



# A desistance paradigm for offender management

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## Abstract

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In an influential article published in the *British Journal of Social Work* in 1979, Anthony Bottoms and Bill McWilliams proposed the adoption of a 'non-treatment paradigm' for probation practice. Their argument rested on a careful and considered analysis not only of empirical evidence about the ineffectiveness of rehabilitative treatment but also of theoretical, moral and philosophical questions about such interventions. By 1994, emerging evidence about the potential effectiveness of some intervention programmes was sufficient to lead Peter Raynor and Maurice Vanstone to suggest significant revisions to the 'non-treatment paradigm'. In this article, it is argued that a different but equally relevant form of empirical evidence—that derived from desistance studies—suggests a need to re-evaluate these earlier paradigms for probation practice. This re-evaluation is also required by the way that such studies enable us to understand and theorize both desistance itself and the role that penal professionals might play in supporting it. Ultimately, these empirical and theoretical insights drive us back to the complex interfaces between technical and moral questions that preoccupied Bottoms and McWilliams and that should feature more prominently in contemporary debates about the futures of 'offender management' and of our penal systems.

## Key Words

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desistance • effectiveness • ethics • offender management • non-treatment paradigm • probation

## Introduction

Critical analysts of the history of ideas in the probation service have charted the various reconstructions of probation practice that have accompanied changes in penal theories, policies and sensibilities. Most famously, McWilliams (1983, 1985, 1986, 1987) described the transformations of probation from a missionary endeavour that aimed to save souls, to a professionalized endeavour that aimed to 'cure' offending through rehabilitative treatment, to a pragmatic endeavour that aimed to provide alternatives to custody and practical help for offenders (see also Vanstone, 2004). More recent commentators have suggested later transformations of probation practice related first to its recasting, in England and Wales, as 'punishment in the community' and then to its increasing focus on risk management and public protection (Robinson and McNeill, 2004).

In each of these eras of probation history, practitioners, academics and other commentators have sought to articulate new paradigms for probation practice. Though much of the debate about the merits of these paradigms has focused on empirical questions about the efficacy of different approaches to the treatment and management of offenders, probation paradigms also reflect, implicitly or explicitly, developments both in the philosophy and in the sociology of punishment. The origins of this article are similar in that the initial impetus for the development of a desistance paradigm for 'offender management'<sup>1</sup> emerged from reviews of desistance research (McNeill, 2003) and, more specifically, from the findings of some particularly important recent studies (Burnett, 1992; Rex, 1999; Maruna, 2001; Farrall, 2002). However, closer examination of some aspects of the desistance research also suggests a normative case for a new paradigm; indeed, some of the empirical evidence seems to make a necessity out of certain 'practice virtues'. That these virtues are arguably in decline as a result of the fore-fronting of risk and public protection in contemporary criminal justice serves to make the development of the case for a desistance paradigm both timely and necessary.

To that end, the structure of this article is as follows. It begins with summaries of two important paradigms for probation practice—the 'non-treatment paradigm' (Bottoms and McWilliams, 1979) and the 'revised paradigm' (Raynor and Vanstone, 1994). The article then proceeds with an analysis of the emerging theoretical and empirical case for a desistance paradigm. This section draws not only on the findings of desistance studies but also on recent studies of the effectiveness of different approaches to securing 'personal change' in general and on recent developments in the 'what works' literature in particular. The ethical case for a desistance paradigm is then advanced not only in the light of the empirical evidence about the practical necessity of certain modes of ethical practice, but also in the light of developments in the philosophy of punishment, most notably the ideas associated with the work of the 'new rehabilitationists' (Lewis, 2005) and with Anthony Duff's 'penal communications' theory (Duff,

2001, 2003). In the concluding discussion, I try to sketch out some of the parameters of a desistance paradigm, though this is intended more as an attempt to stimulate debate about its development rather than to define categorically its features.

### Changing paradigms for probation practice

Writing at the end of the 1970s, Bottoms and McWilliams declared the need for a new paradigm for probation practice, a paradigm that ‘is theoretically rigorous, which takes very seriously the limitations of the treatment model; but which seeks to redirect the probation service’s traditional aims and values in the new penal and social context’ (1979: 167).

Bottoms and McWilliams proposed their paradigm against the backdrop of a prevailing view that treatment had been discredited both empirically and ethically. Though they did not review the empirical case in any great detail, they refer to several studies (Lipton et al., 1975; Brody, 1976; Greenberg, 1976) as establishing the broad conclusion that ‘dramatic reformatory results are hard to discover and are usually absent’ (Bottoms and McWilliams, 1979: 160). They also stressed the theoretical inadequacies of the treatment model, noting several flaws in the analogy between probation interventions and medical treatment; first, crime is voluntary whereas most diseases are not; second, crime is not pathological in any straightforward sense; and third, individual treatment models neglect the social causes of crime. Worse still, neglect of these flaws produced ethical problems; they argued that over-confidence in the prospects for effecting change through treatment had permitted its advocates both to coerce offenders into interventions (because the treatment provider was an expert who knew best) and to ignore offenders’ views of their own situations (because offenders were victims of their own lack of insight). Perhaps most insidiously of all, within this ideology coerced treatment could be justified *in offenders’ own best interests*. Bottoms and McWilliams also discerned an important ‘implicit conflict between the determinism implied in diagnosis and treatment and the frequently stressed casework principle of client self-determination’ (1979: 166). How can offenders be simultaneously the objects on whom psychological, physical and social forces operate (as the term diagnosis implies) and the authors of their own futures (as the principle of self-determination requires)?

