck (2006, p. 2) report that for every 100,000 residents in the population, 738 inhabited beds in increasingly crowded jails or prisons.

Travis (2005) observes how the “iron law of corrections” dictates that with the exception of a very small percentage of inmates who actually die in custody, everybody else is released. Each year, American jails and prisons discharge approximately 600,000 “ex-offenders” into the community (Travis & Lawrence, 2002). Yet correctional supervision is only one dimension of punishment or control for many of these offenders returning to the community. One factor that has made it more difficult for many of these ex-prisoners to restore their lives successfully is that they are vulnerable to a host of punitive community sanctions (Sentencing Project, 1998). Many jurisdictions, for instance, make it more difficult for ex-convicts to reintegrate into the community by placing restrictions on employment, making them ineligible for public housing, placing restrictions on educational funding, and enforcing lifetime bans on receiving welfare benefits for some offenders (Mauer & Chesney-Lind, 2002).

Although many of these collateral consequences have an intuitive conceptual appeal—making sex offenders ineligible to work with children, for example—employers in 37 states can deny jobs to persons who were arrested for an offense but were never convicted (see Legal Action Center [LAC], 2004). In many cases, employers are reluctant to hire persons with a criminal conviction (Harris & Keller, 2005). Yet most scholars and policy makers understand that meaningful employment is the foundation for successful reentry.¹ These practices have created considerable recent debate in the United States and elsewhere about the balance between public safety and barriers to successful reentry for ex-offenders (Australian Human Rights and Equal Opportunity Commission, 2004; Grier & Thomas, 2001; Harris & Keller, 2005).

Although collateral consequences are intended to deter potential criminals, public policy analysts argue that they also restrict the ability of some ex-offenders from pursuing legitimate opportunities (LAC, 2004; Mauer & Chesney-Lind, 2002; National Center for Institutions and Alternatives, 2000). Such restrictions may affect offender populations in different ways. Mauer and Chesney-Lind (2002), for instance, argue that women with children are at a disadvantage if they are restricted from receiving welfare benefits or living in public housing on release from prison. A recent analysis

of these community sanctions has found that the nature of these punishments has changed over time, placing less emphasis on political sanctions, such as voting or participation on a jury, to policies intended to enhance public safety, such as sex offender registries (see Buckler & Travis, 2003). One question that many scholars have posed, however, is whether programs that make it more difficult to reintegrate into the community serve the long-term interests of public safety (Mauer & Chesney-Lind, 2002; Travis & Lawrence, 2002).

Budget crises in many states have driven policy makers to reconsider the high costs of incarceration and to reevaluate whether they can afford high imprisonment practices (Center on Juvenile and Criminal Justice, 2002; Wilhelm & Turner, 2002). In fact, states such as Arkansas, Montana, Kentucky, and Texas have recently enacted emergency release programs to reduce the number of inmates, whereas in other states prisons have been closed (Butterfield, 2002). This focus on reducing the number of inmates in prison systems has also created more interest in prisoner reentry and especially "what works" (Petersilia, 2003). In California, for instance, the Little Hoover Commission (LHC) recently released a report critical of the state correctional system for the very high rate of failures for inmates released into the community (LHC, 2003). With all of this interest in community reintegration, it might prove fruitful to examine whether pardoning practices in Canada that are intended to reduce the stigma and social handicap of a criminal conviction might realistically be imported to the United States.

There is very little scholarship about the effectiveness of expunging criminal convictions within the United States and whether these practices influence public safety. As a result, we turn to Canada's decades of experience in setting aside criminal convictions² to determine whether such practices could realistically be exported to the United States. We believe that multiyear national-level data about the success of pardons may shed some light on the process, an area with little prior empirical work. This exploratory study examines how criminal convictions in Canada are set aside through the use of pardons, the prevalence of these practices, the rates of failure of persons who were granted pardons, and the characteristics of offenders who failed. While acknowledging that removing the stigma of a criminal conviction alone is not a cure-all to the social and economic barriers of reentry, the ability to grant offenders a pardon may be an important step in restoring a person's self-perceptions as a nonoffender and, in turn, may actually increase public safety in Canada by reducing recidivism within this population.

