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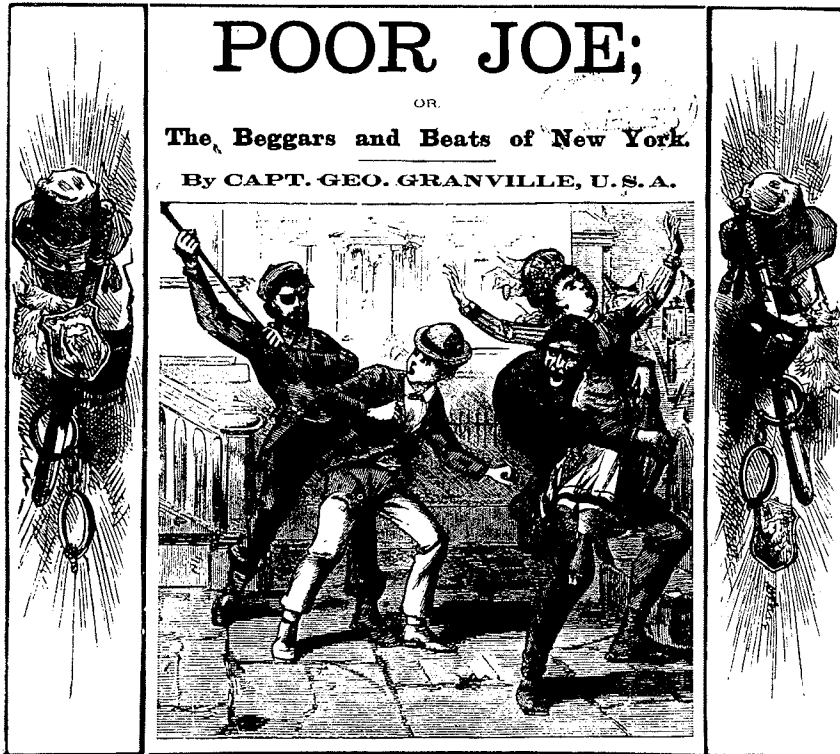
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*When this issue of Detective Library appeared in 1883, the term "mugger" had already replaced "footpad." One hundred years later, the nature of crime has changed less than our thinking about crime. The 19th-century views of Cesare Lombroso—that criminals are born, not made—gave way in the mid-20th century to a critique of society itself. "The underlying causes of crime," former U.S. Attorney General Ramsey Clark wrote in 1970, "will crumble before the forces of social change." Others are doubtful.*

# Crime

Is there a solution to the problem of crime? During the mid-1960s, politicians, police officers, and academic researchers were more confident of the answer than they are today, even as their proposed solutions varied from the harsh to the paternal. Two decades, hundreds of experiments, and billions of dollars later, high rates of crime persist—resistant, it seems, to wars on poverty, tougher sentencing, or serious attempts at offender “rehabilitation.” In *Crime and Public Policy*, to be published in May by the Institute for Contemporary Studies, Harvard’s James Q. Wilson stresses that “we offer no ‘magic bullet’ that will produce safe streets or decent people.” What Wilson and his 10 contributors do offer is some fresh thinking. They also puncture a few strong myths. We draw from their work in the essays that follow on crime trends and types of offenders, on the criminal justice system, and on the relationship of crime to family life.

## TRENDS AND TARGETS

*by Jan M. Chaiken and Marcia R. Chaiken*

Fifty years ago, crime was not regarded by the average urban American as a chronic threat to his family and his property.

The wanton disorder in U.S. cities during the last half of the 19th century had steadily declined. Immigrants, impoverished but more or less peaceable, had occupied once-dangerous hell-holes, places like Buffalo’s Canal Street or Manhattan’s notorious Five Points. There were still areas, of course, in both town and country, that had a deservedly evil reputation. Here there was no lack of pickpocketing, prostitution, or predatory violence. But if one kept away, one was reasonably safe. The most dangerous criminals, and the most professional, might prey on the rich, or on banks, or on each other, but the ordinary city-dweller did not feel he was taking his safety into his own hands every time he walked outside at night, and he did not necessarily lock his door when he did so. When newspaper headlines trumpeted “Crime Wave,” they were referring to warfare among gangsters. On such occasions, the city morgue might fill up, but not with law-abiding friends and relatives.

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Since World War II, all that has changed. Crime, like television, has come into the living room—and into the church, the lobbies of public buildings, the parks, the shopping malls, the bus stations, the airport parking lots, the subways, the schools. In 1981, 25 million American households were touched by crime. Crime and the fear of crime have spread from “traditional” high crime areas into once-serene urban neighborhoods, from the central city to outlying suburbs and towns, and into summer resorts and college campuses. One Florida village, Golden Beach, preyed on by car-borne youths from nearby Miami, recently erected permanent barriers on all but one of the public roads giving access to the community. On the one open road, it installed a metal gate manned by security guards 24 hours a day. “We’re circling the wagons in case of attack,” Golden Beach’s mayor explained. Many Americans have altered their behavior in less drastic ways, but in the big cities, vigilance is often the price of safety—at home and in the streets.

There is little comfort in the knowledge that, when viewed over a long stretch of time, crime rates in the United States (as in the rest of the developed world) have been trending downward for more than a century. The homicide rate in this country in 1960 was *one-fifth* the rate in 1860. In Boston, between 1849 and 1951, crimes that the Federal Bureau of Investigation (FBI) today characterizes as “major” declined by two-thirds. Of course, the descending slope has been marked from time to time by reversals of about a decade’s duration—after the Civil War, for example, and during the 1920s. The most recent eruption has had Americans worried, judging by the polls, since the early days of Lyndon Johnson’s administration, and that fear has not abated. If anything, it has grown.

Thus, the 1981 report of the U.S. Attorney General’s Task Force on Violent Crime—the latest of many such blue-ribbon

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Crimes of theft—personal larceny, household larceny, and household burglary, in that order—are by far the most common types of criminal offenses.

Robbery and burglary are more likely to strike black households than white households, and burglary disproportionately afflicts households with incomes less than \$7,500.



commissions—noted that “millions of our fellow citizens are being held hostage” by an epidemic of crime. The United States, its authors warned, faced a “crisis situation.” In that same year, the Gallup Poll asked: “Is there more crime in [your] area than there was a year ago, or less?” Some 54 percent of the respondents said more, up 11 points since 1977. Only eight percent said less. In 1982, as during the late 1960s and '70s, the large number of “law and order” candidates in state, local, and congressional races demonstrated once again that crime and the fear of crime had yet to lose their salience as campaign issues.

There is no question that Americans are worried about serious crime, and they may well be more worried now than they were a decade ago. Whether they *ought* to be is another matter. Perceptions often lag behind the data. Today, the academic specialists who study crime, while not denying that fear does exist or that a considerable degree of fear is warranted, are taking a more sanguine view of what is happening to actual crime rates. They caution that statistics in general can easily be mishandled, even by well-intentioned users; that crime statistics in general are more flawed than most; and that American statistics, as one

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scholar has lamented, are "the least reliable crime data of all western societies." Most of the scholars contend further that actual crime rates have probably leveled off during the past five or six years, and may even have begun to decline.

### Counting Victims

Since 1932, the FBI has annually published a Uniform Crime Report (UCR), the standard source for U.S. crime statistics. If one reads, for example, that between 1977 and 1981 the murder rate per 100,000 inhabitants climbed by 11 percent, the robbery rate by 22 percent, and the burglary rate by 16 percent, one is looking at UCR data. The chief flaw in the report is that local police departments, which provide the information to the FBI, do not have uniform "recording" practices. An increase in the UCR's count of forcible rapes may mean an increase in the number of actual rapes, or an increase in the number of rapes reported to the police, or an increase in the number of rapes recorded as rapes (rather than, say, as aggravated assault). As Josiah Stamp observed in Britain long ago, "The government are very keen on amassing statistics. They collect, raise them to the nth power, take the cube root and prepare wonderful diagrams. But you must never forget that every one of these figures comes in the first instance from the village watchman, who just puts down what he damn pleases."

Though today's police are more methodical than village watchmen, their reports do skew U.S. crime data. A study conducted in Chicago by statisticians Richard and Becky Block found that during the mid-1970s only 50 percent of noncommercial robbery incidents were reported to the police. Only 73 percent were initially recorded as robberies. And just over a quarter of those incidents were ultimately considered "founded" (i.e., to have been crimes actually committed) by the police and were reported to the FBI as robberies.

Theoretically, a change in the reporting habits of local citizens and police could prompt a 350 percent increase in the robbery rate in Chicago without another person being mugged. And those habits do change. For example, more and more burglaries are being reported as more people buy insurance against theft. This is because insurance companies require a report to the police before they will cover the loss.

Partly to overcome such problems of reporting, the U.S. Justice Department launched a National Crime Survey in 1973. Every six months, some 132,000 individuals in 66,000 households are interviewed. "Crime histories" are taken, the results

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tabulated, the final figures extrapolated to the nation as a whole. There are obvious technical reasons why the "victimization survey" and the UCR are not directly comparable in terms of volume, but the casual reader might expect that, though specific rates for specific crimes would vary, the basic *trends* in crime rates would at least be parallel. This, however, is not always the case.

Thus, in the period from 1974 to 1978, the National Crime Survey's victimization rate for aggravated assault declined by 6.7 percent, while the UCR showed an increase of 13.5 percent. The survey's victimization rate for forcible rape declined by one percent, while the rate reported in the UCR increased by 11 percent. Both sources did agree that the rates for auto theft and burglary had declined.

### No Epidemic

The situation, in sum, is slightly confusing, but there is no way to look at the data and find evidence of a worsening "epidemic" of crime. Indeed, the latest UCR figures released by the Justice Department show a five percent drop in the number of "serious" crimes (e.g., murders, robberies, rapes) reported during the first half of 1982 over the corresponding period of 1981. No one doubts, of course, that crime is extensive in the United States. Scholars agree that, during the 1960s and early 1970s, the United States *did* experience a sharp rise in the incidence of all types of criminal activity—as did Canada, New Zealand, Australia, Great Britain, Sweden, and most of the rest of the industrialized world. The increase in reported crime during these years was simply too great to be explained away by "better reporting" or statistical flukes. The fact remains, however, that one can assess all of this criminal activity only imperfectly.

