

Fighting crime: high cost, unforeseen results

EDITOR'S NOTE: This is the first of 15 articles exploring "Crime and Justice in America." They constitute the textbook for a Course by Newspaper program sponsored by Oakland University and Observer & Eccentric Newspapers. The class will meet Mondays from 6:30-10 p.m. in the Birmingham Center for Continuing Education, 146 Purdy. Enrollment is limited and published at the first session. Copyright 1977 by the Regents of the University of California.

By JEROME H. SKOLNICK
Americans are upset about crime. We are understandably angry and frustrated when we cannot safely walk down city streets or take the kids on a camping trip for fear the house will be robbed in our absence. We are morally outraged when we discover that businessmen and government officials have been conspiring to use public funds for private gain. Sometimes, frustration virtually tempts us to demand the ridiculous—to insist that there be a law against crime. In fact, of course, many laws already prohibit and threaten severe punishment for all sorts of conduct. Fighting armed robbery, obstruction of justice, failure to report income and the use of various drugs.

YET FOR MANY REASONS, we cannot count on the criminal law alone to work perfectly, to prevent crime entirely.

First, not everyone reveres criminal law, or not in the same way. By passing a law, we may even make the prohibited conduct more popular.

President Herbert Hoover's Wickersham Commission, which studied the effects of Prohibition on the nation during the 1920s, concluded that a new institution—the speakeasy—made drinking fashionable for wide segments of the professional and middle classes who had previously not experienced the sinful delight of recreational boozing.

It is evident that the passage of law, especially criminal law, does not always work out the way those who advocated passage foresaw.

SECOND, CRIMINAL law reflects through political advocacy different and conflicting views—and so it changes. Teetotalers scrupulously obeyed the Prohibition laws; drinkers did not. Drinkers changed the law.

During the 1960s, laws prohibiting marijuana use amounted to a new Prohibition. People over 40—who drank whiskey—complained with the law and were offended by younger people who smoked marijuana. As younger people are becoming successful politicians, penalties for smoking marijuana continue to diminish and may eventually disappear.

We could introduce criminal penalties for manufacturing defective automobile brakes, which kill and maim thousands. But we don't, because in recent years the automobile manufacturers' lobby has had more clout than Ralph Nader, who proposed such laws in the Congress.

Jerome H. Skolnick is director of the Center for the Study of Law and Society at the University of California, Berkeley, where he has been a professor of criminology since 1970. In 1968-9 he served as director of the Task Force on Violent Aspects of Protest and Confrontation for a national commission on violence. He has also taught at Chicago and Yale.



Maybe that, too, will change.

Other crimes—serious street crimes such as murder, rape, assault and robbery—are almost universally condemned. It is these crimes that are the focus of proposals to "solve" the crime problem by increasing the severity and certainty of punishment.

Why, then, not simply enforce these laws more rigorously and punish swiftly and surely those found guilty of violating them? Many people—including some prominent criminologists—have advocated this seemingly simple and therefore attractive solution to the problem of American crime.

But such a solution is not so simple. A criminal justice system can increase risk for a criminal—but not by much, and at higher cost than many people believe.

THE SOCIAL and economic costs of punishment are often underestimated. It is easy to call for a major expansion of law enforcement resources; it is less easy to pay for it.

Policemen, courts and prisons are expensive. It is cheaper to send a youngster to Harvard University than a robber to San Quentin Prison. And the average San Francisco policeman now draws, with pension, more than \$25,000 per year, to say nothing of his police car, support equipment and facilities.

The recent experience of a "law and order" administration that poured billions of dollars into the war on crime is exemplary and sobering. While violent crime rose 174 per cent from 1963-73, local spending for law enforcement multiplied more than seven times—and LEAA poured in \$3.5 billion between 1969 and 1974.

THE WAR ON crime looks more and more like the war in Vietnam. Those who pursue it are largely ignorant of what motivates the enemy.

Of course the threat of punishment matters. But nobody is clear about how much threat deters whom with what effect. For example, millions of presumably rational human beings are not deterred from smoking cigarettes even though the probabilities of punishment through cancer, emphysema and heart disease are clear and horrible. People often believe that present benefits or pleasure outweigh future costs or threats of pain.

Heavy punishment programs can also incur unexpected social costs.

