A Birthday Poem

I am 75 years old
Going on 76
Lots of things wrong
That I don’t intend to fix

I’ll hobble over here
I’ll hobble over there
But I’ll not hobble to a room
That doesn’t have a chair
CRIME & PUNISHMENT

-OR PERHAPS-

No Punishment at all

It depends on your financial situation

And, Of Course, The Color Of Your Skin

OLLI 2019
Len Harding
The Majestic Neutrality of Law

• In Ohio it is illegal for rich and poor alike
  – To sleep under bridges
  – To defecate in public space
  – To steal foodstuffs from merchants
  – To stand too close to a person while begging
  – To be a vagrant
  – To loiter near sidewalk grates in winter
  – To block traffic during protests

• All persons accused of a crime may post bail to secure their temporary freedom
A Timely Conversation

• Should impeachment be included in a discussion of this sort?
• What about misdeeds involving only money?
• How to punish those whose transgression do not, in fact, have an adverse effect on society?
• What to do about crimes of the past which end up in a distorted present?
• Should violations of morality be punished?
  – Blasphemy, viewing immoral images, advocacy
Crime & Punishment

• In many countries, divorces are held to “make whole” the parties, especially the poorer one
  – Divorce has widely disparate outcomes, even in the U.S.
  – Should we advocate for a uniform divorce code?

• Should abortion be returned to the states?
  – Should some states be allowed to pass religiously inspired abortion bans while others permit abortion?
Crime & Punishment

• Should we continue to have capital crimes?
  – Again, should all states be permitted to set their own rules; especially if the same crime is treated very differently from state to state?
  – Should we expand or restrict capital punishment rules?

• We say no one is above the law, but it is obvious that station in life affects the treatment of malefactors
  – How should this be addressed?
Crime & Punishment

• For the past five decades, our criminal justice system has relied on punishment for reducing crime and recidivism

• Tough-on-crime produced skyrocketing prison populations and the highest incarceration rates in the world

• Retribution or "an eye for an eye" is a perfectly reasonable justification for punishment
  – But it is not good public policy
  – The only utility to retributive sentencing is emotional satisfaction for victims; but it is a hit-of-miss proposition
Crime & Punishment

• Incarcerating an offender does not necessarily eliminate the crime
  – Arresting a drug dealer simply creates a job opening for which there are usually many eager applicants
  – The failure of incapacitation to eliminate crime generally extends to much organized or gang-related offending
Crime & Punishment

• Deterrence theory suggests that threats of punishment or actually experiencing punishment should reduce the likelihood of reoffending.

• Punishment, after all, can and does work
  – Punishment plays a central role in socialization, learning to be civil, social beings.
  – Therein lies the flaw in the thinking—criminal offenders are not like us.
  – Their circumstances and experiences typically differ in fundamental ways from the non-offending population.
Does Punishment Work?

• Studies show that for most individuals convicted of a crime, short to moderate prison sentences may be a deterrent but longer prison terms produce only a limited deterrent effect
  – In addition, the crime prevention benefit falls far short of the social and economic costs
Crime & Punishment

• Gun violence
• Domestic violence
• Terrorism
• Swindlers
  – Internet crime
  – Cross-border crime
• High seas and air travel crimes
• Abuse of lesser creatures
Firearms are the second leading cause of death for American children and teens and the first leading cause of death for Black children and teens.

Nearly 1,700 children and teens die by gun homicide every year. For children under the age of 13, these gun homicides most frequently occur in the home and are often connected to domestic or family violence.

Black children and teens are 14 times more likely than white children and teens of the same age to die by gun homicide.
What is it about guns that makes us so unwilling to address this obvious problem?

We are banning E-cigarettes after fewer that 10 deaths of unfortunate kids

Is death by firing squad more noble than death from an E-cigarette?
Domestic Violence

• On average, 24 people per minute are victims of rape, physical violence or stalking by an intimate partner in the United States — more than 12 million women and men over the course of a year.
Terrorism

• Terrorism is difficult to distinguish from other forms of political violence and violent crime, such as state-based armed conflict, non-state conflict, one-sided violence, hate crime, and homicide
  – Killings perpetrated by non-state actors against civilians, which are not ideological in nature i.e. not motivated by political, economic or social goal, are classified as homicide;
  – Violence perpetrated by non-state actors against civilians, specifically based on ethnicity, sexuality, gender, or disability, without political or social intent to cause widespread fear, is classified as a hate crime;
  – Violence involving open combat between opposing armed forces is classified as state-based armed conflict;
  – Violence perpetrated by governments against civilians is classified as one-sided violence

