

U.S. Department of Justice  
Office of Justice Programs  
*National Institute of Justice*



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# Perspectives on Crime and Justice: 1996–1997 Lecture Series

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National Institute of Justice

# About the National Institute of Justice

The National Institute of Justice (NIJ), a component of the Office of Justice Programs, is the research agency of the U.S. Department of Justice. Created by the Omnibus Crime Control and Safe Streets Act of 1968, as amended, NIJ is authorized to support research, evaluation, and demonstration programs, development of technology, and both national and international information dissemination. Specific mandates of the Act direct NIJ to:

- ◆ Sponsor special projects, and research and development programs, that will improve and strengthen the criminal justice system and reduce or prevent crime.
- ◆ Conduct national demonstration projects that employ innovative or promising approaches for improving criminal justice.
- ◆ Develop new technologies to fight crime and improve criminal justice.
- ◆ Evaluate the effectiveness of criminal justice programs and identify programs that promise to be successful if continued or repeated.
- ◆ Recommend actions that can be taken by Federal, State, and local governments as well as by private organizations to improve criminal justice.
- ◆ Carry out research on criminal behavior.
- ◆ Develop new methods of crime prevention and reduction of crime and delinquency.

In recent years, NIJ has greatly expanded its initiatives, the result of the Violent Crime Control and Law Enforcement Act of 1994 (the Crime Act), partnerships with other Federal agencies and private foundations, advances in technology, and a new international focus. Some examples of these new initiatives:

- ◆ New research and evaluation is exploring key issues in community policing, violence against women, sentencing reforms, and specialized courts such as drug courts.
- ◆ Dual-use technologies are being developed to support national defense and local law enforcement needs.
- ◆ Six regional National Law Enforcement and Corrections Technology Centers and a Border Research and Technology Center have joined the National Center in Rockville, Maryland.
- ◆ The causes, treatment, and prevention of violence against women and violence within the family are being investigated in cooperation with several agencies of the U.S. Department of Health and Human Services.
- ◆ NIJ's links with the international community are being strengthened through membership in the United Nations network of criminological institutes; participation in developing the U.N. Criminal Justice Information Network; initiation of UNOJUST (U.N. Online Justice Clearinghouse), which electronically links the institutes to the U.N. network; and establishment of an NIJ International Center.
- ◆ The NIJ-administered criminal justice information clearinghouse, the world's largest, has improved its online capability.
- ◆ The Institute's Drug Use Forecasting (DUF) program has been expanded and enhanced. Renamed ADAM (Arrestee Drug Abuse Monitoring), the program will increase the number of drug-testing sites, and its role as a "platform" for studying drug-related crime will grow.
- ◆ NIJ's new Crime Mapping Research Center will provide training in computer mapping technology, collect and archive geocoded crime data, and develop analytic software.
- ◆ The Institute's program of intramural research has been expanded and enhanced.

The Institute Director, who is appointed by the President and confirmed by the Senate, establishes the Institute's objectives, guided by the priorities of the Office of Justice Programs, the Department of Justice, and the needs of the criminal justice field. The Institute actively solicits the views of criminal justice professionals and researchers in the continuing search for answers that inform public policymaking in crime and justice.

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*National Institute of Justice*

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**Perspectives on  
Crime and Justice:  
1996–1997 Lecture Series**

*James Q. Wilson*

*Peter Reuter*

*Mark H. Moore*

*Cathy Spatz Widom*

*Norval Morris*

*Foreword by Alfred Blumstein*

*November 1997*

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**U.S. Department of Justice  
Office of Justice Programs**

810 Seventh Street N.W.  
Washington, DC 20531

**Janet Reno**

*Attorney General*

U.S. Department of Justice

**John C. Dwyer**

*Acting Associate Attorney General*

**Laurie Robinson**

*Assistant Attorney General*

**Jeremy Travis**

*Director, National Institute of Justice*

Justice Information Center

World Wide Web Site

*<http://www.ncjrs.org>*

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<p>The National Institute of Justice is a component of the Office of Justice Programs, which also includes the Bureau of Justice Assistance, the Bureau of Justice Statistics, the Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime.</p>
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# Foreword

In organizing the lecture series recorded in this volume, Jeremy Travis, Director of the National Institute of Justice (NIJ), pulled together a “dream team” of speakers. They cover a rich diversity of disciplinary perspectives and span a broad range of personal ideologies; in addition, each possesses an excellent research record and the ability to link research to policy implications.

James Q. Wilson, a political scientist and the leadoff speaker, has probably been the most influential voice on crime policy from academia in recent decades. His 1975 classic, *Thinking about Crime*, effectively articulated the deterrence argument and challenged many of the prevailing liberal views. And his book with Richard Herrnstein, *Crime and Human Nature*, broadly probed many of the biological and developmental factors associated with individual criminality.

Norval Morris, a leading scholar in criminal law, has been a dominant contributor on the other side of the ideological spectrum. His very influential *An Honest Politician's Guide to Crime Control* was an early attempt to counter the rapidly growing “get tough” sound-bite epidemic that has so dominated public discussion of crime control policy. His *Future of Imprisonment* reported on a classic experiment in randomized assignment to treatment programs. As the longtime leader of the Center for Studies in Crime and Justice at the University of Chicago Law School, Norval Morris has also been the mentor to an important group of scholars in crime and criminal justice, including James Jacobs, Michael Tonry, and Franklin Zimring.

These two more senior scholars have been joined by excellent contributors one short generation behind. Peter Reuter is an economist who has been a leading scholar of drug markets and their interaction with drug-war enforcement. Cathy Spatz Widom is a psychologist who has become widely recognized for her work on the cycles of violence, showing that people who experience violence as children are more likely to engage in violence as adults. Mark Moore is a policy analyst who has done important research on many aspects of crime and the criminal justice system, and he has been a most influential teacher of managers in policing, prosecution, and other areas of criminal justice through innovative management seminars at Harvard's John F. Kennedy School of Government.

Even with authors so diverse in their perspectives and interests, some important common themes emerge from their lectures. Perhaps the most important is the difficulty of addressing the "what works" question. The difficulties are manifold: some derive from the extremely limited level of funding available, some from the technical difficulty of carrying out careful testing in an operational environment, and some from a generalized suspicion about social science research. But greater flexibility in research budgets seems to be emerging in recent years. This has been aided by the allocation of funds to NIJ from the various Crime Act programs to perform research and evaluation studies.

Another important common theme is the continuing need for evaluation of various kinds of intervention programs. One can hardly argue against such evaluations; it is critical that we learn which efforts are most effective and which are futile. One problem that has plagued evaluations in the past has been the prevalence of "null effect" findings, i.e., results showing that the intervention being evaluated does no better than a control or the status quo. Too often, this happens because the intervention being tested is too narrow a "technology," i.e., a strictly defined approach that is presumed to be broadly applicable. Given this narrowness of approach, the diversity of individuals being dealt with, and the varying skills of those implementing the intervention, it is not surprising that most technologies would fail to produce resonance among all three. It is thus important to recognize

that any treatment of phenomena as complex as criminal behavior must involve a portfolio of interventions, one or more of which is applied—perhaps at different times—according to the individual circumstances, and followup with the individuals being treated. Only with this array of interventions and their extended duration can we expect to bring about the changes needed for effective management of crime-prone situations and individuals.

We still need greater readiness to carry out the same kind of probing evaluations of programs that have political support as we do with programs that raise more skepticism. For example, I would be prepared to bet on the incremental crime-control benefit per dollar of cost associated with providing greater support services to high-risk young people—as Cathy Spatz Widom argues for—compared to extending already long sentences. It would be desirable to provide those support services broadly, especially to avoid any stigmatizing effects. But there will inevitably have to be a triage of focusing the limited resources available where they can do the most good. We all recognize that such choices are extremely difficult in so political an arena as that surrounding crime and criminal justice.

The bet is especially secure when an extension of sentence occurs through sledgehammer approaches like mandatory-minimum or “three strikes” sentencing laws that put very disparate cases into the same legislated box and preclude the exercise of judicial discretion that is needed to differentiate the most serious cases from those that are marginal.

These gross approaches have been most evident in the “drug war.” About one-quarter of the Nation’s incarcerated population—and about two-thirds of those in Federal prisons—are imprisoned on a drug sales or possession charge. This is a consequence of the incessant pursuit of the supply side of the drug market, even though students of the subject as well as practitioners in the field widely acknowledge that it is demand that drives the market: suppliers somehow find a way to respond to the demand. As Peter Reuter points out, many thought that the escalation of incarceration for drug offending over the past 15 to 20 years would

raise the price of the drugs to compensate sellers for the greater risk implied. But we have seen just the opposite trend: the marketplace has been swamped with cheaper, higher quality drugs. Ironically, the increase in availability has been accompanied by a decrease in the demand for cocaine, the most serious drug in terms of violence associated with its use and with its markets. Other factors in the society have been at work in a much more powerful way.

Driven strongly by the drug war, intervention by the criminal justice system has been considerable. By 1996, the incarceration rate reported by the Bureau of Justice Statistics had surged to 440 per 100,000 population—quadruple the rate that had prevailed for the 50 years from the early 1920s to the early 1970s. The Sentencing Project has estimated that one-third of African-American males in their twenties are today under the control of the criminal justice system; the rate is even higher in urban centers. Mark Moore raises the question of whether we have come to overrely on the criminal justice system for addressing too many of our society's problems. Such a greatly broadened scope of intervention may diminish the impact of deterrence—arguably the system's greatest leveraging point. It is difficult to use the threat of conviction or even incarceration as a stigmatizing menace when it is happening to so many in the neighborhood.

Another major thrust of the lectures was the problems of juveniles, especially minority juveniles trapped in urban ghettos and deprived of many of the influences that would facilitate their entry into the legitimate economy. This was particularly emphasized by James Q. Wilson, who pointed to the growth in juvenile violence, much of it attributed to the recruitment of predominantly minority kids into the drug markets—and thus, into the world of handgun violence—both of which dramatically raised their homicide rates as victims and offenders.

The problems these kids pose to the larger society will undoubtedly be exacerbated by welfare reform as their mothers scramble to replace welfare checks with jobs that will diminish their child-care time and attention—or with criminal activity if they can't find jobs. This calls attention to a point raised by a number of the authors about

the need to be concerned with the unintended consequences of what we do. The intensity of political rhetoric driving crime policy makes it all the more important that research feed information on unintended consequences into the debate.

I would also like to extend Norval Morris's reference to "the most corrupting lie is the truth poorly told." While his comment focused on the presentation of overly simplified information by the press, I think his point is applicable to almost everyone who comments on issues of crime or criminal justice. The phenomena are so multifaceted—in terms of type of crime, demographic group, and geographical location—that aggregate statements miss many of the important distinctions. Disaggregation on these various dimensions is critical to assess meaningful conclusions.

Indeed, one can anticipate that the same broad and disaggregated perspective is needed in pursuing a program of research on crime. One needs a rich mixture of disciplines and continual challenge to any intermediate findings, which must always be seen as potentially refuted or, more likely, modified in terms of the scope of coverage of any particular finding. This process may seem to be expensive, but it is far less expensive than the cost of the wasted effort spent on ineffective programs and is necessary in order to develop the solid body of knowledge and technique that will enable us to get beyond Wilson's enumeration of dubious findings.

NIJ has made an important contribution by bringing speakers of such quality and diversity to Washington. These scholars clearly felt free to challenge existing policy and to raise questions that should be addressed. NIJ's research program and the public policy debate are very much helped thereby. It is encouraging that this process will continue in a new series of lectures in the coming year.

*Alfred Blumstein, Ph.D.*

*J. Erik Jonsson University Professor of Urban Systems and Operations Research*

*H. John Heinz III School of Public Policy and Management*

*Carnegie Mellon University*

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# Introduction

Public opinion surveys show that crime is the number one issue on the minds of Americans. Crime dominates evening news broadcasts, demands large shares of governmental budgets, influences our decisions about where to live, and plays a role in our choices on election day. Crime also inflicts enormous losses on youths, families, and the Nation's sense of security.

Yet there is no consensus about what we should do to meet the challenge of crime and the demand for justice. The National Institute of Justice (NIJ) has initiated this lecture series to broaden the reach of research conducted under its sponsorship and contribute to the national debate on criminal justice policy.

This volume presents the first of NIJ's Perspectives on Crime and Justice Lecture Series—for 1996–1997. Some of the most distinguished academics in our field were invited to offer their thoughts on the topic of their choice. They were expected to challenge conventional thinking, offer candid recommendations, and lead a robust debate. They did not disappoint.

On behalf of NIJ, I wish to express my appreciation to the Edna McConnell Clark Foundation for its support of the lecture series. Their funding provided the planning and coordination assistance needed to implement each lecture.

We are pleased to announce that the Perspectives on Crime and Justice Lecture Series will continue; the 1997–1998 series will begin in December 1997. NIJ has asked other scholars to examine new issues through the lens of public policy as a way to bring the results and implications of current research to the attention of decisionmakers at the local, State, and national levels.

*Jeremy Travis*

*Director*

*National Institute of Justice*

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# What, If Anything, Can the Federal Government Do About Crime?

*Presentation by*

*James Q. Wilson, Ph.D.*

*University of California at Los Angeles*

*December 10, 1996*

*Washington, D.C.*

Politically, Washington must pretend it can do a lot about crime. Practically, it can do very little. The President is not a police chief, a warden, or a probation officer, and he can issue few commands to anyone who is. The size of the Federal Bureau of Investigation (FBI) has grown, but it is, at best, only one-fortieth the size of local law enforcement in the country. By contrast, the Home Office in England has a great deal of influence over policing because it provides half or more of the budgets of local constables. Here, of course, Congress also spends money on crime, but the Federal Government outlay is but a small fraction of what local governments, communities, States, and private agencies spend. We sometimes think that however small the Federal proportion is, it can influence the rest of the system. But in my view—and the view of many others—this small tail will not wag this very large dog. Ideas and local political pressures drive local law enforcement in this country. The role of the

Federal Government is, at best, to try to shape the direction in which those movements occur. The vast majority of all offenders are tried before State-appointed judges, sent to State-run prisons, and released into the custody of State-directed parole officers.

The gap between what is possible and what is politically desirable has not prevented Washington from trying to do a lot. It has made over 3,000 offenses into Federal crimes, even though most of the important offenses have been State crimes for decades. The slow movement toward the Federalization of law enforcement is worrisome to many Americans for reasons I fully share. If we have 3,000 Federal criminal charges and if this is more than purely symbolic politics, then a Federal officer must investigate their violation.

Federal investigations play a very important part with respect to some matters. But for the most part, having this many Federal crimes means that we ought to have a Federal—that is, a thoroughly national—police force. No one devoted to our Constitution could embrace such a prospect cheerfully, and I do not. Even creating the FBI many decades ago—an organization which soon became a small elite unit—was greeted with skepticism when it first occurred. The passage of the Mann Act in 1910 was a profoundly contentious issue because it, for the first time, set up a Federal criminal standard. It deeply divided Congress. On what grounds, people argued, should prostitution become a Federal crime? The answer given, of course, was that it could become one if prostitution affected interstate commerce. And so was created an odd Federal task—assigning a few FBI agents, mostly rookies, to the task of trying to follow suspected prostitutes across State lines. In short order, the Federal courts, including the Supreme Court, began to brood over the vague language embodied by Congress in this statute—words like “debauchery” or “other immoral purposes”—that are undefined. The courts began to expand the Mann Act so it would now be a Federal offense for a woman voluntarily to cross a State line to have sex whether paid or not, or to move to a location where debauchery *might* occur, or to accompany a vacationing Mormon family who happened to

be polygamous.<sup>1</sup> When a State court gets carried away in this respect, one can do something about it—if only by moving to a different a State. When Washington does it, the only alternative is Canada.

Federal criminal laws now imply the creation of a Federal police force. No one wants to do it, of course, but we have a way of drifting into situations that no one intends. Even if we hold back from a drift in that direction, the effort at federally managing the crime problem cannot, so far as I can tell, help us solve many of our real problems. Despite Federal involvement, crimes are getting harder, not easier, to solve. Clearance rates are not going up, and many are going down. Most offenders commit crimes in or near their own back yards, creating local neighborhood, not national, problems. An increasing proportion of serious juvenile offenders are heavily armed and contemptuous of the juvenile court system. Many neighborhoods have critical problems even in cities that have modest or declining crime rates.

An alternative to creating a Federal police force is to improve the strength of local ones. I think that is what the program to place 100,000 officers on our city streets has in mind. Though I am devoted to policing, and though I am convinced that good cops well deployed make a difference, I am struck by the absolute inability of Washington to send these officers to the places where they are needed. The problem is very simple. There are 435 congressional districts and 50 States in this Union, and each and every one wants its share of the 100,000 officers. Half the officers, by law, must go to smaller cities. Our 14 largest cities have only 12 percent of the Nation's population but account for 36 percent of all homicides and nearly half of all robberies. These places could use all 100,000 officers by themselves. Yet, many of the officers go to small towns like Midvale, Texas.

In Los Angeles during 1960, there were three violent crimes reported to the police for every uniformed officer. By 1990, there were 10 violent offenses for every uniformed officer. Using this rough, admittedly simplistic measure, Los

Angeles needs a police force of 25,000 today instead of the 8,000 or so it has. My city, in short, might be able to catch up with where it was 30 years ago if it had one-sixth of the 100,000 new officers—and if we could persuade our local constituents to pay for their retention when the 6 federally funded years have expired.

