

THINKING ABOUT CRIME

Editor's Note:

Issues of crime in the United States and how to deal with it have rarely if ever dominated the headlines as they have over the past month. A vigorous debate on new crime legislation took place in the Senate in the latter half of June, with Republicans backing the President's bill (S 635) and the Democrats one offered by Judiciary Committee Chairman Joseph R. Biden (S 1241). From the Supreme Court, in unprecedented numbers, came a string of important rulings on the rights of the accused and other criminal justice questions; and the retirement of Justice Thurgood Marshall, announced June 27, may well further the already profound change in criminal jurisprudence. Earlier, the Rodney King beating in Los Angeles had focused attention not just on police brutality but on broader questions of police behavior and role.

Against this backdrop, we present in this issue's Public Opinion Report a comprehensive collection of data on Americans' thinking about the crime problem, what should be done, and the performance of principal agencies charged with dealing with it, especially the courts and the police. And, leading off here, are articles by four experts on criminal justice questions. George Cole provides an overview of the crime problem and efforts at grappling with it. David O'Brien examines the big shift in criminal jurisprudence coming from the Rehnquist Court. James Fyfe offers perspective on the issue of police brutality; and James Lynch reminds us that crime control requires not only punishment but effective prevention.

THE SCOPE OF THE PROBLEM, AND
SHIFTS IN PUBLIC POLICY

By George F. Cole

Newspaper headlines tell the story: "Killings Soar in Cities Across U.S.," "Shopowners Demand Foot Patrol," "Drug Turf War Yields Violence," "Prison Population Reaches New High." Television news programs depict urban neighborhoods ravaged by drugs and crime, small towns where shoot-outs have occurred, and frightened citizens expressing fears about leaving their homes at night. But what is the reality of the American crime problem in the 1990s? Is crime really increasing as the media portray, or has it leveled out? The Bureau of Justice Statistics, on the basis of victimization surveys, reports that violent crime, personal thefts, and household crimes are down from their peaks of 1981. Still, there are calls for increased use of the death penalty, for more police, for crash programs to build prisons. Is the United States in the 1990s really experiencing a criminal justice crisis? And if it is, what should be done?

Crime and justice are crucial policy issues in a country such as the United States in which a tension exists between the need (1) to maintain public order and security and (2) to protect such precious values as individual liberties, the rule of law, and democratic government. One might hope that citizens of the "land of the free" could live without having to devote great physical and psychological

energies, let alone resources, to personal protection, but for many Americans the possibility of being victimized by criminals is ever present. When in 1973 the National Advisory Commission on Criminal Justice Standards and Goals set as a target the reduction of crime over the ensuing ten years, it stated that a time would come in the immediate future when

*A couple can walk in the evening in their neighborhood without fear of assault and robbery.

*A family can go away for the weekend without fear of returning to a house ransacked by burglars.

*A woman can take a night job without fear of being raped on her way to or from work.

*Every citizen can live without fear of being brutalized by unknown assailants.

Almost two decades later, however, these goals are still elusive.

Ours is neither the best nor the worst of times. There has always been too much crime, and virtually every generation since the founding of the Republic has felt threatened by it. This does not mean that the amount and types of crime have been the same over time. During the labor unrest of the 1880s and 1930s, pitched battles took

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place between strikers and company police. Organized crime became a special focus in the 1930s. The murder rate, which reached a high in 1933 and a low during World War II, has actually decreased since 1982, even though the rate in some cities has risen dramatically during the last several years' drug wars.

A Peculiarly American Distress

What is striking about crime in the United States is that the problem is so much greater than it is in other industrialized countries. In per capita terms, about ten American men die by criminal violence for every Japanese, German, or Swedish man; about fifteen die for every English or Swiss man; and over twenty for every Dane. More than one hundred and fifty countries, developed and underdeveloped, have lower murder rates than the US. When we look at robbery, the data are even more dismaying. The robbery rate in New York City is five times greater than London's and, incredibly, 125 times higher than in Tokyo. In the 1980s crime in the United States stabilized at a very high level; however, by the 1990s arrests for drug sales and drug-related violence had skyrocketed, causing dislocations in many parts of the criminal justice system.

The Rise of Crime as a Political Issue

Crime as a dominant political issue leaped on to the American scene during the late 1960s as acts of violence, measured by the FBI's *Uniform Crime Reports*, skyrocketed. As crime increased, so did the public's awareness of it. In a 1968 Gallup survey, "crime and lawlessness" were mentioned as a cause of apprehension more often than any other local problem. This finding may be contrasted with the results of a similar poll taken in 1949 when only 4 percent of big-city residents felt that crime was their communities' worst problem. In the 1968 presidential election, "law and order" became a highly explosive slogan that politicians found aroused voters. Since that time the public has continued to cite crime as one of the four major problems confronting the United States. Data in the Public Opinion Report of this issue document the central place of crime in Americans' concerns today.

