

How to Reduce Crime, with Greg Newburn

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Transcript

Kevin Ring: I'm Kevin Ring, and this is Field Notes. In this episode, I talk to Greg Newburn, the director of criminal justice policy at the Niskanen Center in Washington, DC. Niskanen's a think tank that sits outside the usual political divides and uses evidence to guide smart policy decisions. We talk about why the debate over criminal justice has become so polarized, whether that's actually useful for making people safer, and why he thinks clearance rates, the number of crimes that actually get solved, deserves a lot more attention than it gets.

I think you'll enjoy the conversation.

All right, Greg, thanks for joining us for Field Notes.

Greg Newburn: Thanks for having me.

Kevin Ring: Let's just start big. Tell us what's the Niskanen Center?

Greg Newburn: The Niskanen Center is a 501(c)(3) nonprofit public policy organization otherwise known as a think tank. It's based in Washington, DC. It was founded in 2015, so we just celebrated our 10-year anniversary last year, and we do what basic think tanks do.

We're a public policy shop. We cover a range of different issues from immigration to climate to criminal justice, and we come up with what we consider to be innovative, bipartisan policy solutions to concrete problems that need to be fixed. And we tend to get involved in issues where we feel like the debate has become counterproductive or stale, or where the institutions of left, right have sort of failed to develop the kind of policy solutions that are necessary to solve those problems

Kevin Ring: Well, I've seen it described as the most interesting... Is that was the quote? Interesting think tank

Greg Newburn: The most interesting think tank-

Kevin Ring: Yeah...

Greg Newburn: in Washington. Yeah.

Kevin Ring: Well, so what makes it interesting? I mean, you're trying to solve problems that maybe others, you said, are stale, but it's like, what does that mean?

Just finding middle ground or, like, solutions people haven't thought of? Or like, what, what do you think is the ethos there?

Greg Newburn: Yeah, it's probably a little bit of both, I should say. We don't just run to the middle and say "This is where the solution lies." What we try to do is find solutions that don't offend either side, but are not also working for either team, right?

So we don't start from the premise that, oh, we're gonna be working for the left or the right on this. We look at the problem, we look at what the evidence says about the problem, and then we develop what we think are the solutions to that problem, and we hope that those things are of interest to people on the left and the right.

Because if you start from the premise of problems to be solved and not ideologies to be protected, then people tend to gather around those solutions. And we find that most people across the ideological spectrum are genuinely interested in solving problems. And if you start there and you go to them and say, "You wanna solve this problem.

Here's a good idea to solve that problem, and here's all the evidence for why it should work," left, right, and center people gravitate to that.

Kevin Ring: Yeah. I have a feeling we're gonna end up drilling down more on evidence and ideology But within Niskanen, you run the criminal justice program, and is there a philosophy that you're trying to carry out?

Is there... You know, like, what's motivating? What would people say, "Oh, that sounds like Niskanen"? What is yours?

Greg Newburn: Sure. So when we take stock of the criminal justice system in the United States, what we decided was that it relies far too heavily on what Mark Kleiman would call randomized draconianism, right?

We threaten severe sentences. We rely on really high, long prison sentences to try to deter criminal behavior. But what we don't do is focus on the certainty of punishment. So we're really high on the severity of punishment, but not on the certainty of punishment. But the problem with that is you can't actually impose all of the sentences that you're threatening, and so the result is an equilibrium where the would-be offenders look at the landscape and say, "Well, I can get away with a crime.

I don't care that you're gonna put me in prison for 20 years because you're not gonna catch me to begin with, right? So my, my risk of punishment is so low that I'm going to commit the crime." But the pool of offenders is so big that even a fraction of that, if you catch just a fraction of them and you put them in prison, you get a lot of people in prison.

So right now, when we've been running this system for several decades, the equilibrium in which we find ourselves is high levels of crime and high levels of punishment, which is exactly the opposite of where you wanna be. So our mission

is to move us from an equilibrium of high crime and high punishment to an equilibrium of low crime and low punishment, and the answer, in our opinion, is to improve the certainty of punishment, or more, more strictly, the perceived certainty of punishment among people who are considering committing a crime.

If you can improve the perceived certainty of apprehension, you can change the cost-benefit calculus of that group, and the folks who would be otherwise incentivized to commit a crime because they think they're gonna get away with it will choose not to commit the crime when they think they won't. And so the result of that is all the people who are committing crimes, and we find a fraction and put them in prison, now many, many fewer people are committing the crime in the first place.