Naturally, Washington has an important duty to investigate real interstate crimes, both blue-collar and white-collar, all crimes involving interstate conspiracies, and all international crimes that touch our borders. And there are Federal reservations and buildings it must guard. But it seems to me its key role ought to be to do the one thing local authorities cannot and will not do on their own. That is to design and test new crime-control strategies. Cities and States will not do this, not simply because it costs money—money that they, by and large, do not think they have—but because they would be providing a free good to other cities and States. Good demonstration projects are expensive and take a lot of time. How does a mayor or Governor justify spending that money and taking that time when one or the other of two bad things will happen: Either the new program won't work, thus embarrassing the city or the State and the mayor or the Governor; or it will work, but the benefits will go without charge to every other city and State in the country?

The Federal Government has a unique opportunity to be the research and development (R&D) arm for law enforcement. It is a task that no city or State will undertake in any meaningful way, and it is also one that with a few exceptions private foundations will not support. I have spent many years trying to raise money for this cause from private sources, including foundations for police and criminal justice research. I have had, on occasion, some good allies, but generally to no avail. Foundations support *causes* not evaluations, at least in this area.

When I speak of a Federal R&D effort, I trust everyone here understands that I am not talking about pure or academic research. There is a need for that, too, but it often gets funded by Federal assistance through entities such as the National Science Foundation, the National Academy of Sciences, and the

various National Institutes of Health. I am speaking of the real-world testing of new ideas, especially those developed by practitioners in the field—ideas that cannot, I am sorry to say, be tested by the practitioner who developed them. No good idea will be seriously evaluated by anyone who has a patent on it. A test requires objectivity, technical skills, and a long time horizon. A practitioner is subjective (he or she must struggle to get the idea launched in an often hostile environment), is skilled at creating ideas but not necessarily at testing them, and has a time horizon shaped by tomorrow's newspaper story or next month's budget hearing, not by the 2 or 3 years that an adequate testing in the field involves.

Happily, there have long been a few people in Washington who have understood this view, such as James "Chips" Stewart in the Reagan administration and Jeremy Travis in the Clinton administration. Of late, largely as a result of the 1994 Crime Act, the Department of Justice has said, I hope with congressional support, that it will spend a significant fraction of its new crime-control money on demonstration projects. I would think it would be even better if Congress, in reauthorizing this agency, placed in that reauthorization a mandate that set aside for research a fixed percentage of the money that Congress would later appropriate for law enforcement. While I am committed to a Federal demonstration role, I am well aware of how hard it will be to get meaningful results.

People sometimes compare the low level of funding for crime or violence research with the high level of such funding for cancer, stroke, or AIDS. This difference is very large—indeed it is vast, but this is not simply the result of unequal interest groups besieging Congress. Doctors, in fact, tend to do better work than criminologists. And for good reason: Doctors are more likely to learn useful things that their own profession can put into practice than are criminal justice researchers. There is both a demand problem—what should the Federal Government ask for?—and a supply problem—what are competent social scientists willing to produce?

Health research may lead down many blind alleys, but treatments and even cures often emerge. And when they emerge, they enter into a well-organized market of eager producers and consumers. Compare that record with the history—a long and generally sad one—of much criminal justice research. These are ideas that have had their brief place in the sun. I think we can all remember random preventive patrol? Claims made on behalf of “scared straight?” Remember the arguments used for boot camps? And shock incarceration? And intensive probation? And remedial education? And job training and supported work projects? And making police response time faster? To be sure, some of these things, done by a few gifted people, may have made a difference, but by and large, the research has failed to provide adequate support for their general applicability.

We now are committed to a new wave of good ideas, of which community-oriented policing leads the list. I am a believer in it. I support it, but I have to confess that my belief rests at present more on faith than on fact. We hear of many cities engaging in promising starts, and then retreats, cutbacks, and hostility. For every San Diego or New Haven where it seems to have been a success, we recall a Cincinnati or a Houston where it fell apart. For every patrol officer who fell in love with community policing there is a lieutenant who thinks it is just the fad of the day. The famous 100,000 police officers to be paid for by the Federal Government are supposed to support community policing, but that is like saying they are supposed to walk to Europe. A good idea, maybe, but we lack a clear road, and, in any event, 100,000 officers aren't enough to make a difference even if they get there.

Despite all of these reservations, I think the Federal R&D role is the right one. Go back to community policing for a moment. Why did it begin to command our attention? It began to command our attention because the National Institute of Justice (NIJ) supported a project in Newark, New Jersey, to test the efficacy of foot patrol. Most police chiefs at the time believed that foot patrol would not have an effect on the crime rate. The NIJ study found out that they

were exactly right: It did not have an effect on the crime rate. It just made the people in Newark feel better. Out of the contrast between a crime rate that was stable and an improving public morale came an insight. How people feel about their city may be as important as what the city in fact does. If people feel better about their city, they will be encouraged to use public spaces in ways which, in the long run, may actually drive down the crime rate but in the meantime allow them to enjoy what is in fact the right of every citizen: to walk peacefully with some degree of comfort and confidence around the streets of their own cities.

We have, after all, learned about a lot of things that don't work, and we wouldn't have done that if somebody had not been doing an evaluation. We used to think that random preventive patrol deterred crimes and that quick police responses prevented crime. We now know those ideas are not correct. As a result, the police have been encouraged to look in new directions. Good police around the country are using specialized preventive patrol, and undercover operations, and they are dealing with police responses more by evoking from the community a definition of problems to be resolved rather than waiting for citizens to dial 911.

To me, the critical issues are two: If you think as I do that R&D is the central role the Federal Government should play in this area—nearly to the exclusion of many other things it now tries to do—how should this work be financed and directed? And, what should it study? I do not think this study should be directed from the U.S. Department of Justice. There are many people in this room from the Department of Justice, but I don't think the work should be directed from that agency. I admit that today we have an excellent NIJ director. There have been a few good ones before him, but counting on that continuing is like expecting flowers to bloom through asphalt pavement. Occasionally it happens, but it is not the best way to grow a garden. DOJ is an organization of lawyers, and lawyers do what lawyers are supposed to do: They investigate, sue, and prosecute. If anyone doubts the gap that exists between

empirical science and legal research, he has never set foot on a university campus. I have served on the campuses of three great universities, and in each and every case the gap between law school research and empirical social sciences was a vast and unbridgeable divide. The best social scientists—there are a few good ones—operate on campus in almost complete isolation from law schools, and the best law professors—and there are many of them—return the compliment. And if you think universities are an odd exception to a general pattern of compatibility, you have not understood how most judges treat empirical science when it is introduced into their courtrooms. Scientific nonsense acquires evidentiary standing in ways that satisfy nobody but the appeals court judges who later rule on the matter.

NIJ ought to be part of a federally supported larger whole, which is generally committed to scientific alliances and the maintenance of rigorous analysis. I leave it to Washington insiders to select that spot, but I do not think the Justice Department is that spot. As to the second question: It is a very difficult problem to prescribe in advance what the research agenda should be. There are many important issues—for example, can anyone show that community policing, somehow defined, really works? Can anyone show that if it works it can be made to continue to work? That research area will persist for years. There are other important technological areas that are being researched for the first time in recent years.

But one issue especially concerns me, and I would like to raise it to the top of the agenda if I can. That is the problem of juvenile criminals. Criminal justice and social science know about adult offenders. Adult crime rates, including adult homicide rates, seem to have declined in the 1980s, and we have tried to study why. But the rate at which juveniles commit crimes, especially homicide, went up, and we are not sure why. The rate of offenses is higher on the average for young people than it is for older people. Many people are being sent to prison—for perfectly good reasons—at a time when their own crime rate is beginning to decline. In every society, the crime rate peaks in the teenage years among males. We send the people to prison 10 years later.

This gap indicates that something is not working. We know that today juveniles have become a smaller fraction of the whole population. We expected that their crime rate would go down as the adult rate generally went down, but it didn't. That has become for many years the most worrisome feature of local society. Most of what we know about the effects of punishment on offenders, whether in terms of deterring them or incapacitating them, we know only about adults. We have interviewed them constantly. Our sense of adult behavior has been elaborated by everything from general discussion to sophisticated quantitative models. We don't know anything of the sort about juveniles. Some people think that juveniles are immune to the criminal justice system because they are so impulsive as to give no thought to the consequences of their actions and so reckless as not to care what society or the larger community thinks of them. Scholars have argued that imprisoning a juvenile only makes matters worse because he becomes indoctrinated to gang activity or a criminal lifestyle.

We actually know next to nothing about whether any of these arguments are true. We have interviewed adult prison inmates but not, to the same degree, juvenile ones. We can construct the criminal careers of thousands of adult offenders but of far fewer juvenile ones. One of the very few efforts to find out what difference incarceration made on juvenile offenders was done in Chicago in the 1970s.<sup>2</sup> The authors followed the careers of a few hundred serious delinquents and found that the more serious the penalty imposed by the court system, the lower the rate of their subsequent offending. This finding was strikingly similar to that of two other studies done in the preceding decade, using very different institutional treatments in quite different communities.<sup>3,4</sup> Questions can be raised about such findings: Why did their crime rate go down? Did they just get smarter? Did they evade police detection or adopt forms of crime that were harder to detect? As near as I can tell, in the intervening 20 years virtually nothing has been done to try to answer these questions.

We know that States and counties differ in how they handle juveniles, but we have almost no idea as to whether those differences in treatment make a difference in crime rates. The chief of the Family Court Division of the New York City Law Department has recently published a troubling and unhappy account of how that city handles juveniles.<sup>5</sup> The family courts have faced an exploding caseload since the late 1980s, but the penalties imposed even on the most vicious hoodlums rarely have exceeded 18 months. That is because New York State law limits penalties for persons under the age of 16 to 18 months. The law governing investigations is even more restrictive. The police cannot ordinarily search a home occupied by a young offender without either a warrant or the parents' consent, but the family court cannot issue warrants. When a youngster turns 16, a different set of rules apply. They can be tried as adults, but the courts can, and often do, make these persons into "youthful offenders," a status that keeps the potential sentence very low.

Now contrast this with what the *Los Angeles Times* has reported about juvenile offenders in the State of California. The newspaper surveyed young inmates of the California Youth Authority and came to the conclusion that juveniles were actually serving longer terms than adults sent to prison for similar offenses. Juveniles, for example, served 60 months in California for homicide, while adults served only 41 months.<sup>6</sup> Let us assume that New York and California do in fact differ that dramatically. Does this difference *make* a difference? Will one system produce more or less crime than the other system? Are the people in either State safer or more at risk because of what appear to be great differences in how these systems work? We do not know. As far as I know no one is trying to find out. As the population once again becomes younger—the elementary schools of Los Angeles are filled to capacity with persons eagerly awaiting the junior high school years in which the legendary 6 percent of them will become hopeless offenders—we know that crime rates are very likely to go up, and we ought to care.

There are many obstacles to doing research of this sort—some are legal, some are technical. These obstacles are serious, but scholars have had to cope with serious matters in the past dealing with adult offenders. I believe that, with good will and adequate support and direction, they can do the same with juveniles.

An equally important evaluative effort is needed for the causes of juvenile crime, which are not well understood. Criminological research has cited almost any defect that a social scientist can find in American society as a cause for juvenile crime. In all societies, juveniles commit more crimes than adults. And in all societies, as near as we can tell, the juvenile crime rate has been going up. Whatever the cause is, it may not be a uniquely American phenomenon.

The new welfare reform bill has created a splendid opportunity to investigate what suspect is the most serious cause of juvenile crime, and that is the weakness in the family structure. The new welfare reform bill requires underage, single-parent mothers either to live with their own parents or under adequate adult supervision as a condition of receiving Federal aid. No one knows what “adequate adult supervision” means. It must be supposed to mean something other than supervision by her own parents. Often the young woman’s predicament is the result of the failure of her parent or two parents to supervise her adequately.

A wonderful opportunity exists for cities, counties, and States to provide a variety of new mechanisms as alternative “families” for such persons. Single-parent moms would have to live in alternative homes or shelters as a condition of receiving aid. They and their newborn children would experience true adult supervision from caring adults, who worry about the future of those children. Such efforts should be run by private organizations. Various church and synagogue organizations could take on the task of supplying alternative homes if the Federal Government were willing to direct its welfare money in that direction. It would then be up to NIJ and other bodies to find out what works.

Can we change things for the children of young unmarried teenage moms in such a way that we reduce the rate at which these young people grow up on the mean streets of our cities with only guns as their friends?

To me, the hardest task is not to create the agencies, encourage the practitioner links, or design the research. The core problem is to persuade members of Congress and their constituents that they are doing something about crime by spending money on R&D evaluation. People believe they know what should be done about crime, just as they believe they know what plays the Washington Redskins should call. It is very hard to persuade them that, in fact, they don't know and ought to find out. Maybe the only way to do it is to smuggle an evaluation program, written in very small type, into the next bill that increases the number of Federal offenses to 6,000, imposes the death penalty on 50 more crimes, closes the border to illegal immigrants, and promises an end to wife abuse.

### Question-and-Answer Session

**Patrick Murphy, U.S. Conference of Mayors, Washington, D.C.:** I certainly agree that we need to have much more research, and yet the problem is the “non-system” of policing we have—17,000-plus local police departments. I describe this to foreign police administrators, and they say, “But of course they are coordinated by your State police agencies.” Federal police are coordinated by the FBI, but that does not occur locally. We are all devoted to our system of local police, but it seems to me that the Federal Government and the States could do more, in addition to research, to coordinate the work of these agencies for criminal intelligence, support of planning, and better exchange of knowledge. Would you comment on the system problem?

**JQW:** I certainly would encourage dissemination of intelligence, a real improvement in suspect identification, and dissemination of information. But, I am not encouraged among what I see abroad as “systems.” Since 1980, the adult crime rate has been dropping more or less systematically in all cities across the United States. During this same period, in countries that have a unified system like England and Sweden, for example, crime rates have been going up dramatically. Today, the robbery rate in England is as high as ours, and the auto theft rate is twice as high; in the Netherlands, the burglary rate is twice as high. The advantage of a unified system is that you get coordination. The disadvantage of the coordinated system is that you may coordinate it around a bad idea.

To me, the desirable consequence of the American system, messy as it is, is in what we have learned about how to improve the criminal justice system. Rogue police chiefs, backed up by brave or indifferent mayors, have tried new ideas against the advice of other police officers and have made them work. So we have to try to strike a balance between a nonsystem and risk of bad action if we have a full system. With the American genius for making something out of nothing in our Constitutional order, we can do that. I would resist, as a matter of principle, converting our nonsystem into anything that looks like a European system.

**Questioner (not named):** Professor Wilson, for the purposes of this question, place yourself on the Supreme Court. Last week you heard arguments on the Brady Act. How would you vote and why?

**JQW:** As a Justice on the Supreme Court I would try to vote on the basis of what the statute requires and what the Constitution mandates. In Congress, I would have probably voted for the Brady Bill with little hope that it would make a significant difference. Gun control is a serious matter that cannot adequately be handled by Washington policies directing the way in which

guns are sold in federally licensed gun stores. The problem is to figure out ways to keep guns out of public places; they are usually stolen in the first place.

With respect to the Supreme Court question and arguments and briefs, I haven't thought of it as a constitutional matter—I have been too preoccupied with its limitations as a practical matter. I would prefer that you asked me what I would do in Congress rather than what I would do in the Supreme Court.

**Roger Conner, American Alliance for Rights and Responsibilities, Washington, D.C.:** I was discouraged to hear intensive supervision probation in your list of things that, while useful, have not necessarily reduced or prevented crime. As a way to address juvenile crime, what do you think of more intensive and close supervision of probation to reduce reoffending in this group?

**JQW:** I think that's a possibility. To me, one of the things that explains juvenile crime is that many youthful offenders lack any involvement with a mature adult who might give a kind of guidance. What they most need is to have a mature adult inserted into their lives on a continuing basis. One way for that to happen is to be born into a two-parent family that is reasonably successful. Failing that, and we are increasingly failing that, perhaps we can design and apply an ad hoc parent.

I am open to the possibility of using intensive probation for first-time or early juvenile offenders; this may well avoid their repeated involvement in crime. The experiment in intensive supervision probation that I was referring to, as evaluated by the RAND Corporation, was focused on adults. At that stage, it didn't seem to make much of a difference. A different story might be true if we focused on early juvenile offenders, where there is some reason to expect to alter, by the presence of a mature adult in their lives, the prospects of their continued offending.

This is being tried in the country. Many things are being tried that I don't know about. I haven't seen an evaluation of it and I would very much like to.

**Samuel Dash, Georgetown University Law Center, Washington, D.C.:**

Professor Wilson, in your address you did not make any mention of the criminal drug problem in the United States, its relationship to crime, and whether you think that the Federal Government plays a more effective law enforcement role than the local and State organizations. Since drug offenses are covered under Federal law enforcement and the Federal Government claims a greater and greater role in this area, do you think Federal efforts are more effective, at least there, than local and State prosecution?

**JQW:** I do think the Federal Government has a major role in drug enforcement. I had that in mind when I referred to interstate commerce and international trafficking. The Federal Government has become deeply involved in the drug problem. I think that making better use of Federal resources to deal with the drug problem is a critical need. Even so, the critical problem in drug abuse is the demand for drugs. Demand reduction is fundamentally a local matter. (Yes, I strenuously defend the illegality of drugs.)