Bottoms and McWilliams’ hope was that by exposing the weaknesses of the treatment paradigm, they would allow for a renaissance of the probation service’s traditional core values of hope and respect for persons. They suggested that the four primary aims of the service ‘are and have been:

- 1 The provision of appropriate help for offenders
- 2 The statutory supervision of offenders
- 3 Diverting appropriate offenders from custodial sentences
- 4 The reduction of crime’ (1979: 168).

It is their discussion of the first and second of these objectives that is most relevant to the discussion here. However, it is worth noting first that, for Bottoms and McWilliams, the problem with the treatment model was that it assumed that the fourth objective must be achieved through the pursuit of the first three; an assumption that they suggested could not be sustained empirically.<sup>2</sup>

With regard to the provision of help as opposed to treatment, Bottoms and McWilliams rejected the 'objectification' of offenders implied in the 'casework relationship', wherein the offender becomes an object to be treated, cured or managed in and through social policy and professional practice. One consequence of this objectification, they suggested, is that the formulation of treatment plans rests with the expert; the approach is essentially 'officer-centred'. Bottoms and McWilliams (1979: 173) suggested, by way of contrast, that in the non-treatment paradigm:

(a) Treatment	<i>becomes</i>	Help
(b) Diagnosis	<i>becomes</i>	Shared Assessment
(c) Client's Dependent Need as the basis for social work action	<i>becomes</i>	Collaboratively Defined Task as the basis for social work action

In this formulation, 'help' includes but is not limited to material help; probation may continue to address emotional or psychological difficulties, but this is no longer its *raison d'être*. Critically, the test of any proposed intervention technique is that it must help the client. Bottoms and McWilliams (1979: 174) explicitly disavowed any claim that the help model would be beneficial in the reduction of crime.<sup>3</sup>

Having reconceived of probation practice as help rather than treatment, Bottoms and McWilliams' discussion of probation's second aim, the statutory supervision of offenders, explored the implicit tensions between help and surveillance. Accepting that probation officers are 'law enforcement' agents as well as helpers, they drew on an article by Raynor (1978) that argued for a crucial distinction between coercion and constraint; 'choice under constraint is morally acceptable; manipulative coercion is not' (Bottoms and McWilliams, 1979: 177). Following Raynor, they suggested that making this distinction meaningful required probation officers actively to seek, within the constraints of the probation order, to maximize the area of choice for the offender. Their paradigm therefore invoked a distinction between the compulsory requirements imposed by the court (with the offender's constrained consent) and the substantive content of the helping process. In the latter connection, the 'client' should be free to choose to accept or reject help without fear of further sanctions. Put another way, the authority for supervision derives from the court but the authority for help resides in the offender. For Bottoms and McWilliams this required that the (then) legal requirement of consent by defendants to probation and community service should be taken much more seriously; indeed, they suggested that so as to avoid compulsory help

arising from a probation recommendation, defendants' consent to such recommendations should be required. Where consent was absent, no such recommendation should be made.

Fifteen years later, Peter Raynor and Maurice Vanstone (1994) argued that the non-treatment paradigm—a paradigm that they clearly regarded as being well worthy of the influence that it had exercised in the intervening years—was none the less in need of revision. The resurgence of optimism about the potential effectiveness of some forms of 'treatment' led Raynor and Vanstone to argue that the foundations of the non-treatment paradigm, 'built as they were out of a mixture of doubt and scepticism about the crime-reducing potential of rehabilitation, have produced cracks in the structure' (1994: 396):

By uncoupling 'helping offenders' from 'crime reduction', the paradigm is prevented from exploring whether work with individuals on their thinking, behaviour and attitudes has any relevance to crime reduction. Current knowledge of research into effectiveness necessitates, therefore, a redefining of the concept of appropriate help in a way that retains the principle of collaboration, and the stress on client needs, but which incorporates informed practice focused on influencing and helping individuals to stop offending . . . This should not detract from the need to address the social and economic context of crime.

(Raynor and Vanstone, 1994: 398)

It is clear that Raynor and Vanstone (1994) were not advocating a return to a treatment paradigm; rather, in their discussion of intervention 'programmes', they explicitly rejected Bottoms and McWilliams' dichotomization of treatment and help. More specifically, Raynor and Vanstone questioned the assumption that critiques of psychodynamic approaches as 'involving disguised coercion, denial of clients' views, the objectification of people, and a demonstrable lack of effectiveness when applied to offenders' (1994: 399) could be equally applied to *all* forms of treatment. This false assumption, they argued, led Bottoms and McWilliams to 'ignore other possible bases for intervention outside the "medical model" and encouraged the reader to identify all attempts to influence offenders as ethically objectionable treatment' (Raynor and Vanstone, 1994: 400).

A further crucial problem with the 'non-treatment paradigm' rested in its neglect of victims. The arguments of left realist criminologists (Young, 1988) persuaded Raynor and Vanstone (1994) that the traditional probation value of 'respect for persons' had to include the actual and potential victims of crime. This in turn implied that the extent to which client (that is, offender) choice could be respected and unconditional help could be offered had some necessary limitations; essentially, probation had to accept an obligation to work to reduce the harms caused by crime, as well as the ills that provoke it. Thus:

Compensatory help and empowerment of offenders are a proper response to situations where individuals have had few opportunities to avoid crime, but

their purpose is not simply to widen offenders' choices: it includes doing so in a manner consistent with a wider goal of crime reduction. Such a goal is not simply in the interests of the powerful: although criminal justice in an unequal society reflects and is distorted by its inequalities, the least powerful suffer some of the most common kinds of crime and are most in need of protection from it. (This includes, of course, many offenders who are themselves victims of crime . . .)

