



# Prediction and agency: The role of protective factors in correctional rehabilitation and desistance



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## ABSTRACT

In this paper I present a preliminary theory of protective factors. First, I briefly discuss the concept of protective factors and associated ideas such as *resilience* and *strengths*. Second, I critically examine three recent attempts to conceptualize the role of protective factors in the explanation of offending and desistance, those by Serinet al. (2016), de Vries Robbé (2014), and MacDonald (2016). Third, I weave together concepts from evolutionary biology, psychology, cognitive neuroscience, and metaphysics to develop a tentative theory of protective factors. This theory is based on the core idea that agency is underpinned by the capacities associated with a robust first person perspective, which includes the ability to construct models of actual and possible situations and to use them to predict possible outcomes prior to acting. Fourth, I apply my theoretical ideas to the problem of dynamic risk and protective factors and review their ability to inform treatment and desistance. I also reflect on some of the research and practice implications of my conceptualization of protective factors.

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## 1. Introduction

There has been increasing interest in the predictive and treatment utility of positive factors in forensic and correctional practice in recent years, coinciding with the growth of positive psychology in mental

health (de Vries Robbé, Mann, Maruna, & Thornton, 2015; McNeill, 2006; Serin, Chadwick and Lloyd, 2016; Thornton, 2013). The concept of positive practice has broad scope and extends to ideas such as protection and resilience. In the criminal justice area, research has focused on the incremental value of including protective factors such as autonomy, life goals, parental supervision, emotional competence, and social supports in improving the accuracy of risk prediction measures (de Vries Robbé, de Vogel, Koster, & Bogaerts, 2015; Farrington, 2016). The hope

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is that if we can identify social and psychological processes capable of buffering the effects of adversity and modifying risk elements, then it will be possible to design interventions that reduce the chances of individuals hurting themselves or others later in life. Additionally, it is anticipated that concentrating research attention on protective variables will make it easier to engage people in correctional treatment and help them to successfully desist from further offending. Thus, there has been a renewed attention to approaches oriented around resilience, protection, strengths, and positive psychology.

In general terms, the turn to the positive makes good clinical sense and is to be applauded. What could be more advantageous than to emphasize the valued aspects of offenders' lives and their personal characteristics and aspirations? Certainly, the overlapping nature of punishment and treatment practices in the criminal justice area can overly skew attention to risk elements and may well result in negative views of individuals who have committed offenses (Ward & Salmon, 2009). However, despite the ethical and treatment advantages of orienting practice more towards protective factors in my view there is a down side. There is a danger that researchers, policy makers, and practitioners will fail to sufficiently analyze the concepts associated with this positive turn, and uncritically accept intervention programs guided by these ideas. Unfortunately, failure to question theoretical assumptions is all too common in the criminal justice domain as is evident in the near universal acceptance of the hypothesis that dynamic risk factors can be straightforwardly conceptualized as causes of reoffending. This is despite their conceptual problems of poor specificity, incoherence, vagueness, and their value laden nature (see Ward, 2014, 2016). There are signs that similar problems exist with the concept of protective factors, for example, definitional ambiguities and lack of clarity concerning their status as theoretical concepts in explaining desistance and/or recidivism (Jones, Brown, Robinson, & Frey, 2015; Serin et al., 2016). Moreover, there is a tendency to conflate prediction with explanation, paralleling what has occurred with dynamic risk factors (Ward, 2016; Ward & Beech, 2015). It is unclear whether the idea of "protection" can even be meaningfully applied to individuals who have committed offenses and uncertainty concerning how it is conceptually related to allied terms such as *resilience*, *strengths*, or *promotive* factors. These conceptual and theoretical problems flow onto the practice domain and make it difficult to decide how best to implement interventions intended to augment well-being and reduce reoffending rates. To cut to heart of the matter, I argue that the concept of protective factors is a general label for a number of related but distinct ideas, and in this respect, is not a coherent theoretical construct. I will discuss this issue in greater depth later in the paper and only mention it now to frame my overall argument.