Who is using drugs? We know from many studies that a very high proportion of the people arrested have been using drugs in the preceding 72 hours, as revealed by the customary drug tests. Most of these people will be placed on probation or sentenced to confinement and after that possibly given parole. This is a readymade group of people, already under the authority of the criminal justice system, who can be told that their permission to be on probation or parole is contingent upon their subjecting themselves to frequent (meaning several times a week) random drug testing, and that the failure to satisfy these tests would bring them back into the criminal justice system for increasingly longer periods of time. That is a local responsibility—something that local police and probation authorities have to do. They are often financially

underequipped to do it, although some promising starts have been made with respect to drug courts.

Although I believe the Federal Government has a crucial role to play, and it is largely on the supply side, I think the key to the drug problem is on the demand side. If we can make it extremely difficult for those who are already in the criminal justice system to gain access to drugs, I think demand will be reduced. People will, I hope, be driven into treatment programs, and the supply of drugs will fall correspondingly.

**Questioner (not named):** Dr. Wilson, you mentioned the disparity between medical research and crime research. There is a perception in the medical and legislative communities that the research on violent crime is being intimidated or suppressed by certain groups. In your perception, is that the case?

**JQW:** Yes, if you want to think about the research on violent crime generally, in all aspects, there is a substantial degree of suppression. If you wish to discuss the genetic bases behind crime—which we know to a certainty exist, because males always commit 5 to 20 times as much violent crime as females (and not as a result of particular childrearing practices)—mention this fact, especially in this city, and you will discover that you are the object of an intimidating drive, launched by a small number of people, who will either silence you or prevent the Federal Government from funding you. Most of the available research that bears on genetic, biological, or early childhood effects on crime is from abroad. Even abroad, it is increasingly difficult to pursue such questions.

Other aspects of the causes of violence (and there are in fact many aspects to the causes of violence) are encouraged to be researched, and therefore there is a kind of imbalance in our body of knowledge. Politically acceptable causes attract research support; politically unacceptable causes do not attract interest. That is, in my view, gravely unfortunate.

**Adrian Curtis, Justice Management Division, U.S. Department of Justice, Washington, D.C.:** The Attorney General always says that youthful offenders should be reached *before* they become youthful offenders. Everyone would prefer not to be mugged or to deal with the consequences afterwards. Crime legislation has provided authorization to fund crime prevention. It hasn't been very strongly supported by the Congress or by the public. Do you think it would be a good move to put more money into prevention efforts? Or demonstration programs? Or do you think it is an issue to be dealt with locally?

**JQW:** I think the Federal Government has a major role to play in prevention. I think the problem is with what has been described in the past as a prevention program. It is, of course, a caricature to describe prevention programs as those involving "midnight basketball," but that slogan has caught on because it is not refuted by any evidence that we know of for any better prevention practice. We have had a lot of efforts at supported work projects, many of them using very rigorous evaluation methods. If you place juvenile offenders in job training and supportive work environments and, after 18 months, compare their offending rates to those of youths who did not experience this, no difference exists.

Although remedial education programs are sometimes reported to be successful, the body of research suggests that they don't make a difference. To me, the critical years in a child's life are zero to five. If you have a prevention effort, that's where you have to aim it. The government and the public understand this. Everyone who has been a parent and has watched his or her children grow up in such remarkably different ways—begin to express their character and interact with their parents—knows how critical that period is. If we are going to have an effective prevention program, I think we have to say that those are the critical years, and we have to focus our imagination on those years. We have to develop, with Federal support and evaluation, programs that will provide differing ways of managing that period of life. We don't really know what the best programs are, but there are lots of experiments out there

(none of them really being evaluated by anyone). So we have something to build on.

If we focused our prevention efforts around the core issue of the family, and took advantage of the great popular and political support for family issues, we could move the prevention program ahead. But if we just talk about “prevention,” people will think we mean supported work projects, remedial education, or midnight basketball, and it won’t succeed.

**Janie Jeffers, President’s Crime Prevention Council, Washington, D.C.:**

Professor Wilson, through your lens, you paint a bleak picture for juveniles. What you saw as perhaps a glimmer of hope, as a result of the Crime Act legislation, was the group homes, etc. Where do you see the support for the family, to shore up the family—not to replace the family in what would be at best an artificial and short-lived kind of activity? You spoke about prevention related to children between 0 and 5, but I’d like to hear where you see the family needing support, what interventions you think are appropriate, and what kinds of research in those areas should be done to avoid supplanting the purpose and need for families.

**JQW:** I wish I knew the answer to your question, but I do not. The growth in single-parent families cuts across all the Western industrial nations. The rate is highest in the United States, but it is very large in Western Europe, England, France, and Japan. It is being driven by profound changes in Western culture. It is, in my view, the final working out of the 18th century enlightenment. If you really believe in the emancipation of the individual, there will come a time when men will feel themselves freed from the responsibility of maintaining families. Men are a difficult species. It has taken many years of hectoring, bloodshed, religious indoctrination, cultural pressure, etc., to get them to take care of the women they made pregnant and the children to whom the women have given birth.

If you really believe in emancipating the individual right down to the grassroots, and we have seen this in Western cultures, you will see the removal of the man from this family role. The best idea I can come up with is to change the way we raise at-risk children so that they will grow up in an environment during their formative years in which they value a family experience and see men and women working together to help raise them. As they get that formative experience, it will guide them into a desire to repeat that experience in their adult lives. Whether that will work or not, I don't know. Relative to the pressures that are working against the family, I don't think there are any simple policy remedies. I don't think tax rate changes, or forced financial support, or even tightening the divorce laws (although there are worthwhile ideas in some of these initiatives for change) will make a big difference. They are like small handfuls of sand thrown in the face of a gale wind.

Unless we face the fact that we are dealing with a profound cultural transformation throughout the West and attempt to change the influences on young people so that they will attempt to stand against that force, then I don't think we will succeed.

**Ted Gest, U.S. News & World Report, Washington, D.C.:** Could you give us some idea of the scale you are talking about when you say "more research?" Everybody in this room thinks we need more research on crime. Are you saying that we need as much research as we have for various diseases? But other people would point out that we already are doing more research through the 1994 Crime Bill and the National Science Foundation. Are you recommending a massive increase—a sort of modern day "Manhattan Project" on crime, or are you speaking about targeted modest increases in specific areas?

**JQW:** My remarks this morning would have had greater force before the passage of the 1994 Crime Act. I think there has been a significant increase in research. The National Institute of Justice now has resources and commitment that it has never enjoyed in the past. That is all good. I'm not confident that we need a

dramatic increase in funding. We don't have that many good researchers in this field. The few we have are very busy. More will be recruited, just as in the aftermath of the passage of the Law Enforcement Assistance Act. That opened up Federal research efforts. The criminological effort was revitalized when operations research, industrial micro-economics, etc., elbowed into this area with a new way of looking at things.

I would like to see Congress make permanent, if nothing else, the present commitment to research and demonstration efforts, by authorizing programs that set aside a given fraction of however much money Congress may choose to appropriate for the purpose of aiding significant Federal or local programs.

I don't call for a Manhattan Project. I would be satisfied with the present level of resources if we could make it permanent so that the next administration, whatever it is, would not find it so easy to change.

**Morris Thigpen, National Institute of Corrections, U.S. Department of Justice, Washington, D.C.:** Would you mind commenting on the sentencing practices that we are seeing across the country today? What do you think of those in your own State of California—the “three strikes and you're out” laws and the whole truth-in-sentencing push that is occurring?

**JQW:** It's difficult to comment on sentencing policies without taking into account the enormous public frustration with what is perceived to be our current sentencing policy. In California, the sentencing policies before “three strikes” were lamentable. If you illegally kill another human being in the State of California—not as an accident—from manslaughter to first-degree murder, your average time in prison would have been less than 4 years. The public may not understand certain details, but they don't like that. So when someone came along with three-strikes legislation, people wanted the legislators to vote for it.

We have had a lot of problems with this three-strikes bill. It focuses heavily on adult offenders. It reserves serious penalties for the second and third strike. It is somewhat unclear as to what prior offenses should count as a strike. Local district attorneys are

displaying a considerable amount of unstudied variance in how they define a prior strike and therefore in the proportion of people that they send to prison.

Our problem is not simply to defeat these measures; it is to come up with something that is better. California hadn't done that. California didn't take the killing of another human being very seriously except in very high-profile cases—freeway strangling or whatever. If we do that (and many large States in the country do), we have a problem.

I don't know how to put that genie back in the bottle. Rather than modifying the three-strikes bill, I would prefer if something other than it had been passed in the first place. I would strongly prefer that people mobilize their answers on how we handle juvenile offenders, who are eventually going to turn into those persons who are eligible for three-strikes. The only way to do that is to show the public that we know enough about the subject so that we can direct their attention effectively.

Misguided in some aspects as these laws are, we have to realize that we didn't give the people any alternative to choose.

**Betty Chemers, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, Washington, D.C.:** The juvenile justice system is clearly under great stress, with more and more juveniles being waived to the adult court. Do you think the juvenile court has outlived its usefulness?

**JQW:** I wish I knew the answer to whether the juvenile court has outlived its usefulness. My sense is that the juvenile court is many different things in many different States. In California it is in serious trouble. I believe in New York State it is approaching total collapse. In Indiana, as a matter of fact, it is working rather well.

We don't know what juvenile courts are doing. I believe that the essential

premise of the juvenile court deserves serious reexamination. The central premise of the juvenile court is that the court would stand in loco parentis. It would replace the parents for children who were runaways, truants, shoplifters, or engaging in activities indicating a failure of parental supervision. It was not invented at a time when 13-year-olds carrying Uzis were mowing down innocent babies on street corners.

How should the juvenile court be reshaped, if that is its role? Some of its functions should be split perhaps into several parts. It should be a State agency that acts in loco parentis, and it should not limit its attention to youngsters who have already shot, or mugged, or stolen at large. It should turn its attention at the first sign of difficulty to people who begin to experience problems, where parents are doing a poor job. But other functions of the juvenile court should be shifted to a different kind of entity. Not necessarily the court, but a different kind of entity that has the task of identifying early on who the repeat offenders are. Not after their first arrest or conviction, but after a second time or a third time. Once you pass that transition—the third standard deviation—you are very likely to become a chronic serious offender. We need to identify those people as early as possible and to deal with them by increasing the magnitude of penalties they face from at least the second offense on. Every time they do something again, the penalty gets worse.

I don't think the juvenile courts are doing this. I think they waive juveniles out of the system for the first, second, or third serious offense. Then finally, they unload on them and put them in incarceration until they are 25. That's not the way we raise our children. We don't ignore their misdeeds until finally they burn down the house. In our daily lives, we use moderate rewards and penalties in raising our children so that they become habituated to a life of decency. The juvenile court does not follow the principles of decent family life.

The court was founded on the principle of acting in loco parentis. We need juvenile courts that will be much more heavily funded than the present ones are, will take very seriously the first signs of repeat offending among juveniles, and will be very serious about the penalties they impose.

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# Why Can't We Make Prohibition Work Better? Some Consequences of Ignoring the Unattractive\*

*Presentation by*

*Peter Reuter, Ph.D.*

*University of Maryland*

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*Washington, D.C.*

United States drug policies are punitive (in both rhetoric and reality), divisive (certainly by race, probably by age, and perhaps by class), intrusive (in small ways for many individuals and in large ways for some groups), and expensive (\$30 billion annually). Even more distressing, the Nation has a drug problem more severe than that of any other rich Western society, whether measured in terms of the extent of drug use, dependence on expensive drugs, drug-related AIDS cases, or the level of violence and corruption associated with these drugs.

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Many contend that the problems are a consequence of our policies. Either it is the harshness of those policies that has generated the disease and violent crime that surround drug use (the standard liberal critique),<sup>1</sup> or it is the lack of effective stringency that explains why drugs are so widely used and available (the hawks' critique).<sup>2</sup> Yet this may give too much credit to the role of policy, a common fallacy in modern American discussions, particularly in the Nation's Capital, whose business is precisely policy. Whether or not there is an epidemic of experimentation with a particular drug, what fraction of experimenters goes on to become dependent, and the severity of health and crime consequences of dependence may be much more shaped by factors other than policy. Certainly when comparing America's drug problems with those of other nations, most of the relevant differences appear to be rooted in broader features of societies. For example, the United States is characterized by greater hedonism, weak informal social control, a higher propensity for risk taking, inadequate provision of health care for the poor, unequal income distribution, and a high level of criminal violence generally. It is also more intimately connected with cocaine- and opium-growing regions such as Colombia and Mexico. All these factors promote use of illicit psychoactive drugs and/or worsen the problems associated with that use. If policy is only moderately important in controlling drug use, then perhaps we can mitigate the harshness of our policies with little risk of seeing an expansion of drug use and related problems. Reducing our drug *policy* problems (i.e., the adverse consequences of the policies themselves) is worth a good deal, though it would obviously be even more desirable if we could also reduce our drug problem.

It is hard to be highly prescriptive, to say what good drug policy would look like, because one consequence of politicians' treating drug control as a moral crusade has been an absolute lack of interest, bordering on gross negligence, in assessing the consequences, good or bad, of the emphasis on punishment. We cannot say, even approximately, whether locking up more drugdealers or seizing lots of assets has any substantial effect on drug prices or whether higher prices would have much effect on American drug usage or related violence.

There is no credible basis for describing a policy that would reduce, in any important dimension, the extent of America's drug problems by, say, one-third in the next 5 years.

What I will offer is a set of reasonable conjectures, but a central message of this paper is that without systematic evaluation of the consequences of drug enforcement and punishment, the current stagnation of drug policies will almost certainly continue.

### Characterizing American Drug Policies and Problems

**Policies.** The most striking characteristics of the U.S. response to illicit drugs in the last decade have been its scale and punitiveness. The Federal Government spends about \$15 billion annually on drug control. State and local governments probably spend at least as much.<sup>3</sup> Thus drug control is a \$30–35 billion government program in the mid-1990s, massively up from about \$6–7 billion in 1985. By comparison, the figure for all public law enforcement expenditures was about \$110 billion in 1996.

The intended punitiveness is reflected in budgets. About three-quarters of the national drug control budget is spent on apprehending and punishing drug dealers and users, with treatment getting about two-thirds of the remainder. State and local governments are even more enforcement oriented than the Federal Government. Budgetarily they exhibit a disdain for prevention, even though this is primarily a school-based activity, which seems naturally to flow from local governments.

The total punishment levied for drug control purposes has increased massively since 1981, when the concern with cocaine became prominent. The number of commitments to State and Federal prison have risen approximately tenfold over the same period. By 1994, there were almost 400,000 people in prison or jail serving time for selling or using drugs. The comparable figure for 1980 was about 31,000 (see exhibit 1).

<b>Exhibit 1: Trends in Drug Enforcement, 1980–1994</b>				
	<b>1980</b>	<b>1985</b>	<b>1990</b>	<b>1994</b>
<b>Drug Arrests</b>	581,000	811,000	1,090,000	1,350,000
Heroin and Cocaine	70,000 (12%)	240,000 (30%)	590,000 (54%)	635,000 (47%)
Distribution Only	104,000 (18%)	192,000 (30%)	345,000 (31%)	370,000 (27%)
<b>Inmates</b>	31,000	68,000	291,000	391,000
Local Jails	7,000	19,000	111,000	137,000
State Prisons	19,000	39,000	149,000	202,000
Federal Prisons	4,900	9,500	30,500	51,800

Sources: *Uniform Crime Reports*, *Correctional Population in the United States*. Jail figures are author's estimates. Numbers are rounded to the nearest thousand except for Federal prison populations.

At the State level, one striking feature is the large number of persons being imprisoned for drug possession felonies. This does not include possession with intent to distribute, which is classified as a distribution offense. Approximately 50,000 were sentenced to State prison in 1992 for nondistribution offenses, mostly simple possession; some may have been plea bargained down from distribution charges.

Sentencing figures are of themselves insufficient to show that enforcement has become more stringent. That depends on the ratio of sentences (or years of prison time) to offenses. Imprisonment may hardly have kept up with the growth of drug markets. The number of offenses might have risen as rapidly as arrests, sentences, and years of prison time between 1980 and 1985, when cocaine consumption was still expanding rapidly. But from 1985 to 1995 it is very likely that the number of offenses (transactions) and buyers and sellers was essentially flat. The risk of being imprisoned for a cocaine or heroin user or seller went up very sharply, perhaps nearly tenfold.

How risky is drugselling or drug possession? The aggregate data suggest that in 1994 a cocaine user had an 8-percent risk of being arrested; for a heroin user the figure may have been 10 percent. For drugselling, Robert MacCoun and I estimated in a study of the District of Columbia, that in 1988, street dealers of

drugs faced about a 22-percent probability of imprisonment in the course of a year's selling and that, given expected time served, they spent about one-third of their selling career in prison.<sup>4</sup> These figures on sellers are somewhat higher than crude calculations at the national level for more recent years.

Does this make drugselling appropriately risky? One-third of a career in prison seems quite a lot. On the other hand, the risk per sale is very small indeed. In our Washington, D.C., study a seller who worked 2 days a week at this trade made about 1,000 transactions in the course of a year. His imprisonment risk per transaction was about 1 in 4,500; by that metric, drugselling is a great deal less risky than, say, a burglary or robbery. Another way to assess the risk is to look at aggregate figures. It is estimated that American users consume 300 tons of cocaine per annum. If these are sold in 1-gram units, this represents 300 million transactions, which result in fewer than 100,000 prison sentences. This generates a prison risk for a single cocaine sales transaction of about 1 in 3,000.