Given the soggy nature of the numbers, how can specialists argue with any assurance that crime rates may have leveled off? The answer is that, while the Uniform Crime Report is an inadequate barometer of what is happening in the country *as a whole*, we can elicit important information by comparing its component parts. For example, the difference between crime rates in rural areas and in urban areas is so great and shows up in so many data sources that we can be sure that the difference is not just a fluke. The same goes for crimes committed by adults versus crimes by juveniles, crimes by whites versus crimes by blacks. Once we know this, we can deduce a lot more.

*Urbanization:* Big cities, not surprisingly, have substantially higher crime rates than smaller cities, which in turn have

### THE SOCIAL AND FINANCIAL COSTS OF CRIME

The "multiplier effect" of government spending is a commonplace notion in economics; it is also useful in considering the social and economic impact of crime.

Where property crimes are concerned, the cost of any criminal "transaction" may drain the resources not only of the intended target but of insurance companies, credit card companies, police departments, and court systems; a full reckoning of the cost would have to include such things as repair bills for windows and doors and the price of new locks. Where crimes against people are involved, the price paid in fear is never confined solely to the victim.

According to the 1980 *Figgie Report on the Fear of Crime*, 41 percent of Americans surveyed evinced a "high" or "very high" fear of becoming a victim of violent crime, more than 80 times the proportion who will actually be so victimized in any given year. Women are more frightened than men, older people more than younger people, blacks more than whites. Yet relative degrees of fear do not necessarily reflect actual victimization. While blacks do suffer disproportionately from most crimes, women (except for rape) and the elderly (except for purse-snatching) have substantially lower-than-average victimization rates.

Fear exacts not only an emotional toll but a toll in freedom, in money—and, ultimately, in more crime. More than 50 percent of Americans surveyed in the *Figgie Report* say that they now dress more plainly than they once did to avoid attracting attention. Nine out of 10 do not open their doors unless the caller identifies himself. FBI Director William Webster recently cited cases of mothers routinely giving young children pocket money so that they might have something to give up if threatened. According to *Insurance Magazine*, individuals paid \$127 million in premiums for insurance against burglary, robbery, and theft in 1977. One-half of all adult Americans are believed to own handguns.

In the nation's urban areas, the growing dispersion of crime since the 1950s has added to whites' fears of blacks, especially young black males who as a group commit a disproportionate share of mayhem. A 1982 Justice Department study of eight Chicago neighborhoods found that those homeowners (of both races) whose fear of crime was the greatest also believed that their neighborhoods were becoming increasingly black—even when this was not the case. Fear has prompted middle-class blacks and whites alike to flee to the suburbs, leaving the black "underclass" behind to dominate once-tranquil neighborhoods.

Survey data reveal that the public believes too little is being spent on combating crime. Yet state, local, and federal spending on criminal justice cost taxpayers \$26 billion in 1979, a 147 percent increase over 1970. Total government spending rose by only 109 percent dur-

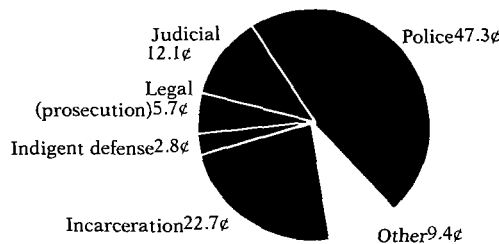
ing the same period. Local police forces absorbed about half of that sum (see chart), but their efforts are not sufficient. Thus, spending on alternative crime prevention services has also been on the rise. Detective agencies along with companies providing uniformed security guards to office buildings, warehouses, and shops reported a revenue increase of 84 percent between 1972 and 1977 alone.

The cost of trying to prevent or punish criminal activity is dwarfed by the impact of the activity itself. The most lucrative form of crime—white-collar crime—also happens to be the least feared, yet the American Management Association in 1977 estimated the cost of white-collar thefts such as fraud and computer crime to be \$44 billion annually. While bank robbers grabbed \$22 million during the first six months of 1980, bank *embezzlers* pilfered upwards of \$103 million. Drug trafficking holds the No. 2 spot. The illicit drug trade is now thought to be a \$30-billion-a-year industry, and it is the main reason why Florida, a major drug entry point, contains six of the nation's 10 most crime-ridden cities—Miami, Gainesville, West Palm Beach, Orlando, Fort Lauderdale, and Daytona Beach. Across America, motor vehicle theft and burglary each netted about \$3.5 billion in 1981; larceny, \$2.4 billion; and robbery, \$382 million.

While crime is commonly characterized as a purely parasitic enterprise, the relationship between offenders and the larger community of law-abiding citizens is in many respects complementary. So entrenched has criminality become in the United States that many legitimate social and economic activities, and not a few jobs, depend on it. Nearly 100,000 people work in state prisons and other detention facilities. Some 440,000 men and women earn their living as police officers, and almost 1.4 million work as private security guards (often part-time). One must not leave out judges, probation

officers, attendants in hospital emergency rooms, locksmiths, lawyers, police reporters—and, of course, academic experts. The number of colleges and universities offering B.A.s in criminal justice rose from 39 in 1967 to 376 in 1977. The 1983 edition of *Books in Print* offers 17 small-type pages of works on crime-related themes, three pages more than are devoted to sex.

**HOW THE CRIMINAL JUSTICE DOLLAR WAS SPENT IN 1978**



Source: *Expenditure and Employment Data for the Criminal Justice System* (1981), U.S. Department of Justice, Bureau of Justice Statistics.



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higher rates than rural areas. In 1981, there were more than 322 robberies per 100,000 inhabitants in large metropolitan areas, more than 60 in other cities, and fewer than 21 in rural counties. The pattern is strongest for property crimes, but it holds for all types of crime except homicide (where rural counties have a higher rate than small cities). The higher the proportion of the nation's population living in big cities, then, the higher the rate of crime nationwide.

One of the major demographic turnabouts of the 1970s was the steady depopulation of major American cities—in no small measure due to fear of crime. Many Americans are finding that smaller cities and towns are more “livable.” The semirural public schools are better—and far less dangerous. There is a feeling of neighborliness and “community.” Since 1950, the share of the nation's total population inhabiting the 32 largest U.S. cities has declined from 20 to 14.4 percent. “Will this deconcentration continue?” ask William P. Butz and his colleagues in a recent Rand Corporation study. “No one really knows, but, on balance, the evidence suggests that it will.” If the Rand study is right, a clear implication is that, all other factors held constant, the national crime rate will decrease in the years ahead.

### Age and Race

*Age of Population:* Most crimes are committed by young people, usually males, under the age of 20. As Northwestern University sociologist Wesley Skogan notes, “crime is a young man's game.” It is therefore tempting to blame the sharp increase in reported crime that began during the 1960s on the “coming of age” of the postwar baby-boom generation.

The truth may not be quite so straightforward. The 1967 report of President Lyndon Johnson's Commission on Law Enforcement and Administration of Justice puzzled over the fact that the rise in reported crimes was substantially larger than the growth in the size of the crime-prone age groups in the U.S. population. The authors of the report showed, for example, that if the arrest rate for teenagers had been the same in 1965 as it was in 1960, the total number of teenager arrests in 1965 would have come to 536,000. The actual figure was 646,000.

What this really shows, however, is that changes in the crime rate cannot be simplistically explained by isolating one variable or another. Yet, a correlation between rising crime and a rising proportion of young people in the population is too clear to be dismissed. Moreover, mathematical models incorporating rather basic demographic information have, as we shall see,

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proved to be highly accurate in predicting future crime-rate trends. Suffice it to say that the current decline in the teenage population probably portends (other factors again held constant) a decline in the crime rate as a whole.

*Race:* Virtually all recent scholarly studies, regardless of locale or time period, show that arrest rates of blacks for almost every offense are considerably higher than those for whites. (Some exceptions: liquor-law violations, vandalism, running away from home.) Victimization surveys and victims' descriptions of those who "got away" tell the same story. At the neighborhood level, the volume of crime is strongly correlated with the size of the local black population. The reasons for this link are many and complex, and they have less to do with race per se—or racism—than with the conditions in which millions of young blacks are growing up: in poverty, in broken homes, in decaying schools. Such circumstances are "criminogenic" for all groups in the population. The fact remains, as Skogan has remarked, that "the fear of crime and concerns about race have become virtually indistinguishable in the minds of many whites."

### Looking Ahead

The relationship of race coupled with age to overall crime rates is so overpowering that Northeastern University criminologist James Alan Fox was able to project crime rates into the future with a model that employed only three "exogenous" variables. These were (a) the percent of population that is nonwhite and age 14 to 17, (b) the percent of population that is nonwhite and age 18 to 21; and (c) the Consumer Price Index.

Fox's model is not really all that simple. In constructing it, he employed other pertinent data, such as previous local crime rates and the size of area police forces. But the three variables highlighted above are important because they are the only factors that have to be estimated for the future in order to make forecasts.

The accuracy of the Fox model has been high. Thus, Fox estimated that the increase in the UCR violent crime rate in cities between 1972 and 1978 would be between 36.7 and 39.7 percent. The actual figure occupied the middle ground almost exactly: 38.5 percent. He predicted an urban violent crime rate for 1980 of between 735.9 and 752.4 crimes per 100,000 population. The actual figure: 745.9. Fox's extended forecast shows the violent crime rate beginning to decline in the early 1980s (as, apparently, it has already begun to do) and reaching in 1992 a new

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low about 19 percent below its current level.

If Fox's analysis is correct, then a great deal will be owed to the so-called "baby bust," the precipitous decline of fertility—among both blacks and whites (although the decrease has been considerably larger among whites)—from the postwar peak of 3.8 children per woman during the late 1950s to fewer than 1.8 in 1976, the lowest recorded level in American history.

### Equal Opportunity

Not everyone agrees that the long-range forecast is favorable, however. As University of Texas sociologist Lawrence E. Cohen has noted, whatever the demographic portents may be, two factors will continue to encourage criminal activity. First, the increase in lightweight durable goods since World War II—televisions, radios, stereos, microwave ovens, video cassette recorders—has vastly increased the number of suitable targets for theft.\* Second, a change in the pattern of family life—largely the result of an influx of women into the work force—means that more homes are being left empty for longer periods of time. Women today also have more opportunity to commit crimes. Since 1953, their arrest rates have shot up by 2,600 percent for larceny and 2,700 percent for fraud and embezzlement—far higher than the corresponding increases for men.