Comparing U.S. and Canadian Correctional Practices

There are numerous caveats to comparing statistics from different nations, including problems with definitions and measurement, as well as the problem of classification of criminal justice system processes (see DeFlem & Swygart, 2001; Gannon, 2001; Gertz & Myers, 1992; Young & Brown, 1993). Some of these differences are minimized in a comparison of the United States and Canada, two nations with very similar origins in British Common Law and sharing many cultural similarities. Yet there are a number of national- and intranational-level differences that need to be underscored before fully understanding the sanctions that offenders are likely to serve.

With the exception of homicide, crime rates between the United States and Canada are similar, although the imprisonment rate is greater in the United States (Langan, 2004; Walsh & Irving, 2004). Walmsley (2005, p. 3) reports that the prison and jail imprisonment rate in Canada is approximately 116 per 100,000 residents in the population, whereas Harrison and Beck (2006, p. 2) found that the U.S. rate is 738 per 100,000 residents. Fully understanding the conditions that contribute to overall imprisonment rates, however, is a complex task, as these rates are contingent on a number of factors. That is, a thorough review requires that we examine the overall crime rate, the number of offenses actually reported to the police, the seriousness of reported crimes (e.g., violent crimes are more likely to result in incarceration), the efficiency of police agencies in apprehending offenders, the likelihood of conviction, and finally the actual length of stay in prison if a custodial sentence is imposed.³ A recent comparative study undertaken by Farrington, Langan, and Tonry (2004) suggests that Americans are more likely to be sentenced to lengthy periods of imprisonment for violent offenses, although average sentence length for some Canadian property offenders, such as burglars, are longer. Yet there are also intranational differences within both nations as some states and provinces are more punitive (see Davey, 1998; Sprott & Doob, 1998). Thus, simple comparisons of the prevalence of crime and criminal justice system responses to crime between the two nations are problematic.

Given similar rates of reported crime, there are a host of political, historical, legal, and cultural factors that contribute to the differential use of imprisonment between nations (see Ruddell, 2005), and it is likely that these differences are present in the percentage of time served prior to release from prison (see Farrington et al., 2004). Philosophies of punishment also differ between nations, and Canadian correctional systems offer

a greater number and variety of rehabilitative opportunities (see Correctional Service of Canada [CSC], 2004). Last, there are some structural differences in correctional systems that add to the complexity of comparisons. All Canadians sentenced to more than 2 years of incarceration, for instance, are sent to prisons operated by the federal government, and those sentenced to less than 2 years serve their incarceration in a provincially run correctional center, facilities that are more similar to American jails than state prisons. Thus, there is more similarity in the types and availability of treatment and rehabilitative opportunities that Canadian prisoners serving more than 2 years will receive than their American counterparts in state prisons.

In light of these structural differences in correctional systems and philosophies of punishment within these two nations, one would expect a difference in recidivism rates. Two-year reconviction rates of Canadian offenders released in 1996/1997, for instance, reveal that 41% were reconvicted but that recidivism rates have dropped by some 5% in 5 years (Bonta, Rugge, & Dauvergne, 2003). These rates are very similar to the 36.4% of Americans reconvicted within 2 years of release (Langan & Levin, 2002). Again, it is difficult to explain these differences, and they could be a consequence of system influences, individual offender characteristics, or social and economic conditions in either nation. It is likely that there is a complex interplay between these factors that results in differential recidivism rates for persons released from U.S. and Canadian prisons.