So you get the double dividend of less crime and less punishment, right? So by improving the credibility of the threat of the punishment, you can actually reduce the punishment you have to impose. So that's essentially the...

Kevin Ring: Does that require an assumption that people are more rational than they really are?

Like, is that, is it, "Oh, if I think I'm gonna get caught..." I hear you about they discount the punishment, but even the likelihood of getting caught, people act out of, heat of passion, impulsivity, just they're young and stupid does this sort of thinking work, you know, rest on that idea that you can dissuade people who are probably not dissuadable?

Or is that just a small subset of the people, you think?

Greg Newburn: Yeah. So I think it rests in part on the idea that incentives matter for behavior, right? So if it is the case that people do not respond to incentives then the entire deterrence project falls apart. But the empirical literature suggests that at least a large fraction of people who are in this, in the world of committing crimes are deterrable, that they do respond to incentives.

And so the question is: how do you structure the system to respond effectively to the, to how they are actually going to act in real time? And it also, I think, depends on the crime, right? So it's certainly the case that crimes of passion or

crimes that are related to mental illness or, you know, just sort of rage and impulse, those are going to be less deterrable by definition, but I think that's a smaller subset of crime more generally.

So a lot of crime is the result of more rational deliberation and planning, and so that is more deterrable, again, by definition. And then there are some crimes that are not necessarily crimes that you and I might think of, but if someone's on probation, say, and they take, you know, and they're told not to take drugs and they do, well, that's a violation of the probation, and you could be sent back to prison for that.

You can create systems and structures that improve the certainty of a sanction for a violation like that doesn't require wholesale changes to the criminal justice system. It's about finding those behavioral modifications based on general deterrence principles, that we think will pay off with these dividends in public safety.

Kevin Ring: You and I have been working in criminal justice reform for a while, and I think what's unique about Niskanen is for the most part, there feels like there's just these two separate camps. And if you're in the reform camp, you're for less of everything. You're for fewer people being in prison. If they're in there, shorter sentences.

If they're on probation, shorter terms, less conditions, fewer fines and fees. Just less punitiveness. And then we have the people who sort of, I don't know, defenders of the status quo or they're the law and, you know, what do you... tough on crime types, whatever, that are just haven't seen a crime they don't want to punish more severely.

And it feels like that's the binary that exists, and it feels like you guys are swimming against that a little bit. Does that sound right?

Greg Newburn: That's exactly right. And like I was saying, that's exactly the area where Niskanen would want to come in and help reframe the debate. When you fall into these left-right, binary, boring, stale, counterproductive debates, that's where we would want to get involved and say, "You can think about this differently and get to solutions that make everybody's life a little better off and not fight about it so much."

And so you're exactly right. The folks on the left side of the spectrum are looking at half of the problem, and the folks who are on the more punitive on, typically on the right side of the spectrum, are looking at half the problem. And both of those problems are trivially easy to solve. If those are the only parts of the problem you want to solve, right?

It's really easy to decarcerate. If you think the problem with the system is we have too many people in prison, it's trivially easy to solve that problem. You just let more people out of prison. Now, I mean, it's not easy politically or whatever, but as a policy analysis matter, it's very easy.

You just say shorter sentences, send fewer people to prison, more diversion and so on, and you can very quickly reduce the prison population. It's also trivially easy to solve the crime problem. You can just lock everybody up for a really long period of time. Everyone who gets arrested gets a 20-year sentence, and you will very quickly reduce the crime rate to probably not zero, but close to it.

Now, you would be doing that at tremendous cost, both in fiscal terms and in social terms, but you can get it done. That's an easy problem to solve. What becomes much more difficult is if you want to solve both of those problems simultaneously, which if you're doing this in a serious way, that's the way you should approach this, because both crime and punishment are social costs, right?

Crime and the responses to it, the policy responses to it, are costs. Crime creates a tremendous amount of social cost to victims, to society generally. Tens of billions, potentially hundreds of billions, even some estimates take it into the trillions annually in terms of the total cost of crime. And part of this is psychic costs of victimization... and so on. So that has to be taken into account in the calculus. But punishment is also a cost. Millions of people in jail, in prison, millions of people on community supervision, families that are torn apart and broken, the actual, the deprivation of liberty and so on, it's a huge social cost.

And so if you want to solve both of those things simultaneously, and that's where it gets really difficult. If you only focus on half, you're not getting the entire picture. In our view, crime and punishment are two sides of the same coin. You have to solve for both if you want to solve for either, and that's what we're trying to do.