(Raynor and Vanstone, 1994: 401)

Raynor and Vanstone (1994: 402) concluded by adapting Bottoms and McWilliams' (1979) schematic summary of their paradigm:

(a) Help	<i>becomes</i>	Help consistent with a commitment to the reduction of harm
(b) Shared assessment	<i>becomes</i>	Explicit dialogue and negotiation offering opportunities for informed consent to involvement in a process of change
(c) Collaboratively defined task	<i>becomes</i>	Collaboratively defined task relevant to criminogenic needs, and potentially effective in meeting them

In terms of both organizational change and practice development, the 10 years that followed the publication of Raynor and Vanstone's (1994) article have been even more tumultuous than the years between the publication of the non-treatment paradigm and its revision. It is beyond the scope of this article to give an account of these changes (see Nellis, 1999; Raynor and Vanstone, 2002; Mair, 2004; Robinson and McNeill, 2004). Indeed, since the purpose of this article is to consider how the practice of offender management *should* be reconstructed in the light of the desistance research, there is some merit in ignoring how it has been reconstructed for more political and pragmatic reasons. That said, two particular developments require comment.

The first relates to changes in formulations of the purposes of probation since the publication of the earlier paradigms. Without entering into the ongoing debates about the recasting of probation's purposes south of the border (see Robinson and McNeill, 2004; Worrall and Hoy, 2005), it is sufficient to state that, in contrast to the four aims outlined by Bottoms and McWilliams—aims which were still uncontested by Raynor and Vanstone in 1994—the new National Offender Management Service, incorporating prisons and probation, exists to *manage* offenders and in so doing to provide a *service* to the 'law-abiding' public. Its objectives are to punish offenders and to reduce re-offending (Blunkett, 2004: 10).

The second development concerns the application of a particular approach to developing effective probation practice in England and Wales in

the form of the ‘what works’ initiative (McNeill, 2001, 2004a). In effect, this initiative involves the imposition from the centre of an implicit ‘what works’ paradigm for probation practice. Once again the debates about the characteristics, implications and flaws of this paradigm are complex (see Mair, 2004). Perhaps the easiest way to summarize the paradigm however, is to suggest a further revision to Raynor and Vanstone’s (1994) adaptation of Bottoms and McWilliams’ (1979) schematic summary:

- |   |                |   |
|---|----------------|---|
| (a) Help consistent with a commitment to the reduction of harm  | <i>becomes</i> | Intervention required to reduce reoffending and protect the public  |
| (b) Explicit dialogue and negotiation offering opportunities for informed consent to involvement in a process of change | <i>becomes</i> | Professional assessment of risk and need governed by the application of structured assessment instruments   |
| (c) Collaboratively defined task relevant to criminogenic needs, and potentially effective in meeting them              | <i>becomes</i> | Compulsory engagement in structured programmes and case management processes to address criminogenic needs - as required elements of legal orders imposed irrespective of consent |

### Theoretical and empirical arguments for a desistance paradigm<sup>4</sup>

A fundamental but perhaps inevitable problem with the non-treatment paradigm, the revised paradigm and the ‘what works’ paradigm is that they begin in the wrong place; that is, they begin by thinking about how *practice* (whether ‘treatment’, ‘help’ or ‘programmes’) should be constructed without first thinking about how *change* should be understood. For Bottoms and McWilliams (1979) this omission makes some sense, since their premise was that the prospects for practice securing *individual* change were bleak. However, for Raynor and Vanstone (1994) and for the prevailing ‘what works’ paradigm, the problem is more serious; given their reasonable optimism about the prospects for individual rehabilitation, the absence of a well-developed theory of *how* rehabilitation occurs is more problematic.<sup>5</sup>

#### *Understanding desistance*

The change process involved in the rehabilitation of offenders is desistance from offending. The muted impact that desistance research has had on policy and practice hitherto is both surprising and problematic because

knowledge about processes of desistance is clearly critical to our understandings of *how and why* ex-offenders come to change their behaviours. Indeed, building an understanding of the human processes and social contexts in and through which desistance occurs is a necessary precursor to developing practice paradigms; put another way, constructions of practice should be embedded in understandings of desistance.

The implications of such embedding are significant and far-reaching. Maruna et al. (2004) draw a parallel with a related shift in the field of addictions away from the notion of treatment and towards the idea of recovery, quoting an influential essay by William White (2000):

Treatment was birthed as an adjunct to recovery, but, as treatment grew in size and status, it defined recovery as an adjunct of itself. The original perspective needs to be recaptured. Treatment institutions need to once again become servants of the larger recovery process and the community in which that recovery is nested and sustained . . .

(White, 2000, cited in Maruna et al., 2004: 9)

Although the language of recovery may be inappropriate in relation to offenders, given both that it implies a medical model and that it suggests a prior state of well-being that may never have existed for many, the analogy is telling none the less. Put simply, the implication is that offender management services need to think of themselves less as providers of correctional treatment (that belongs to the expert) and more as supporters of desistance processes (that belong to the desister). In some respects, this shift in perspective, by re-emphasizing the offender's viewpoint, might re-invigorate the non-treatment paradigm's rejection of the objectification of the 'client' and of the elevation of the 'therapist'. However, it does so not by rejecting 'treatment' per se, but by seeing professional intervention as being, in some sense, subservient to a wider process that belongs to the desister.

Before proceeding further, more needs to be said about how processes of desistance should be understood and theorized. Maruna (2001) identifies three broad theoretical perspectives in the desistance literature: maturational reform, social bonds theory and narrative theory. Maturation reform (or 'ontogenic') theories have the longest history and are based on the established links between age and certain criminal behaviours, particularly street crime. Social bonds (or 'sociogenic') theories suggest that ties to family, employment or educational programmes in early adulthood explain changes in criminal behaviour across the life course. Where these ties exist, they create a stake in conformity, a reason to 'go straight'. Where they are absent, people who offend have less to lose from continuing to offend. Narrative theories have emerged from more qualitative research which stresses the significance of subjective changes in the person's sense of self and identity, reflected in changing motivations, greater concern for others and more consideration of the future.

