

Fighting 'non-victim' crime costly

(Continued from page 7A)

trols similar to those of our alcohol licensing system.

MOST IMPORTANT, legitimizing and regulating the sale of marijuana would weaken the link between marijuana and the more dangerous drugs.

Since drug sellers already are threatened with severe penalties if they are caught selling marijuana, they have little to lose and profit to gain by converting their clientele to more dangerous drugs.

Just as Prohibition did not suppress alcohol but merely turned its marketing over to organized crime, so marijuana prohibition merely turns over the marketing of that drug to drug pushers.

THE COSTS OF the heroin laws are quite different from those against marijuana.

The law, by prohibiting importation and sale, has raised the price of heroin far above what it would command in a legal market.

But heroin, unlike marijuana, is seriously addicting, and hence the addict must come up with the necessary price of his habit. As a result, heroin addicts commit a very high percentage of crimes against property in urban areas—an estimated 25 to 50 per cent in New York.

Proposals to ameliorate the heroin laws have focused on providing the drug or a closely related substitute, methadone, to addicts at low prices under medical conditions—thus lessening their need for illegal income.

OTHER COSTS of enforcing laws against the "non-victim" crimes are illustrated by gambling.

Our effort to prevent people from losing more than they can afford has crowded our courts with gambling cases. The sentences are light—to avoid further overcrowding our jails—but the police are demoralized by the whole process.

According to the National Commission on Gambling, the huge profits from gambling provide the major source of police corruption in the United States as well as the single largest source of income to organized crime.

The final cost of prohibiting gam-



Bettors waited in line on opening day after New York State legalized off-track wagering in 1971. The scene is New York City's Grand Central Station.

bling is that it prevents hard-pressed state and local governments from earning revenue through taxation or operation of gambling enterprises.

It is probably this fact that is changing our legal stance toward gambling. Numerous states are already experimenting with lotteries, off-track betting and other formerly illegal gambling activities.

THE OTHER major non-victim crime in our society is prostitution.

In most localities there is little attempt to interfere with the higher-class call girls, the "massage parlor" that has become a fixture all over the nation or even, in some areas, the "houses" that can afford protection.

What little energy law enforcement can afford to devote to the matter is concentrated on street walkers. For them, prostitution is a revolving-door crime, somewhat like gambling, in which those arrested are typically given minimal sentences and are soon back on the streets.

There is a strong element of hypocrisy in the enforcement of the prostitution laws.

First, the customers, even when legally guilty of an offense along with the prostitute, are virtually never prosecuted because of opposition by the commercial, hotel and convention interests on the ground that it would be "bad for business."

Moreover, police engage in substantial perjury to avoid the charge of entrapment and to obtain substantial evidence for conviction "beyond a reasonable doubt."

And perhaps even more upsetting, police must often suppress their best evidence because they cannot admit having sex with the prostitute before the arrest.

Finally the laws against prostitution make more necessary the services of the pimp to arrange bail and police protection for the illegal prostitute.

SEVERAL OTHER non-victim crimes, although less troublesome, also deserve note.

Pornography laws, laws against homosexual activities and, in many states, the law against adultery all establish non-victim crimes whose enforcement is spectacularly ineffectual.

In all of these crimes, a sizable percentage of the public believes that the activity in question is immoral and wishes it stopped.

In many cases, however, the "next step"—making the activity a criminal act—has been taken without thought as to the practical consequences of such laws should they be violated.

Only comparatively recently have we begun to think about weighing the costs of such laws against benefits.

It is important that we question whether the criminal law is more

appropriate than either tolerating the activity or regulating it in some less coercive and expensive way.

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Lost type recovered

A perverse electron in this newspaper's computer system ate and swallowed several lines of Prof. Pitts' Feb. 16 commentary on punishment.

Here is the complete text of the most serious garble:

"Yet I have noticed that some of the more strident opponents of criminal justice, who debunk punishment as a deterrent and who want to close down the jails, are really asking for mercy toward crimes they secretly approve of, because they hate the Established Order and see criminals as acting out their own hostile fantasies."

Prof. Pitts comments: Pick a favorite 'crime'

By JESSE PITTS
Oakland University

Victimless crimes—i.e., crimes where the perpetrator is the main or even sole victim—are an extremely complex issue for which there is no simple answer.

First we can dispose of those for whom the whole issue is merely a screen for an attack on Puritan values. They want immunity for the transgressors values they despise and punishment for transgressors of values they cherish. For example:

They want to legalize marijuana, but want to prohibit the smoking of tobacco in public places; legalize prostitution but prohibit possession of hard-guns; legalize heroin and cocaine but prohibit sugar-coated cereals and saccharine.

They wish to legalize pornography but wish to prohibit advertising to children, the fabrication of war toys and the diffusion of textbooks that depict women as nurses and mothers rather than as airplane pilots and policepersons.

They want more sex on TV because they want Archie Bunker to become liberated and because "science" says that realistic sex scenes do not promote sex crimes.

They want to outlaw violence on TV because "science" says TV shoot-outs promote crimes of violence among watchers.

Just as in the case of punishment, it is a question of whose ox is gored.

STILL, EVEN FOR those who cherish the Puritan values, there is a serious question as to when prosecution reduces transgressions of the laws and effectively stigmatizes a given act of self-indulgence, and when it has the exact opposite effect.

There are some individuals for whom any prohibition—be it the prohibition to steal, to kill or to rape—will have an enticing effect. When the damage of self-indulgence is limited—not an easy thing to determine—and when too many (whatever that means) persons break the law, then it is probably worth while to repeal the law.

The 18th amendment may have reduced the alcohol intake of the American citizenry. But its costs in police and judicial corruption, and in teaching contempt for the law, were probably superior to the benefits.

Permitting liquor to adolescents of

18 has certainly made it more abundantly available to adolescents of 16 than it was when the law set the drinking age at 21. So far, the benefits of setting majority at 18 have not become visible, given that the financial and emotional dependency of teenagers does not seem to have decreased.

AS OF NOW, police do not go after marijuana smokers, just as they concentrate on pimps and prostitutes, enough anyway to keep them from offering their wares in church parking lots. Meanwhile, perhaps a quarter of high school students "turn on" with marijuana once a week or more.

Normally they concentrate on whole-salers and smugglers, just as they concentrate on pimps and prostitutes, enough anyway to keep them from offering their wares in church parking lots. Meanwhile, perhaps a quarter of high school students "turn on" with marijuana once a week or more.

Lots of students—three-fourths, as a matter of fact—are kept away from it partly because it is illegal and partly because it does not do anything much for them.

And some students are drawn to marijuana because it is illegal. Most users will eventually quit, and some will go on to stronger stuff. Some potential addicts are saved by the stigma on marijuana from ever discovering how vulnerable they are.

THE LEGALIZATION of gambling in Las Vegas does not seem to have had a moralizing effect on the city. Legalized gambling would not do away with organized crimes because a good deal of gambling is done on credit, with one's body as security.

Furthermore, open competition between gambling outfits would drive down profits. No doubt the payoffs to police and city authorities would decline, but the pressure on profits would increase the motivation for fixing races and sports events. And after all, the fix is what brings in the big money.

Let us face it. For both victimless crimes and victim-filled crimes, policing is a low-efficiency procedure. But is it less effective than psychotherapy in curing, or college teaching in educating?

Question for the students: If prostitution were legalized, how could we make it pay taxes?

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