Kevin Ring: Yeah, and I feel like you guys were emerging at a moment where the debate was as stark as it ever been, because we had years of falling crime rates, lots of reform. Then we had the crime spike, 2020, 2021, homicides jump record levels or record increases Post-COVID. And there was, but then there was also the George Floyd murder, and so there was a social justice movement that was...

We got to the point where it was like, well, maybe we don't need police, and maybe we don't need prisons. And so that was a strong pull at that moment. The country was, you know, those were genuine debates. And people can say now, "Oh, no, that we weren't really having those," but it was. People were having that was like, "No, police are actually the bad guys."

"They're causing more harm to the communities." And so it was, that, so into that breach, I felt like you guys came and said, "Okay, no. That, that's-" "... that's not the answer." Yeah. But there, but like you said, both sides have something right on that.

Greg Newburn: You mentioned earlier that a lot of what passes for reform is really just downsizing the system, right?

Mm-hmm. So you define reform as reducing the size and scope of the system, such that if you reduce some part of the system, you are by definition improving it. And I think that that's just a simplistic way of looking...

Kevin Ring: Do you think that's evidence or do you think that's just ideology?

Greg Newburn: I think it's ideology.

I think the, they start from the premise that... And some of these things are just normative assumptions that are built in. If you start from the premise that a lot of what the criminal justice system does is just inherently wrong, it can't do things right because it's just unjust per se, then again, you're going to lead yourself to the view that if you're downsizing that system, if you're reducing the size and scope of the system, you are by definition improving it.

I think that's wrong because I don't think it takes seriously costs and benefits of the system. There are parts of the system that are inefficient and probably should be downsized, and there are parts of the system that should be improved and expanded upon, and they do that in part because it helps the other parts, right?

So you mentioned the sort of abolitionist movement that covered police and prisons, but there's a fairly strong body of evidence that suggests that those things are not complementary, but they're substitutes. Yeah. And so if you... there's some evidence to suggest that the, if you invest heavier in the front end on the policing side, you get deterrence effects that will reduce incarceration on the back end.

That's a much more nuanced view than just we need to reduce everything, right? Because if you, presumably, if that's correct, and you reduce police, then you could potentially have more incarceration.

Kevin Ring: I think it shocks people because Jen Doleac will say, "I think this is our ticket out of mass incarceration."

Greg Newburn: She's 100% right about that. That in some ways is our view too, that if you, if you focus only on the decarceration side, you are risking spikes in crime that will very quickly lead you right back to where you were. We could let everybody out today, a good fraction of them are gonna go right back within just a few years, and now we're right back to where we were.

But if you focus on the crime side, and you deter crime on the front end, again, you reduce the victimization, and you reduce the need to punish the person who has committed that crime. And so if you want to reduce incarceration, you have to focus on crime. You have to focus on the public safety side of things.

You'll never be able to reduce incarceration over the long term unless you get the crime rate under control.

Kevin Ring: But let me steel man the other side then because then your answer may be more on enforcement side and deterrence and the rest. But folks will say, "No, what we need are better schools, better child poverty.

I mean, you know, sort of government poverty programs, things that lift people out, give them hope, give them meaning, and that's the solu- you know, that's the solution. So we actually could do less.

Greg Newburn: I think that's probably correct over the very long term. There's some evidence to suggest that those things are correlated.

However, there's also some evidence to suggest that we don't need to solve all of the big social problems in the world in order to get crime and punishment under control. You really can tweak the system itself and get the outcomes that you're looking for without solving all of the major social, the social problems.

So it would be great to solve for poverty, and it would be great to have improved education outcomes.

Kevin Ring: Does Neaskanen got a plan for that?

Greg Newburn: Yeah, we do, as a matter of fact. Our social policy team is working on it right now. But, I think it's a mistake to argue that we can't improve outcomes now if we don't tackle those big problems.

There's just a lot of evidence that suggests that we can, that there are levers to pull on the crime and punishment side that will deliver better outcomes.

Kevin Ring: Well, let's talk then about actual interventions, 'cause that's... This is sort of your theory of the case. It's a different approach, and it's saying we gotta take crime seriously, which I also think for a reform community, that was a weakness.

It was perceived when you didn't have anything to say or to even acknowledge the high cost of crime, that you didn't care as much as you thought. And then even with police, to me, which is a cultural touchdown, when you acted as if those particular public servants weren't important, that sort of-

that lost your audience a little bit. They stopped following along, and so I think that that's some of the credibility. But I think there's no answer but for having solutions. And so what are some of the things that you have been proposing and pursuing to actually solve these problems?