Bringing these perspectives together, Farrall stresses the significance of the



relationships between ‘objective’ changes in the offender’s life and his or her ‘subjective’ assessment of the value or significance of these changes:

. . . the desistance literature has pointed to a range of factors associated with the ending of active involvement in offending. Most of these factors are related to acquiring ‘something’ (most commonly employment, a life partner or a family) which the desister values in some way and which initiates a re-evaluation of his or her own life . . .

(Farrall, 2002: 11)

Thus, desistance resides somewhere in the interfaces between developing personal maturity, changing social bonds associated with certain life transitions, and the individual subjective narrative constructions which offenders build around these key events and changes. It is not just the events and changes that matter; it is what these events and changes *mean* to the people involved.

Clearly this understanding implies that desistance itself is not an event (like being cured of a disease) but a *process*. Desistance is necessarily about ceasing offending and then refraining from further offending over an extended period (for more detailed discussions see Maruna, 2001; Farrall, 2002; Maruna and Farrall, 2004). Maruna and Farrall (2004) suggest that it is helpful to distinguish *primary desistance* (the achievement of an offence-free period) from *secondary desistance* (an underlying change in self-identity wherein the ex-offender labels him or herself as such). Although Bottoms et al. (2004) have raised some doubts about the value of this distinction on the grounds that it may exaggerate the importance of cognitive changes which need not *always* accompany desistance, it does seem likely that where offender managers are dealing with (formerly) persistent offenders, the distinction may be useful; indeed, in those kinds of cases their role might be constructed as prompting, supporting and sustaining secondary desistance wherever this is possible.

Moreover, further empirical support for the notion of secondary desistance (and its usefulness) might be found in Burnett’s (1992) study of efforts to desist among 130 adult property offenders released from custody. Burnett noted that while eight out of ten, when interviewed pre-release, wanted to ‘go straight’; six out of ten subsequently reported re-offending post-release. For many, the intention to be law-abiding was provisional in the sense that it did not represent a confident prediction; only one in four reported that they would definitely be able to desist. Importantly, Burnett discovered that those who were most confident and optimistic about desisting had greatest success in doing so. For the others, the ‘provisional nature of intentions reflected social difficulties and personal problems that the men faced’ (Burnett, 2000: 14). That this implies the need for intentions to desist to be grounded in changes of identity is perhaps supported by Burnett’s findings about different types of desisters. She discerned three

categories: 'non-starters' who adamantly denied that they were 'real criminals' and, in fact, had fewer previous convictions than the others; 'avoiders', for whom keeping out of prison was the key issue; and 'converts' who appeared to have decided that the costs of crime outweighed the benefits. Indeed, the converts were:

the most resolute and certain among the desisters. They had found new interests that were all-preoccupying and overturned their value system: a partner, a child, a good job, a new vocation. These were attainments that they were not prepared to jeopardize or which over-rode any interest in or need for property crime.

(Burnett, 2000: 14)

Although Burnett notes that, for most of the men involved in her study, processes of desistance were characterized by ambivalence and vacillation, the over-turning of value systems and all pre-occupying new interests that characterized the 'converts' seem to imply the kind of identity changes invoked in the notion of secondary desistance.

Maruna's (2001) study offers a particularly important contribution to understanding secondary desistance by exploring the subjective dimensions of change. Maruna compared the narrative 'scripts' of 20 persisters and 30 desisters who shared similar criminogenic traits and backgrounds and who lived in similarly criminogenic environments. In the 'condemnation script' that emerged from the persisters, 'The condemned person is the narrator (although he or she reserves plenty of blame for society as well). Active offenders . . . largely saw their life scripts as having been written for them a long time ago' (Maruna, 2001: 75). By contrast, the accounts of the desisters revealed a different narrative:

The redemption script begins by establishing the goodness and conventionality of the narrator—a victim of society who gets involved with crime and drugs to achieve some sort of power over otherwise bleak circumstances. This deviance eventually becomes its own trap, however, as the narrator becomes ensnared in the vicious cycle of crime and imprisonment. Yet, with the help of some outside force, someone who 'believed in' the ex-offender, the narrator is able to accomplish what he or she was 'always meant to do'. Newly empowered, he or she now seeks to 'give something back' to society as a display of gratitude.

(Maruna, 2001: 87)

The desisters and the persisters shared the same sense of fatalism in their accounts of the development of their criminal careers; however, Maruna reads the minimization of responsibility implied by this fatalism as evidence of the conventionality of their values and aspirations and of their need to believe in the essential goodness of the 'real me'. Moreover, in their accounts of achieving change there is evidence that desisters have to 'discover' agency in order to resist and overcome the criminogenic structural pressures that play upon them. This discovery of agency seems to

relate to the role of significant others in envisioning an alternative identity and an alternative future for the offender even through periods when they cannot see these possibilities for themselves. Typically later in the process of change, involvement in ‘generative activities’ (which usually make a contribution to the well-being of others) plays a part in testifying to the desister that an alternative ‘agentic’ identity is being or has been forged. Intriguingly, the process of discovering agency, on one level at least, sheds interesting light on the apparent theoretical inconsistency that Bottoms and McWilliams (1979) inferred from the treatment paradigm; that is, an inconsistency between its deterministic analysis of the causes of criminality and its focus on self-determination in the treatment process. Arguably what Maruna (2001) has revealed is the role of reflexivity in both revealing *and* producing shifts in the dynamic relationships between agency and structure (see also Farrall and Bowling, 1999).