Then, too, there is the inescapable matter of biology. The period between physical maturity and social maturity has been noted throughout history as a troublesome interval. In the words of the Shepherd in Shakespeare's *The Winter's Tale*, "I would there were no age between ten and three-and-twenty . . . for there is nothing in the between but getting wenches with child, wronging the ancients, stealing, fighting." During the past few decades, children's improved nutrition and health have contributed to sexual maturation at relatively young ages. In the 1970s the onset of puberty for American boys occurred as early as 9.7 years of age. Meanwhile, American youths have been required to stay longer and longer in school, delaying their entry into the labor market and the discipline of a job. In sum, youngsters are spending twice as long in adolescence, with all that this entails, as they once did.

One of the more frustrating conclusions one might be tempted to draw from what we have said thus far is that the fluctuation in crime rates seems to depend on phenomena be-

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\*In devising a model for predicting burglary rates, one of the variables Cohen included was the diminishing weight over time of the TV sets advertised in the Sears Roebuck catalog. The lightest television set available in 1960 weighed 38 pounds (versus 15 pounds in 1970).

*Lurid coverage of sensational local crimes—such as the 1976–77 New York murder spree of David (“Son of Sam”) Berkowitz—often finds a national audience, raising fears even in relatively trouble-free communities. On local TV news, crime gets twice as much attention as local government gets.*



yond the control of those who make and enforce the laws. There is little anyone can do, in a democratic regime, to shape the age structure of the population to one's liking, to ensure that one parent is always at home (or that each child lives with two parents), or to further disperse large urban populations. While we know that crime increases during spells of good weather and decreases during bad, state legislatures remain unable to control the climate. Crime, it might appear, is at the mercy of broad, uncontrollable forces, even as many Americans are at the mercy of criminals.

To some degree, that conclusion is valid, but it is perhaps not entirely so. Consider the kind of misbehavior of which the average American is really afraid. It is certainly not “white-collar” crime, even though this is the most financially costly kind. It is not organized crime, which deals in gambling, drugs, and other illegal commerce. It is not car theft or prostitution or shoplifting. It is *predatory* crime: the muggings on a quiet street, the repeated burglaries, the senseless, unforeseen assaults like one that occurred in New York City last year: a young lawyer, walking with a girlfriend in Riverside Park, beaten and stabbed to death by three teenagers, then robbed. Detectives called it “random murder.”

There are many types of criminals with differing propensities, but the so-called *violent predators* account for a disproportionate though not precisely quantifiable amount of all criminal

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activity. If there were some way of identifying these people early in their careers, we might have a valuable tool for minimizing the worst kinds of mayhem. So far, however, scholars have had better luck describing those we know to be violent predators than in predicting, from among a group of offenders, which ones are likely to join that category.

### Tracking Them Down

In a recent study of 2,200 inmates at jails and prisons in California, Texas, and Michigan, we classified offenders according to the combinations of crime they had committed. The violent predators, the most dangerous category, were those who had committed at the minimum robbery, assault, and drug dealing; usually they had committed burglary, theft, and other crimes as well. We applied the term not to those who had merely committed each of these crimes at some point in their lives, perhaps at widely spaced intervals, but to those for whom such offenses were part of their annual repertoire. They were the most accomplished and versatile criminals. And they were busy.

Thus, the worst 10 percent of violent predators committed more than 135 robberies per year, 250 percent more than those who were exclusively robbers. Other "worst tenth" figures are: 18 assaults per year, five times more than for mere assaulters; 516 burglaries per year, three times as many as for burglars who do not commit robbery; and 4,088 drug deals per year, higher than for those who "specialized" in that crime.

Who are the violent predators?

We found that they typically begin committing crimes, especially violent crimes, before age 16. They are more likely than other offenders to have received parole and had parole revoked, and to have spent considerable time in state juvenile institutions. They are also more socially unstable than other types of criminals. Few of them are married or have any other kind of family obligations. They are employed irregularly and have trouble holding jobs. They also have characteristic histories of drug use. Most of them began using several types of "hard" drugs, and using them heavily, as juveniles. Although they are more likely than other offenders to have high-quantity, high-cost heroin addiction, their most distinctive trait is *multiple* drug use—heroin with barbiturates, heroin with amphetamines, barbiturates with alcohol, barbiturates with amphetamines, amphetamines with alcohol.

One might think, given this information, that violent predators would be rather easy to identify from their official criminal

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records. In fact, they are not. An immediate problem is their youth (most are 23 or under). Because they are so young, their *adult* criminal records may not reveal a sufficient array of activity. Indeed, 91 percent of those we identified as violent predators did not have prior conviction records for robbery, assault, and drug dealing. (We learned what we did about them from "self-reports.") Many of the violent predators we surveyed did not have official *juvenile* criminal records. In some cases, juvenile records do exist, but varying degrees of confidentiality, depending on the jurisdiction, envelop these records, the idea being that juveniles should not be stigmatized for life by youthful misbehavior. For this and other reasons (including bureaucratic sloth), juvenile records are often unavailable to judges and prosecutors. That fact was driven home to much of the public by the widely reported 1976 Timmons case. Ronald Timmons, 19, arrested in New York for beating and robbing an 82-year-old woman, was released on \$500 bail by a judge who was unaware that Timmons had appeared in juvenile court 67 times and was suspected of murdering a 92-year-old man.

Needless to say, if the task of a priori identification remains elusive, so do the answers to some important questions. What triggers the flurry of crimes by the novice predator? Will prison cut short or merely postpone his criminal career? Is incarceration itself criminogenic for less serious offenders? These are not questions that should interest only scholars. They have an impact on our daily lives.

The fact remains that a relatively small number of potentially identifiable criminals are responsible for a large volume of crime. The chief task of law enforcement must be to deal with them as best it can. It is heartening to note that police, prosecutors, and judges have picked up on the implications of the research that is being done—research that in some respects simply confirms their instincts. While the task of accurate, "fail-safe" identification continues to frustrate researchers, it may be that law enforcement officials, combining what scholars have learned with an intuition gained from years "on the street," will be able to improve their crime-fighting performance. The evidence suggests that they are at least beginning to do so.

## COPING WITH JUSTICE

In 1922, Roscoe Pound and Felix Frankfurter urged that the criminal justice system be judged not "by the occasional dramatic case but by its normal humdrum operations."

The American public has generally ignored this advice.

In their choice of television shows, tabloid newspapers, popular fiction, and political rhetoric, Americans are drawn to the most fanciful, gruesome, bizarre, or self-serving portrayals of criminal justice. Public attention goes to the Juan Coronas, the Gary Gilmores, the Patricia Hearsts. Parole becomes the subject of a TV network news item, it seems, only when someone like Charles Manson comes up for it. It took an attempted presidential assassination to get the "insanity defense" into the headlines. President Reagan himself appears to be partial to "horror stories." Complaining that felons too often escape punishment as a result of legal technicalities, he recently cited a bizarre Florida case where a drug conviction was thrown out because the search warrant authorizing police to inspect a couple's home did not extend to the baby's diapers, where the illicit cache was found.

Thus, the dramatic regularly elbows aside the routine. What actually happens between the time a typical criminal suspect is arrested by police and the time he or she enters prison or returns to the streets remains widely misunderstood. Justice can be as unpleasant in its gritty details as it is ennobling in its virtuous abstraction. But Americans avert their eyes from the criminal justice system at their own peril. If crime deserves punishment, if the public deserves protection, and if all citizens deserve due process, then what happens from arrest to incarceration (or release) deserves close attention.

"You have the right to remain silent." So begins the Miranda warning, read by arresting officers to criminal suspects. First required by Chief Justice Earl Warren's Supreme Court in 1966, the warning has become second nature to a generation of police officers. Contrary to what some critics of the Warren Court claim, the Miranda warning does nothing to protect criminals unduly. Ernesto Miranda himself, an Arizona drifter convicted of rape and kidnapping, won only the right to a new trial after the court ruled that police officers had failed to inform him of his rights. He did not go free. He was re-tried, convicted, and returned to jail.

For both law enforcement officials and the accused, bail is a

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major concern soon after arrest. Originating in England more than a thousand years ago, the bail system attempted to guarantee appearance at trial by requiring a money deposit for release from jail until judgment had been handed down. Then, as now, bail also served as a means to keep crime-prone suspects in custody before trial. Under the current system, however, many of those who are jailed before trial should not be and many of those who are not, should be.

To the suspect, posting bail means freedom. Most of those arrested do manage to find the cash amount set by the court. The bail bondsman, a fixture in poor urban neighborhoods, will post bail quickly for suspects. His fee is a flat, nonrefundable 10 percent of the bail amount. (In New York City in 1973, 40 percent of defendants were required to post more than \$1,000.) Contrary to public opinion, this system works, at least in getting suspects to appear for court proceedings. A 1976 survey of courts in 20 U.S. cities conducted by criminologist Wayne Thomas found that only five percent of the accused failed to show.

### Two Reforms

Those suspects, however, who cannot post bail remain in custody regardless of the seriousness of their offenses. The U.S. Justice Department estimated in 1978 that 60,000 people—nearly 40 percent of all prisoners in local detention facilities—were simply awaiting trial. Studies show that these defendants face a triple disadvantage: more convictions, more prison terms, and longer prison terms than those who make bail. Confined in prison, they are not, as Steven R. Schlesinger, Acting Director of the U.S. Bureau of Justice Statistics, explains, “completely free to aid in the preparation of their own defense, to locate evidence, assist their attorneys, and hold a job (both to earn money to pay counsel and to prove reliability at their trials).” Bail, in short, discriminates against the poor.

As a crime *prevention* measure, moreover, bail is in large measure ineffective. One suspect in six out on bail, according to a recent study, returns, not to face trial, but to face new charges (and one-third of these are rearrested more than once). The alternative is no more acceptable: Detaining all likely repeat offenders would jam already-crowded jails. And in all probability, many suspects who would *not* commit another crime if released, and who *would* show up for trial, would be penalized.