Greg Newburn: Yeah. So just as an initial matter, I agree that... the reform movement broadly had very little to say about crime for a long time, and that was a source of frustration for me, and it was one of the reasons that I wanted to start this department at Niskanen, was to say, "We're not just giving lip service to crime.

We're not just saying, 'Oh, well, if you really care about safety, you would do all of the [00:18:00] things that we really want, like poverty and education.'" I wanted an actual public safety agenda that could appeal to left, right, and center... that didn't rely on what I considered to be a flawed assumption that if all we do is ratchet up the severity, we'll scare enough people out of crime.

I didn't buy that. I don't think the evidence suggests it, but there was nothing else on offer.

And you weren't convinced we just didn't have a messaging problem?

Oh, yeah. No, no, that was a plague of the entire movement for a long time, that we knew we were right. If we could just message it, then everyone would get it.

But the truth is, we didn't have a public safety agenda. We had a decarceration agenda, we had a reform agenda, but we did not have anything that you could take to someone and say, "This is an affirmative agenda for crime control. It was just stop doing the bad stuff that we have identified. And that just wasn't satisfactory to me.

Like, I wanted to take another step. And so that's one reason we started the program at Niskanen was to get into the evidence, get into the research literature, and say, "If one wanted to have a plausible theory of crime control that was not based on, you know, bluffed threats of severity, what would one do?"

And our theory is essentially that we can improve the system through swift, certain, and fair sanctions and by improving the perceived credibility of punishment. So in terms of actual interventions, there are a handful that immediately come to mind. The first and most salient is our work on clearance rates or solve rates, as some folks call them, the percentage of crimes that lead to arrest or that lead to some form of accountability.

It's very low in the United States.

Kevin Ring: I think people understand that.

Greg Newburn: Right. I think most people think that most crimes that are committed ultimately lead to some arrest or some accountability.

Kevin Ring: Thank you, Law & Order.

Greg Newburn: Yeah, right. Yeah, yeah. You watch CSI, you watch Law & Order, and there's a...

it's a very clear arc. Crime is committed, and by the end of the hour, the suspect is in custody.

Kevin Ring: After a full trial.

Greg Newburn: Yeah. Right. Yeah. Yeah, they're going to prison... right? After one hour. And in the reality, that's not the case in the United States. And the enormous majority of crimes that are committed never lead to an arrest, and that's from home burglaries where maybe 10% are solved and lead to an arrest.

Kevin Ring: And these are for reported crimes.

Greg Newburn: Correct, right, reported crimes. It's a tiny fraction and then there are all the crimes that go unreported in part because someone says, "Well, it's not gonna get solved anyway. What a pain. I don't wanna have the hassle, so I'm not even gonna report it."

And so that's how we know that an enormous fraction of the crimes that are actually committed just never lead to any accountability at all. And again, so think of a home burglary where one out of 10 that are reported actually lead to an arrest. This is a person who's breaking into a home, stealing something from a home, and nine out of 10 times, they're just gonna get away with it scot-free.

And so if you are a person who says, "Maybe I'll break into this window and steal the TV or the laptop," and... why not do it if you know that you're gonna get away with it nine times out of 10? And that's... so you have non-fatal shootings, where the clearance rate is abysmal, it can be as low as 10% in some places.

So nine out of 10 times that someone is shot and not killed, the shooter gets away with it. Even homicide, which is our, probably our highest clearance rate, it's still only about 60% nationally, and it's up a little bit over the last few years. It had gotten down to around 50, where a coin flip's chance of getting away with murder in the US, and even that number builds in some assumptions because, you know, some of the murders are just, they're not whodunits.

It's the husband and he's, you know, he's caught red-handed. But in the Black community, in minority communities, in poor communities, it can be much lower than the 60%. It could be 30, 40, 50%. So in pockets of the United States, you have just rampant criminal impunity, and in that set of circumstances, there's no incentive for someone who might otherwise be deterred not to commit the crime.

And for something like shootings where it might be impulsive, the first shooting might be impulsive, well, the retaliation... is much more planned and deterrable, and that's what you see. Shootings that go unsolved often lead to retaliatory violence that lead to cycles of violence that have to be interrupted at some point.

And so, you know, one shooting might turn into three or four.

Kevin Ring: And so how... So what, what actually fixes this?