### *Supporting desistance*

The implications for practice of this developing evidence base have begun to be explored in a small number of research studies that have focused on the role that probation may play in supporting desistance (for example Rex, 1999; Farrall, 2002; McCulloch, 2005). In one study of ‘assisted desistance’, Rex (1999) explored the experiences of 60 probationers. She found that those who attributed changes in their behaviour to probation supervision described it as active and participatory. Probationers’ commitments to desist appeared to be generated by the personal and professional commitment shown by their probation officers, whose reasonableness, fairness and encouragement seemed to engender a sense of personal loyalty and accountability. Probationers interpreted advice about their behaviours and underlying problems as evidence of concern for them as people, and ‘were motivated by what they saw as a display of interest in their well-being’ (Rex, 1999: 375). Such evidence resonates with other arguments about the pivotal role that relationships play in effective interventions (Barry, 2000; Burnett, 2004; Burnett and McNeill, 2005; McNeill et al., 2005). If secondary desistance (for those involved in persistent offending at least) requires a narrative reconstruction of identity, then it seems obvious why the relational aspects of practice are so significant. Who would risk engaging in such a precarious and threatening venture without the reassurance of sustained and compassionate support from a trusted source?

However, workers and working relationships are neither the only nor the most important resources in promoting desistance. Related studies of young people in trouble suggest that their own resources and social networks are often better at resolving their difficulties than professional staff (Hill, 1999). The potential of social networks is highlighted by ‘resilience perspectives’, which, in contrast with approaches that dwell on risks and/or needs, consider the ‘protective factors and processes’ involved in positive adaptation in spite of adversity. In terms of practice with young

people, such perspectives entail an emphasis on the recognition, exploitation and development of their competences, resources, skills and assets (Schoon and Bynner, 2003). In similar vein, but in relation to re-entry of ex-prisoners to society, Maruna and LeBel (2003) have made a convincing case for the development of strengths-based (rather than needs-based or risk-based) narratives and approaches. Drawing on both psychological and criminological evidence, they argue that such approaches would be likely both to enhance compliance with parole conditions and to encourage ex-prisoners to achieve 'earned redemption' (Bazemore, 1999) by focusing on the positive contributions through which they might make good to their communities. Thus promoting desistance also means striving to develop the offender's strengths—at both an individual and a social network level—in order to build and sustain the momentum for change.

In looking towards these personal and social contexts of desistance, the most recent and perhaps most wide-scale study of probation and desistance is particularly pertinent to the development of a desistance paradigm. Farrall (2002) explored the progress or lack of progress towards desistance achieved by a group of 199 probationers. Though over half of the sample evidenced progress towards desistance, Farrall found that desistance could be attributed to specific interventions by the probation officer in only a few cases, although help with finding work and mending damaged family relationships appeared particularly important. Desistance seemed to relate more clearly to the probationers' motivations and to the social and personal contexts in which various obstacles to desistance were addressed.

Farrall (2002) goes on to argue that interventions must pay greater heed to the community, social and personal contexts in which they are situated (see also McCulloch, 2005). After all, 'social circumstances and relationships with others are *both* the object of the intervention *and* the medium through which . . . change can be achieved' (Farrall, 2002: 212, emphases added). Necessarily, this requires that interventions be focused not solely on the individual person and his or her perceived 'deficits'. As Farrall (2002) notes, the problem with such interventions is that while they can build human capital, for example, in terms of enhanced cognitive skills or improved employability, they cannot generate the social capital that resides in the relationships through which we achieve participation and inclusion in society.<sup>6</sup> Vitally, it is social capital that is necessary to encourage desistance. It is not enough to build *capacities* for change where change depends on *opportunities* to exercise capacities: ' . . . the process of desistance is one that is produced through an interplay between individual choices, and a range of wider social forces, institutional and societal practices which are beyond the control of the individual' (Farrall and Bowling, 1999: 261).

Barry's (2004) recent study provides another key reference point for exploring how themes of capital, agency, identity and transition play out specifically for younger people desisting from offending. Through in-depth interviews with 20 young women and 20 young men, Barry explored why they started and stopped offending and what influenced or inhibited them

in that behaviour as they grew older. The young people revealed that their decisions about offending and desisting were related to their need to feel included in their social world, through friendships in childhood and through wider commitments in adulthood. The resolve displayed by the young people in desisting from offending seemed remarkable to Barry, particularly given that they were from disadvantaged backgrounds and were limited in their access to mainstream opportunities (employment, housing and social status) both because of their age and because of their social class. Barry recognizes crucially that:

Because of their transitional situation, many young people lack the status and opportunities of full citizens and thus have limited capacity for social recognition in terms of durable and legitimate means of both accumulating and expending capital through taking on responsibility and generativity . . . Accumulation of capital requires, to a certain extent, both responsibilities and access to opportunities; however, children and young people rarely have such opportunities because of their status as 'liminal entities' (Turner, 1969), not least those from a working class background.

(2004: 328–9)

It is interesting to note that similar messages about the significance both of the relational and of the social contexts of desistance have emerged recently from 'treatment' research itself. Ten years on from McGuire and Priestley's (1995) original statement of 'what works', these neglected aspects of practice have re-emerged in revisions to and refinements of the principles of effective practice. One authoritative recent review, for example, highlights the increasing attention that is being paid to the need for staff to use interpersonal skills, to exercise some discretion in their interventions, to take diversity among participants into account and to look at how the broader service context can best support effective practice (Raynor, 2004: 201). Raynor notes that neglect of these factors may account for some of the difficulties experienced in England and Wales, for example, in translating the successes of demonstration projects to general practice. He suggests that the preoccupation with group programmes arises from their more standardized application, which, in turn, allows for more systematic evaluation than the complex and varied nature of individual practice.