Whatever its defects, the original U.S. bail system remained largely unchanged from 1789, when the Judiciary Act created the federal bail system, until the passage of the Bail Reform Act



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of 1966. The 1966 Act established and encouraged nonfinancial conditions for release such as release on recognizance (ROR). It also assumed that pretrial release decisions would be based on the likelihood of an individual's appearance at trial rather than on the danger presented by his freedom. In 1970, however, Congress empowered the Washington, D.C., Superior Court to detain without bail any suspect whose alleged crime and prior record indicated that he was dangerous to the community. As is usually the case in law enforcement, state and local law, under which the vast majority of offenders are processed, has gradually followed the lead of the federal government. Public debate in the last 15 years has centered on the use of ROR programs and preventive detention.

### Screening Suspects

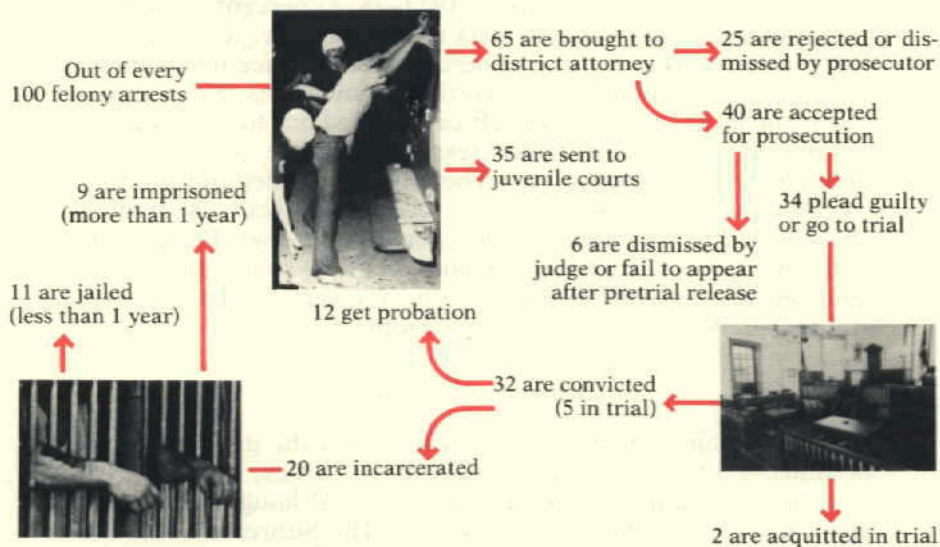
ROR programs rely on actuarial tables based on factors such as the suspect's community and family ties, his prior record, and his employment history to estimate the chance of his returning for trial. Prisoners judged as low risks are released. Having proven as effective as traditional bail programs—Manhattan served as the first laboratory—ROR has been adopted by 120 cities. Among its advantages: It is less expensive than jailing suspects; it operates more quickly than the bail system; and it does not discriminate against the poor.

Preventive detention is more controversial, since it amounts to imprisonment before conviction. (Contrary to popular belief, the right of a defendant to be "presumed innocent" applies only to the trial; were it otherwise, no arrests would be made in the first place.) Nine states now permit their courts to consider a potential threat to community safety in decisions to grant bail. In 1981, the Reagan administration proposed that preventive detention be allowed in federal cases. What makes preventive detention attractive is that it would keep the most dangerous recidivists off the streets while perhaps helping to reduce the fear of crime in the local community. In 1982, Arizona voters ap-

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*This essay has been adapted from chapters of Crime and Public Policy (Copyright © 1983 by the Institute for Contemporary Studies) written by Steven R. Schlesinger, Acting Director of the U.S. Bureau of Justice Statistics (criminal procedure), Brian Forst of INSLAW, Inc. (prosecution and sentencing), Daniel Glaser of the University of Southern California (the supervision of offenders outside of prison), Alfred Blumstein, J. Erik Jonsson Professor of Urban Systems and Operations Research at Carnegie-Mellon University (prison populations and capacity), and Peter W. Greenwood of the Rand Corporation (the effects of incapacitation).*

### AFTER THE ARREST: DISPOSING OF CASES



Source: INSLAW, Inc.; U.S. Department of Justice.

*Not shown above: recidivism. A study conducted in Oregon reveals that, of every 100 persons arrested in a given year, 35 will be arrested again at least once within three years, 17 at least twice.*

proved a referendum that would deny bail to any suspect "found to pose a danger to society." In its major legal test so far, *U.S. v. Edwards*, preventive detention was ruled constitutional in 1981 by the D.C. Court of Appeals, a decision the U.S. Supreme Court declined to review.

While defendants are worrying about posting bail, prosecutors are deciding which cases they want to pursue. Each attorney in a typical big-city prosecutor's office must decide how to dispose of about 100 felony cases per year. Obviously, a prosecutor cannot give Watergate-level attention to every third-rate burglary. Even the toughest prosecutor will free more suspected criminals than the most lenient judge. As Brian Forst of INSLAW, Inc. (formerly the Institute for Law and Social Research) has written, "about 40 percent of [adult] felony cases are either rejected outright at the initial screening stage or dropped by the prosecutor soon afterward." Prosecutors say that most often it is lack of evidence—weapons, stolen goods, eyewitness accounts—that forces them to abandon cases. This lache of evi-

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dence results more from poor police work than from a criminal's skills. In seven U.S. cities during 1977-78, 22 percent of the local police officers who made arrests made not a single arrest that led to a conviction. A mere 12 percent of the policemen were responsible for *one-half* of all criminal convictions. Not surprisingly, the most "productive" officers turned out to be especially persistent about finding witnesses and more conscientious about follow-up investigation. They worked harder and smarter.

The second most common reason prosecutors dismiss charges is that the offense is not worth the bother. Prosecutors will sometimes divert less serious offenders into programs of counseling, restitution, or community service. In most instances, "trivial offense" cases are dropped outright.

### Search and Seizure

The "exclusionary rule," which forbids the use of illegally obtained evidence in court, is said by its critics, including the President, to hamper prosecution greatly. Although the controversy is growing, the issue is not new. The Supreme Court imposed the rule on federal courts in 1886 and on state courts for many crimes in 1961. Its chief purpose is to deter police misconduct, but most of the evidence suggests that it fails to achieve this goal. For one thing, the impact of the rule falls more directly on prosecutors than on individual police officers (whose performance is usually judged by the number of arrests they make, not by the convictions that follow). Meanwhile, the exclusionary rule impedes the truth-finding function of the courts, fails to distinguish between flagrant and "good faith" errors by a police officer, benefits only the guilty, and undermines public respect for the judicial system.

Supporters of the exclusionary rule note that, in the nation as a whole, prosecutors drop only about one percent of all felony and serious misdemeanor cases a year because of the Fourth Amendment "search and seizure" procedural requirements. Yet, as Schlesinger points out, that one percent still amounts to 55,000-60,000 cases.\* He adds that "if the exclusionary rule is

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\*For a good overview of the subject, see *The Effects of the Exclusionary Rule: A Study in California*, U.S. Department of Justice, 1982. Regardless of the number of cases actually dropped, the suppression hearings and appellate litigation made necessary by the rule are a major drain on the courts' time. A 1979 General Accounting Office study of 42 of the 95 U.S. Attorneys' offices in the country found that "thirty-three percent of the defendants who went to trial filed Fourth Amendment suppression motions." According to the report, the exclusionary rule was the single most important issue arising most frequently in federal criminal trials. At the appellate level in 1979-81, more than 22 percent of the criminal cases reaching the U.S. Court of Appeals of the District of Columbia required a decision as to whether evidence should be excluded.

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misguided, then the release of even one convictable person is one release too many." The Supreme Court in late 1982 agreed to reconsider the exclusionary rule in its 1983 term, even as new proposals were being floated by Schlesinger and others to curb police misbehavior by making officers *as individuals* subject to disciplinary proceedings and liable for damages.

### Copping a Plea

Courtroom drama rarely interrupts the peristaltic advance of a case through the criminal justice system. The television triumphs of Perry Mason notwithstanding, only about seven percent of all felony suspects have their guilt or innocence established by the clash of opposing lawyers and the judgment of a jury or judge.

When prosecutors decide that the nature of the evidence and the offense *does* warrant pressing on, nine out of 10 times they win a conviction by plea bargaining. So routine are these negotiations that they may take no more than five to 10 minutes to complete in a prosecutor's office or a judge's chambers. The form of the bargain is always the same: In return for relaxed prosecution, the defendant does not contest the charges. The substance of these agreements varies widely. As one Assistant U.S. Attorney told sociologists John Hagan and Ilene Bernstein, "We'll let [the felony suspect] plead to a misdemeanor and won't prosecute . . . all the way . . . to charging him with exactly what he did and saying nice things about him at sentencing."

Like most other aspects of the criminal justice system, plea bargaining has drawn intense criticism in recent years. Defense lawyer Seymour Wishman has charged that plea bargaining "often hides the incompetence or unlawful behavior of law enforcement officials or conceals the preferential treatment of defendants." The National Advisory Commission on Criminal Justice Standards and Goals recommended in 1973 that plea bargaining be abolished. Alaska, El Paso, Philadelphia, and other jurisdictions have experimented with doing just that. Yet few deny that plea bargaining will persist.

There are several reasons for its durability. It is time honored if not venerable. During the 1920s, political scientist Raymond Moley, later an adviser to President Franklin Roosevelt, studied the American criminal justice system and found plea bargaining already both pervasive and entrenched. And plea bargaining is quick and cheap. California's Judicial Council found in 1974 that a jury trial in the state consumed an average of 24 hours of court time at a cost of more than \$3,000; a guilty

### POLICE: THE THIN BLUE LINE

Television's police dramas typically feature at least one arrest per episode. In real life, the average cop in a large (250,000+ people) American city makes only about 25 "collars" per year. Of these, only six are for major (or "index") crimes. Fewer than one out of five index crimes is "solved" by an arrest. Why is the figure so low?