Greg Newburn: I think you can improve clearance rates. There's some evidence to suggest that resources matter in terms of investigative outcomes. Caseloads for detectives, when they're too high, it makes it difficult to do the actual detective work, and it takes time.

It takes a lot of effort and resources to canvas a crime scene, to talk to witnesses, to process the evidence, to do, to sit at a video monitor and wait for the blue car to pass at, you know, 11:59 or whenever. Those are resource intensive processes, and a lot of our police departments are under-resourced when it comes to investigative capacity.

Kevin Ring: Yeah, some people will choke on that. They'll say, "We- we've, we're spending more on police than we've ever spent." I mean, that's, you know, right, that's the argument is that that's our knee-jerk reaction also in addition to lengthening sentences is to just spend more on police.

But do you think it's a matter of, like, what we're spending?

Greg Newburn: Partially. I think there's some evidence that American cities are still under-policed... in terms of the cost-benefit analysis of adding police. There's some good work from Aaron Chalfin and Morgan Williams that says adding 10 police officers on average is gonna deter around one murder.

So again, there is some evidence that even major cities are under-policed. So even if you say, "Oh, we spend so much already," that doesn't mean that we're spending the socially optimum amount on police. But I think the incentives are also potentially perverse at the agency level. If there's a crime spike, you want, you know...

And it's not necessarily wrong to put more patrol on the street to get visibility of the officers on the street. They can have a deterrent effect as well just from the, from being out there, but the incentives in response to a short-term crime spike are not necessarily to invest in investigative capacity that won't pay off for years. Right? You wanna be able to show that you're doing something now. And so giving more resources specifically for investigative capacity should improve clearance rates based on the evidence that we have, and our theory of the case is that it's at least worth trying, right? It's at least worth experimenting and evaluating to see whether more resources and better investigative capacity can lead to more, to better outcomes for homicide and non-fatal shooting and violent crime and crime more generally.

Kevin Ring: Doesn't it feel like we should, with all this technology, we should be solving more, right? I mean, it's like with cameras, everybody... you know, it's like you see this all the time now, even when we do solve crimes, it seems like it's because of the technology, street cameras and the rest So we don't have enough of that?

I mean, like, what do you... I mean, is technology part of this?

Greg Newburn: I'm sure it's part, I'm sure it's part of it. I mean, I don't know that for sure. I don't know if there's evidence to say that that's the case. It's intuitively plausible. I think it's probably right, and it may be in part to an explanation for why clearance rates have improved over the last few years.

The murder rates dropped. Yeah. So the caseloads have fallen. You have more cameras. So what could have been a whodunit is a little easier to solve and so on. So I expect that that is, is probably part of the answer. Again, I don't know for sure.

But it's a welcome development, right? Yeah, yeah.

Anything that's gonna help catch a person who otherwise would go to get away with it scot-free is-

Kevin Ring: But then there's things like, then there's things like with DNA, you'll have a three-year wait or two-year wait at the lab because they're so under-resourced.

Greg Newburn: Right. No that's the maddening part of this is when it is a resource problem and it's easy to fix on that dimension, that's a no-brainer. Right? Like, that... if it's a resource issue, there should be no problem at all getting those resources.

Kevin Ring: But you're working in the States, and Niskanen is, and you know that the resources can be a problem.

So is this a matter of resource allocation? Is it like, we need more resources, or do resources have to shift? Do states have to change how they're spending money?

Greg Newburn: I think the social benefits to improving clearance rates, especially for murder and violent crime, are so big that states should want to invest even new money on it.

Because you're not... this is not going to be a situation where this is costly in terms of the social impact. This is almost certainly going to be dollar for dollar a social benefit to invest more heavily in particularly investigative outcomes, right? So, if you're a state and you're saying, "Well, we just don't have any money for this," if you can even deter just a handful of murders, you're probably breaking even, right?

Just a handful of mur- every murder is something like \$8 to \$13 million in social cost, so just deterring a handful of those... you're gonna be better off. So I would argue that you don't need to shift money around, because the problem is so big that it justifies new money. However, if you just say, "Well, there's just absolutely no money.

We cannot do this no matter what the benefits are," it's almost certainly the case that there is inefficient spending in the criminal justice system in your state. And if you were to do a soup to nuts audit of how you're spending the money, it's unquestionable that this is a better use of the marginal dollar than something you're spending on now.