Recidivism rates in Canada are dropping with time, an observation that causes us to question what seems to be working in Canada. First, as mentioned above, there is some evidence to suggest that persons serving sentences in Canadian prisons receive more rehabilitative programming than is typically the case in the United States (CSC, 2004). We examine, by contrast, one element of Canadian justice practices that aims to restore an individual's ability to reenter society, the practice of extending pardons to set aside an offender's criminal convictions. Legal jurisdictions within the United States, on the other hand, approach the issue of expunging criminal convictions in a somewhat different manner than in Canada. According to Cheit (2000),

each state has different expungement policies, ranging from allowing repeat expungement of felonies to prohibiting expungement under any circumstances. While almost every state allows expungement of juvenile convictions and many allow expungement of cases where the charges were dismissed or the defendant was acquitted, only twelve states, including Rhode Island, allow expungement of adult felony convictions. (p. 4)

Within the context of this study, we use the term *setting aside* a conviction to mean that the offender's criminal record is kept separate and apart from other criminal records, and information about a person's conviction is removed from the Canadian Police Information Centre (the Canadian equivalent of America's National Crime Information Center). Sealing an offender's criminal record provides a number of social benefits, including the right to tell potential employers that they do not have a criminal record. Yet if the individual is involved in further offenses, the sealed criminal record can be used in sentencing. Thus, the setting aside of a conviction serves as a "foothold" for the offender to reestablish his or her life. This process is formally labeled as a pardon, although, as the following history argues, the practice has more in line with the sealing of the applicant's criminal record than a total expungement.

Setting Aside Convictions: A Canadian Perspective

In Canada, setting aside a criminal conviction is routinely granted to persons with a criminal record who make application to the National Parole Board (NPB) for a pardon. The ability to apply for a pardon was fixed with the enactment of the Criminal Records Act in 1970. According to the NPB of Canada (2003), a pardon is a "formal attempt to remove a stigma for people found guilty of a federal offence who, having satisfied the sentence imposed and a specified waiting period, have shown themselves to be responsible citizens" (p. 1). Throughout the 36 years of granting pardons to offenders under this act, there have been a number of legislative and procedural changes intended to streamline the application process and reduce the workload of both police agencies and the NPB in the processing of these applications. The following paragraphs outline the process of setting aside a criminal conviction in Canada.

With few exceptions, any person in Canada with a criminal record is eligible to apply for a pardon. Applicants have to undergo a series of steps, including being required to obtain a confirmation of their criminal record (essentially a copy of their convictions) and obtain confirmation that all conditions of their sentence (e.g., fines, community service, or restitution) have been discharged successfully. A \$50 fee must accompany the application, although police services may also charge the applicant a nominal fee for the official confirmation of their criminal record. The NPB (2003, p. 2) notes that prior to 1997, there was no cost, and after implementing the fee, applications dropped by more than 25%.

Figure 1
Expunging a Criminal Record in Canada — The Pardon Process

Complete Sentence	Waiting Period	Application	Processing Pardon	Grant Pardon	Success or Failure
o →	o →	o →	o →	o → 98.5 % Applications Granted	o → 96.8% 33-Year Success Rate
Applicant must wait until all of their sentence conditions are fulfilled (e.g., fines paid, restitution made, and probation or community sentence completed)	Summary (Misdemeanor) Conviction = 3 years Indictable Offense (Felony) Conviction = 5 years	Application Package and \$50.00 fee Confirmation of Criminal Record Confirmation that all sentences have been fulfilled	Application processed by the National Parole Board Misdemeanor convictions are typically processed more quickly Applications that are denied take longer	From 1996-2003, 98.5 % of all applications for parole were granted	From 1970 to 2003 of the pardon program, only 3.18 % of pardons have been revoked due to further crime or filing a misleading pardon application
Timeline:	36 – 50 months	0 – 6 months	18 months	Total: 54-68 months after sentence expires	Average failure after pardon granted = 4.2 years (Wallace-Capretta, 2000)

Figure 1 demonstrates that applicants must demonstrate a period of successful conduct in the community prior to being eligible to apply for a pardon. Offenders convicted of a summary offense (the Canadian equivalent of a misdemeanor) must wait for 3 years, whereas their counterparts convicted of an indictable offense (the equivalent of a felony) must wait 5 years before making application. After fulfilling the waiting period and application process, a community investigation may be made by a local police service to ensure that the applicant has in fact remained crime free. A review of NPB documents suggests that these community investigations are

becoming less comprehensive with time. At one point, the Royal Canadian Mounted Police (RCMP) would interview neighbors, employers, and the applicant to ensure that their conduct in the community was law abiding. In the NPB's (2003) recent *Performance Monitoring Report*, it suggests that background investigations are typically cursory, especially for summary convictions such as shoplifting, causing a disturbance, and possession of marijuana.