The punitiveness of American drug policy is not simply captured in numbers. It is also an element of rhetoric and other programs. The 1996 Presidential candidates competed, albeit briefly and unconvincingly, in efforts to demonstrate their toughness; no other aspect of drug policy merited a mention. Senator Dole accused the administration of failing to make adequate use of the military, particularly in the interdiction campaign. President Clinton responded by proposing that teenagers be drug tested when they apply for a driver's license. More recently, House Speaker Newt Gingrich, in what was billed as a major address on domestic policy initiatives, proposed life sentences for those trafficking across State boundaries and death sentences for the second offense.

Even the new Federal welfare reform package includes its very own antidrug clause. Unless a State affirmatively opts out, it must deny Federal benefits to any applicant who has been convicted of a post-1996 drug felony. As a deterrent, it

presumes a peculiar long-sightedness on the part of offenders. It can reasonably be called spiteful, though it is not as mean-spirited as Senator Gramm's original version, which imposed loss of a wide range of public benefits for any drug conviction. It certainly serves no welfare goal to cut off those convicted at age 18 for simple possession of small amounts of crack, as in California, from a right to welfare at age 35.

### **What Has Toughness Accomplished?**

Toughness should raise prices, make drugs less accessible, and reinforce messages that drugs are disapproved of and harmful. This should lead to less drug use and eventually fewer drug-related problems. In fact, illegal drugs are remarkably expensive, not universally accessible, and generally feared. Nevertheless, it is striking that, notwithstanding sharply increased stringency, prices are declining, many of the young see drugs as quite easy to get, and the fear of the most widely used drug (marijuana) is declining.<sup>5</sup>

Illicit drugs are very expensive by most measures. Marijuana is a cultivated weed like tobacco, but while a cigarette costs, even with excise taxes, hardly 10 cents, an equivalent amount of marijuana costs \$5 or more. Heroin, a processed agricultural good like sugar, is vastly more expensive than gold, costing about \$5,000 per ounce (wholesale), compared to gold's \$400.

All the same, cocaine and heroin prices have fallen steadily since 1981. By 1995, after adjusting for inflation, they were only about one-third of their 1981 levels. For marijuana, prices rose steadily and substantially from 1981 to 1992 and then fell in the next 4 years back to their 1981 level. Even more surprising is Jon Caulkins' finding that crack cocaine, singled out for tough sentencing both at the national level and in some major States (e.g., California), is no more expensive at the retail level than powder cocaine in terms of price per pure milligram.

This failure of cocaine and heroin prices to rise with tougher enforcement is a major analytic and policy puzzle. Declining demand, reduced labor market opportunities for aging drug user/sellers, a decline in violence engendered by few new entrants and lower margins, and the locking up of criminal users are just some of the possible factors contributing to this. None of these has been subject to systematic examination.

If enforcement did not raise prices for the drugs, then it might still have been successful if it lowered availability. The only long-term data come from the annual survey of high school seniors and suggest otherwise. For example, 80 to 90 percent of the students reported that marijuana is available or very available to them—figures that have been stable for two decades. The percentage of seniors reporting that cocaine was available or readily available was 46 percent in 1995, compared to 30 percent in 1980, though down somewhat from its 1989 high of 55 percent. The finding that marijuana is perceived as more available to high school students than alcohol or cigarettes has been widely reported.

Drug use was estimated to be half as prevalent in 1995 as in the early 1980s, but it is now growing, albeit very slowly. In 1995 the percentage of those over twelve who reported using an illicit drug in the previous month was 6 percent, compared to 14 percent in 1981.<sup>6</sup> The numbers dependent on cocaine and heroin have been fairly stable over a long period of time—at about 2.5 million. It seems likely that the severity of the Nation's drug problem as measured by the related violence and health costs has also been fairly stable over that period of time, though declining somewhat since about 1990.

In some cities it appears that local enforcement has driven open-air markets indoors. Driving around with police in Washington, D.C., one certainly observes much more circumspect behavior than was true in the late 1980s. This may be a major accomplishment. Open-air markets not only ease access for users moving from experimentation to regular consumption, they also breed violence and disorder.<sup>7</sup>

In summary, increasing toughness has not accomplished its immediate objectives of raising prices and reducing availability. Drug use has declined, but the most proximate cause, as reported in the high school senior survey, seems to be a shift in attitudes as to the risks and approval of use of specific drugs. Though enforcement might influence those perceptions, there is no correlation between crude measures of toughness and those perceptions.

But toughness clearly has had other consequences as well.

**Divisiveness.** It is hard to analyze drug enforcement in contemporary America without reference to race.<sup>8</sup> In 1992 blacks (12 percent of the general population) constituted two-thirds of admissions to State prison for drug offenses, compared to slightly less than one-half for all nondrug offenses. A similar disproportion existed for Hispanics; 10 percent of the population, they constituted 25 percent of all those sent to prison for drug offenses.

The origins of this disproportion are a matter of controversy. The standard critique is that the population of drug users is predominantly white; differences in prevalence rates for drug use (even crack) are far too modest to overcome the vastly larger white population. Therefore, drugdealers should be primarily white. This argument is at best incomplete. Sellers are a select group of users; they are likely to be poorer and more deviant than users generally, since selling is risky and widely condemned. The urban poor are disproportionately minority.

Racism may play a role, but a lot is driven by the police responsiveness to concerns about drugselling and the violence and disorder around inner-city markets. Focusing on those involved in the street selling of expensive drugs (essentially anything other than marijuana) is likely to generate disproportionate numbers of arrests among poor, young, central-city males, who are tempted into this business both by the unattractiveness of their legitimate economic opportunities and the accessibility of these selling opportunities.<sup>9</sup> These populations are again disproportionately minority.

Drugselling has indeed become a common activity among poor and minority urban males. For Washington, D.C., my colleagues and I estimated that over one-quarter of African-American males born in the 1960s were charged with drugselling between the ages of 18 and 24.<sup>10</sup> Most were charged with a drug felony, and most will be convicted of that offense.

But it is what happens after arrest that generates much of the controversy. In particular, the disproportion in sentences for crack offenses, for which arrests are overwhelmingly of blacks and Hispanics, has been a major political issue. This, together with the difficulty of articulating any credible grounds for maintaining the current Federal disparity, has increased suspicion in the black community that drug enforcement is an instrument of continuing white oppression. Tom and Mary Edsall report that focus groups in the early 1990s found that many blacks believed that drug enforcement was part of an effort by the white community to oppress blacks.<sup>11</sup>

Nor is this the only division in society arising from tough drug policies. For the young, the growing harshness of rhetoric and policy regarding marijuana—arrests for simple possession having doubled in the last 5 years—reduces the credibility of government generally. The claims about marijuana's dangers in both public rhetoric and school prevention programs seem grossly exaggerated and indeed lack much scientific basis. For Department of Health and Human Services (DHHS) Secretary Donna Shalala to say, as she did in a recent meeting, that marijuana is comparable to crack in its dangerousness, is to disparage science and reason.<sup>12</sup>

Marijuana is not good for health but represents less threat in that respect than do alcohol and cigarettes; no one dies of the acute effects of marijuana and even the long-term effects are surprisingly modest. The negative effects of marijuana use on adolescent development are clearer but still modest. These are not arguments for legalization (indeed, they argue more for prohibition of cigarettes and alcohol), but they create a tension when so much emphasis is

placed on the health effects of the only one of these substances that is not legally promoted and is disproportionately consumed by the young.

**Intrusiveness.** A whole array of legal innovations has been justified by the need to end the “scourge of drugs,” to use President Bush’s memorable 1989 phrase. Drug-dealer “profiling” by police has allowed them to undertake numerous searches with barely plausible cause; most of those searched are again either minority or young or both.<sup>13</sup> Drug testing of Federal employees (such as those in the Executive Office of the President) for purely symbolic purposes has demeaned public service. Some States require that candidates for State offices be tested for drugs for symbolic purposes; the Supreme Court in 1997 unanimously ruled against this requirement for Georgia. Preventive detention, a particularly chilling power, has been extended in the context of the Controlled Substances Act.

Drug policy is clearly getting harsher in this respect. Some jurisdictions are contemplating testing welfare recipients for drug use and disqualifying those who cannot remain drug-free. Abe Rosenthal of *The New York Times*, the most prominent of the columnist drug hawks, quickly pounced on President Clinton’s proposal that all teenage applicants for driver’s licenses be subject to a drug test, suggesting that this was not nearly enough, and that the logic and facts spoke to the need to do random tests of young adults as well, since they are the highest risk group.<sup>14</sup>

**The Punitive Cycle.** The response to emerging drug problems in this country is invariably punitive: the first twitch is to raise the statutory penalty for some offense. This was true in 1996 when methamphetamine showed signs of moving out of its long-established western base in San Diego, Dallas, etc. It has not yet happened for marijuana at the Federal level, somewhat surprisingly, but various States are moving in that direction. For example, the Virginia Senate recently passed an increase in maximum sentences for marijuana possession offenses; a second conviction can result in a 4-year prison sentence.

This is truly a vicious cycle, since the argument for raising the sentence for offenses involving a particular drug are mostly that the current sentence is less than that for other drugs, which encourages sellers to pick that drug. This systematically generates sentence inflation. Indeed, many in Congress responded to the claim of imbalance between crack and powder cocaine by suggesting dramatically increasing penalties for powder. In May 1997 the U.S. Sentencing Commission, defeated in its previous effort at reducing the sentencing disparity between crack and powder cocaine by lowering the crack penalties, made recommendations that would increase the powder penalties, while trying again to lower the disparity.

The intrusive and divisive elements of our policies are not inherent in prohibition. Even harsh punishment is not inherent in prohibition; consider how lightly we enforce laws against prostitution.<sup>15</sup> However, they arise remorselessly out of the logic of drug scares, under the assumption that tougher policies will make a difference. There is some understanding that racial disparity and the loss of civil liberties are not trivial harms but this rubs up against the unquestioned assumption that another major goal is importantly served by these measures, namely reductions in drug problems.

## Comparing the U.S. and Western Europe

Perhaps we suffer no more from illicit drugs and clumsy drug policies than other developed countries with more wealth than self-control. Rob MacCoun and I have been studying the experiences of 10 Western European countries, all of which have had significant problems with heroin and marijuana; some have also experienced cocaine or methamphetamine problems.<sup>16</sup>

European innovations in tolerant drug policy, such as the Dutch coffee shops and the Swiss heroin maintenance trials, attract a fair amount of attention in the United States. But most Western European drug policy is firmly in the prohibitionist legal framework and, with respect to drugselling, these countries

are, by their standards, aggressive both in enforcing the laws and in the length of sentences served by traffickers. They are, with Sweden and France as interesting exceptions, very much less aggressive towards drug users than is the United States. They are, again with the exception of Sweden and France, strong supporters of needle exchange programs and other efforts to reduce HIV risk behaviors among intravenous drug users. As the British Advisory Council on the Misuse of Drugs famously said in 1987, "Drugs are an important problem. AIDS is a more important problem."<sup>17</sup>

None of these countries has a problem with illicit drugs comparable to that in the United States, mostly because they have not experienced a major epidemic of cocaine use. The highest reported figure we have been able to find for lifetime marijuana use among high school seniors is 36 percent in Spain, compared to more than 50 percent in the United States in recent years; for most European countries the figure is closer to one-quarter. Heroin addiction in some countries, notably Italy, Spain, and Switzerland, approaches the U.S. rate of about 2–3 per 1,000 population. But if one adds in cocaine, the U.S. figures for the prevalence of addiction are at least twice that of any European country.

Even starker is the difference in violence, though this is all impressionistic. I interviewed a senior Zurich police official during the period when the city allowed drugsellers and buyers to operate openly in a park, called the Platzspitz, near the train station. The official was complaining about how bad the crime situation had become because of the drug market. He showed me a list of the 31 major crime incidents in the park in 1990. The list included a fight with a policeman and precisely one homicide. This for a park in which many hundreds of drug dealers and buyers, using heroin and some cocaine, congregated every day! Similarly, in other European cities the drug market generates theft and disorder but not high levels of violence.

AIDS related to intravenous drug use has been a significant problem in some European countries, with France, Italy, and Switzerland the most badly

affected. But neither in terms of the fraction of intravenous drug users who are HIV-positive, nor in the fraction of the population that is HIV-positive, as the result of drug use, do the figures for any European country approach those for the United States.

Should we attribute the smaller drug problems in Europe to their policies? Rob MacCoun and I see little basis for this. Take the violence for example. The low level of violence in crime generally, perhaps itself the result of the small number of guns, is more plausible a factor than any policy action by police or the criminal justice system. The absence of a significant cocaine epidemic can hardly be attributed to enforcement; prices are now down near to U.S. levels despite increasing seizures. The greater strength of families in Southern Europe, the better safety net for those who are long-term unemployed, and the smaller fraction of young males growing up in poor female-headed households, are plausibly more important. It is hard to do any formal testing with the available data, but this seems to us a reasonable interpretation.

Interestingly, the choice of drug policy by nations is more influenced by views about the role of government, as well as by views about what constitutes the drug problem. For example, the Swedish population accepts a paternalistic state and will tolerate highly intrusive rules, including compulsory drug treatment even without an arrest. In Spain there are no criminal penalties for the possession of small amounts of any psychoactive drug; this represents less a decision about drug policy than a response to the long experience with the authoritarian Franco regime, which has created a strong suspicion of any laws that allow the government to regulate private conduct. Europeans generally see illicit drugs as primarily a personal and health problem, a position consistent with the lower levels of drug-related violence. The U.S. public sees illegal drugs as a crime problem; almost all speeches and most newspaper articles refer to “drugs and crime.” For a nation that sees crime as something to be solved by punishment, that is enough to sustain a set of laws and programs that make toughness their centerpiece.

## **A Role for Research**

Clearly there are policy alternatives to our current regime, even if we stick with prohibition. For any proposal involving less harshness the central issue is assessing the consequences of a highly punitive approach. At a minimum it would be useful to say whether longer prison sentences, more drug seizures, or more intensive money-laundering investigations can increase prices or reduce availability, and what effect these changes would have on drug use by current or prospective users and on drug-related problems. Not a single empirical paper attempts to answer that question. The closest one gets is a paper of 25 years ago, which found that higher prices for heroin increased property crimes in Detroit.<sup>18</sup> There has been a little progress lately in estimating the price elasticity of demand for various drugs and various populations<sup>19</sup> but that is just a small first step.

Oddly enough, we can say a great deal more about the effects of treatment and prevention, which account for no more than 20 percent of this Nation's public expenditures on drug control, than about the consequences of enforcement.<sup>20</sup> Even more oddly, that is the result of the dedication to punishment; any other program that is not punishment has to justify itself against the suspicion that it is kind to criminals (treatment) or is too diffuse (prevention). Since punishment is what drug users and drugsellers deserve, there is little need (in the eyes of politicians and perhaps the public) for these programs to demonstrate their effectiveness. Thus, the National Institute on Drug Abuse has a research budget of \$450 million; research on drug enforcement has to fight for its share of the National Institute of Justice's (NIJ's) paltry \$30 million annual budget, albeit that money is tripled by various evaluations and earmarks. Twenty million dollars is certainly far too generous an estimate of the funding for research related to drug enforcement.

One can usefully adapt a complaint of the public health research world to explain this situation. Prevention advocates object that whereas surgical procedures only have to be safe and medicines safe and effective, prevention

programs have to be demonstrated safe, effective, and cost-effective. The corollary for drug enforcement is that it doesn't even have to be safe, let alone effective or cost-effective. Drug enforcement has become a crusade, and crusaders scarcely need a map, let alone evaluation.

The Federal enforcement agencies sponsor no research themselves, notwithstanding Federal program expenditures of about \$10 billion. The Drug Enforcement Administration (DEA) and the Federal Bureau of Investigation (FBI) may generously be called nonanalytic; more accurately, they are anti-analytic. Not only do they lack any capacity for internal policy analysis, they seem to lack even the ability to contract with external research organizations. The DEA's inability to report price data in a meaningful way, despite gathering about 5,000 observations each year, is symptomatic of this. Surely no other Federal agency in the 1990s would report the highest and lowest figures as a range, without any measure of central tendency. To report that the price for marijuana went from a range of \$25–\$450 in 1993 to a range of \$40–\$450 in 1994 is to simply inform the world that these data are irrelevant.

Clearly a large research and analysis program is needed that has the depth and durability to develop more credible measures of the intensity of treatment and the size of the drug problem in a particular community. We need to take account of the enormous variation in the intensity of enforcement and severity of sentencing that seems to exist across cities and States. For example, in Texas in 1992 the median prison sentence for those convicted of drug trafficking was 10 years, compared to only 2 years for those in Washington State. It should be possible to build on the improvements in the drug data indicators being developed by various Federal agencies.

Why is there so little research on drug enforcement? Surely part of the answer is simply that there is, as James Q. Wilson noted in a recent lecture,<sup>21</sup> shockingly little research on crime control generally. But another factor, I conjecture, is a curious confluence of liberal and conservative interests. Those who

support tough drug enforcement see no gain in evaluation; Peter Rossi's oft-cited comment, "If you don't like a program, evaluate it," is highly relevant. Liberals find the whole effort distasteful enough that they simply want nothing to do with it; in particular, they don't want to evaluate it for the purposes of making it work better. They would much rather focus on the programs in which they have faith and in which they passionately believe, namely prevention and treatment.