• Close to 56 million people died in 2017; just over 26,000 of them from terrorism. Every 2000th death – 0.05% – were from terrorism
Swindlers

• Someone who lies to get your money, sometimes by suggesting you invest in something phony
• Ponzi or pyramid schemes:
  – After seeing large profits, the network will continue to grow and the swindler will continue to collect more money and then disappear with the investors’ money
• Affinity fraud: Swindlers often target groups with common interests because people tend to trust others with similar interests as theirs
  – An investment offer that comes from someone who belongs to a known group, association, or religious or ethnic background
• Pump-and-dump scheme: an attempt to inflate prices through recommendations based on false or exaggerated statements
  – More commonly encountered in thinly traded products
  – Swindlers use false news reports, social media and chat rooms to manipulate customers through pump-and-dump schemes
  – Market manipulation is against the law; many end up losing money
High Seas Crime

• Crimes on the high seas may refer to physical crimes such as assault or rape against an individual or crimes against a vessel's crew such as piracy
  – What is admiralty and maritime law?
  – Who is Liable If I am Hurt on an Unseaworthy Vessel?
  – What are the Most Common Injuries on a Cruise Ship and When is the Cruise Ship Company Liable?
  – What responsibilities do Maritime Employers Have to Keep Employees Safe?
  – What Laws Apply to the Safety of Offshore Oil and Gas Rig Workers?
  – Commercial Fishing is One of the Most Dangerous Jobs in America: How does the Law Protect Workers and Their Families?
  – How are cruise ships that depart from U.S. ports regulated?
Day 127: I'm really beginning to worry about Carl.

"If you could eat only one food for the rest of your life, what would it be?"

"I thought they were coming to rescue us but these passengers just got off and said, 'Safe at last!'"

"This has been fun, Hank, but let's not forget that the bus back to the city leaves in fifteen minutes."
Abuse of Lesser Creatures

In animals, we find conscience...

Normally, politicians talk about animals to humanize themselves.

...egotism...

...and even more absurd in absurd times.

...is ultimately their own.
Crime & Punishment

• We have spent $1 trillion on tough on crime and $1 trillion on the war on drugs, and these figures do not include any of the collateral social and economic costs of crime, the costs of criminal victimization, and a variety of other consequences.

• The total price tag, including criminal justice, drug control and the collateral costs, is estimated at $1 trillion per year.
Crime & Punishment

• So, what is our return on investment? What have we achieved with our nearly unilateral focus on punishment?

• There are several ways of looking at it, but perhaps the most direct is recidivism
  – The overall recidivism rate is about 70%, meaning 70% of offenders are rearrested within five years of being released from the criminal justice system
  – It is important to note that recidivism is a conservative measure since it only counts those who have been caught
Crime & Punishment

• Another way of assessing return on investment is to statistically estimate the impact of punishment policy on crime declines.

• Crime in the U.S. dropped dramatically during the late 1990s and has continued a downward trend, producing historically low crime rates today.

• This may be a result of our massive expansion of prisons and jails.
  – However, this is not good news either.
  – The scientific consensus is that between 10% and 15% of the crime decline in the U.S. is attributable to punishment policy.
Crime & Punishment

• That’s a lot of money to spend on what seems to be, at best, a partial solution
  – And this does not address the problems with “for profit” prisons, which require prisoners to provide cheap labor

• How did we get it so wrong? Why is it that something that is so intuitive and logical has failed to effectively reduce criminal behavior?
  – Do we need to rethink our approach to crime

• In short, the answer is YES
Crime & Punishment

• The vast majority of criminal offenders who enter the justice system are disordered
  – About 60% have at least one mental health problem
  – Eighty percent have a substance use disorder
  – Neurodevelopmental and neurocognitive impairments are common

• Between 50 and 60 percent of offenders have had at least one traumatic brain injury, and the relationship between poverty, trauma and neurocognitive impairment is well established

• Comorbidity is quite common, especially the coincidence of substance use disorders and mental health and neurocognitive problems
Crime & Punishment

• The failure to adequately fund public health has resulted in the criminal justice system being the repository for many disordered individuals
  – Since we do little to address and mitigate these disorders in the justice system, offenders often decompensate
  – We release them to essentially no safety net in the community
• There is nothing about prison or jail that makes one mentally healthy
  – Incarceration does nothing to address addiction or substance dependence
  – Punishment does not mitigate neurocognitive impairment or the effects of trauma and exposure to poverty.
• The great irony of the past 50 years of U.S. criminal justice policy is that we could not have intentionally designed and built a better recidivism machine than the one we have