Not all offenders can apply for pardons. For example, offenders sentenced to a term of life imprisonment and released on parole must remain under community supervision until they die, making them ineligible. Moreover, applications of those sentenced to serve lengthy terms of imprisonment on violent offenses, or those convicted of sexual offenses, are scrutinized more carefully and may be subject to more extensive community investigations than their counterparts sentenced on misdemeanor-type offenses.

After a pardon is granted, the individual's criminal records are sealed and physically separated from other conviction records at the NPB. Wallace-Capretta (2000) observes that

it does not permanently remove or destroy the record . . . and the NPB may revoke a pardon if the individual has been convicted of further offences, is no longer of "good conduct," or falsified information was presented in order to obtain the pardon. (p. 3)

Importantly even though an offender's records have been sealed, these offenses may be used at sentencing if the person is convicted of a new offense.

Although setting aside a criminal conviction reduces the stigma of conviction and reduces barriers to employment, the pardons themselves are generally recognized only within Canada. The fact that nations such as the United States do not recognize Canadian pardons has caused difficulties for some Canadians who have been pardoned and attempt to travel to the United States—as entry to that nation can be denied. The United States and Canada share a common border, and the U.S. Department of Homeland Security and the Canada Border Services Agency also share criminal record information about the 300,000 people who cross the border on any given day. In fact, to ease the difficulties for travelers to the United States and elsewhere, the RCMP will issue a confirmation that a pardon has been issued. Thus, there are practical limits to the boundaries of pardons, and one important question that emerges throughout our study is the balance of public safety and ability of the ex-offender to make a smooth transition to the community. We question whether these two issues are mutually exclusive.

Table 1
Pardons Granted and Denied by Year, 1996/1997 to 2002/2003

Decision	1996/ 1997	1997/ 1998	1998/ 1999	1999/ 2000	2000/ 2001	2001/ 2002	2002/ 2003
Granted and issued	17,529	7,633	5,476	5,861	14,195	16,645	14,436
Denied	184	180	52	44	84	409	286
Average processing time (months)	7	6	11	13	18	20	17

Source: National Parole Board of Canada (2002, 2003).

Although the individuals who are pardoned receive official recognition of their new law-abiding status, this does not change the informal exchange of information. Thus, newspaper archives or Internet Web sites may still have information posted about the criminal conduct of an individual, even after he or she has been officially pardoned. Last, victims and community members may retain memories of their victimization long after a pardon is granted. Consequently, it is possible that individuals may still be informally stigmatized by their prior criminal conduct, even after they have been granted official recognition of their new law-abiding status.

Data and Analyses

Data for this study were obtained from the NPB (2002, 2003) *Performance Monitoring Reports* and the RCMP. Initial examination of pardons granted between fiscal year 1996/1997 and fiscal year 2002/2003, outlined in Table 1, reveals that most applications for pardons are successful. Of the 83,014 persons who applied for a pardon during this era, only 1,239 applicants, or 1.5%, were unsuccessful. There is some variation in the number of cases processed each year, and this is a consequence of backlog within the application process (NPB, 2003). These backlogs appear to have influenced the case-processing time, which increased from an average of 6.5 months in the era from 1996 to 1998 to 18.5 months in the period between 2001 and 2003.