One reason is that relatively few police officers are actively engaged at any time in combating crime. New York City boasts a police force of 28,000, but thanks to court appearances, administrative duties, and the burden of paperwork, only 6,600 are out on the streets during any 24-hour period, and this force is divided into three eight-hour shifts. According to a study by the Police Foundation, officers on patrol spend about half their time writing traffic tickets, investigating traffic accidents, waiting for tow trucks, arresting drunks, and traveling to and from the police station, the police garage, the courthouse, and their "beats." Another one-fourth of duty time is spent relieving boredom and tension—eating, resting, talking on the radio, girl-watching.

In the time remaining, the police cruise the streets and respond to calls. Seventy-five percent of all crimes are discovered well after the fact, and the perpetrators are unlikely to be apprehended. The police try to focus their attention instead on the other 25 percent ("involvement crimes"), where the victim has been in direct contact with the criminal. Reports coming in on the "911" or other emergency numbers, however, are often poorly screened at headquarters; patrol officers, as a result, must often deal with trivial complaints that could be handled by phone.

Victims are also slow in calling, if they call at all. (An estimated 47 percent of violent crimes and 26 percent of property crimes go unreported.) To judge from a survey of Jacksonville, Peoria, Rochester, and San Diego, 73 percent of all calls come after the critical first minute and 46 percent come after *five* minutes. Arrest statistics suggest that waiting five minutes is as bad as waiting 60. When police arrive, witnesses may be unavailable, unable to speak English, or so traumatized by the incident that their accounts are unreliable. All of which suggests that a rapid "response time" by police officers, something the public clamors for, is in fact a negligible contribution in the fight against crime. Luck seems more important.

plea took 15 minutes and cost about \$215.

In New York City, 90 percent of all defendants, unable to afford a lawyer even for a brief trial, must rely on court-assigned attorneys or public defenders. Such counsel spends an average of only 30 minutes with each client before adjudication. Under such circumstances, a jury trial may well appear to the accused as an invitation to disaster. A plea bargain becomes a more at-

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tractive alternative. Prosecutors also like to avoid trials because of their unpredictability.

Moreover, doing away with plea bargaining has its drawbacks. Two years after banning it, El Paso found city courts hopelessly backlogged. Authorities had to relent and permit some kinds of negotiations. Philadelphia discovered that its prosecutors simply switched to "trial bargaining," making deals on whether a defendant would receive a full jury trial or a so-called bench trial. Because bench trials last only a few minutes, the new bargaining differed little in results from the old. For better or worse, plea bargaining endures.

### Judges and Sentencing

During the past 10 years, prosecutors have increasingly tried to target their best efforts at the "career criminal." As in ROR programs, the aim is to distinguish between the typical suspect whose run-in with the law is an unusual event and the hard-core minority who have criminal lifestyles. Bolstered by studies documenting the existence of a small but very active group of chronic criminals, the criminal justice system has mobilized to put them out of business. The Washington, D.C., and New York City police departments have formed career criminal task forces. San Diego, New Orleans, Kalamazoo, and 95 other cities have established career criminal prosecution teams. These teams resist plea bargaining and seek tough sentences. Their record, however, is mixed. A statewide effort in California boosted the conviction rate on the most serious charges (rape, murder, armed robbery, and so on) from 60 to 85 percent and won sentences that were a year longer than those awarded in similar cases not specially prosecuted. A 1981 Justice Department survey, however, revealed that the four big-city career criminal prosecution teams it studied won neither more convictions nor severer sentences. Still, the popularity of targeting career criminals continues to grow.

Sentencing practices vary widely. Depending on the location and the crime, judges, juries, prosecutors, or elected officials—or all four—may decide how the guilty are punished. In Texas and a dozen other states, the jury votes on the sentence; most states require jury sentencing in capital cases. In many jurisdictions, prosecutors and defense attorneys can settle on penalties in "sentence-bargaining" sessions and have the presiding judge rubber-stamp the agreed-upon punishment.

Judges have the single greatest influence on the sentence. Criminologist Brian Forst notes that sentences are determined

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primarily on the basis of who the sentencing judge is rather than on the basis of the seriousness of the crime, the criminal's prior record, and the criminal's plea, all put together. Judges are nonetheless generally tougher on the repeat offender than on the first-time criminal, more lenient on those who admit their guilt than on those who deny it and are convicted. Charles Silberman found that, in New York City, judges were three times more likely to imprison the robber who had victimized a stranger than the one who robbed an acquaintance. They tended to treat women more leniently than men for the same offense.

Most judges apparently do not discriminate against blacks. "Blacks are overrepresented in prison populations primarily because of their overrepresentation in arrests for the more serious crime types," a 1982 National Science Foundation panel concluded.

Actions by state legislatures have taken away some judicial discretion. By 1978, six states had instituted "determinate sentencing" laws. Under these laws, judges retain the right to grant probation to low-risk offenders but must adhere to legislatively set sentences when putting an offender in jail. Six other states have removed the judges' sentencing power altogether in certain cases with mandatory sentencing laws that require prison terms, usually for armed, violent, or drug-related crimes. Many jurisdictions make use of nonbinding guidelines. Thus, in Maryland, judges are advised to give consecutive rather than concurrent life sentences in murder cases if the defendants have also been convicted of abduction or rape. The new legislation reflects a dramatic change that has occurred since 1970 in the commonly accepted rationale for putting people behind bars.

### **The Demise of Rehabilitation**

Of American penitentiaries, Alexis de Tocqueville wrote in 1833: "It is not yet known to what degree the wicked may be regenerated, and by what means this regeneration may be obtained." Yet, from the Progressive era through the 1960s, the assumption that prisons could and should transform thieves, hoodlums, and murderers into law-abiding citizens dominated the criminal justice system. The rehabilitative ideal influenced a vast array of penal developments in the 20th century. Prisons became "correctional institutions." Rehabilitation was the reason for the indeterminate sentence (not to mention for the creation of the first American juvenile court in 1899). When prison officials decided that a convict had been successfully "rehabilitated," they would recommend his release. Despite many



examples of excessive leniency—one thinks of the Norman Mailer-induced parole in 1981 of Jack Henry Abbott, a convicted killer who went on to kill again after 45 days of freedom—the fact remains that those who make parole decisions usually believe in what they are doing.

And yet, ever since World War II, researchers have been compiling evidence that *no* rehabilitative program seems to work, at least in the aggregate. One-third of “rehabilitated” convicts, it turns out, commit crimes after release, about the same number as “unrehabilitated” ex-convicts. The late criminologist Robert Martinson of the City College of New York wrote the epitaph for the rehabilitative ideal in 1974. Summarizing 231 research studies, he concluded: “With few and isolated exceptions, the rehabilitative efforts that have been reported so far have had little appreciable effect on recidivism.” Plastic surgery didn’t help, counseling didn’t help, job training didn’t help. Judging by one Danish study, even castration proved insufficient to bring the recidivism rate of male sex offenders down to zero.

The debate about what criminal punishment could and could not achieve had actually come to a head well before Martinson published his findings. Frightened by rising crime rates, the American public during the late 1960s demanded, in effect, that “retribution” replace rehabilitation as the purpose of incarceration. Alabama Governor George Wallace made a surprisingly strong showing in the 1968 presidential race with



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promises to "stop pussyfooting around" and to imprison law-breakers "and throw away the key." New York's passage in 1971 of tough legislation providing mandatory sentences for drug law violations reflected the same impulse.

By the mid-1970s, the idea of "just deserts" was enjoying a certain vogue. Punishment, the argument went, should fit the crime and be based on no other criteria. Only so would it increase respect for the law and thus deter crime. Many elected officials used these claims in promoting mandatory sentencing laws. In any event, more people began going to jail more often. Between 1974 and 1979, the number of men in jail as a percentage of the adult male population jumped 40 percent.

### Cost-Effective Justice

By the end of the decade, the most observable effect of tougher imprisonment policies was overcrowded prisons. Courts in 31 states had decided that wretched prison living conditions required judicial intervention.\* In a typical action in 1976, Alabama Judge Frank Johnson ordered state prison authorities to provide at least 60 square feet of space per inmate. State legislators soon counted up the costs of toughness—\$50,000 to \$70,000 for one new prison cell, \$10,000 to \$15,000 a year to keep a prisoner in it. During 1980–81, voters in Michigan and New York turned down prison-building referendums. In New Mexico, the legislature approved a \$107 million prison construction bill only after the worst prison riot in U.S. history left 43 dead in the state penitentiary south of Santa Fe in February 1980.

The lesson of the 1970s seems to be that retribution as a crime-fighting philosophy has its limitations, too. While the crime rate seems of late to have steadied, population trends rather than tougher sentences are probably the reason. Meanwhile, because mandatory sentencing laws suffer from rigidity, the trend toward their adoption has slowed. New York has modified its drug laws to allow lesser offenders to plea bargain. The reason: Juries often refused to convict lesser offenders if conviction required harsh punishment. Among public officials, a con-

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\*Four out of five convicted felons find themselves confined in a medium- or maximum-security facility. One out of two such facilities in America is more than 80 years old. A prisoner is likely to share with another inmate a cell designed for a single occupant, accommodations that the Supreme Court held (in *Bell v. Wolfish*, 1979) did not necessarily constitute cruel and unusual punishment. Prisoners are guarded by officers whose education is, on the average, only slightly better than their own and whose salaries average \$15,000 per year. If California's prison system is typical, prisoners face a four percent chance of serious injury in any given year. They are likely to suffer homosexual rape, especially if they are young and white. Slightly more than half of them will be released within one year.

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sensus arose that the *certainty*, not the *severity*, of punishment best deterred crime.

Increasingly, criminal punishment today emphasizes cost-effectiveness above all other goals. "Incapacitation" is the byword of this new approach. The least expensive and most lenient treatment goes to criminals least likely to commit serious crimes again, regardless of the seriousness of their offense. The most expensive, that is to say, the harshest punishment goes to those who, in the words of Carnegie-Mellon University's Alfred Blumstein, "represent the greatest crime threat if they were outside, either because the crimes they will be committing are the most serious, because they will be committing them at the highest rate, or they can be expected to continue committing them for the longest time into the future." Legal attention in the 1980s focuses on the removal of the most dangerous at the least cost.

This philosophy may seem to be nothing more than common sense, but considering how many long-accepted criminal justice goals it contradicts, it represents a significant development. The advocates of cost-effective justice take little interest in reforming the wrongdoer. They downplay the importance of "just deserts," an eye for an eye. They ignore the goal of putting away larger numbers of criminals. And they rely heavily on the unpopular sanctions of probation and parole.

