**CRIMES & PUNISHMENTS: WHY PUNISH?**

What is the purpose of punishment in the criminal justice system? Legal scholars, judges, and lawmakers—and the public—do not agree on the answer to this question. Ask any one member of these groups, and you’ll likely get a number of different responses:

**Incapacitation**

Incapacitation seeks to prevent future crime by physically moving criminals away from society. This punishment can be traced to ancient times. Banishment was a common penalty in antiquity. Later, it was common for colonizing European countries to ship convicts and undesirables overseas. In modern times, house arrest, incarceration and the death penalty are all forms of incapacitation. This prevents the wrong-doer from committing more crimes because they are physically removed from the ability to do so.

**Deterrence**

Deterrence prevents future crime by frightening the defendant and the public. When the government punishes an individual defendant, he or she is theoretically less likely to commit another crime because of fear of another similar or worse punishment. When the public learns of an individual defendant’s punishment, the public is theoretically less likely to commit a crime because of fear of the punishment the defendant experienced. When the public learns, for example, that an individual defendant was severely punished by a sentence of life in prison or the death penalty, this knowledge can inspire a deep fear of criminal prosecution.

**Retribution**

Retribution prevents future crime by removing the desire for personal revenge (in the form of assault, battery, and criminal homicide, for example) against the defendant. When victims or society discover that the defendant has been adequately punished for a crime, they achieve a certain satisfaction that our criminal procedure is working effectively, which enhances faith in law enforcement and our government.

This approach punishes criminals because they “deserve it,” having morally offended society. The goal (though not necessarily the reality) is to “let the punishment fit the crime.” This theory assumes that the criminal possesses free will, has chosen a path of crime, and must now suffer his “just desserts.”

**Rehabilitation**

A common prison policy in America up until the 1970s, rehabilitation focuses on helping criminals and prisoners overcome the barriers that led them to committing criminal acts. This includes developing occupational skills, as well as resolving psychological issues such as drug addiction and aggression. Considered the opposite of retribution, the ultimate purpose of rehabilitation is to transition offenders back into society.

**Restoration**

A radically different approach to criminal punishment, the goal of restoration is for the offender to make direct amends to both the victim and the community in which the crime was committed. Although a relatively new practice in modern times, the concept of restorative justice can be found in the early legal systems of Western Europe, ancient Hebrew justice and pre-colonial African societies.

During the process of restoration, victims initiate a process in which both they and the offender meet to share feelings and concerns. The dialogue offers victims the opportunity to be heard and the offender to make amends and receive forgiveness. Restorative justice is often used in crimes involving youth offenders.

You’ll notice basic differences between these approaches. Deterrence looks forward, punishing in order to avoid future crime by the defendant and others; retributionists look back, punishing according to the moral failure of the defendant. Those in the rehabilitation and restoration camps tend to believe that most criminals and offenders can re-enter society after righting their wrongs or working on their own skills and issues, while those in the incarceration camp tend to believe the opposite, that most criminals (especially repeat offenders and those guilty of violent crimes) cannot change and should be kept away from society in order to protect others.

**CRIMES & PUNISHMENTS: WHAT IS THE PURPOSE OF PUNISHMENT?**

What do ***you*** think should be the purpose of punishment for a crime? This is a complex question. Use evidence from the reading and your own ideas to construct an argumentative paragraph (5-7 sentences) taking one side in this debate. Pick one of the purposes of punishment, explain why it should be the main goal or reason for punishment in our criminal justice system, and give reasons or examples to support this argument. Make sure to (1) link this goal to one of the types of punishment that we learned about last week, and (2) include at least a sentence developing a counterargument for what someone arguing against you might say.

Use the brainstorming section below to organize your ideas (these answers do not have to be in complete sentences).

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| **QUESTION** | **YOUR IDEAS** |
| What do you think should be the main purpose of punishment for a crime: incapacitation, deterrence, retribution, rehabilitation, or restoration? |  |
| What is one reason why this should be the main goal of punishment? |  |
| Give an example or piece of evidence to support this reason. |  |
| What is another reason why this should be the main goal of punishment? |  |
| Give an example or piece of evidence to support this reason. |  |
| What might someone arguing AGAINST you say is a problem with your choice? |  |
| How might you refute this? |  |

Now that you’ve brainstormed your ideas, put it all together in sentence form as a complete paragraph below:

I think that