These data reveal that of an overwhelming majority of persons who make application for pardons, some 98.5%, are successful. The lengthy waiting period makes it apparent that a pardon by itself is not directly associated with successful community reentry. Consider, for instance, that an offender first has to wait for his or her sentence to expire, including any part of that sentence to be served in the community, as well as the requirement of 36 to

Table 2
Pardons Revoked by Year, 1996/1997 to 2002/2003

Year	1996/ 1997	1997/ 1998	1998/ 1999	1999/ 2000	2000/ 2001	2001/ 2002	2002/ 2003
Cumulative pardons issued to date	227,146	234,779	240,255	246,116	260,311	276,956	291,392
Pardons revoked	1,272	666	684	643	542	463	902
Cumulative pardons revoked ^a	5,380	6,046	6,730	7,373	7,995	8,378	9,280
Cumulative pardons revoked (%)	2.37	2.58	2.80	3.00	3.00	3.02	3.18

Source: National Parole Board of Canada (2002, 2003).

a. Revocations include persons who reoffend, evidence that the person pardoned is no longer of good conduct, or if he or she made a deceptive or false application for pardon.

50 months before he or she can even apply for a pardon. Realistically, therefore, an offender sentenced on a summary conviction would wait approximately 5 years after his or her sentence has expired before a pardon is granted and those sentenced to an indictable offense waiting a minimum of 7 years.

Wallace-Capretta (2000) found that a number of demographic and offense-related factors influenced whether a pardon would be issued in a sample of pardons granted between 1988 and 1992. Applicants who were granted pardons were likely to be more successful if they were female, had fewer average convictions, were older when convicted of their first offense, and were nonviolent offenders. Sexual offenders were also less likely to be granted a pardon. Furthermore, Wallace-Capretta found that decisions to grant pardons typically took far less time to process—an average of 457 days, contrasted against an average of 738 days, to deny the application.

A review of Table 2 reveals that once an offender is granted a pardon, he or she is almost always successful in his or her “new life.” Of the 291,392 pardons granted in the 33 years prior to March 30, 2003, for instance, only 9,280 were subsequently revoked. Revocations of pardons may be a consequence of a conviction or discovery that the applicant was deceptive or used false information in his or her application. The cumulative 96.82% success rate of those individuals pardoned suggests that setting aside criminal convictions is an overwhelmingly successful practice.

In the study of pardons mentioned above, Wallace-Capretta (2000) also examined the characteristics of offenders whose pardons were revoked contrasted against a sample of persons who were successful. The average time

to failure was approximately 4.2 years. Persons who were successful tended to have fewer prior convictions, tended to be nonviolent offenders, and were not sexual offenders. In terms of demographic and social indicators, those persons whose parole was revoked were more likely to be unemployed and male (Wallace-Capretta, 2000).

Given the prevalence of offenders in Canada, it appears as though very few offenders take advantage of the opportunity to reduce the stigma of a criminal conviction through a pardon. Between 1996/1997 and 2001/2002, for instance, there were almost a quarter million offenders found guilty of a criminal code violation each year (Robinson, 2003). Yet during this same period, there were only 11,223 pardons granted; this figure represents less than 5% of all offenders convicted during this era. Cumulatively, some 2.8 million Canadians had criminal records in 2003 (RCMP, 2003), so slightly more than 10% of all offenders have been granted pardons in the past 33 years.

The fact that relatively few offenders have applied for pardons might be due to a number of factors. First, offenders may only apply after their entire sentence has been completed, meaning those offenders who are still supervised in the community do not qualify. Second, during the 3- to 5-year waiting period, some potential applicants inevitably will be excluded if convicted of a new offense. Still other ex-offenders have moved on with their lives (e.g., found jobs and established families) and may not feel the need to go through the process or may not wish to make public their past criminal record. Third, the process might appear intimidating for persons who have poor literacy skills. Applicants must, for instance, send numerous letters and fill out a number of application forms. Such correspondence includes confirming with the sentencing courts that all fines have been paid and community supervision has been completed, a task that may be onerous for somebody who has convictions in multiple jurisdictions. Fourth, some offenders are already under conditional sentences, such as absolute discharges that automatically seal the offender's record after a set period of time. Fifth, the NPB does not publicize the fact that pardons are available for offenders, and some offenders may not be aware of this option (NPB, 2003). Finally, the \$50 application fee may be a barrier of sorts to applicants at the bottom end of the economic spectrum.