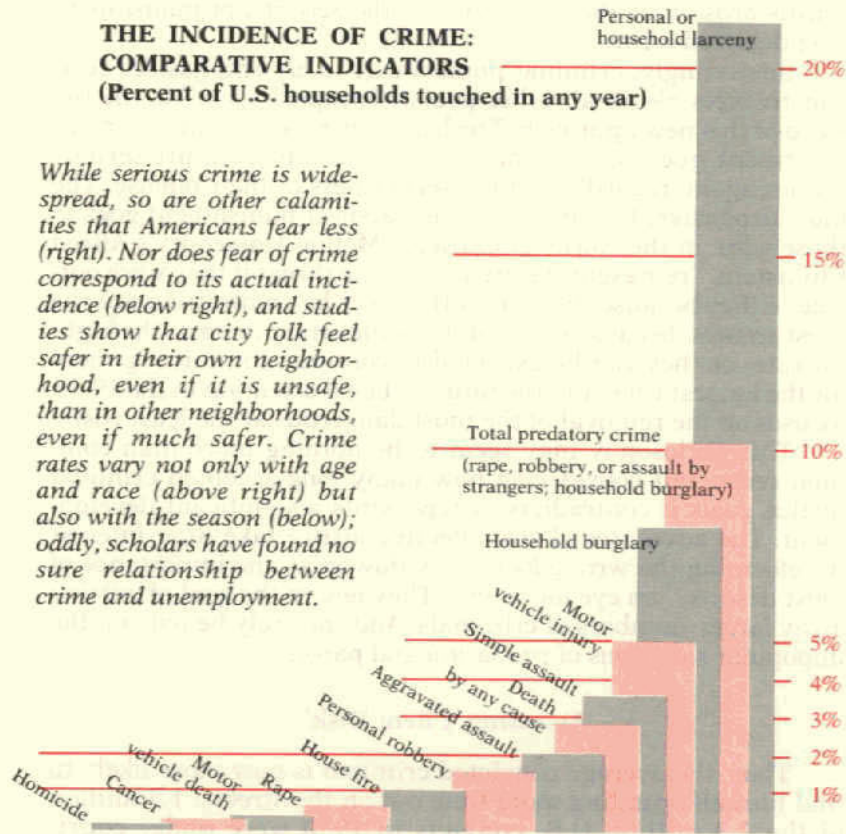
#### Assessing 'Client Risk'

Thus, the average convicted criminal is now more likely to find himself spending more time out on the streets: 1.5 million of the 2.3 million U.S. convicts in 1980 were under court-ordered "supervised release." Another 270,000 were on parole, the supervised release that follows incarceration. The number of convicts on probation or parole increased 24 percent between 1976 and 1981.

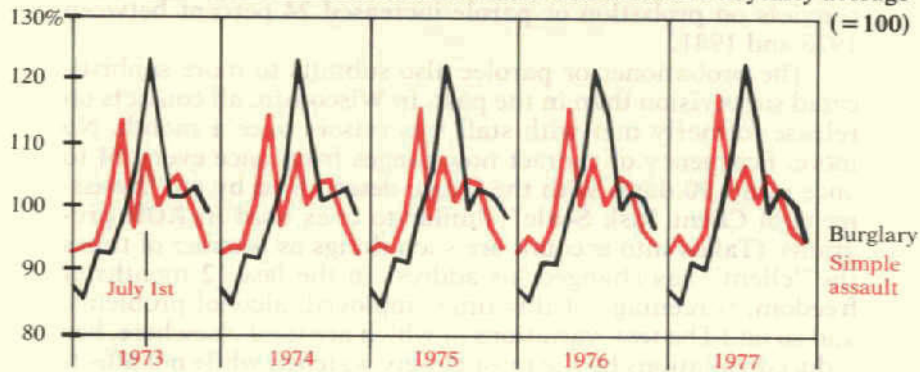
The probationer or parolee also submits to more sophisticated supervision than in the past. In Wisconsin, all convicts on release formerly met with staff supervisors once a month. No more. Frequency of contact now ranges from once every 14 to once every 90 days, with the figure determined by an "Assessment of Client Risk Scale" similar to ones used in ROR programs. (Taken into account are such things as number of times the "client" has changed his address in the last 12 months of freedom, percentage of this time employed, alcohol problems, and so on.) The test, variations of which are used elsewhere, has reduced violations by the most closely watched while not affecting violation rates among the least supervised.

**THE INCIDENCE OF CRIME:  
COMPARATIVE INDICATORS**  
(Percent of U.S. households touched in any year)

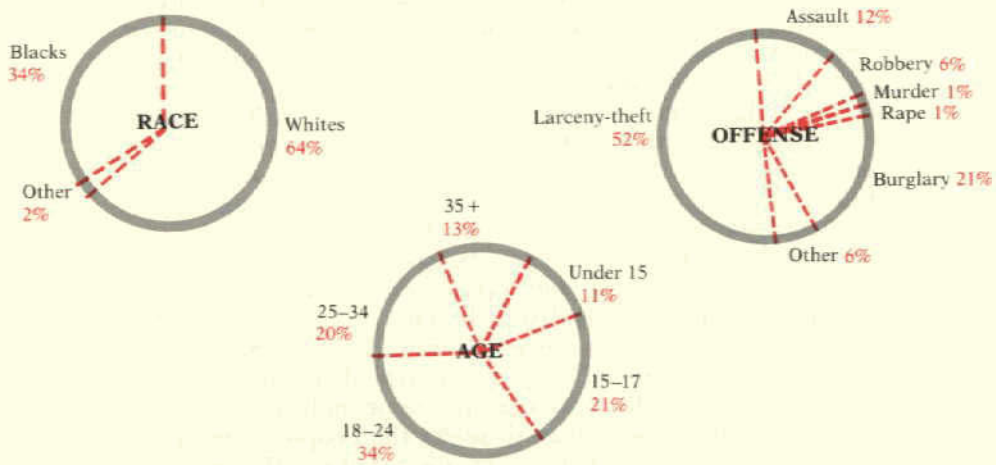
*While serious crime is widespread, so are other calamities that Americans fear less (right). Nor does fear of crime correspond to its actual incidence (below right), and studies show that city folk feel safer in their own neighborhood, even if it is unsafe, than in other neighborhoods, even if much safer. Crime rates vary not only with age and race (above right) but also with the season (below); oddly, scholars have found no sure relationship between crime and unemployment.*



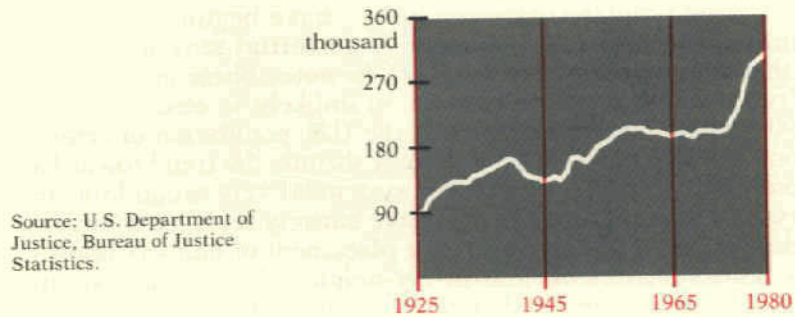
**CRIME AND THE SEASON: Fluctuations in rate relative to yearly average (= 100)**



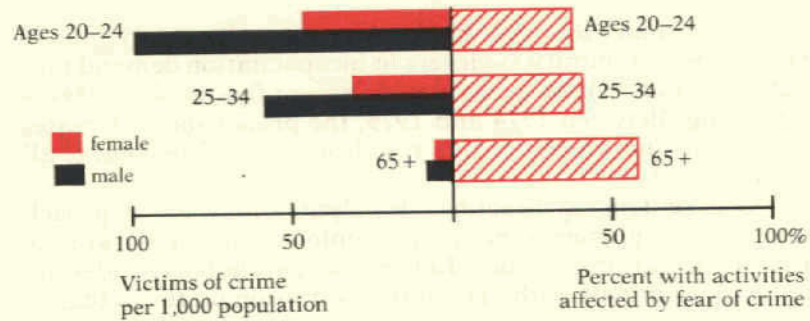
**ARRESTS IN 1981 BY RACE, AGE, AND OFFENSE (FBI Index Crimes)**



**FEDERAL AND STATE PRISON POPULATION, 1925-1980**



**VICTIMIZATION AND THE FEAR OF CRIME**



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Authorities are also making heavier use of halfway houses. As criminologist Daniel Glaser notes, "halfway houses and work release are usually justified primarily as ways of helping prisoners become accustomed to community life before they are more completely free, but these residences also impose considerable control on offenders." Parolees must sleep at the halfway house. They must account for their whereabouts at work or with friends. They must take tests for alcohol and drug use—a once-cumbersome procedure now made easy by development of portable electronic urinalysis equipment. ("Open an attache case, perform a few simple steps . . ." begins a full-page Syva Company advertisement in the latest American Correctional Association directory.) Halfway houses cost half as much as prisons and are growing more common. To ease prison overcrowding during 1981–82, California tripled the number of inmates assigned to halfway houses in major metropolitan areas. By using actuarial risk tables to select the people released, the state brought the halfway house escape rate to a 20-year low.

### Worth a Try?

Glaser reports that some judges have begun sentencing criminals to halfway houses with no initial stay in prison. Rather than halfway *out* of prison, he notes, these inmates are halfway *in*. With prison congestion unlikely to ease until the 1990s, when, demographers say, the U.S. population of crime-prone young males will have greatly shrunk, the trend toward a "community-based" correctional system is likely to continue. In Massachusetts, halfway houses have entirely replaced reformatories for juveniles. However, the placement of halfway houses has ignited scores of "not-in-my-neighborhood" protests in places ranging from Prince George's County, Maryland, to Long Beach, California. Local opposition could retard the spread of such facilities in coming years, no matter how cost-effective they are.

While many low-risk lawbreakers may be safely placed back in the community, believers in incapacitation demand that high-risk offenders be incarcerated. Recent figures show this is happening. Between 1974 and 1979, the proportion of inmates serving time for violent crimes rose from 52 to 57 percent of all inmates.