However, this pre-occupation (with programmes), ironically perhaps, is undermined by the literature on treatment effectiveness in psychotherapy and counselling; arguably the parent discipline of 'what works'. Here, the evidence suggests that the most crucial variables of all in determining treatment outcomes—chance factors, external factors and 'client' factors—relate to the personal and social contexts of interventions rather than to their contents (Asay and Lambert, 1999). Moreover, in terms of those variables which the therapist can influence, it is a recurring finding that no method of intervention is any more effective than the rest, and, instead, that there are common aspects of each intervention that are responsible for bringing about change (see Hubble et al., 1999; Bozarth, 2000). These

'core conditions' for effectiveness—empathy and genuineness; the establishment of a working alliance; and using person-centred, collaborative and 'client-driven' approaches—are perhaps familiar to probation staff, but not from earlier reviews of 'what works?'.<sup>7</sup> With regard to the probation paradigms reviewed earlier, these findings are particularly significant because, despite the disciplinary location and positivist approaches of these studies, the forms of treatment that they commend seem to be some way removed from those criticized by Bottoms and McWilliams (1979). Indeed, the notion of therapeutic or working alliance implies, as Bottoms and McWilliams (1979) advocated, that the worker and client *share agreement* on overall goals, agreement on the tasks that will lead to achievement of these goals and a bond of mutual respect and trust (Bordin, 1979). This seems explicitly to preclude the kind of attitudes and practices that Bottoms and McWilliams (1979) associated with treatment and that arguably characterize the prevailing 'what works' paradigm (McNeill, 2004b).

### **Ethical arguments for a desistance paradigm**

Leaving aside these emerging empirical findings and theoretical issues, desistance research has some clear ethical implications for the practice of offender management. The first of these implications is perhaps already obvious. Rex's (1999) research, reviewed in the context both of Maruna's (2001) account of narrative reconstruction and of the evidence from psychotherapy research about the critical significance of certain core conditions for treatment, points to the importance of developing penal practices that express certain practical virtues. Virtue-based approaches to ethics have experienced something of a resurgence in recent years (Pence, 1991), suggesting a shift in moral thinking from the question 'what ought I to do?' to the question 'what sort of person should I be?' In this context, one of the merits of desistance research is that by asking offenders about their experiences both of attempting desistance and of supervision, progress is made towards answering the question that a would-be 'virtuous' offender manager might ask: What sort of practitioner should I be? The virtues featured in responses from desisters might include optimism, hopefulness, patience, persistence, fairness, respectfulness, trustworthiness, loyalty, wisdom, compassion, flexibility and sensitivity (to difference), for example.

The practical import of the expression of these virtues is suggested by recent discussions of the enforcement of community penalties, which have emerged particularly (but not exclusively) where community penalties have been recast as 'punishment in the community'. This recasting of purpose has increased the need for effective enforcement in order that courts regard community penalties as credible disposals. Though the language of 'enforcement' implies an emphasis on ensuring the meaningfulness and inevitability of sanctions in the event of non-compliance, Bottoms (2001) has argued convincingly that attempts to encourage or require compliance in

the criminal justice system must creatively mix habitual mechanisms, constraint-based mechanisms, instrumental mechanisms and normative mechanisms (related to beliefs, attachments and perceptions of legitimacy). What seems clear from the desistance research is that, through the establishment of effective relationships, the worker's role in supporting compliance is likely to be particularly crucial to the development of these normative mechanisms. It is only within relationships that model the kinds of virtues described above that the formal authority conferred on the worker by the court is likely to be rendered *legitimate* in the mind of the offender. Just as perceptions of legitimacy play a key role in encouraging compliance with prison regimes (Sparks et al., 1996), so in the community legitimacy is likely to be a crucial factor both in preventing breach by persuading offenders to comply with the order and, perhaps, in preventing recidivism by persuading offenders to comply with the law.

This notion of moral persuasion (and modelling) as a role for offender managers resonates with some aspects of Anthony Duff's penal communications theory (Duff, 2001, 2003). Duff (2003) has argued that probation can and should be considered a mode of punishment; indeed he argues that it could be the model punishment. However, the notion of punishment that he advances is not 'merely punitive'; that is, it is not concerned simply with the infliction of pain as a form of retribution. Rather it is a form of 'constructive punishment' that inflicts pain only in so far as this is an inevitable (and intended) consequence of 'bringing offenders to face up to the effects and implications of their crimes, to rehabilitate them and to secure . . . reparation and reconciliation' (Duff, 2003: 181). The pains involved are akin to the unavoidable pains of repentance. For Duff, this implies a role for probation staff as mediators between offenders, victims and the wider community.

Though developing the connections between Duff's theory and desistance research is beyond the scope of this article, Maruna's (2001) study underlines the significance for desisters of the 'redemption' that is often achieved through engagement in 'generative activities' which help to make sense of a damaged past by using it to protect the future interests of others. It seems significant that this 'buying back' is productive rather than destructive; that is, the right to be rehabilitated is not the product of experiencing the pains of 'merely punitive' punishment, rather it is the result of evidencing repentance and change by 'making good'. In working to support the reconstruction of identity involved in desistance, this seems to underline the relevance of the redemptive opportunities that both community penalties and restorative justice approaches might offer. No less obvious, by contrast, are the futility and counter-productiveness of penal measures that label, that exclude and that segregate and co-locate offenders as offenders. Such measures seem designed to confirm and cement 'condemnation scripts' and thus to frustrate desistance.