## Conclusion

But a society that deliberately averts its eyes from an honest assessment of a massive and frequently cruel intervention that sacrifices so many other goals for the one desideratum of drug abstinence can scarcely expect to find a well-grounded alternative. I am struck by the lack of any nuanced debate about drug policy, beyond the ungrounded and polarizing legalization shouting match and the banal and marginal discussion of how the Federal drug budget should be spent. Welfare reform, public housing policies, and income support generally may do more to affect drug abuse and related problems than those programs that claim to explicitly target them, yet there is rarely any serious discussion of their role in drug policy.

In John LeCarré's *The Honourable Schoolboy*, George Smiley finds some evidence that a prominent Chinese businessman in Hong Kong may be a Communist spy. Launching an investigation in Hong Kong is both politically sensitive and expensive, so he has to convene a meeting of the Foreign Office, Treasury, and other agencies to get authorization and funds. The Foreign Office is aghast; if the investigation were to become public and the businessman were innocent, it would be a major political embarrassment. On the other hand, the Governor in Hong Kong entertains and trusts this businessman, and indeed may recommend him for knighthood; it would be equally embarrassing if it turned out that he was a spy! They become increasingly panicked and press Smiley for a judgment; is he a spy? Smiley inscrutably says he cannot

answer without doing the investigation. The end of the story is of course that they give him the money and the authority, because the answer must be found.

That is the situation we face with respect to drug policy. If we want to know the answer as to whether we can make prohibition less expensive, divisive, and intrusive—and maybe reduce the American drug problem—then we can't expect anyone to give a persuasive answer who is not provided the money and authority to find out what our tough enforcement actually accomplishes.

Doing less rarely attracts much support for dealing with a problem that still concerns large parts of the community. But this may be the only responsible recommendation that can be made now. Locking up drug offenders for shorter terms, worrying more about the racial disparities in sentencing policies, and giving up fewer of our civil liberties for unlikely reductions in drug problems may be the best one can do at the moment. That would mean less intrusive, divisive, and expensive policies and perhaps little increase in drug problems.

Researchers are always inclined to think that learning and understanding are important for policy. The failure of the repeated findings that drug treatment has a very high benefit-cost ratio to make a policy impact<sup>22</sup> is a sober reminder that the political decisionmaking here is driven by other considerations. But we might actually see something approximating a reasonable discussion of the alternatives in front of the Nation if a more credible base of empirical analysis was available. In its absence we are doomed to rhetorical debate.

## Question-and-Answer Session

**Adrian Curtis, Justice Management Division, U.S. Department of Justice, Washington, D.C.:** Based on the Maryland State Legislature's consideration of the same kind of legislation that Virginia has passed and your testimony to Congress, what kind of reaction do you get from elected officials when you talk to them about "less may be better?"

**P. R.:** I don't have enough one-on-one contact with elected officials to answer that. Because the Nation still believes that drug crime is near the top of the list of domestic problems and because of the ease with which people can be persuaded that being less tough is a danger to the Nation in terms of worsening the problem, I think that the political gains associated with this are very slight. I make no claims that this is a politically feasible path. I am a policy analyst more than a political analyst.

In terms of policy, one can make a case that we punish beyond reason. You asked me whether that is sellable; I can't say much to that.

That unreasonable disparities in sentencing exist is something that many officials accept as a problem. And that was the one issue on which a real leadership for reform could be found in Congress. But it is striking how hard it is to identify leaders in either the Senate or the House who support anything more than marginal shifts in drug policy. Most of the debate is about whether we should spend more on treatment and less on enforcement, which is not the right way to think about this problem. Each program should be evaluated on its own merits.

Beyond that, it is striking how little high-level nuanced discussion takes place about drug policy in Congress. I have that sense about State Houses too, although I don't track them closely.

**Samuel Dash, Georgetown University Law Center, Washington, D.C.:** In your talk, you touched from time to time on violence related to severe and aggressive drug enforcement, and you made some comparison briefly between Europe and the United States. Other than our being known as a violent community, to what extent have the studies shown what people often believe, as you do, namely that aggressive drug enforcement has increased street crime like burglaries and other types of theft offenses with violence? Do you have evidence of that?

**P. R.:** The answer is no; I do not have evidence. But I don't quite believe the proposition you attribute to me. I want to be careful about what it is that policy accomplishes. Three kinds of violence are related to drugs: 1) the psychopharmacological effects of the drugs themselves, 2) economic compulsive violence (some of which has to do with crime by users who commit crimes to earn the money to purchase expensive drugs), and 3) the violence that occurs in the course of drug distribution.

Some years ago, I wrote that because of our very intense enforcement, we have generated more violence in the markets, particularly on the dealer side. That is, by being very tough, we create lots of uncertainty in the market. We move people around a lot, so that market-sharing arrangements are very transient. Just the fact that lots of dealers go off to prison from time to time means that everybody's "looking for new connections" all the time because the old connections may be lost.

The FBI puts out a figure each year on the percentage of homicides that are drug related. I don't think that figure ever reached as high as 10 percent. It is now down around 5 percent. It is a figure that has little credibility, in part because the process that generates it only allows one "cause" per homicide.

It's unclear to me whether enforcement is in fact an important part of the source of violence, as opposed to the fact that a unique confluence of crimino-

genic forces affect American drug markets: Young, poorly educated males with lethal weapons, enormously valuable commodities, and large quantities of cash. It's the fact that one can hold in his hand something that's worth many thousands of dollars that really makes this market different. It may be that the extent to which the police "churn" this market or shape it is really much less important than the confluence of those factors. But we are now in the area of conjecture in the absence of data beyond a couple of studies in two cities, I think in New York and the surrounding areas, for just 1 or 2 years.

**James Austin, National Council on Crime and Delinquency, Washington, D.C.:** There is a policy that has been floating around that I would call "coerced treatment" for probationers and parolees. If they fail drug tests, they are jailed for a certain period of time. What is your opinion of that policy, and is there any evidence that it would work?

**P. R.:** You are talking about Mark Kleiman's proposal of "coerced abstinence." Kleiman, a close collaborator of mine over many years, has been advocating for some years (with increasing success in terms of catching public policy interest) the notion that a very large share of all the heroin and cocaine in this country is consumed by people who are in the hands of the criminal justice system—whether on pretrial release, probation, or parole. They are on conditional liberty. The public assumes that a condition of that liberty is that they are drug tested from time to time since their criminal activity is presumed to be related to the use of expensive drugs. In fact, the criminal justice system does a great deal of drug testing. What it doesn't do much is something consistent based on testing positive.

Kleiman believes that graduated sanctions are a way to provide a structured and efficient set of incentives to staying drug-free. The first time an offender tests positive he spends overnight in jail; the second time he spends two nights in jail, etc. An argument can be made that if this were universally applied the consumption of heroin and cocaine could soon be substantially reduced. I think it is a very insightful idea.

NIJ has funded an evaluation of something close to this in the Washington, D.C., court system. Preliminary results suggest that a substantial number of people on pretrial release respond to those incentives, either seeking treatment on their own or without treatment. They can substantially cut back on their consumption of heroin and cocaine.

How universally that may work in the quagmire that makes up the U.S. criminal justice system I don't know. But it is certainly worth testing, and it is something that could arguably make a big difference to our drug problems in the next 5 years. That would be high on the list of such alternatives, but it is speculation at this stage.

**Eric Sterling, Criminal Justice Policy Foundation, Washington, D.C.:** Peter, I was wondering if your proposal for research and investigation is one that also might be directed to foundations. Most of this audience is a public sector audience. In thinking about all the possible research proposals to test the questions that you have raised, it might be useful if your remarks were reprinted in the *Chronicle of Philanthropy*, because the question so often asked is, "What works?" You are asking the question what works in the area of enforcement, and the answer is, "We don't know." What body of research proposals and questions have been put together that could be presented to a grants administrator saying, "Here's a whole group of tests that we think ought to be made."

**P. R.:** First, let me again go back to the comment Jim Wilson made in December, which is how little foundations are interested in crime control generally. Jim Wilson, of course, sits on many boards and can talk to any foundation president that he cares to call. He said, however, "I have many allies, but I have never been able to get a substantial body of continuing support for research related to crime control out of foundations."

The foundations are, in general, a liberal wing of the American community, and they also find drug enforcement distasteful. I think that there is very little interest in funding research. It's also fair to say that this is the kind of research

that more appropriately should be done under government auspices. There is frequently need for access to data that can only be obtained in our current policy regime if there is Federal sponsorship.

To bring up a case of acute interest to me, DEA collects data on drug prices; it is called STRIDE [System to Retrieve Information From Drug Evidence] and is a very large and interesting dataset for analytic purposes. It is now available only to Federal grantees. With a foundation grant, one cannot access those data. I think that STRIDE should be a public dataset, but other data exist that are appropriately unavailable to anyone other than Federal grantees.

**James Boden, Office of Management and Budget, Executive Office of the President, Washington, D.C.:** I'd like you to comment on allowing the medicinal use of marijuana in California. It seems to me you indicated one of the few opportunities to generate some agreement on prevention rather than enforcement may be in the marijuana area. Marijuana has been to some extent de-vilified.

**P. R.:** Marijuana is the "cutting edge" drug for policy reform. One could almost imagine this country 5 years from now with a different set of laws on marijuana. It takes a lot of imagination, but it is possible. This is inconceivable with heroin, cocaine, and other drugs. Proposal 215 was significant in that it signaled general discontent with marijuana policy as it now stands. About half of those who voted for it voted on the basis that they wanted more general reform with respect to marijuana, and about half believed it was medicine.

Marijuana may or may not have medicinal uses. It is, in fact, a question for biomedical research, and it is a question that has been on the table for a long time. There has been a real reluctance to do this, in part I think, because it represents biomedical research's unease with the notion that smoking a naturally occurring weed could possibly be the best therapy that modern U.S. science could come up with. That's a very important factor, but obviously there was a real disinclination on the part of the policy world to allow research

that would make a centerpiece of the drug war look as though it had some potentially good effects. The unwillingness to do research about the possible medicinal uses of marijuana is one of the minor casualties of the drug war. I have no idea whether research on this topic would produce a positive result. But I think that doing credible research in the near future may do something to move the issue of medicinal use of marijuana away from drug policy. They are really not related. Cocaine is a Schedule II drug and is used as a topical anesthetic in a few operations; that is not a matter of controversy. The notion that marijuana might have medicinal purposes, precisely because it is *this stage in history*, generates a great deal of controversy. I think it should probably be separated from the issue of drug policy reform.

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# The Legitimation of Criminal Justice Policies and Practices

*Presentation by*

*Mark H. Moore, Ph.D.*

*Kennedy School of Government*

*Harvard University*

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**M**y subject is the legitimation of the criminal justice system in the United States. It is a subject that I take extremely seriously because it is easily taken for granted that the system will be seen as legitimate, and, as a consequence, fail to do the work that is necessary to legitimate the system in the eyes of the citizens who observe it, are subject to it, and seek to use it.

We citizens ask a great deal from criminal justice agencies. We ask them to protect us from criminal attack—and not just from the reality but also from the fear. When criminal attacks occur, we want criminal justice authorities to soothe our indignation by catching the crooks and giving them their just deserts (at the same time according them the full protection of their constitutional rights). We expect them to achieve these ambitious goals without reaching too deeply

into our pockets for money or intruding too deeply into our privacy and freedom. We also want reassurance that whatever money and authority is entrusted to them will be used fairly, that they will allocate effort toward those in need rather than those with ability to pay, and that they will enforce the law without fear or favor. Increasingly, we ask them to take a step further and, in the words of Attorney General Janet Reno, “help to reweave the fabric of community.”

My purpose today is to discuss how criminal justice agencies—the police, the prosecutors, the public defenders, the courts, and correctional agencies—can meet these ambitious goals. In discussing this topic, I’ll adopt a managerial perspective. That is, I’ll adopt the point of view of those who manage these agencies and look for some concrete ways to use the resources entrusted to them to accomplish their broad and diverse goals. But my focus will not be on the common concerns of management: the downward and inward management of personnel policies and procedures. It will instead be on the efforts criminal justice agencies can and must make to legitimate themselves in the eyes of the citizens they serve. This includes a focused effort on the particular set of encounters that criminal justice agencies have with citizens, in particular:

1. Ensuring quality in their individual encounters with citizens, not only when they are providing “service encounters” to “clients” who appeal to them for help, but also when they engage in what I would describe as an “obligation encounter”—when they ask clients to stand still for the orderly processes of justice to be visited upon them.
2. Rendering their organizations transparent and accountable to citizen “overseers” and their representatives, who demand assurances that the agencies are achieving their complex purposes in an appropriate way.
3. Engaging citizens as “coproducers” of crime control and justice in operations designed to help criminal justice agencies achieve goals that they cannot achieve by themselves alone but which must include citizens in a variety of different capacities.

Finally, and most important, is the effort to extend the effect of all three of these kinds of citizen contacts by offering a kind of moral leadership that teaches people what it is that justice requires in a democracy and, through that device, “to help reweave the fabric of community” that is gradually becoming tattered.

In short, I am going to be much more interested in how managers of criminal justice agencies engage *external* actors through political and legal processes than in how efficiently they give direction and control to their employees. My argument is that in the past the goal of enhancing the legitimacy of criminal justice agencies and the specific efforts that are required to accomplish this goal have been badly neglected and to some degree misdirected. I will also argue that this failure has weakened not only the standing of the criminal justice system in the eyes of the community but also, as a consequence, the real performance of the criminal justice system. Finally, I will argue that much of the increased focus on community justice should be understood as increased efforts to legitimate criminal justice agencies and capture the substantive operational benefits that come from such efforts.

Let me start, however, by recalling the important work that the 1968 President’s Crime Commission did in framing society’s understanding of the operations of criminal justice agencies and in setting an agenda for reform. One of the most enduring products of the Crime Commission’s work was the image of the criminal justice system as a large funnel that channeled criminal justice cases through a tangle of institutional complexity and local variability to their ultimate disposition. This image exemplified how criminal justice agencies were supposed to operate.

Everyone understood, of course, that this was not a “system” in the sense that the agencies were being explicitly directed toward a particular objective by some coherent centralized authority. It was only a system in the far more limited sense that the different agencies were linked together through a process in which one agency’s “outputs” became the next agency’s “inputs.”

Thus, police had as an output the arrest of offenders. This, in turn, became input for prosecutors and public defenders. They then developed cases as their output, which went on to become the input to courts and so on. This operational interdependence was thought to require some coordinated planning, if not central direction and control.

This so-called system of criminal justice was judged to be valuable to society in two broadly different ways. First, the system was an instrument of practical purposes, thought to be accountable for the efficient and effective reduction of crime largely through four distinct mechanisms: deterrence (both general and specific), incapacitation, and rehabilitation. That practical goal and those practical means were what the system as a whole seemed to be designed to do, and that was what the citizens who paid to support the system wanted as a result. That's frame one, the practical frame.

But the criminal justice system was also considered important in a wholly different way, not only as a practical instrument for achieving specific results, but also as an instrument of justice—a way of holding offenders accountable for their crimes and also protecting their constitutional rights. It is important to understand that the second idea, *the criminal justice system is in place to produce justice, not just to control crime*, could constitute a stand-alone justification for criminal justice system processing. From this point of view, the system did not have to show that it was producing any practical effect, such as reducing crime; it was enough that it produce *justice*. Views about what constitutes justice vary widely of course, both in general and in individual cases, but the point is that creating justice is a different idea than that of controlling crime. Further, the production of justice could constitute a separate and complete justification for the operations of the system.

Now these two evaluative frames defined two different ways in which the individual agencies in the criminal justice system (and the system as a whole) could legitimate and justify itself in the eyes of the citizenry. The system could

legitimate itself as an effective and efficient means of reducing crime. Or, it could establish itself as an important instrument of justice, a means for ensuring that citizens lived up to their responsibilities to one another and to the society. Since both were important, the goals of reform were to advance on both fronts simultaneously: to make the criminal justice system more efficient and effective *and* to make it fairer and more just.

Like all useful social conceptions, the paradigm constructed by the President's Crime Commission highlighted some important features (such as society's response to crime) at the expense of others that were equally or more important parts of a more complex, underlying reality. Such simplification is inevitable in a democratic policymaking process, of course. It may even be helpful insofar as the simplification does not emphasize *everything that exists*, but instead focuses on those areas needing improvement. And it is entirely possible that the Crime Commission focused society's attention on the problems that were most important to attend to at the time its members did their work. There certainly was then, as there is now, a great deal to be done in improving the efficiency, effectiveness, fairness, and justice of America's criminal justice system.

Still, hindsight can be used to see what particular features of society's response to crime were underemphasized in the Crime Commission's conception and are candidates for special emphasis today in current efforts to reform and legitimate the criminal justice system.

First, the central drama evoked by the funnel image was whether a particular case and an associated offender would make it all the way through to the end of the process—that is, to prison. This diagram thus suggests that the whole point of the exercise was to incarcerate offenders. That was the event at the end of the line toward which everything else was proceeding. This orientation ignored two important facts, however. One is that most cases do not make it all the way through the system. Consequently, an important, overlooked issue

is what is to be done with cases that remain unsolved or offenders who are not convicted? The second fact is that most of the criminal justice system's concrete work or cost occurs both before and after the moment of adjudication. The community must cope with the fact that many cases cannot be resolved and that most offenders are returned to the community sooner or later. That important reality—that we live with crime and with offenders—was obscured.