Kevin Ring: And there's whether it's a racial or class dimension to this, not all crimes get the same attention. So that's one thing that's always been so weird to me about the politics of this, is that some, maybe, you know, progressive reform

community types are like, "Don't wanna focus on solving crimes," and yet the communities they're ostensibly speaking for are the ones who are ravaged by crime.

Greg Newburn: Right.

Kevin Ring: And so that's where the impunity exists at its highest level. And that dates back long time in our country, where sort of Black on Black crime wasn't even investigated. There's like no matter. Right. There's no harm there 'cause we didn't view people as equal. But in, right now, people who mean to do, you know, ill will focus on, sort of crime commission rates, but not victimization rates.

And it seems to me that a focus on clearance rates and solving those crimes is gonna do more for communities that really do need help.

Greg Newburn: 100%, and it's actually one of the, the things that motivates me about this. I find it offensive that we tolerate levels of crime and impunity in neighborhoods where the more affluent folks, white communities we would never

tolerate this level of crime and violence and impunity. Never. I mean, we take for granted levels of safety that we deny systematically to entire communities around the country. I find that offensive. And these are the communities who are saying, "We..." They don't want to live among crime and violence.

They don't want their kids to walk by dead bodies on the way to school. They don't want the shooters to just walk around free, willing to harm someone else, and able to harm someone else. It's despicable, and we would not tolerate it anywhere. Except we do tolerate it in neighborhoods all across the country, and we don't need to.

We can fix it, and we just have to have the political will to fix it, and that means taking it seriously on its own terms. Uh, so yeah, it's despicable that we allow entire communities to be routinely victimized, often by the same people, because we aren't willing to go find them and hold them accountable.

Kevin Ring: And then there's this vicious cycle where it's, where so... Well, there's no trust in the police. Well, that works both ways. I mean, you don't trust the police because you don't see that when your friend or cousin gets shot, that they're taking it seriously. And when they hear about some senator's, you know, granddaughter, that the, you know, they move heaven and earth, and the helicopters and drones are all working on that.

So it, it feels like that goes both ways.

Greg Newburn: It, 100% it does, and it's probably more nuanced than even this conversation would allow. But when you talk to detectives and you say, "Why are clearance rates so low in these neighborhoods?" They'll say, "Well, it's really hard to get witnesses to talk to us." And then when you talk to the folks in the neighborhoods and you say, "Why don't you cooperate?"

They'll say, "Oh, well, the police don't care about us anyway, and they're not gonna solve this crime. They don't care about us." You know, and there's no trust and legitimacy built up in the system over time. Our theory of the case is there's a number of ways that you can build trust and legitimacy, but one of those ways is to show those communities that the police do care about them, and one way to do that is to solve those marginal cases that might otherwise go unsolved.

So if you can flood the investigative agencies with resources and just solve just a couple that might have otherwise gone unsolved, you can create a signal that says, "See? We do care about your community. If you help us, we will solve this case." And maybe you do it without building up all the trust and legitimacy, but you signal that you're there to help, and then maybe that is just enough to tip a little bit more trust and legitimacy.

So instead of these vicious cycles of retaliatory violence and impunity and a lack of trust and legitimacy, maybe you can start going the other way and building up the trust and legitimacy. And now, because you solved one, it makes it a little easier to solve the next one and the next one, and then you can cool everything off, and everyone's better off.

Kevin Ring: Well, I think that's the hope now, with crime down as low as it is to now just keep that going, right? 'Cause like you said, it can spiral the other way, but maybe it can go this way. I wanna ask you about another intervention along these lines, which is, like, 24/7 sobriety It's another one that, you know, I think there's evidence for.

I want you to talk about it. But I think it, for certain people, like in the reform community perhaps, it chafes because it feels like we're telling people to do something they don't wanna do, and that always seems a problem. I mean, it feels like a cultural problem now in a, you know, ubiquitous gambling and legal drugs.

It's just sort of like on the left and the right, just sort of a leave us alone.

And so it's like, yeah, this guy maybe has a drinking problem, but this is onerous.

Greg Newburn: Right.

Kevin Ring: Right. And so I think there, I think that is, explains why, like, that's never in a reform community's menu, even though you're trying to stave off more severe punishments.

Greg Newburn: Right.

Kevin Ring: So talk a little bit about that program and how that fits into-

Greg Newburn: So 24/7 Sobriety is a program that was invented in South Dakota any number of years ago, and in response to a really severe problem of repeat DUIs. So you had the same people committing DUIs over and over and over again, and the attorney general in South Dakota just said, "What we have in place is not working."