Indeed, the NPB (2003) acknowledges that since the process became more complicated and costly in 1997, they have had a substantial drop in the number of applicants. Yet the fact that a number of businesses were formed to help Canadians apply for pardons suggests that this opportunity may be more attractive to members of the middle class, who may be more eager to erase the stigma of their convictions. Consequently, there may be

a two-tiered process. Affluent offenders are more likely to apply for pardons and thereby escape the potential (or actual) stigma associated with being an ex-offender, whereas poorer offenders miss out on this opportunity.

Conclusion

Central to this study is an examination of the costs and benefits of extending pardons to ex-offenders as a means of helping them to erase the stigma and social barriers of a criminal conviction. Although the NPB recovers some of the costs of administering the pardon program in Canada, the \$50 application fee represents only a small proportion of the entire cost, while potentially deterring some applicants. There are, however, other potential social costs of setting aside the criminal convictions of offenders. Police agencies, for example, may not have the resources to complete extensive community investigations. Quite possibly, some persons may continue committing offenses, but the police do not discover their illegal conduct, either in the application process or after a pardon has been granted.

Perhaps more important, however, expunging criminal conviction records may enable some offenders to be placed in positions of trust or responsibility that expose the public to some risk. Cheit (2000) observes that

by removing all record of a criminal conviction from someone's record, the court makes it impossible for a law-abiding citizen to find out whether someone they are associating with has a history of criminal behavior, and thus perhaps protect himself or herself from being victimized. (p. 3)

Consequently, public safety costs should be considered in debates about the efficacy of such programs.

Any debate over the efficacy of expunging or sealing convictions within the United States must also address the boundaries and contours of such schemes. Should the criminal records of violent sex offenders, for instance, be expunged? Cheit (2000) found that only 12 states enabled felons to expunge their records. Altogether, 17 states allow some criminal records to be expunged (typically first-time offenders), and 40 states enable persons who were charged with an offense but never convicted to have their arrest records sealed (LAC, 2004). Unfortunately, there is no central source that describes the policies in these states or the steps that an ex-offender has to take to expunge his or her criminal records, and this represents an important first step in future research.

Should other states expand the limits of forgiveness by developing policies that enable persons to expunge information about their arrests or convictions? Although the longitudinal data from Canada about the effectiveness of the pardons program are promising, these data do not distinguish between misdemeanants and felons. Furthermore, we have no comprehensive information about those 9,280 persons whose pardons were revoked and the reasons for such revocations. Thus, although our research shows promising results, follow-up studies should examine the characteristics of persons who were pardoned and were subsequently convicted of further offenses.

It is plausible that public safety is actually enhanced by setting aside criminal convictions of Canadian offenders and giving these people the opportunity to make a smoother, albeit long-term, transition into law-abiding status. By granting offenders a pardon, they again have a vested interest in law-abiding behavior and have something to "lose": their restored status as a nonoffender. It may appear as though the persons who obtain a pardon are "creamed," but given the fact that nearly everybody who applies is granted a pardon, this would suggest that most offenders have access to this opportunity for official redemption. Another potential criticism of the pardon success rate is that some offenders may continue to commit offenses, but they have not been apprehended. An important first step is to evaluate whether the public has been placed at risk by such programs.

A second question is whether similar practices would have a comparable success within the United States, or elsewhere. Our study was facilitated by the access to 33 years of national-level data, but a similar assessment within the United States would require access to long-term data from many states, which would be difficult to obtain. If empirical studies reveal that Americans who have had their criminal records expunged are equally unlikely to have future criminal involvement as their Canadian counterparts, perhaps these practices could be extended within the United States. We argue that the benefits of extending a pardon to ex-offenders to set aside their criminal conviction is worthy of consideration as a positive step to their integration back into society.