As a sentencing practice, this "put-'em-away" approach naturally complements the career criminal control efforts of police forces and prosecutors. Judges and parole boards identify high-risk criminals with yet another variation on the actuarial

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table. The Federal Parole Board guidelines, for example, allow offenders to be graded on a zero-to-11 scale based on various factors and recommend fixed prison terms for each grade of offender in seven categories of crime. Thus, a heroin addict with two prior convictions and two stints in the state pen, who was under 18 when first incarcerated, who had violated parole at least once, and who had spent less than six months at work or in school in the two years prior to his latest arrest would have a total of two points—marking him as a poor risk. If convicted of arson, he would get a prison sentence of at least 78 months.

Whether an incapacitation policy can help lower the crime rate by locking up the most active criminals will not be known for certain for years. Rand Corporation researcher Peter Greenwood asserts that because murder, rape, and assault are so rare for any one offender, the incidence of these crimes will not be affected by incapacitation. Nor, he believes, will incapacitation inhibit those convicted of larceny, fraud, and auto theft. Because these offenders now go to jail infrequently, imprisoning more of them would put an intolerable burden on the prison system.

"The crimes for which selective incapacitation principles appear most appropriate are burglary and robbery," Greenwood concludes. "They are the high volume predatory offenses of which the public is most fearful. They are also the offenses in which career criminals predominate, and they are the crimes for which a substantial number of convicted defendants are currently incarcerated."

The logic of incapacitation appears sound and its goal seems attainable. It offers, as other methods controlling crime once seemed to, a strategy for reducing crime without exceeding the country's capabilities. If not the most draconian solution to the problem, it is at least the best practical solution in a turbulent society where the financial cost of justice may soon rival the financial cost of crime.

## FAMILIES AND CRIME

*by Travis Hirschi*

Since the early 1970s, the Oregon Social Learning Center in Eugene, Oregon, has treated hundreds of families with "problem" children, children who bite, kick, scratch, whine, lie, cheat, and steal. As might be expected nowadays, this group of psychologists began with the assumption that the proper way to train difficult children is to reward their good deeds and ignore their bad ones.

The idea was, of course, that eventually the children would be so wrapped up in doing good that they would no longer consider evil. But after much struggling, the scholarly practitioners in Oregon came to the conclusion that children must be *punished* for their misdeeds if they are to learn to live without them.\*

This conclusion may come as no surprise to millions of American parents who have spent years talking to their children, yelling at them, spanking them, cutting off their allowances, and in general doing whatever they could think of to try to get them to behave.

But the importance of parental discipline has been a rare notion among social scientists, especially those who deal with crime and delinquency. Criminologists tend to become interested in people only after they are capable of criminal acts. Not only is it then too late to do anything about their family situation; it is also too late to learn much about what their home life was like during the "child-rearing" years. As a result, we have many explanations of crime that implicate broad socioeconomic or narrow psychological factors but few that look to the family itself.

Thus, the Oregon group is swimming against the current, doing what few students of crime have had the time or inclination to do. They are actually going into the homes of families with potentially delinquent children and watching them in operation. And they are coming up with some not-so-revolutionary ideas.

In fact, the Oregon researchers start pretty much with the basics. They tell us that, in order for a parent to teach a child not

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\*See "Children Who Steal," by G. R. Patterson in *Understanding Crime* (Sage, 1980), edited by Travis Hirschi and Michael Gottfredson.

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to use force and fraud, the parent must (a) monitor the child's behavior, (b) recognize deviant behavior when it occurs, and (c) punish such behavior. This seems obvious enough. The parent who cares for the child will watch his behavior, see him doing things he should not do, and correct him. Presto! A socialized, decent human being.

Where might this simple system go wrong? It can go wrong in any one of four ways. Parents may not care for their child (in which case, none of the other conditions would be met); parents, even if they care, may not have the time or energy to monitor their child's behavior; the parents, even if they care *and* monitor, may not see anything wrong with their youngster's actions; and finally, even if everything else is in place, the parents may not have the inclination or the means to impose punishment.

I am impressed by the simplicity of this model. I believe it organizes most of what we know about the families of delinquents. I also believe that, when we consider the potential impact of any proposed governmental action on crime and delinquency, we should specifically consider its impact on the ability of parents to monitor, recognize, and punish the misbehavior of their children. A classic example is "full-employment policy."

If one asks professors of criminology why the youth crime rate is so high, or if one asks students in criminology courses why a particular group has an unusually high rate of crime, they will almost invariably mention "unemployment" or "underemployment." If one points out that homicide, rape, and assault do not typically produce much in the way of income, undergraduates can quickly figure out how to get to these crimes from job-





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lessness by way of something like frustration or rage.

Thus, armed with the notion that people "turn to crime" only when nothing better is available, we ignore family considerations and, as best we can, try to provide good jobs for young people. What do we expect to happen? Employment of an adolescent would presumably not much affect his parents' ability to monitor his behavior. Teenagers are outside the home a good deal anyway, and the employer would to some extent act as a surrogate monitor. The parents' affection for their offspring may, if anything, be improved by his willingness to reduce the burden on his family, and work is certainly not going to affect the parents' ability to recognize deviant behavior. The only element we have left in our model of child-rearing is *punishment*. How, if at all, does the employment of a youth affect the family's ability to punish his deviant behavior?

#### A Minor Paradox

The power of the family in this situation will depend on the resources available to it relative to the resources available to the child. It will also depend on the child's aspirations. If the youngster wants to go to college at his parents' expense and to continue to drive the family Buick on weekends, and if he is really only picking up pocket money on the job, the damage to parental control is presumably minimal.

But if the child does not want to go to college, if his family does not own a car, and if the money he earns provides him a level of living which is equal or superior to that of his family, he is by definition no longer dependent on them. Affection and monitoring had better have done the job already, because the "child-rearing" days are over.

An outstanding feature of recent times has been the growing independence of adolescents from the family, made possible by expansion and differentiation of the labor market. This has resulted in an increased dependence of the teenager on other adolescents. But peers do not take the place of parents as socializing

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agents: They have little or no investment in the outcome, are less likely to recognize deviant behavior, and, most important, do not possess the authority necessary to inflict punishment.

Moreover, research that looks directly at juvenile delinquents offers no support for the notion that they are economically deprived when compared to other adolescents in their immediate area. On the contrary, young delinquents are more likely to be employed, more likely to be well paid for the work they do, and more likely to enjoy the fruits of independence: sex, drugs, gambling, drinking, and job-quitting.

By looking directly at the family, we are thus able to resolve one of the minor paradoxes of our time, the fact that crime is caused by affluence *and* by poverty. General affluence to some extent weakens the control of all families. It especially weakens the control of those families in which the adolescent is able to realize a disposable income equal to that of his low-income parents (or parent) almost from the day he finds a job. Unfortunately, life for him does not freeze at this point. His earnings do not keep up with the demands on them. Most offenders eventually show up on the lower end of the financial spectrum, thanks to the very factors that explain their criminality. Individuals who have not been taught to get along with others, to delay the pursuit of pleasure, or to abstain from violence and fraud simply do not do very well in the labor market.

### **Back to the Protestant Ethic**

They do not do very well as parents, either. A 1977 study (*The Delinquent Way of Life*, by D. J. West and D. P. Farrington) concluded: "The fact that delinquency is transmitted from one generation to the next is indisputable." The authors found that fewer than five percent of the families they surveyed accounted for almost half of the criminal convictions in the entire sample.

Why should the children of offenders be unusually vulnerable to temptation? If we had the complete answer to this question, we would be much further down the road to understanding crime than we are. But we do have important clues. Recall that the model advanced above assumes that bad behavior is not something that parents have to work at *cultivating* but rather something that requires hard effort to *weed out*. Research shows that parents with criminal records do not encourage criminality in their children and are in fact as "censorious" of their illicit activities as are parents with no record of criminal involvement. But not "wanting" criminal behavior in one's children and being "upset" when it occurs, do not necessarily mean that

### THE BEST OFFENSE . . .

In *The Death and Life of the American City* (1961), Jane Jacobs cited the anonymity of modern urban life as one of the chief causes of neighborhood crime. Not only had once tightly knit communities become unraveled, but people had left their stoops and gone indoors—lured by air conditioning and television, perhaps, or pushed by pollution, high-rise buildings, traffic congestion . . . and crime. No one was watching the streets. Ten years later, drawing on the ideas of Jacobs, Robert Ardrey, and others, Oscar Newman argued in *Defensible Space* (1972) that “people will defend themselves given the right physical framework”—an environment that provided a sense of “territoriality” and therefore enhanced “informal social control.”

During the 1970s, experiments in both “watching” and “defensible space” were conducted throughout the United States. The results, to judge from surveys by political scientist Charles Murray and the Police Foundation’s Lawrence Sherman, have not been a clear success.

The defensible-space strategy—brighter streetlights; windows in housing projects arranged to put more “eyes on the street”; local streets narrowed, routed, or blocked to discourage cruising “outsiders”; symbolic barriers (e.g., tree planters) to create semiprivate spaces that would generate possessive, protective community attitudes—appealed to city officials because it promised to reduce crime regardless of other factors (such as poverty or broken families). Housing projects or residential areas designed on defensible-space principles, like Clason Point and Markham Gardens in New York City and Asylum Hill in Hartford, came into fashion. Soon, defensible-space concepts were being applied to schools, commercial strips, and subway stations.

The demonstration projects, however, did not live up to expectations. At Clason Point, for example, crime did indeed decrease between 5 P.M. and 9 P.M., but it increased between midnight and 5 A.M. At Asylum Hill, robberies and burglaries decreased initially but then returned to “normal” levels. One problem, apparently, was that offenders, rather than steering clear, quickly learned to adjust to the new environment. Many of them, moreover, turned out to be not outsiders but insiders—community residents. Ironically, though, the *fear* of crime in Clason Point and Asylum Hill seemed to have lessened considerably, and researchers found optimistic signs of more “neighboring.”

great energy has been expended to prevent it. Criminal activity revolves around payoffs in the short run. There is thus little reason to expect offenders to be much interested in child-rearing, where gratification, as often as not, is delayed.