So he looked to this program in Hawaii, the HOPE Probation program, which was essentially, what we call swift, certain, fair sanctions for people who are on probation. You detect a violation, you try to detect it, all the violations, you punish them immediately, but you punish them with very modest sanctions, maybe 12 hours in jail or 24 hours in jail.

But the idea is you can credibly signal to the person that if you commit a violation, you're going to be punished. Again, we're not gonna put you in jail for six months or ruin your life, but you are going to face some modest sanction, and it's going to happen every time. And so the South Dakota attorney general said, "Let's try that with these guys."

So they, they came up with this program called 24/7 Sobriety, and essentially the idea is if you are a repeat DUI offender, you are required to go physically to a sheriff's office twice a day-

Kevin Ring: That's not nothing...

Greg Newburn: and take a breathalyzer. Yeah. If you pass, then the rest of your life stays exactly the same.

You go to work, you go to school, raise your family, whatever. If you fail, you are placed immediately under arrest, and you're sanctioned immediately for, again, some modest amount of time. The first time these guys go in, a lot of them fail, right? But then the second time, after they've been punished, they say, "Oh, wait a minute.

These guys actually mean what they say, and I will face some sort of sanction here, so I better not have alcohol in my system when I go back and take this breathalyzer." And it's something like 99% of tests come back as a passed because people take it seriously. They understand that if they consume alcohol, they will be punished, and so they don't consume alcohol.

And the upshot of that is you get better compliance and less punishment, right? So if they had violated, you gotta put them in jail or maybe you revoke their probation and you have to send them to prison. But now you get better compliance and you don't have to punish them. And I think some people don't like that system because they assume that if you have an alcohol problem it must be, you know, it's a disease or it's an addiction that can only be done with treatment.

But the truth is there's a lot of evidence to suggest that people with this particular problem can change their behavior if you have the incentives structured correctly, and which is what we've seen in 24/7 Sobriety. And so the program started in South Dakota. It's been now it's in North Dakota, it's in Montana, it's in Washington State.

It's been piloted all over the country. There, there's some work down in Texas to try to expand it down there. So we're working on in the States and at the federal level to try to expand 24/7 Sobriety, 'cause the evidence base is pretty strong that it has significant public safety outcomes.

Kevin Ring: Do you see these sort of evidence-based interventions as a way to cut through the ideology?

I mean, you know, because it, everything else is I don't want this person to suffer that sanction or endure that hardship or be in prison at all, or I don't want them... you know, I mean, it just, it feels like these are more emotions and feelings about justice. This is why this issue is so hard, right?

Because people have an intuitive sense of what keeps us safe.

You don't have a gut feeling about net neutrality.

Greg Newburn: Right. Yeah.

Kevin Ring: But on public safety, it's like you've raised kids or you've been raised, and it's like harshness works or an easy touch works or some sort... you know. And so I think people just have a gut feeling about that.

We know that punishing people is a dopamine hit, so it's like it, it feels good to punish. So people are gonna have different views on that, and I think that's what raises the temperature so much, is it's a very emotional issue, and because of there's lives at stake, it's fraught. But I feel like [00:38:00] evidence is something where you can say, "You can still have that feeling, but if we care about safety, we should follow this path."

Greg Newburn: Right. No, I think that's right. And the evidence is only gonna go so far if you have an ideological-

View of this, first and foremost, and I think that, you know, some people do. Most of the people who we interact with who are elected officials genuinely want to solve the problems that we talk about.

Repeat DUI offenders are dangerous. They, you don't want them on the street. And if you don't follow the evidence about what works and what doesn't, then you are going to have suboptimal outcomes. That means more offenders on the street to potentially hurt your constituents. So there is a genuine interest in wanting to solve problems, but if you start there, it's natural to say, "Okay, well then what works and how do we know?"

I think there's been a tendency over the last decade or so to couch everything in terms of, "Oh, this is evidence-based"- Right, when in reality it's really just a cherry-picked study that confirms the person's priors. And so I think a lot of the work that Arnold Ventures is doing is just critically important to try to separate what is and isn't causally relevant as evidence.

Because when you have that, you can go to folks and say, "We share the view that this ought to be solved. Take a look at this evidence," and you can rely on it because of the methodology, and then you know it works. And at that point, it's really easy to persuade someone that they should try this because they genuinely want to solve the problem, and the evidence is there to show why it does.