Second, because the funnel image made the processing of cases to imprisonment so important, it naturally tended to focus attention on serious criminal cases—primarily adult felonies. These are the kinds of cases that are worth elaborate scrutiny. Lesser cases such as misdemeanors or juvenile offenses are judged not worth the trouble of such elaborate processing or the expense of a prison sentence. Besides, a sharp focus on serious offenses and offenders seems closely allied to the goals of producing an efficient and fair criminal justice system. After all, efficiency and effectiveness demand that scarce resources be reserved for the most serious offenses and offenders. Fairness demands that the aggressive use of state authority be limited to crimes that are not only prohibited but intrinsically bad. That leaves little room for discretionary decisions by officials of whether and how to press charges. Thus, the focus on serious crime ensures consistency and integrity, as well as economy, in the enforcement of laws.

Third, the image presented a fundamentally reactive view of crime control and thereby underemphasized some potentially important preventive opportunities. Of course, the Crime Commission did not entirely ignore prevention. Deterrence, after all, is a preventive concept that seeks to dissuade people from committing crimes by threatening them with bad consequences if they do. Incapacitation and rehabilitation, too, can be seen as preventive ideas. They may not prevent a potential offender's first crime, but they may well have an effect on future offending. And given the importance of criminal recidivism and overall patterns of crime, preventing future crimes by those who have already committed one is an important preventive contribution. The Crime Commission also insisted that the root causes of crime include poverty, economic inequality, and

racism, and that crime can only be reduced significantly by alleviating these broad social conditions—the ultimate preventive argument.

Still, in retrospect it seems that the Crime Commission could have noted more prominently some important opportunities for preventing crime that lie between the limited reactions of the criminal justice system, on one hand, and broad social actions directed at the root causes of crime, on the other. Worth mentioning are some interventions that now go under the label of “situational crime prevention” and focus on reducing opportunities for criminal offending; others, now called problem-solving or order maintenance, focus on intervening in the circumstances that tend to spawn crime. And there are some important interventions that the criminal justice system can make that might alter the trajectories of youthful offenders, such as more effective enforcement against domestic violence and child abuse and neglect, or more determined and sustained responses to early juvenile offending, which were mentioned but not emphasized in the Crime Commission report.

Perhaps the most important omission of the Crime Commission however was that, in focusing attention on the publicly supported agencies of the criminal justice system, it necessarily deemphasized the role that private individuals and institutions of civil society—families, community groups, churches, merchant associations—play in controlling crime, both by themselves and as adjuncts to the criminal justice system. The funnel diagram did not emphasize the central role played by victims and witnesses in activating and focusing the attention of criminal justice agencies on particular crimes, nor did it point to the important role played by citizens who make individual and collective efforts to guard their own property and intervene with fellow citizens who are behaving badly. Similarly, the Crime Commission did not draw attention to the role that local merchants play in seeking to enforce orderly conditions on the streets that front their stores or in providing jobs to neighborhood kids. It did not emphasize the role of church groups in giving support to single parents struggling to supervise and raise their children. Such private efforts were viewed as beyond

the boundaries of the criminal justice system—efforts that might be having an effect on levels of crime and disorder but were largely independent and beyond the reach of the agencies of the criminal justice system. This omission was, in my view, particularly important given the points made above—that the fate of many offenders is not to be taken from the community and that eventually offenders are returned to the community for handling there.

The last omission of the Crime Commission and the one most closely related to the subject of this talk is its outright dismissal of the notion that important sources of legitimacy for the criminal justice system exist beyond the pursuit of efficiency and lawfulness. To the Crime Commission, a kind of legitimacy rooted in moral passion and political responsiveness was viewed with great caution. Behind moral passion, they saw the lynch mob. Behind political responsiveness, they saw the threat of political control by the powerful against the weak. Thus establishing important links between criminal justice processing and moral passion and politics was viewed not as a way to anchor and legitimate the system but instead as a way to expose the operations of the criminal justice system to powerful tides of ignorance and bias. It was something to be avoided rather than sought out. To do its work, the Crime Commission believed it was better that the agencies of the criminal justice system be insulated from both moral passion and politics. Their legitimacy was to be established in law and professional competence rather than in responding to the moral passions of individuals and politicians.

The paradigm constructed by the Crime Commission proved to be powerful. Over the next two decades, agencies of the criminal justice system pursued the agenda laid out for them with great enthusiasm. They made significant progress in increasing their professionalism and technical knowledge and in reducing racial and class biases in system operations. By rights, this progress should have increased the standing and overall effectiveness of the system. Instead, they decreased. The popular legitimacy of the system faded *even* as the system was becoming fairer and more effective. Legislatures took discretion

back from the hands of sentencing judges. Community groups demanded the establishment of civilian review boards and the removal of civil service protections of police chiefs. Increasingly, citizens turned to private security arrangements to meet their desires for security. The criminal justice system, even as it became fairer and more professionally competent, was becoming increasingly irrelevant to citizens' efforts to guarantee their own security and satisfy their appetites for justice. The system's role in producing social justice seemed less and less important. So the question that faces us now 30 years after the Crime Commission's report is this: "How can we restore the standing and effectiveness of the criminal justice system as a social institution that can both guarantee our safety and help us understand our obligations to one another in a conception of justice?"

The loss of popular legitimacy for the criminal justice system produces disastrous consequences for the system's performance. If citizens do not trust the system, they will not use it. If citizens do not use the system, the expensive apparatus we have constructed will be largely useless because the system depends fundamentally on citizen mobilization. Moreover, to the extent that confidence in the system is maldistributed, with poor minorities more suspicious of the system than the wealthier majority, the capacity of the system to act fairly is undermined, and with that, its future legitimacy, effectiveness, and capacity to teach what we owe to one another. To the extent that the system is viewed as inefficient or unjust, its ability to mobilize citizens to comply with laws voluntarily will be undermined. Without popular legitimacy supporting criminal justice operations, instead of having a collectively established criminal justice system helping to enforce a widely shared conception of a just moral order, we will live in a world of gated communities, each with its own conception of right conduct, and each enthusiastically excluding citizens of other communities. To avoid this result, we must find a way to restore the popular legitimacy of the Nation's criminal justice system.

Legitimacy can be viewed as an abstract value, an ideal to be achieved. From this vantage point, what particular individuals and groups actually think about the system and its operations is irrelevant. Of importance is the extent to which the system can realize a particular set of values such as fairness or efficiency. Its success in doing so would be registered through technical professional evaluations, not in popular sentiment. Alternatively, one can think of legitimacy as something that exists *in the minds of citizens*. From this vantage point, legitimacy resides in people's views of the criminal justice system, not in performance or comparison to an ideal.

From an operational and managerial perspective, the kind of legitimacy that is important, I would argue, is the second—the kind that exists in the minds of citizens the system is supposed to serve. That may be very different from the first kind of legitimacy and may require different kinds of performance. Indeed, the big worry is that the ideals that many think should define legitimacy are not embraced by ordinary citizens. In that case, of course, one would face a stark choice between legitimating the system through political responsiveness (which threatens the ideals of justice), on one hand, and trying to make the system meet the ideal standards of efficiency and fairness, on the other. However, the fact is that many of the system's most important ideals *are* embraced by the populace. Citizens, too, like procedural fairness. They like a sense of proportionality. They like efficiency and economy. And even if they didn't like those things (which give us an enormous advantage), we as leaders and managers of criminal justice agencies would need to help citizens learn to love them because, in the end, the system cannot operate without the support of the citizenry for its fundamental values.

This, then, is the problem to be addressed. How can we enhance the popular and moral legitimacy of the system while enhancing the legitimacy that comes from being technically proficient and aligned with important legal virtues such as fairness and restraint.

My answer to this is simple: As managers of criminal justice agencies, we must pay attention to the quality of the interactions we have with citizens as *clients*, as *overseers*, and as *coproducers* of justice. In managing these interactions, we must stand for the important democratic values of fairness and restraint. This seems to be consistent with the challenge of establishing community justice and using the Nation's criminal justice institutions to reweave the fabric of community.

Let me explain why. Gary Abrecht, writing to America's corporate executives about how to improve the performance of their organizations, develops the idea that success lies in paying attention to the quality of what he calls "moments of truth"—the particular moments when customers encounter an organization's operation and begin forming impressions about the company and its product. From my point of view, labeling such mundane events as being put "on hold" when one calls to order a product as a moment of truth seems a little grandiose. But even in the commercial world, this grandiosity helps to focus attention on the details of these all-important customer contacts.

The "moments of truth" concept to me seems more appropriate when we are talking about the ways the Nation's criminal justice agencies might legitimate themselves in the eyes of the citizens they serve. There really are important moments of truth—i.e., when, as clients, citizens encounter the criminal justice agencies asking for help or being obliged to stand still; when, as citizens, they contemplate the work of the criminal justice agency and decide whether it is performing well or badly; and when, either as part of a community-based patrol or as a part of a jury, they are asked to participate in the production of justice. Those three moments of truth are what we have to pay attention to.

The most obvious points of contact between citizens and criminal justice agencies consist of those moments when citizens call the system for help. We imagine victims and witnesses calling the police for emergency aid or demanding justice from prosecutors. This is, of course, an important client group that

criminal justice agencies must serve. If anyone is a “retail customer” of a criminal justice agency, it must be these individuals. And it doesn’t take much experience in a radio patrol car or even in a prosecutor’s office to learn that many citizens want things from criminal justice agencies other than the prosecution of criminal cases. We all know that citizens call the police for many things other than the response to serious crime. One of the most important ideas associated with community-oriented policing is to view these noncrime calls for services as worthy of response, rather than as distracting nuisances. The idea is that these calls may represent opportunities to intervene early in situations that have become criminal matters. Or even if they are not that, they may present an opportunity to establish a relationship with a citizen that can become a “bankable asset” in the future. Similarly, prosecutors have figured out that they must attend carefully to victims and witnesses to maintain their cases through the long process of adjudication in felony cases, and they must give close attention to less serious crimes adjudicated in misdemeanor courts.

Agencies of the criminal justice system have important “retail” contacts with another group of clients as well: Those who become the focus of enforcement efforts. This group includes alleged criminal offenders, as well as those who have been stopped for traffic offenses or asked to cooperate in some kind of crowd control. It has long been accepted that there is little chance of pleasing these clients of the system and little prospect that they could become supporters. Unlike the clients identified above who need help from criminal justice agencies, these individuals are obligated to do something they did not choose to do or are being punished for doing something they ought not to have done. As recipients of obligations and penalties rather than services, these clients are unlikely to be satisfied. In any case, it is doubtful that satisfying them should be the goal of the enterprise. Consequently, with respect to these encounters, the only goal is to satisfy *others* that the encounter proceeded properly—that there was in fact reasonable suspicion, that the stop was made in accord with the law, or that a sentence was handed down without fear or favor.

More recently, however, this pessimistic view of how we ought to interact even with our “obligatees” has changed. Some believe that arrestees, defendants, and prisoners can tell the difference between being treated badly and well, fairly and unfairly, and that this difference ought to matter to those who manage criminal justice agencies. There was a remarkable moment in my life about 10 years ago in New South Wales. We were talking about how to use surveys to measure the quality of police service that the New South Wales Police was delivering to the citizens of Sydney. We talked about doing both a general population survey and a survey of those who called the police. Then someone in the group asked whether we should survey arrestees. Everyone laughed, and conversation moved on to another topic. But about 10 minutes later one of the hardest-nosed cops in the room said, “You know, I’ve been thinking about that question of whether we should survey arrestees. At first I thought it was really a dumb idea. But I’ve got guys in my command who, no matter whom they arrest and under what circumstances, the suspect comes into the station house bloody and mad. With other guys, no matter whom they arrest, the suspect is clean and calm. I think the difference matters. I’d like to know what arrestees experience as well as the people who call us.” So, it may be important to try to satisfy those we obligate as well as those we serve. After all, most of those we arrest, prosecute, and imprison will spend the bulk of their lives as citizens, not as arrestees, defendants, or inmates. And we may need their support as well as the support of those who are victims and witnesses.

It is also worth noting that citizens want things from criminal justice agencies both as groups and as discrete individuals. Particularly important are groups that form around residential communities. Sometimes there are particular interest groups that become important as well, such as small business associations or women who fear domestic violence or parents of teenagers who fear drugs and gangs. One can easily imagine that it might be important to think of such groups as having “accounts” with criminal justice agencies and that it would be important for those who manage criminal justice agencies to attend to the character and quality of the relationships they are maintaining through those accounts.

From my perspective, what is important about these encounters with clients, both those receiving aid and those receiving obligations (and individuals as well as groups), is that all such encounters leave a residue of experience and feelings and that these in turn become the bases for enhanced or diminished legitimacy of the system. Citizens, like customers in commercial transactions, remember when they have been treated well and badly, and they respond with more or less loyalty and interest. They may even come to identify and value the aims of those who treated them well and learn to suspect and despise the aims of those who treated them badly. Their interactions with the criminal justice system are opportunities for communicating values as well as for building support and legitimacy for criminal justice agencies.

While the most intense moments of truth between citizens and criminal justice agencies may occur when citizens have discrete transactions with the system that involve their particular interests, the most common moments of truth may be when citizens *hear* something about the performance of the system and form a view of whether it is performing well or badly. These are the moments when they interact with the system as *overseers*, not as clients or coproducers. The views of citizen overseers are important not only because they affect their willingness to support the criminal justice system with taxes and grants of authority, but also because their views about whether the system is just may affect their willingness to obey the law. Citizens want to know that the system has written rules that are fair, that the laws are enforced fairly, that the system can respond to some important differences among individuals, and that the whole system is designed to operate to good effect.

The views of citizen overseers may be profoundly influenced by concrete experiences they have had as clients of the system. Citizen overseers may also base their views on the experience of their friends and family. For this reason client contacts are very important. When we were doing some work with the Mollen Commission on controlling police corruption, I remember meeting and interviewing one of the most corrupt and brutal cops that the Commission had

encountered. I interviewed him knowing that the New York City Police Department was working very hard to develop community policing and establish better working relations with poor communities in New York. I had the sense that this one cop could single-handedly wipe out the day-to-day diligent efforts of hundreds of officers trying to establish better working relationships in communities. My heart sank as I realized how vulnerable the overall legitimacy of the system was to the destructive influence of a relatively small number of bad encounters between officers and citizens.

The point I want to make is that if we wish to engage citizens as effective overseers of criminal justice systems, it is important for us to find ways to make our operations transparent and to present them in a comprehensive, consistent, and reliable way. Many in the criminal justice world have been reluctant to take on such a responsibility for fear that their operations would become too exposed and too vulnerable to political interference. However, I think that a lot of people have had the opposite experience: When they've made the effort to expose and be open about their operations, they win support and enthusiasm from the citizens. This can then stand them in good stead on occasions when the system fails. It takes a certain amount of courage to decide to make one's organization's workings visible and accountable to citizens, but that openness is crucial to getting the most from the particular moment of truth when a criminal justice agency interacts with a citizen-overseer rather than a client.

The third way that citizens make contacts with criminal justice agencies is through their important role as coproducers of justice. Victims and witnesses are important coproducers as well as clients and customers of the system, and their efforts are essential to making the system work. (One can even imagine that some offenders are coproducers in the sense that they must work diligently on their own if rehabilitation is to succeed.) Here are some of the many other ways in which citizens can become coproducers: They serve on juries; they organize themselves in block groups; or they serve in sentencing councils to provide mentoring to kids or to help monitor offenders released in communities. Indeed,

families of offenders might turn out to be important allies in efforts to reduce future offending, and not only in juvenile cases. The notion of people in the communities as coproducers is being advanced currently by those concerned about community justice. People are inventing new ways to engage citizens in the concrete operations of the system; in doing so, they not only increase the power and impact of the system but also its standing with communities.

These contacts with citizens as coproducers, if managed well, provide an opportunity to increase the legitimacy of the system. Each contact forms an impression; each contact provides an opportunity to express and advocate for a particular set of values through the operations of the system. When the police arrest a suspect and read him his rights in front of victims and witnesses, when prosecutors explain how a particular case will be handled and why, when defense attorneys explain the case against their client, or when citizen-jurors are given their instructions by a judge, certain lessons about the basic values of the criminal justice system are taught: Measured indignation about criminal offending tempered by respect for the rights of citizens, the need to share responsibility in the exercise of social control, and the ambition to be fair. It is from this material that a constituency for justice and a criminal justice system can be constructed.

Aristotle observed that the first virtue of a state was the quality of justice it could produce among its citizens. Justice has a large meaning in that idea: Right relationships among individuals and among individuals, society, and the state. Within this broad notion of justice, right reactions to criminal offending are only one small topic. But in many ways the handling of criminal justice issues provides the most exacting test of justice, the hottest crucible, the place where our commitments and understanding to one another are tested most severely. An important base for all other interactions may be established based on the quality we can produce in these particularly demanding relationships.