The definitional difficulties, lack of theoretical clarity, and uncertainty about how best to apply the notion of protective factors (and its related ideas) to forensic and correctional practice remain major concerns. Simply refining measures of protective factors and developing psychometric models depicting their mediating and moderating properties is likely to prove a dead-end at this stage. There is little point trying to measure concepts that are theoretically opaque. In my view, one way of advancing the debate is to tread lightly with respect to the definitional issues and concentrate instead on developing a theoretical understanding of how *positive* factors underpin goal directed behavior or actions, including crime. This means developing the concept of protective factors in tandem with a theory about adaptive and maladaptive human action; in essence, depicting their relationship to dynamic risk factors. While I do not agree with theorists who claim that *all* protective factors are simply the reverse of dynamic risk factors, it seems apparent that they are linked in some way to risk factors during correctional treatment and in the desistance process.

First, I briefly discuss the concept of protective factors and associated ideas such as *resilience* and *strengths*. I argue that the term is best construed as a composite construct or a general label for a collection of loosely related ideas. I stick with the general term *protective factors* as

matter of convenience but accept that in truth it refers to a number of conceptually related but distinct ideas. Second, I critically examine three recent attempts to conceptualize the role of protective factors in the explanation of offending and desistance, those by de Vries Robbé (2014), Serin et al. (2016), and MacDonald (2016). Third, I weave together concepts from evolutionary biology, psychology, cognitive neuroscience, and metaphysics to develop a tentative theory of protective factors. This theory is based on the core idea that agency is underpinned by the capacities associated with a robust first person perspective, which includes the ability to construct models of actual and possible situations and to use them to predict possible outcomes prior to acting (Hohwy, 2013; Seligman, Railton, Baumeister, & Sripada, 2016; Suddendorf, 2013). The latter ability in turn, is rooted in human beings evolved ability to utilize causal models to predict immediate perceptual and motor outcomes and more remote future possibilities. In essence, in general terms the mind is best viewed as a *predictive engine*. The ability to function as persons emerges from biological structures and processes; persons are constituted by material stuff in conjunction with social and cultural resources, although they are not identical to them. Fourth, I apply my theoretical ideas to the problem of protective factors and review its ability to inform treatment and desistance. An advantage of seeing persons as being characterized by a reflective first person perspective and its related capacities, is that while it allows for multiple levels of explanation it prioritizes the level of agency and meaning. According to my model, protective factors are best understood as internal and external capacities that enable individuals to realize valued outcomes in prosocial ways. Finally, I conclude with some comments on the research and practice implications of my conceptualization of protective factors.

## 2. Conceptual issues associated with protective factors

Terminology is a significant problem when it comes to discussing protective factors and a number of concepts have been used interchangeably; sometimes as synonyms and on other occasions to make distinctions between types of protective factors. I do not intend to review this literature in any detail as in my view the real action occurs in the use of protective concepts in the explanation of desistance and reoffending rather than in arguments over definitions (for good discussions of these other issues see Jones et al., 2015; MacDonald, 2016; Serin et al., 2016). However, it is necessary to make a few comments about the definitional complexities at this point in the paper.

An obvious area of confusion concerns the use of the term *protective* in the context of forensic and correctional practice. Speaking about the child maltreatment area, Afifi and MacMillan (2011, p. 268) state that: "A protective factor may influence, modify, ameliorate, or alter how a person responds to the adversity that places them at risk for maladaptive outcomes". What is of clinical and research interest in child protection or more generally in mental health, is identifying the attributes that protect people who have experienced stressful events from developing subsequent problems. By way of contrast, de Vries Robbé (2014) defines protective factors in the sex offender domain in the following way: "characteristics of an offender, or alternatively, his or her environment or situation, that reduce the risk of future violent behavior" (p. 26). Broadening the concept of protective factors is conceptually problematic as it makes it harder to distinguish between protective factors (in the narrow sense), maturational effects, therapy induced change, or desistance events (Durrant & Ward, 2015). In other words, the concept becomes so all-encompassing that it is arguably vacuous. In addition, while it makes sense to speak of certain factors protecting or buffering a child from the effects of adverse events it is stretching the concept of protection beyond its limits to refer to the treatment of people who have offended in some way. In this case, members of the community are the ones being protected from individuals who have committed crimes. So a first point is that in forensic and correctional contexts the concept of protection refers to members of the community and

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