However, as well as highlighting the importance of encouraging and supporting offenders in the painful process of making good, the desistance

research at least hints at the reciprocal need for society to make good to offenders. Just as both Bottoms and McWilliams (1979) and Raynor and Vanstone (1994) recognized the moral implications of accepting the role that social inequalities and injustices play in provoking offending behaviour, so Duff (2003) argues that the existence of social injustice creates moral problems for the punishing polity. The response must be 'a genuine and visible attempt to remedy the injustices and exclusion that they [that is, some offenders] have suffered' (Duff, 2003: 194). Duff suggests that this implies that:

the probation officer . . . will now have to help the offender negotiate his relationship with the polity against which he has offended, but by whom he has been treated unjustly and disrespectfully: she must speak for the polity to the offender in terms that are censorious but also apologetic—terms that seek both to bring him to recognise the wrong he has done and to express an apologetic recognition of the injustice he has suffered: *and she must speak to the polity for the offender*, explaining what is due to him as well as what is due for him.

(2003: 194, emphasis added)

Thus the help and practical support advocated in the non-treatment paradigm can now be re-legitimated both empirically, in terms of the need to build social capital in supporting desistance, and normatively (even *within* a punishment discourse) as a prerequisite for making punishment both intelligible and just for offenders.

Recognition of interactions between, on the one hand, exclusion and inequalities and, on the other, crime and justice, also lies behind some of the arguments for rehabilitative approaches to punishment. Such arguments tend to lead to rights-based rather than utilitarian versions of rehabilitation. For McWilliams and Pease (1990), rights-based rehabilitation serves a *moral* purpose on behalf of society in limiting punishment and preventing exclusion by working to re-establish the rights and the social standing of the offender. By contrast, Garland (1997) describes how, in late-modern penalty, a more instrumental version of rehabilitation has emerged in which the offender need not (perhaps cannot) be respected as an end in himself or herself; he or she has become the means to another end. He or she is not, in a sense, the subject of the court order, but its object. In this version, rehabilitation is not an over-riding purpose, it is a subordinate means. It is offence-centred rather than offender-centred; it targets criminogenic need rather than social need.

The problem with this version of rehabilitation, however, is that it runs all the same moral risks that led Bottoms and McWilliams (1979) to reject treatment; it permits, in theory at least, all of the same injustices, violations of human rights and disproportionate intrusions that concerned, for example, the American Friends Services Committee in 1971, and led ultimately to the emergence of 'just deserts' (von Hirsch, 1976; Home Office, 1990). Indeed, in England and Wales, the current situation is worse in one respect:



the removal of the need for offenders' consent to the imposition of community penalties (under the Crime (Sentences) Act 1997), which made some sense in the context of the move towards seeing probation as a proportionate punishment, means that offenders can now be compelled to undertake 'treatment' in the form of accredited programmes.

In a recent article, Lewis (2005) has drawn on the work of the 'new rehabilitationists' (Cullen and Gilbert, 1982; Rotman, 1990) to revive the case for a rights-based approach to rehabilitation; meaning one which is concerned with the reintegration of offenders into society as 'useful human beings'. According to Lewis, the principles of the new rehabilitationists include commitment to, first, the state's duty to undertake rehabilitative work (for similar reasons to those outlined above); second, somehow setting limits on the intrusions of rehabilitation in terms of proportionality; third, maximizing voluntarism in the process; and, finally, using prison only as a measure of last resort because of its negative and damaging effects. In exploring the extent to which these principles are articulated and applied in current penal policy, she reaches the conclusion that 'current rehabilitative efforts are window-dressing on an overly punitive "managerialist" system' (Lewis, 2005: 119), though she retains some hope that practitioner-led initiatives at the local level might allow some prospect that these principles could be applied.

The value of the desistance research may be that just as the evidence about 'nothing works' allowed Bottoms and McWilliams (1979) to make a theoretical and empirical case for more ethical practice, and the evidence that 'something works' enabled Raynor and Vanstone (1994) to revise that case, so the evidence from desistance studies, when combined with these constructive developments in the philosophy of punishment, might do a similar job in a different and arguably more destructive penal climate.

## **Conclusions: a desistance paradigm**

This article has sought to follow the example offered by Bottoms and McWilliams (1979) and Raynor and Vanstone (1994) by trying to build both empirical and ethical cases for the development of a new paradigm for probation practice. In summary, I have suggested that desistance is the process that offender management exists to promote and support; that approaches to intervention should be embedded in understandings of desistance; and, that it is important to explore the connections between structure, agency, reflexivity and identity in desistance processes. Moreover, desistance-supporting interventions need to respect and foster agency and reflexivity; they need to be based on legitimate and respectful relationships; they need to focus on social capital (opportunities) as well as human capital (motivations and capacities); and they need to exploit strengths as well as addressing needs and risks. I have also suggested that desistance research highlights the relevance of certain 'practice virtues'; that it requires a focus

on the role of legitimacy in supporting normative mechanisms of compliance; that it is consonant in many respects with communicative approaches to punishment which cast probation officers (or offender managers) as mediators between offenders, victims and communities; and that it suggests a rights-based approach to rehabilitation which entails both that the offender makes good to society and that, where injustice has been suffered by the offender, society makes good to the offender.

Like the authors of the earlier paradigms, I do not intend here to offer a detailed account of precisely how a desistance paradigm might operate in practice (for some initial suggestions see McNeill, 2003). That task is one that could be more fruitfully undertaken by those working in the field, preferably in association with offenders themselves. However, in an attempt to suggest some direction for such development, Table 1 summarizes the contrasts between the constructions of practice implied by the non-treatment, revised, 'what works' and desistance paradigms.