Many internal and external barriers to successful reentry confront ex-offenders (Anderson, 2003; Maruna, 2001; Travis & Lawrence, 2002). Within the United States, many external barriers to successful reentry that have been labeled *collateral consequences* exist. By enhancing the number of restrictions on ex-offenders, we make it more difficult for them to transition from law violator to a law-abiding citizen. This approach appears to be shortsighted, especially if making the reintegration more difficult results in decreases to our public safety.⁴

Irrespective of external barriers to community reintegration, however, there is an increasing acknowledgement of the importance of internal individual-level factors that might contribute to successful reentry. Central among these internal barriers are the offenders' perceptions of themselves (Anderson, 2003; Maruna, 2001). Although being pardoned does not erase all the stigma of a criminal conviction, the act of pardoning provides a symbolic amends for one's criminal behavior: recognition from the state that one has "reformed" and gives the reformed offender something to lose (his or her law-abiding status). As a result, these distinctions may lead to new and presumably more positive perceptions about the self (Anderson, 2003).

Notions about expunging criminal records within the United States are neither new nor revolutionary. The National Council on Crime and Delinquency (NCCD) in 1962 devised a model act that would authorize courts to exercise their discretion to annul a record of conviction. According to the NCCD, James Bennett, then director of the Federal Bureau of Prisons, stated that

I hope that more power can be placed in courts, probation systems, and parole boards to set aside the conviction of offenders who have shown through their conduct that they have lived a law-abiding life for a certain prescribed period. (p. 100)

On December 31, 2001, state criminal history repositories held 64.3 million criminal records (National Criminal History Improvement Program, 2003), and these records of convictions create barriers to the successful reintegration of an offender.

Setting aside a criminal conviction seems to be a reasonable step once the individual has demonstrated a period of success within the community. Yet many scholars have commented on our reluctance to grant mercy in unforgiving times (Kobil, 2003). Perhaps mercy to ex-offenders will enhance our public safety, which appears to be the case in Canada. Accordingly, a rational first step for future research is to determine what states offer the ability for offenders to make application to expunge their records and who qualifies for these programs. Second, it is important to evaluate whether Americans who have had their criminal convictions expunged are as successful as their Canadian counterparts. Furthermore, does this group of persons who were pardoned represent a threat to public safety if their convictions are withheld from the public?

The fact that almost 97% of Canadian offenders who were pardoned are successful attests to their effectiveness; some have now remained without

further conviction for more than three decades. This is a strong argument for pursuing similar strategies beyond the borders of Canada. Although such approaches may not be politically popular within the United States, they embody characteristically American values: giving individuals an opportunity to redeem themselves, rewarding law-abiding behavior, and giving somebody who has made a mistake a second chance.

Notes

1. In his 2004 State of the Union Address, President George W. Bush addressed the issue of prisoner reentry and observed that

this year, some 600,000 inmates will be released from prison back into society. We know from long experience that if they can't find work, or a home, or help, they are much more likely to commit more crimes and return to prison.

2. We use the terms *setting aside* and *sealing* interchangeably during this study, for persons who have been granted a pardon in Canada as these records are kept separate and apart from other criminal records. These records can, however, be used at sentencing if the individual commits further offenses or the pardon revoked if the individual lied on his or her application.

3. Rates of success between the two nations may also be a consequence of different enforcement strategies. In California, for instance, 55.64% of all released felons under community supervision returned to prison within 2 years (California Department of Corrections, 2003).

4. Pardoning, whether of the full expungement or records-sealing variety, also seems to comport well with the philosophical and practical notion of restorative justice (Braithwaite, 1999). This age-old practice, of using restoring community harmony and balance after a wrongful or disruptive act, has been adopted in many forms by a wide variety of legal jurisdictions in North America, including several Canadian provinces and U.S. states. For example, Pranis (1997) describes "circle sentencing" in Canada and Minnesota, where the offender, victim, and other interested parties participate in a ritual whose goal is to arrive at a just and equitable sentence for the offender. The goal is to promote healing among all parties, empowering the participants and addressing the underlying causes of the offense. Worldwide restorative justice is gaining prominence as a primary goal of punishment, given its emphasis on accountability, community protection, and competency development (Bazemore, 1992). It seems a logical final step that in cases where compliance with the principles and ideals of restorative justice is highest, eligible offenders should have access to the symbolic and real act of pardoning as used in Canada, restoring the balance in their own lives.

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