Rightly understood, I believe it is the task of criminal justice agencies to take on the burden of producing quality justice in society's response to crime and

criminal offending. It falls to the Nation's criminal justice agencies to teach two of the hardest lessons that citizens in democracies must learn. The first lesson is the most obvious: It is wrong to give offense to other citizens, that one has to be restrained and respect other people's lives and properties. The second lesson is far less obvious but potentially as important: Namely, it is wrong to take offense too easily or to respond to offense disproportionately. The second lesson requires of us that we be tolerant. In many ways it is much more difficult to be tolerant than to be offended when we are attacked. However, by building a constituency for these values of neither giving offense nor taking offense easily, we increase the legitimacy of criminal justice institutions and enhance their efficiency. We also accomplish the broader goal of reweaving the fabric of a liberal community—"liberal" in the old-fashioned sense. We can come to understand what we most fundamentally owe to one another. After all, it is in the interstices of social interaction created by the restraint we impose on ourselves and the wide latitude we give to others that the maximum of liberty and security is found. And it is this maximum we seek through the various initiatives of the community justice movement. If we are to produce justice, we must learn to love it and teach it. That is what the movement to create community justice is all about.

### Question-and-Answer Session

**Jenni Gainsborough, National Prison Project of the American Civil Liberties Union (ACLU), Washington, D.C.:** I enjoyed everything that you said and agreed with it. The importance of establishing legitimacy is fundamental to the criminal justice system. I wonder how you deal with two groups that seem to me to be largely responsible for undermining legitimacy of the system: Politicians and the media. It seems to me that most people's contact with the system is not through the everyday meeting with the police officer, being arrested, or any of the other things you talked about. What they know about

crime is what they see on the 6-o'clock news and what their politician tells them. That certainly is completely contrasted to what you were saying about tolerance and understanding of the necessity for justice. Is there anything we can do at that level?

**M. M.:** This has to do with how criminal justice agencies manage their relations with citizens as overseers, both through elected politicians and through the media. You and I could both do a very discouraging analysis. (Norval Morris will complain probably about the way politicians have shamelessly exploited the crime issue for electoral advantage and how inadequate the media coverage of crime and the criminal justice system turns out to be with its emphasis on individual lurid cases and official misconduct, rather than trying to present to the citizens an accurate picture of what happens in society.) I share your diagnosis. The question is, Do I have anything useful to say about what can be done to improve the quality of those interactions?

I think the first idea is that one may be able to crash through some of the false impressions created by the media by doing a better job in all of the thousands of individual encounters with citizens as clients and as coproducers. Instead of trying directly to build a constituency for justice at the wholesale level through the media, it may be possible to do it at the retail level by trying to get people to understand and benefit from each individual transaction in the criminal justice system. That would be statement number one.

Statement number two would be that if the criminal justice system organizes itself to be responsive to groups as well as individuals, it might be able to find another important point of contact between itself and the citizens—a separate channel of communication between its operations and citizens. That contact may build support for the agency and establish a basis for communicating appropriate values. So far, I'm arguing for the idea that we actually try to use these encounters that occur between criminal justice agencies and citizens to get our message through the welter of noise and falseness that is out there.

I think many police organizations were quite startled to discover the success of the citizen academies. It turned out that if a police agency invited citizens to come and ride in police cars and see what was going on, they responded with an enormous amount of intelligent interest and reason. I think a lot of other agencies are beginning to take a lesson from that particular “book.” So my first answer is “Don’t do it at the wholesale level, do it at the retail level.”

The next statement is this: “To the extent that you are going to do it at the wholesale level, I think it’s very important for criminal justice agencies to take leadership roles in getting their message out. I would advocate that police chiefs, corrections officials, chief justices, and others engage more actively in political discussions about the purposes of the system and back up their ideas about how the system ought to operate with relatively accurate and faithful accounting of what their organizations are doing. We might find an initial reluctance among citizens to have their public officials—particularly officials from criminal justice agencies—being as prominent as I’m recommending, but this might gradually yield to appreciation for the leadership that they can provide.

I think that the substantive values to which leaders of the criminal justice agencies commit themselves are very important. It is very tempting for leaders of criminal justice agencies, particularly police and corrections, to commit themselves to what one might think of as technical, instrumental goals associated with reducing crime rather than justice goals that are associated with structuring relationships properly throughout the society and delivering high-quality services to citizens. So I hope that the people who lead police and correctional agencies will commit themselves to a set of values that is associated with the production of quality justice rather than with mere crime control.

**Jim Boden, Office of Management and Budget, Executive Office of the President, Washington, D.C.:** You talked a little bit about the decrease of the legiti-

macy of the criminal justice system in recent years. Would you address briefly what effect the role of drug policies and our emphasis on drug control has had on that?

**M. M.:** This is a good question. I think 2 or 3 weeks ago you had a speech from my colleague, Peter Reuter, on drug control policy. I'm in favor of laws against cocaine and heroin use, and I'm perfectly willing to commit the authority and resources of the Nation's criminal justice system to trying to reduce the easy availability of these drugs in our Nation's communities.

Having said that, I want to acknowledge that this is a very, very expensive use of the criminal justice system in the sense that it chews up a great deal of authority and money as a means of preventing an increase in the rate of drug use and abuse. We have a particular responsibility in this area to use the authority of the state, which I think of as a scarce and valuable commodity, with effect and fairly. I think we have been a bit indiscriminate in the way that we have used authority in the drug war. I don't want to eliminate our efforts altogether, but I would like to see us make a more sustained effort to focus on the places where it would do a lot of good and not cost us so much—and where we can be relatively sure, not only in our eyes but in the eyes of the citizenry, that the laws are being brought to bear with effect and fairness. What I worry about is that we have used authority a little too indiscriminately in drug policy.

**Ted Gest, *U.S. News & World Report*, Washington, D.C.:** I won't use this forum to try to rebut the criticism of the news media, but I will ask a question to try to make some of your comments a little more specific. Referring to former Police Commissioner Bratton of New York, who essentially has expressed the thesis (you can rephrase it if I haven't expressed it correctly) that over the years law enforcement got into a syndrome where it said, "We can't do much about crime so we won't try to take a leading role." How much of that do you agree with, and how much would you apply that thesis (to the extent that you agree with it) to the rest of the justice system? Are there any models that Mr. Bratton and his supporters have put out that might be appropriate for the courts, correc-

tions, etc., to try to be more aggressive in their roles in the justice system and in reducing crime?

**M. M.:** Let me say a couple of things to that. First, I would be pretty satisfied with a criminal justice system that only delivered justice, and I would hope that whatever crime control benefits that I got from that happened as a residual effect. In my view, the principal justification for the system lies in the quality of the justice we produced, rather than in the crime control effect. That's the first statement I'd make.

The second statement is that I believe (and spend a lot of my working life) in trying to help the criminal justice system achieve crime-reduction and fear-reduction effects as well as produce justice. I don't think I would have spent as much of my life on this subject if I didn't think that criminal justice agencies could have a very important effect on levels of crime and fear in the society. So, yes, I do believe that criminal justice agencies can make an important difference, even in so difficult an area as drug abuse—but perhaps equally in the areas of crime control and fear reduction.

I think that Commissioner Bratton's bold statement—reacceptance of responsibility for controlling crime—was a very important moment in leadership of the criminal justice system. I think it was quite a heroic individual stance—one that exposed him and his agency to a real prospect of failure and ridicule. This bold commitment is what I like about it in some ways. It is an interesting example of the way in which one can crash through the political debate at some level. Bratton in some sense made himself and his organization transparent. He nominated the terms in which he was prepared to be held accountable by the public. In doing that, he staked himself out (and with him the rest of his organization) on the accomplishment of that goal. I think the pressures that he unleashed actually helped him to run the organization and to increase its performance and effectiveness.

A lot of public-sector managers, and particularly criminal justice agency managers, don't really understand that accountability is their friend rather than their enemy. The only chance they have of focusing the attention of the large organizations they lead is to make themselves accountable and use that attention to get improved performance. I think Bratton showed us a managerial style and stance as well as a particular set of programmatic activities that can plausibly be effective in controlling crime.

Yes, I believe that the criminal justice system can control crime; I believe it should accept crime control as one of its important responsibilities. But I would add to the important responsibilities that it should accept the responsibility to guarantee the quality of justice and reduce fear as well. Third on the list would be giving quality service to individuals as a way of legitimating all the other responsibilities.

**Ruth Davis, The Pymatuning Group, Inc., Alexandria, Virginia:** I've been impressed with the answers you have made to the questions. I'd like to get down to what I call the street aspects of the criminal justice system. To me, the criminal justice system is a process—it has an infrastructure and the attributes of an organization. When one is involved in it, leadership, salesmanship, and management are needed. Most of what we talk about is leadership and salesmanship. Management is the hard part; that's where one has to put the product or service in the market. If one accepts the fact that management not only has requirements but it has some rights—such as the ability to select employees (using the word loosely in this regard), the ability to decide which services can or should be provided, the ability to charge for those services, and the ability to measure performance and to do something about it—it's very difficult for me to see what it is that we are allowing the management of the criminal justice system to manage. It has the attributes of management in the school system and everything else. We know a lot more about how to manage schools, but anything that has to do with the public—the public makes its own opinion—is very difficult. I have difficulty seeing what we are providing

to the system that allows for good management, and what it is that we can really manage in the system as we see it today.

**M. M.:** That is right up my alley. I like to think a lot about the successful management of criminal justice agencies. Three comments come to mind. First, my very first experience in managing a criminal justice agency was working for the Drug Enforcement Administration in 1974 and 1975 here in Washington. I remember testifying with my boss on the Hill at one stage, and one of the congressional representatives said to him, “Mr. Bartels, how many people work for you?” And he said, “About half.” It was a wonderful remark, got the same laugh there as he got here. But there was hell to pay when he went back to the office.

Jack Maples who worked with Bratton said to me, “I have an enormous advantage over you in understanding how to manage criminal justice agencies. I know something you don’t know.” I said, “Well, what’s that?” And he said, “Most cops don’t work most of the time.” That was Maples’ (not my) view. I take the point that there is a sense out there that officials in criminal justice agencies are not working hard and are shielded by civil service and union protections.

Let me say three things about the possibility of managing even in those circumstances. First, it is important to remember that the civil service and union protections arose because of pretty sloppy and miserable management in those agencies. It was perfectly appropriate for employees who were being asked to do hard jobs or were being badly treated by their organizations to get both civil service and union protections. So I don’t begrudge them that protection—I understand at least some of its sources.

It has always been my view—I realize it is an ideal view—that authority is a crutch in management—the thing that bad managers rather than good managers use. Good managers (like good cops) are people who learn how to accomplish things with minimum use of authority. So one hardly even notices that they are in positions of authority. Everything seems so right or it seems so inevitable that things be done this

way that one just goes ahead and does it. And the mailed fist of real authority never has to be shown. What I'm saying is that managers are "copping out" when they say, "We can't get the job done because we don't have authority."

Having said all that, let me make the last statement, which I think is important in relation to the point I was making earlier about Bratton. I've spent 25 years of my life not only doing criminal justice stuff, but also studying public-sector management. In school, I learned, like everybody else, that the important and powerful instruments of management were things like organizational structure, human resource policies, management information systems, and control systems. I learned a lot about those things. What I gradually came to realize, however, is that those things weren't worth a damn without a powerful external pressure. All those things could do was distribute voltage through an organizational system. What made an organizational system run was a voltage generator that existed someplace else. In the world of private-sector management, that voltage generator is the desire for survival, to find a market niche and beat the competition and to supply goods and services that consumers want. That desire turns out to produce a lot of voltage going through organizations, which the managers can then effectively deploy, getting the people to work without having to use authority.

In the public sector, what is the analog? My only answer to that is that I think political accountability is to the public sector what customer accountability and competition are to private-sector organizations. If I had to choose between trying to fix a public-sector organization by fixing its internal control systems, on the one hand, or making it accountable to a powerful outside body that is insistently demanding a change, on the other, I would pick the second every time. In fact, the second is so much more powerful, that if I found myself running an organization that was going in direction A and there wasn't any pressure forcing it to go back in direction B (which I thought was the right direction), I'd probably work hard to build an outside pressure to move it toward direction B. That would be a more effective way of getting the job

done than trying to fix the internal system. The reason is that without that outside pressure, when I go to ask my troops to do something different, they look past me and say, “Why?”

Let me make this very concrete. This was a hard lesson for me. I was working with the Philadelphia Police Task Force. We were doing a review of the Philadelphia Police Department in the aftermath of two terrible events. One was the MOVE investigation, in which the police had dropped a smoke bomb on a house to roust a radical group and the bomb caught on fire and destroyed a city block. About 20 people were killed. The other was a corruption scandal that reached just below the commissioner level inside the organization. You might have thought that this organization would be on its knees with this kind of dramatic performance failure. So we were trying to fix the police department and work out a basis on which it could reconstitute itself.

We sent out a survey to the citizens of Philadelphia and asked them the following question (fully expecting the survey to come back and tell us that the police department was bad, which would give us leverage for making important changes): “On a scale of one to five, what do you think of the Philadelphia Police Department?” It came back about 4.5. Pretty good, right? Teaching ratings I’d be glad to have. Then it asked a whole series of discrete questions: “Do you think the cops are rude?” [Oh yeah, terrible, awful.] “Do you think they sleep on the job?” [Yeah, sure. We see them sleeping on the job all the time.] “Do you think they take bribes?” [Yes—a lot of people thought they did.] “Do you think they sexually harass defendants?” [One-third of the people thought the cops did that often.] And yet, they rated the department at 4.5!

I was discussing these results with a room full of captains from the Philadelphia Police Department, and they were all kind of looking down at their shoes, embarrassed that I didn’t understand. Finally, one guy was goaded beyond endurance by my ignorance. He looked up at me and he said, “Look, Doc, you gotta understand; when you’re shoveling shit, you gotta be indulged a little

bit.” People in the room relaxed a little, and everyone sort of agreed. This was his understanding—and that of everyone in the room—of the relationship the agency had to the citizens of Philadelphia. And what’s more, the citizens of Philadelphia agreed. I suddenly understood. That deal that had been struck between the citizens of Philadelphia and the Philadelphia Police Department could have been struck (maybe had been struck) in cities throughout the country.

Now if the above is true, there is no leverage for change in that police department. And the only way that the leverage can come for changing the police department is to have somebody step forward and say, “How about this as an alternative deal?” When that person steps forward and asks that, it will work only if he or she is met with a resounding chorus that says, “Yeah, we like that!” That chorus had better come from outside the department as well as inside the department, or nothing is going to happen. That’s the moment when the opportunity for leadership is there.

**Bill Burnham, Visiting Fellow, National Institute of Justice, U.S. Department of Justice, Washington, D.C.:** To encourage you a little, a story first about my former employer: When I was in a group saying how many people worked for the Secretary General of the United Nations, the answer was 10 percent. So you’re batting pretty well!

A point in your main presentation that wasn’t picked up was the enormous amount of damage a few bad individuals in a system can do. Would you therefore agree that any effort and any investment of resources by senior management on finding such people is, in the long run, one of the best uses of resources? (I speak as a former member of the British Prison Service.)

**M. M.:** Yes; I believe it’s important to focus attention on people who are persistent and dangerous offenders both in the citizen population and in our own organizations. I think it’s terribly important to be able to root them out. We could go on at great length about controlling corruption in criminal justice agencies, which is a subject of great interest to me.

As you know, there is an image out there that there are a few “rotten apples in the barrel” and that we need to control them. The other notion is that there is a system of corruption that supports not only those few bad apples at the tail of the distribution, but also the large number of people interior to the right tail of the distribution, but still pretty bad actors. You either hear the story that, “We go after the people at the right tail (rotten apple theory)” or “We go after the average performance of the organization (the cultural change model).”

I think it is almost silly to have that debate because I think the answer is that you have to do both of those things simultaneously. Each one helps to reinforce the other. I think it is very dangerous to concentrate exclusively on the bad guys, because when they get taken out of the system the rest of the organization doesn't quite understand why. That is, they will react against the authority. You can be running a class as a teacher, and there may be somebody in the class who is driving everybody else in the class wild by talking too much and being a jerk. You will let this go on for a long time hoping that the class will discipline the miscreant, but the class won't do it. Then one day you think, “I'll be a hero as a teacher and discipline this student so that the other students can benefit.” Right? I'm always astonished that, in the next 5 seconds, that first student has become everybody's best friend, and you've become the biggest jerk in the world. I think that this is a rather common thing that happens inside organizations. The organization will routinely close ranks around people who have been singled out for misconduct if one hasn't built an organizational climate in which the authority is allied with the people in the organization and a cultural commitment has been made. That conduct is something no one wants inside their organization.

Again, making that point more concrete and with more evidence from within policing (rather than from the weird world of academia): Patrick Murphy, when he was talking about dealing with police corruption in New York City always told a wonderful story. Murphy, as you know, had developed a system. He rejected the advice to concentrate on controlling corruption by setting up a

powerful Internal Affairs Department (IAD) that would investigate the worst offenders. Instead, he used the centralized IAD as a general staff operation to monitor “ambient levels” of corruption in a precinct. These reports would then be used as a basis for discussion with the precinct commanders on what they were doing to control corruption. He gave the resources for controlling the corruption to the decentralized precinct commanders rather than leaving it sequestered in IAD.