Unlike the earlier paradigms, the desistance paradigm forefronts processes of change rather than modes of intervention. Practice under the desistance paradigm would certainly accommodate intervention to meet needs, reduce risks and (especially) to develop and exploit strengths, but

**Table 1.** Probation practice in four paradigms

<i>The non-treatment paradigm</i>	<i>The revised paradigm</i>	<i>A 'what works' paradigm</i>	<i>A desistance paradigm</i>
Treatment becomes help	Help consistent with a commitment to the reduction of harm	Intervention required to reduce re-offending and protect the public	Help in navigating towards desistance to reduce harm and make good to offenders and victims <sup>8</sup>
Diagnoses becomes shared assessment	Explicit dialogue and negotiation offering opportunities for consensual change	'Professional' assessment of risk and need governed by structured assessment instruments	Explicit dialogue and negotiation assessing risks, needs, strengths and resources and offering opportunities to make good
Client's dependent need as the basis for action becomes collaboratively defined task as the basis for action	Collaboratively defined task relevant to criminogenic needs and potentially effective in meeting them	Compulsory engagement in structured programmes and case management processes as required elements of legal orders imposed irrespective of consent	Collaboratively defined tasks which tackle risks, needs and obstacles to desistance by using and developing the offender's human and social capital

whatever these forms might be they would be subordinated to a more broadly conceived role in working out, on an individual basis, how the desistance process might best be prompted and supported. This would require the worker to act as an advocate providing a conduit to social capital as well as a ‘treatment’ provider building human capital. Moreover, rather than being about the technical management of programmes and the disciplinary management of orders, as the current term ‘offender manager’ unhelpfully implies, the forms of engagement required by the paradigm would re-instate and place a high premium on collaboration and involvement in the process of co-designing interventions. Critically, such interventions would not be concerned solely with the prevention of further offending; they would be equally concerned with constructively addressing the harms caused by crime by encouraging offenders to make good through restorative processes and community service (in the broadest sense). But, as a morally and practically necessary corollary, they would be no less preoccupied with making good to offenders by enabling them to achieve inclusion and participation in society (and with it the progressive and positive reframing of their identities required to sustain desistance).

Perhaps the most obvious problem that might be confronted by anyone seeking to envision further or even enact this paradigm, is that the communities on which its ultimate success would depend may lack the resources and the will to engage in supporting desistance, preferring to remain merely ‘punishing communities’ (Worrall and Hoy, 2005). This is, of course, an issue for any form of ‘offender management’ or reintegration. However, rather than letting it become an excuse for dismissing the paradigm, it should drive us to a recognition of the need for offender management agencies to re-engage with community education and community involvement and to seek ways and means, at the local level and at the national level, to challenge populist punitiveness (Bottoms, 1995) and to offer more progressive alternatives.

## Notes

I am very grateful to Steve Farrall and Richard Sparks for their hospitality in hosting the seminars through which this article was developed and to all of the contributors to the seminars both for their helpful and encouraging comments on earlier versions and for the stimulation that their papers provided. I am also grateful to Monica Barry, Mike Nellis and Gwen Robinson for comments on the draft version of this article.

1 Though I have grave reservations about the term ‘offender management’ (relating to its obvious inference that the offender is a problem to be managed rather than person to be assisted and that the task is technical rather than moral), I use it here, not just because of its contemporary relevance, but also because it refers both to community disposals and post-prison resettlement.

- 2 Owing to their pessimism about the prospects for treatment delivering their fourth aim (the reduction of crime), Bottoms and McWilliams turned their attention to other crime reduction strategies and in particular to crime prevention. Their argument in this connection was essentially that because 'crime is predominantly social . . . any serious crime reduction strategy must be of a socially (rather than an individually) based character' (Bottoms and McWilliams, 1979: 188).
- 3 That said, they allowed that: 'there is, ironically, at least a tiny shred of research evidence to suggest that, after all, help may be more crime-reducing than treatment' (Bottoms and McWilliams, 1979: 174). To support this claim they referred to two studies that presaged later desistance research; the first suggested that although intensive casework treatment had no apparent impact, changes in the post-institutional social situations of offenders (for example, getting married or securing a job) were associated with reductions in recidivism (Bottoms and McClintock, 1973); the second suggested that treatment did demonstrate lower reconviction rates where the 'treatment' involved primarily practical help which was given only if and when offenders asked for it (Bernsten and Christiansen, 1965).
- 4 This section of the article draws heavily on McNeill et al. (2005).
- 5 It may be that this gap in theory is in part the product of the incremental and quasi-experimental character of 'what works' research; indeed it might even be said that the 'what works' philosophy is anti-theoretical in that it is more preoccupied with *identifying* and *replicating* successes than in *explaining* and *understanding* them (Farrall, 2002).
- 6 Significantly, Boeck et al.'s (2004) emerging findings suggest that bridging social capital in particular (which facilitates social mobility) seems to be limited among those young people in their study involved in offending, leaving them ill-equipped to navigate risk successfully.
- 7 That said, some recent studies have begun to explore the contribution of particular practice skills to effectiveness. Raynor refers in particular to a recent article by Dowden and Andrews (2004) based on a meta-analysis examining the contribution of certain key staff skills (which they term 'core correctional practices' or CCPs) to the effectiveness of interventions with offenders.
- 8 It is with some unease that I have merely mentioned but not developed arguments about the importance of making good to (and for) victims in this article. I am therefore grateful to Mike Nellis for highlighting the contingent relationships between offenders making good and making amends to victims. There is little empirical evidence that desistance requires making amends or making good to particular victims, although there are of course independent and compelling reasons why this matters in its own right. As Nellis suggests (personal communication, 18 August 2005), the case for making amends requires separate justification. He further suggests that from the point of view of interventions with offenders, it may be important not so much as an enabling factor in desistance as a signifying factor. Drawing on this distinction, my own view is that although making amends is neither necessary nor sufficient for desistance to occur, it may be useful none the less in consigning the past to the past (for victims and offenders) and thus in entrenching redemption scripts (for offenders).

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