Kevin Ring: Is that, I mean, we, again, you guys are working in states. What are you finding is successful to build sort of broad coalitions to support policies? Because sometimes evidence has, can be limited too, because the elected officials are as ideological sometimes as the reform community on both sides. And so they're looking for evidence to confirm their priors too, or they're Republican and they have a certain ideology, and Democrats have an ideology.

And so how do you cut through that?

Greg Newburn: My personal view of this is it all comes down to the solutions that you're offering to solve the problem. If the solution doesn't fit the problem, no one's gonna be interested in it, and I don't think that you can message your way from a bad solution to consensus on it.

I don't think you can fool an elected official into thinking that something that, you know, offends their identity politically is actually in their interest or, "Oh, no, this is really something." It just doesn't work. The solution has to be for the problem they wanna solve. And if you can get there, the rest I think is pretty easy.

I mean, and when we're talking about problems that are not particularly controversial, everyone wants to solve more crimes, right? I mean, if AV's done polling on this, it's an 80/20 issue at a minimum.

People want criminals held accountable. So how do you do that? Well, let's take a look at the evidence, and now let's go do it.

So if the solutions are truly evidence-based and the problems they're designed to solve are truly the ones that the elected official wants to solve, it then it's not that difficult to get the consensus. All the legislation we've worked on at the state level has been bipartisan because these are problems that everybody wants to solve, and we have the evidence to suggest that this is how you do it.

Kevin Ring: What makes you... You've been doing this a while. What makes you optimistic, or what do you, what's coming up for you all? Or, like, what are you thinking about that thinks we can make more improvement here? Like, we can solve this problem. Because it can feel, you know, when the crime [00:42:00] spike, nobody saw that coming.

You know, it was like, "Hey, we're a year away from a crime spike." It happens, and so sometimes it feels like we're just riding this wave. Crime rates are going up and down, and we're just here with tinkering around at the edges with these interventions that may or may not affect that. But so how do you stay- feel like, "No, we're on the right path here and we can do this"?

Greg Newburn: Part of it is I think we really have fundamentally gotten it wrong for a very long time, right? So I mean, a lot of the institutions that we built in the criminal justice system are built on what I would consider to be just a flawed theory of human behavior, that if we can threaten a person with sufficient punishment, no matter how remote, no matter how distant, no matter how unlikely just merely threatening that punishment in a statute somewhere is going to be sufficient to change their behavior. And so we built up all of these institutions.

Like, we over-invest in prisons and under-invest in police, and that's a function of the fact that the theory of the case suggests that if you build this side of the system, we won't need this much, right? Like, who needs police if everyone's scared of the prison, right? If no one's gonna commit crime because they're scared of the sentence, you don't need the police.

Well, that's just not how it's shaken out, right? So we now know after doing this for 40 or 50 years, that we have misallocated the marginal public safety dollar in a meaningful way. And so part of the mission, as I see it, is to just turn the ship around, and it's gonna take a while, but I think there's some indication that we're making headway.

When you make the case that certainty matters more than severity, and you can point to 200 years of theoretical and empirical evidence that confirms that point, people get it, right? I think it does hit them intuitively. Problem is, they haven't [00:44:00] seen that, right? Like, you have seen, "Oh, well, we just need to threaten people, and we just need to punish them, and then they'll change their behavior."

That is the intuition of two or three generations of lawmakers, that that should work. And by the way, that's also intuitive. You do think it should work.

It doesn't. We now know that it doesn't... and that there's a better way, and so we just have to keep making the case that we have to reorient our way of thinking about what criminal justice institutions ought to do, and I think it's working.

I mean, we see things like victim acts or, you know, clearance rate programs in Utah, and authorized in Texas and Arkansas, and we're seeing in Ohio and Michigan, they're... These things are moving in that direction, where if you make the case, you see the light bulb go off, and it's instantaneous. "Oh, it's certainty, not severity."

I get that. Let's go."

Kevin Ring: Right.

Greg Newburn: Right? And that once, once they have that, it's impossible to go back. Once you make the connection that certainty matters more than severity, and it... You truly make the connection intellectually, it's impossible to go back. You almost feel embarrassed that you ever thought otherwise, right?

And so I think that's what we're doing. Yeah. We're moving in that direction. It's gonna take a little while, but I think we're having success.

Kevin Ring: All right. We're gonna end on that high note. Thank you to you and to Niskanen for all that you guys are doing, and I wanna thank our audience for listening or watching, however you are getting this programming, and ask you to subscribe so you can join in future Field Notes.

Thanks very much.