Several years ago, Nelson A. Rockefeller, then governor of New York, proposed as an answer to street crime that harsh sentences, up to life imprisonment, be imposed for drug trafficking, and that sterner enforcement and heavier punishment be imposed against drug users, many of whom are engaged in street crime.

The "lock-em-up" approach seemed sensible and hardheaded to many New Yorkers fearful of walking the city streets and to numerous law enforcement officials.

Yet a recently conducted New York Times survey of 100 New York City judges, reported on Jan. 2, 1977, found that the new, very tough narcotics law failed to deter illegal drug use in the city.

Furthermore, more than half the judges believed the laws had worsened the situation because youngsters—immune from the harsher provisions—had been recruited into the drug traffic. This is an unexpected social cost of punishment. There are many others.

PARTICULARLY FOR young people, being a criminal may even have advantages over working in a boring and unrewarding job. One can earn far more stealing cars than washing them.

Even the risk may prove advantageous. In some circles, a "jolt" in prison offers an affirmation of manhood—as well as advanced training in criminal skills and identity. Thus, the administration of justice can generate criminality as well as deter it.

Actually, the most promising targets of deterrence are white-collar criminals—business executives and professionals—who have the most to lose by conviction for a crime and are more likely to weigh the potential costs of committing crime against its benefits.

THERE ARE NO easy prescriptions for crime in America. It has become an intrinsic part of life in this country as a result of fundamental contradictions in American society.

We maintain an egalitarian ideology amidst a history of slavery and contemporary unemployment. We say we are against organized crime, but millions of us enjoy and consume its goods and services—drugs, gambling, prostitution, pornography.

We demand heavier punishment—longer prison terms—yet fail to appreciate the social and economic costs of prisons. We support the Constitution and its protection of individual liberties—yet criticize the judges who insist the police conduct themselves in accord with constitutional protection.

Our legacy of slavery, immigration and culture conflict, combined with the ideologies of free enterprise and constitutional democracy, is unique in



San Quentin Prison, in California, can hold many criminals, but prisons also have high economic and social costs.

the world. As David Bayley's recent work comparing high American with low Japanese crime rates shows, we are not strictly comparable to Japan or, for that matter, to any place else.

Although politicians—as well as some scholars and police spokesmen—will try to sell us on apparently simple solutions to the American crime problem, we should remain skeptical. In the past, simple solutions have not worked.

Unless we understand why, the future will prove comparably unsuccessful. We have to know what doesn't work to find out what might.

The reasons for past failure and pos-

sible remedies will be further explored in later articles in this 15-part series on institutional crime, street crime, the immensity of the criminal law, the administration of criminal justice and the organization of punishment.

The views in Courses by Newspaper are the authors' only and do not necessarily reflect those of the University of California, the funding agencies (National Endowment for the Humanities and the Center for Studies of Crime and Delinquency of the National Institute of Mental Health), Oakland University or this newspaper. Next week: White-collar crime.

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Prof. Pitts comments. . .

By JESSE PITTS
Oakland University
A major purpose of the course should be to develop the capacity of the student to see through special pleading, sophistry and just plain fuzzy thinking.

Prof. Skolnick (University of California) is one of the better thinkers in the field of criminology, but he is also on the liberal left side, just as Prof. James Q. Wilson (Harvard University) is on the conservative side.

Being aware of Skolnick's political bias—which, like any bias, may lead him to profound insights as well as to grievous errors—may permit the student to ready himself for a discussion next Monday night of the following points:

1. The analogy of laws prohibiting marijuana to Prohibition.

2. The analogy between criminal behavior and the manufacturing of defective automobile brakes "which

kill and maim thousands."

3. The statement that it is cheaper to send a youngster to Harvard than a robber to San Quentin.

4. Is spending on crime less effective than spending on education? Where has spending gone to: more policemen? more court-appointed lawyers? more judges? more prisons?

5. How relevant is a comparison between the risks of the regular cigarette smoker to get lung cancer and the risks of the regular lawbreaker to get arrested?

6. Why did the Rockefeller program of harsh penalties against drug traffickers fail in New York State? Is it because drug traffickers were not deterred by harsh penalties? Or is it because judges refused to impose them?

No doubt Skolnick says some very insightful things and others that are more debatable. Well, let us debate them together.

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