With street crime beginning to rise in 1965, President Lyndon Johnson appointed a commission to look at the crime problem. In its 1967 report, the President's Commission on Law Enforcement and Administration of Justice declared that crime was caused essentially by disorganization in American society; that agencies concerned with enforcement, adjudication, and corrections lacked resources; and that rehabilitation had been insufficiently used as a means of treating offenders. Throughout, the report recommended eliminating the social conditions that bring about crime, doing away with social and racial

injustices to achieve the ideals of the American ethic, and reintegrating into their communities those who commit crimes. To implement these recommendations, Congress created the Law Enforcement Assistance Administration (LEAA) and charged it with conducting research on, experimenting with new approaches to, and providing assistance to the states to deal with criminal justice. Before its demise in 1982, LEAA had spent more than \$5 billion.

These actions reflected a general consensus. Richard Nixon, Gerald Ford, and Jimmy Carter held similar views on crime policies; many state legislatures adopted a moratorium on new prison construction; the U.S. Supreme Court under Chief Justices Earl Warren and Warren Berger extended the rights of defendants in criminal trials; and social agencies at all levels of government emphasized rehabilitating offenders by reintegrating them into the community.

The Conservative Critique Gains Ascendancy

This consensus broke down in the latter 1970s, as a conservative critique of the established liberal policies gained credence. Findings of criminal justice researchers cast doubt on many of the earlier ideas. Debate about "what works" forced a reconsideration of rehabilitation as the primary goal of the criminal sanction. Research was published which began to question many traditionally held assumptions about police work. Reformers recommended that greater weight be given to the goals of incarceration and deterrence. Questions were raised about the granting of bail to repeat offenders, the sentencing discretion of judges, parole release policies, and the broader efforts to reduce crime through social reform.

The election of Ronald Reagan in 1980 and his reelection in 1984 solidified the shift in federal crime control policies that had been evolving over some time. Speaking before the annual convention of the International Association of Chiefs of Police in 1981, Reagan defined the crime problem as one that would not be solved by more money, more police, or more prosecutors. As he asserted:

The war on crime will only be won when an attitude of mind and a change of heart take place in America—when certain truths hold again and plant their roots deep into our national consciousness. Truths like: right and wrong matter; individuals are responsible for their actions; retribution should be swift and sure for those who prey upon the innocent.

Just before the 1984 elections, bipartisan majorities in Congress passed, and President Reagan signed, the

Comprehensive Crime Control Act of 1984, which incorporated many of the proposals—tightening of the insanity defense, harsher sentences, abolition of parole release, and preventive detention of dangerous persons awaiting trial—advanced by those who had been urging a new, “tougher” approach to crime. Such federal legislation affects only a small portion of criminal cases, since 95% of all crimes are prosecuted by the states. But many states had already adopted tougher policies themselves.

That crime remains a vital political issue was seen when the 1988 presidential campaign of George Bush raised the image of a previously obscure convicted murderer, Willie Horton. Much to the chagrin of the Dukakis camp, a campaign commercial pictured Horton, an African-American who had walked away from a Massachusetts prison furlough program and traveled to Maryland, where he raped a woman and assaulted her husband. The public response to that commercial may have contributed to Dukakis’ defeat, since in the minds of many Americans, Willie Horton epitomized their fears about crime. Many argued that Horton’s criminality was possible because of the policies of liberal politicians who were “soft” on crime. That the GOP is viewed as better able to handle the crime problem than the Democrats is illustrated by the data found in this issue’s Public Opinion Report.

Dealing With Crime

Reports from the Bureau of Justice Statistics of the U.S. Department of Justice give us a contemporary picture of the crime problem and attempts to deal with it:

*The prison population has doubled during the past decade.

*Although fewer than 18 percent of Americans live in cities of more than a half million, they

account for more than half the reported offenses against persons.

*90% of arrested offenders plead guilty.

*72% of violent crimes against whites are committed by whites, 81% of violent crimes against blacks are committed by blacks.

*Of males arrested for violent crimes in fourteen U.S. cities, between 54% (Kansas City) and 82% (Philadelphia) tested positive for drug use.

Although there is widespread agreement in American society that crime is a serious problem, and conservative policies have gained ground, there is no consensus on the approaches to be taken to address this problem. The conservative perspective argues that the answer lies in still stricter enforcement of the law through the expansion of police forces and the enactment of punitive measures that will result in the swift and certain punishment of criminals. Liberals warn that the strengthening of crime control can easily endanger the cherished values of due process and justice. The liberals’ approach still calls for reshaping the lives of individual offenders and changing the social conditions from which criminal behavior springs. The task of sound policy, conservative, liberal, or something else, is finding ways to better control crime while preserving due process and the elements of freedom and justice that quintessentially define a democracy.

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THE COURT AND VICTIMS' RIGHTS

On June 27, the Supreme Court ruled in *Payne v. Tennessee* to reverse earlier decisions and permit evidence on the effects of the loss felt by murder victims' families to be admitted in the sentencing phase. Three months earlier, Schulman, Ronca and Bucuvalas had asked a national sample what they thought about this issue.

Question: The US Supreme Court has ruled that in cases involving the death penalty, family members of murder victims cannot tell the jury about how the crime affected their family when the jury decides whether to give a sentence of life imprisonment or the death penalty. Do you think the jury should be allowed to consider the crime's effect on the victim's family...?

Should be allowed	69%
Should not be allowed	27
Not sure	4