And indeed, according to research, supervision of offspring

In the end, Charles Murray concludes, the crime-reducing effects of defensible-space projects "depend crucially on the pre-existing social environment"—on the proportion of welfare families, the teen/adult ratio, whether or not residents own their apartments, length of residence, ethnic mix. Where crime is worst, he writes, defensible-space policies will have the least effect.

Experiments in "watching" have had a slightly better record. The Fairfax County, Virginia, police, for example, credit Neighborhood Watch with a 30 percent decrease in burglaries in the past year. The same pattern has been observed elsewhere. (Some five million Americans are involved in such efforts.) A study in Seattle revealed, however, that after an initial surge of enthusiasm, citizens tend to lose interest—and crime rates climb back up.

Another application of "watching" is preventive patrol. As Lawrence Sherman notes, most police officers cruise in squad cars: "What the patrol car officer sees is familiar buildings with unfamiliar people. What the public sees is a familiar police car with an unfamiliar officer in it." Patrol car officers are waiting to respond (the "dial-a-cop" strategy), rather than watching to prevent. In experiments in Newark and Kansas City, selected neighborhoods were provided with stepped-up *foot* patrols. While the patrols had no effect on serious crime, local residents told researchers that the patrolmen had reduced the incidence of lesser infractions—broken windows, drunkenness, panhandling—that tend to advertise the lack of "social control" in a neighborhood and thus to breed more serious crime. Since disorder has been shown by many studies to increase fear of crime, it appears that foot-patrol officers reduced fear by reducing disorder. And, because fear of crime is an important factor in the flight of businesses and families from central cities, reducing public fear is an important achievement in itself, one that might deter crime in the long run.

The foot-patrol experiments had another positive outcome: Foot-patrol officers were more satisfied with their jobs than those confined to automobiles.



*Insignia of the country-wide Neighborhood Watch program.*

in families where one or both parents has a criminal background is often "lax" or "inadequate" or "poor." Punishment tends to be "cheap": that is, short term (yelling and screaming, slapping and hitting) with little or no follow-up.

I suspect that a more subtle element of child-rearing is also

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involved. This is the matter of recognition of deviant behavior. According to research at the Oregon Social Learning Center, many parents in "problem families" do not even *recognize* criminal behavior in their children. These parents may discount or ignore reports that their son or daughter steals on the grounds that they are unproved and should not be used to justify punishment.

As it happens, those parents, regardless of income, who succeed in crime prevention seem inclined to err in the direction of over-control, to see seeds of trouble in laziness, unreliability, disrespect for adults, and lack of concern for property. A catalogue of their attitudes could probably be entitled "The Protestant Ethic" or "Middle-Class Values."

### Helping Parents Cope

Yet even a parent who knows what to do and has the will to do it may be hampered for other reasons. The percentage of the population divorced, the percentage of the homes headed by women only, and the percentage of unattached individuals in a community are among the most powerful predictors of crime rates. In most, but not all, studies that directly compare children living with both biological parents and children living in a "broken" or reconstituted home, the youngsters from intact families have lower rates of crime.\*

Some reasons for this seem clear. For one thing, a single parent (usually a woman) must devote a good deal of time to support and maintenance activities, which often include holding down a job, that are to some extent shared in the two-parent family. She must do so in the absence of psychological and social support. And she is less free to devote time to monitoring and punishment. As early as 1950, a study by Sheldon and Eleanor Glueck showed that mothers who worked, whether regularly or occasionally, were more likely to raise delinquent children than were women who did not work. This same report also revealed that the effect on delinquency of a mother working was *completely* accounted for by the quality of supervision she provided. When a mother was able to provide supervision for her children, her employment had no effect on the likelihood of delinquency.

The decline of the family is real enough. The extended household that was so effective in controlling everyone's behav-

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\*See, for example, "The Broken Home and Delinquent Behavior," by Karen Wilkinson in *Understanding Crime* (Sage, 1980), edited by Travis Hirschi and Michael Gottfredson.

ior remains only in vestigial form; the nuclear family that replaced it does not have the stability and continuity it once had. One response, especially common among crime analysts, is to take note of these facts but to conclude that nothing can be done about them. Such neglect is reinforced by "modern" theories of crime, which assume that people are good by nature and that individuals would be law-abiding were it not for the flaws in the society around them.

This kind of stance toward the family is one I think we should avoid.

If nothing else, research on crime and the family may help prevent us from making a bad situation worse—for example, by adopting policies that, perhaps unwittingly, make the parents' job harder. And who knows what we may learn? It would be presumptuous to conclude in advance that studies of the family will have no useful application. The technique of child-rearing is not that complex, and someone may yet discover simple measures for improving the efficacy of parents in America as crime control agents. Since parents number in the millions, work for nothing, are stuck with the job, and usually prefer law-abiding children, they are a potential resource we cannot afford to ignore. Even modest bolstering of their role could result in large savings of time and money now devoted to correcting their mistakes.



## BACKGROUND BOOKS

### CRIME

The men and women who first settled North America imported from Europe not only their tools, their books, and their ministers, but also a conception of crime as synonymous with "sin" and (as Hester Prynne could attest) a criminal justice system that emphasized the *public* nature of punishment.

The colonies also imported not a few criminals. As Samuel Walker notes in **Popular Justice** (Oxford, 1980, cloth & paper), after an act of Parliament in 1717, Britain sent 30,000 felons to the American colonies.

Walker's concise, well-written history of crime and criminal justice in the United States runs through the late 1970s. He traces the origins of contemporary concern over rising crime rates—and the emergence of a new type of criminal—back to World War II. The turbulent war years, he writes, "stimulated concern about the problem of juvenile delinquency and generated an anti-delinquency effort that continued into the 1960s."

The juvenile "crime wave" of the 1940s and '50s prompted a great deal of scholarly research.

Albert K. Cohen's **Delinquent Boys** (Free Press, 1955, cloth; 1971, paper) was one of the first of these studies. Cohen advances the notion of a "delinquent subculture" that reinforces antisocial behavior. His views reflect the earlier "differential association" theory of Edwin H. Sutherland and Donald R. Cressey as formulated in their classic **Principles of Criminology** (Harper, 1st ed., 1934; 10th ed., 1978). The authors argue that criminal activity, be it shoplifting or tax evasion, is learned through association with persons who condone such behavior. Cultural deviance rather

than personality traits or basic human drives is to blame for crime.

A related but distinct explanation is the "differential opportunity" or "strain" theory, developed by Richard A. Cloward and Lloyd Ohlin in **Delinquency and Opportunity** (Free Press, 1960, cloth; 1966, paper).

Members of the underclass, they say, turn to crime to secure the rewards denied them by an affluent society, as well as to vent their rage on those who have the money and status (and even moral values) they desire for themselves. The chief objection to strain theory is that crime is not confined to the poor.

Variations of the views cited above are held by most American criminologists. A recent challenge comes from "control theory," espoused by Travis Hirschi in **Causes of Delinquency** (Univ. of Calif., 1969). Why do people commit crime? Hirschi prefers to ask: Why do people *not* commit crime?

Control theorists start off with the idea that the appeal of crime is obvious, that people are not necessarily "moral animals," and that certain tendencies (such as the natural covetousness of children) need to be corrected. They stress the importance of individual personalities and the element of rational calculation ("Can I get away with it?").

In sum, delinquency is something that must be *averted*: by strong attachments to family and friends, by inculcation of moral values and a belief in the "payoff" of good behavior.

Whether delinquency is learned or unlearned, it is something society must deal with when it occurs. Few Americans are well acquainted with any aspect of law enforcement and

criminal justice. William Ker Muir, Jr., provides a partial remedy in **Police: Streetcorner Politicians** (Univ. of Chicago, 1977, cloth & paper), an in-depth, graphic study of the police department of the real but pseudonymous city of Laconia (pop.: 500,000).

Other vivid (and troubling) accounts of the workings of justice in the United States include Peter S. Prescott's portrait of the juvenile courts in New York City, **The Child Savers** (Knopf, 1981, cloth; Simon & Schuster, 1982, paper) and **A Prison and a Prisoner** (Houghton, 1978), Susan Sheehan's profile of 57-year-old George Manilow, a "professional prisoner" at Green Haven Correctional Facility in Beckman, N.Y. Her book is perhaps the best survey of life behind bars: the "economy," the staff, the inmates, the politics, the racial tensions, the sexual violence.

Is learning something about the causes of crime of any use in controlling crime? Attempts to alter the criminal justice system often turn on one's answer to that question.

Both former Attorney General Ramsey Clark (**Crime in America**, Simon & Schuster, 1970, cloth; Pocket Books, 1971, paper) and Charles Silberman (**Criminal Violence, Criminal Justice**, Random, 1978, cloth; 1980, paper) contend that the only effective way to combat crime is to attack what they believe to be its causes: poverty, racism, community disorganization.

James Q. Wilson, in **Thinking About Crime** (Basic, 1975, cloth; Random, 1977, paper), demurs. The

problem, he writes, "lies in confusing causal analysis with policy analysis." He does not argue that social programs are useless but notes that they often have unintended consequences. ("The contacts of upper-middle-class suburban youths with ghetto blacks as a result of the civil-rights programs," he contends, "increased access to the drug culture.") Social ills, moreover, cannot be quickly cured, while crime remains an *immediate* problem as well as a long-term one.

"If we regard any crime prevention or crime reduction program as defective because it does not address the 'root causes' of crime, then we shall commit ourselves to futile acts that frustrate the citizen while they ignore the criminal."

As for the death penalty, the debate is pursued in two books whose titles are self-explanatory: **For Capital Punishment: Crime and the Morality of the Death Penalty** (Basic, 1979, cloth; 1981, paper) by Walter Berns, and **Capital Punishment: The Inevitability of Caprice and Mistake** (Norton, 1981, cloth & paper) by Charles L. Black, Jr.

Criminologists often forget what movie-makers and novelists have always known: Crime can be entertaining. Carl Sifakis's **The Encyclopedia of American Crime** (Facts on File, 1982) boasts 1,500 entries on gangsters, trials, slang, weapons, detectives, con games, and some of the Great Questions of the Day: Can toothmarks, for example, be admitted as evidence in court?