When asked why it was that he did that, he would give a very eloquent speech. He said, “Well, in the old days in the New York City Police Department there would be some corrupt cops, and the people from IAD would come down, walk into the precinct house, put handcuffs on the officers, and lead them away. Right after they led them away, the precinct captain would get all the troops together in the precinct (because morale was now slipping), and the precinct commander would say, ‘Those bastards from downtown just took Joe and Willie, two of the finest cops I’ve ever known.’” In that moment, the culture that was supportive of corruption was being advantaged. Authority was aligning itself with the support of corruption and marginalizing the effort at corruption control. Murphy said he wasn’t going to stand for that. He was going to make the *precinct captain* put the cuffs on the corrupt cops.

As soon as Murphy’s program was in place inside the New York City Police Department, things changed fast. The reason they changed fast is that the people at the captain level, who couldn’t find it in their stomach to control corruption, left. And that made room for people who thought “thank God, somebody has finally seen the value of someone like me who is hostile to corruption,” and those people began coming up through the ranks and taking the captain positions. Once you have 70 captains focusing on this problem rather than a few people in IAD trying to make investigations against a “wall of silence,” you’ve got a lot more social control inside the department than you had before.

So, you don’t always want to go just after the bad guys; you want to go after the supporting infrastructure as well.

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# Child Victims: In Search of Opportunities for Breaking the Cycle of Violence

*Presentation by*

*Cathy Spatz Widom, Ph.D.*

*University of New York at Albany*

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**W**e have all read newspaper reports about the deaths of young children due to child abuse or neglect: Lisa Steinberg, Jessica Cortez, Emily Hernandez, Joey Wallace, Nadine Lockwood, and most recently, Elisa Izquierdo. But what happens to the children who survive? The babies abandoned on streets or in hospitals, children left unattended for days without food in filthy roach-infested apartments, or children brutally abused. These children may not be well known. Indeed in New York City, no one in the city's child welfare administration or the school system noticed the disappearance of 8-year-old Justina Morales for 15 months, although she was known to child welfare officials. As we now know, Justina Morales was murdered in December 1995 and her body disposed of in a trash can.<sup>1</sup>

The names of these children appear in distressing newspaper stories like the case of 16-year-old David Newbury and Mark Rea in Milwaukee, who sexually assaulted and clubbed to death a classmate. David's court record revealed a childhood history of beatings, cruel words, and indifference. Before being sentenced to life in prison, David told a probation officer, "I lived like I was treated."<sup>2</sup>

Today, I have three goals: to briefly describe how childhood victimization and violent criminal behavior are related, to illustrate promising strategies and opportunities to intervene, and to suggest some important principles to guide interventions prior to formulating or proposing new policy. This talk is an attempt to bridge the world of research with that of policy. You should know that I do not pretend to be exhaustive here in describing programs, but rather to illustrate with a few examples.

Over 10 years ago, as Jeremy Travis mentioned, with initial funding from the National Institute of Justice (NIJ), I began research to address the relationship between early childhood abuse and neglect and later delinquent and violent criminal behavior. This is a study of 1,575 children from a metropolitan area in the Midwest who were followed for a 25-year period after the abuse or neglect incident. These were substantiated cases of physical and sexual abuse and neglect, which occurred early in the lives of these children (before age 12).<sup>3</sup> Using official criminal records of arrests, we found that childhood victimization increases the likelihood of delinquency, adult criminality, and violent criminal behavior. At the same time, however, we found that the relationship is not inevitable, suggesting an opportunity for long-range violence prevention through appropriate intervention.

I want to call your attention briefly to five major points.<sup>4</sup>

First, the risk of arrest: Childhood victimization clearly increases a person's risk of arrest. To place this in perspective, the odds are almost two times higher that an abused or neglected child will be arrested as a juvenile for a violent crime than a control group child.

Our research was conducted in a metropolitan county area in the Midwest, using court cases from the years 1967 to 1971. But others have found similar results. In New York, for example, as part of the Rochester Youth Development study, Thornberry and his colleagues collected information on child abuse and neglect for the children who were part of their study.<sup>5</sup> They also found that child maltreatment was a significant risk factor for delinquency. Similarly, another evaluation by Matt Zingraff and his colleagues, using maltreated children and two nonmaltreated comparison samples from another geographic area of the country, Mecklenburg County, North Carolina, found that maltreated children had higher rates of delinquency as well.<sup>6</sup> Thus, in three quite different prospective studies from different parts of the country using cases from different time periods, childhood abuse and neglect have been found to increase a person's risk of delinquency.

Second, we have also learned that abused and neglected children are arrested at an earlier age, have more arrests, and are more likely to be repeat violent offenders.<sup>7</sup> Abused and neglected children are involved in criminal behavior almost a year earlier than the control group children. This is important because we know that age of onset is often negatively correlated with the severity of the disorder.<sup>8</sup>

Third, there is a cycle of violence. And violence does beget violence. That is, being physically abused as a child leads to an increased risk of an arrest for violence. However, our findings indicate that being neglected as a child also increases the risk of arrest for violence. I'll come back to this.

Fourth, there are differential patterns for population subgroups. Childhood victimization seems to have pervasive consequences for criminal behavior and violence in some respects, that is, it affects females as well as males—and as you know, females are at low risk for being arrested, particularly for being arrested for a violent crime. On the other hand, there seems to be a differential impact of childhood victimization on the criminal consequences for African-American children as compared with white children.<sup>9</sup> This we do not yet understand.

Fifth and finally, other findings suggest that childhood victimization also has the potential to affect other domains of functioning. We've conducted in-person followup interviews with a subset of the original sample (work supported by the National Institute of Justice, the National Institute on Alcohol Abuse and Alcoholism (NIAAA), the National Institute of Mental Health (NIMH), and now the National Institute on Drug Abuse (NIDA)).<sup>10</sup> We have found that abused and neglected children are also likely to manifest cognitive and intellectual deficiencies;<sup>11</sup> mental health consequences including antisocial personality disorder,<sup>12</sup> posttraumatic stress disorder,<sup>13</sup> and higher rates of suicide attempts;<sup>14</sup> alcohol abuse for women;<sup>15</sup> unemployment; and lower rates of marital stability.<sup>16</sup> These outcomes reported so far most likely represent only the tip of the iceberg of areas potentially affected in a negative way by childhood victimization.

Enough of the bad news. The good news is that there is an emerging "science of prevention"<sup>17</sup> and that there are some programs that have been shown to be effective.

For the most part, our current system of interventions is highly reactive in nature, geared toward treatment, rather than proactive with preventive efforts aimed at reducing vulnerability and risk. In the case of child victims, the justice system gets the failures of other systems. By the time these children are treated or seen, it is often after referral by court personnel, when they are typically manifesting a long history of antisocial behavior.

However, at numerous points in a child's life and environment there are opportunities to intervene. This is particularly true for abused and neglected children and especially those who come to the attention of public officials.<sup>18</sup> I have selected a typical case to illustrate such opportunities for intervention.

This is the case of a male child who was brought to the attention of the courts through a neglect petition when he was 6 years old. His mother was unemployed and his father's whereabouts was unknown at the time. He had eight

siblings, born during an 8-year time period. He was the fifth child. For some time before the neglect petition, he had been cared for by his maternal grandfather. By the time of his petition, he had been abandoned for some years. At the age of 7, he was made a ward of the county. During this time, his mother showed only sporadic interest in him, and indeed, many of the other children in the family were cared for by other people scattered throughout the city. Eventually, some of the other siblings were adopted. At age 9, he was picked up by the police for running away on two separate occasions. He was held overnight, and the incident was recorded. Then, he was sent to a foster home. During this time, his mother would take him away from the foster home, take him out of school, and return him to the foster mother with only the clothes on his back. At that time, the public school system referred him to the Children's Bureau because of the constant disruption of his school attendance due to his mother's moving from place to place. At age 12 and again at age 13 he was picked up and charged with being ungovernable. The first time, he was sent to a group home for a short stay. The second time, he was placed on probation. By age 20 he was well on his way to becoming a repeat violent offender. By age 32 he had 13 separate arrests for violence, and by all accounts he might be considered a dysfunctional young adult. By that time he had spent several years in correctional facilities.

What promising strategies or programs might have made a difference in his life? Before his birth, home visitors might have worked with his mother to improve her parenting skills through public health and family support system services. Home visitation is one type of program that involves several models. Some rely on public health nurses who establish contact with mothers during their pregnancy and provide frequent visits after birth, whereas others rely on paraprofessionals who meet with the mother after discharge from the hospital. One reason for using home visitation is to reach families who might not otherwise have access to services, such as rural families living in isolated areas, urban poor isolated families, or families who might be unwilling to travel to service providers, such as abusive or neglectful families.

Another advantage of the home visitation program is that, after having developed a relationship with the parent, home visitors can provide services and models for effective parenting. One program, developed by David Olds and his colleagues,<sup>19</sup> uses prenatal and infancy home visitation by nurses to prevent a wide range of health and development problems, including prevention of child abuse. The program was based on the premise that nurse home visitors were in an optimal position to identify and help change factors in the family environment that interfere with maternal health habits, infant caregiving, and parental personal accomplishment in the areas of work, education, and family planning. This intervention was assessed through a randomized trial with 400 first-time high-risk mothers. Compared with families without these services, home-visited clients had fewer low-birth-weight babies, fewer reported cases of child abuse and neglect, higher rates of child immunizations, and more age-appropriate child development.

Now our young man also might have been enrolled in a program for preschoolers at risk for impairment of intellectual functioning and eventual school failure, such as the Perry preschool project.<sup>20</sup> In this project, low-income, black, 3- and 4-year-olds were randomly assigned to preschool and control conditions. Children in the experimental group attended high-quality, cognitively oriented early childhood education for 1 to 2 academic years. Teachers made weekly home visits, and monthly parent meetings were held. Longitudinal followup data to age 19 indicate that the Perry preschool children showed lower rates of placement in special education classes, lower grade retention, better performance on standardized measures of achievement, better high school graduation rates, and lower rates of welfare assistance than the children with no preschool. Further followup at approximately age 27 showed that the preschool program had dramatically reduced the rate of arrests and chronic offending.<sup>21</sup>

Another opportunity that we missed for our young man was when the public school system, recognizing this child's inschool problems, complained about the disruptive influence of the child's mother. Truancy has been increasingly

recognized as a major problem in our country. A number of communities have begun to design truancy-reduction programs that often involve schools, law enforcement, families, businesses, judicial and social service agencies, and community and youth service organizations. Such programs involve intensive monitoring, counseling, and other family-strengthening services that are offered to truants and their families. And in these cases, there is at least preliminary evidence to suggest that these programs may be effective.<sup>22</sup>

Although too late for our young man, a series of community-based interventions with children and adolescents, aimed at violence prevention, was initiated in 1992 at various sites across the country.<sup>23</sup> Now, these programs are not designed to intervene with abused and neglected children, yet we hope that the information obtained from the evaluations of these promising interventions will be helpful.

But for all of these promising strategies (and others not mentioned), we will need to use caution in moving from small pilot tests such as these to large-scale prevention trials. It is very tempting to generalize from programs that have shown promising results. However, it is very important to resist the temptation since there may be features of experimental projects that are difficult or even impossible to reproduce in a large-scale social program.

What have we learned from these promising strategies or interventions to help guide the development of further programs to break the cycle of violence? I'd like to mention six principles very briefly:

**1. The earlier the intervention, the better.** Interventions need to be instituted early—before the behaviors have stabilized and become less amenable to change.<sup>24</sup> Early childhood is a period during which the central nervous system is changing rapidly and profoundly and the attitudes and habits of children are formed.<sup>25</sup> Without interventions, deficits or dysfunctional behaviors at one age lay the groundwork for subsequent dysfunctional behaviors.<sup>26</sup> For example,

severe malnutrition in infancy or brain damage from physical abuse may lead to impaired cognitive and intellectual functioning, which in turn affects IQ and obviously affects school performance, which in turn affects that child's ability to function adequately as an adolescent and young adult. Services should begin early, preferably during the prenatal period or shortly after birth, and should extend through the early years of a child's life. Early interventions should focus on eliminating factors that decrease a child's capacity for normal cognitive and neurological maturation. Aiming early intervention efforts at childhood victims has the potential to influence their behavior before their first offense.

This is not to say that all childhood victims should automatically become suspects. But given the increased risks associated with early childhood victimization, police, teachers, and health workers need to recognize the signs of abuse and neglect and take action to intervene early. Later intervention should not be ignored, but later interventions are more labor intensive and more difficult since they must deal simultaneously with the existence of problem behaviors and the prevention of further additional problem behaviors. If earlier identification of abuse and neglect leads to positive interventions then this should reduce the risk of future violent behavior.

**2. Don't neglect neglected children.** Increased attention needs to be paid to neglected children. Although neglect cases have not received as much attention as cases of physical or sexual abuse, some researchers have suggested that children who experience neglect may be as vulnerable to long-term problems and to dysfunctional behavior as are victims of physical or sexual abuse.<sup>27</sup> Our research demonstrated a clear link between neglect and later violent criminal behavior. These findings are of particular concern since the incidence of neglect is more than twice that of physical abuse, and neglect cases represent the majority of the cases taxing the child protection system. In contrast to the episodic and explosive nature of physical abuse, neglect is a chronic condition which, in some ways, may be more amenable to intervention strategies.

Few justice programs address the needs of neglected children. The disproportionate number of these cases has at least two consequences for public officials: First, they will be called upon to deal with more cases of abuse and neglect, and second, since childhood victimization in the form of neglect is linked to later criminal behavior, a larger share of tomorrow's offenders will be today's victims of neglect.

**3. One size does not fit all.** It is also important to recognize that one size does not fit all, for families or children. What works for one child in one context may not work for a different child in the same setting, the same child in another setting, or the same child in another period in his or her development. Characteristics of the child will influence the extent to which interventions may be effective. For example, temperament exacerbates in some cases or minimizes in other cases a child's level of risk to develop problem behavior.<sup>28</sup> We have found that there is a small group of children, less than 7 percent, within the larger group of abused and neglected children in our sample who have indications of severe behavior problems at an early age.<sup>29</sup> These children with behavior problems made more placement moves than children without such indication. And these children with behavior problems are seven times more likely to be arrested as a juvenile and four times more likely to be arrested for a violent crime than children without those indications. Now, whether frequent moves reflect an early predisposition of the child to antisocial behavior or whether they reflect a response to it, children with numerous placements are in need of special services and are not well served by routine responses. Rather than waiting until after multiple placement failures, better identification of these children prior to placement would permit assignment to specialized treatment programs based on an assessment of the child's needs, which includes taking into consideration the child's developmental status at the time.

To be effective, interventions need also to recognize that children do not develop in a vacuum but, rather, in a social context. Characteristics of parents or caretakers and of the neighborhood and the community in which the child

lives also exert potent influences on the child's development. While the first important influence on the child is the family, children and families are interacting members of a larger social system including schools and communities. There is growing evidence that the long-term impact of childhood trauma, whether it is direct victimization as in child abuse and neglect or witnessing violence in one's family or community, may depend on characteristics or practices of the family or the community in which the child lives.<sup>30</sup> This takes me to the next point.

**4. Surveillance is a double-edged sword.** One advantage of home visitation programs is that they can provide a watchful eye in the home. Unusual bruises, signs of spousal abuse, or indications of drug abuse can be noted by an individual with a trained eye. Similarly, an advantage of better training for police officers and school teachers to identify child abuse and neglect is the potential for the provision of services to these children and their families. On the other hand, surveillance is a double-edged sword associated with potentially serious negative consequences, particularly when some segments of the population are at risk for different levels of surveillance. Families who, because of certain demographic characteristics such as poverty, unemployment, or single parenthood, have frequent contact with public service agencies are more often exposed to closer scrutiny. Special care needs to be taken, then, in responding to and handling cases of childhood victims to prevent damage from the destructive edge of the double-edged sword. Our differential findings regarding the long-term criminal consequences of abuse and neglect by ethnicity cannot be ignored. If there are differences in the community's or system's response to abused and neglected children as a function of differences in ethnic or racial backgrounds, then it is important to identify these differences, particularly if they relate to subsequent levels of violence in these children. At a minimum, intervention agents need to be sensitive to the possibilities of differential treatment on the basis of race or ethnic background and take steps to avoid such practices.

**5. Interventions are not one-time efforts.** Many intervention efforts involve a single dose of relatively short duration. However, we have learned that programs such as home visitation, the Perry preschool, and Head Start cannot be viewed as a “single shot in the arm” or a one-time inoculation procedure. Rather, interventions may require periodic “booster shots” and perhaps more long-term followup. The original Elmira study, continued through the child’s second birthday, was associated with definite benefits.<sup>31, 32</sup> However, the effects disappeared when the children were reevaluated at 25 and 50 months of age.<sup>33</sup> Perhaps we need to view early childhood intervention programs in the same way that we view other services to children, such as fluoride treatments. They may need to be continued with varying intensities at various points in childhood and adolescence.

**6. Resources should be accessible.** It is not enough just to increase resources, because accessibility is as important as the resources themselves. Concrete barriers—such as transportation, language problems, and fragmented services—may prevent children at risk or their families from taking advantage of existing resources. But barriers can be psychological as well. According to one researcher,<sup>34</sup> schools that provide free meals for low-income children have found that these children will not eat the meals if other children or teachers know they are free. Max Frankel,<sup>35</sup> in a column entitled, “Less Medicare, More Magic,” argued to preserve the universality of social security to avoid the stigmatization of the elderly poor. Likewise, the potential for stigma associated with early child and parent intervention programs would be minimized by universal coverage. Abusive and neglectful families may be more likely to accept parenting and child intervention programs that are offered to all in the community rather than targeted ones that might embarrass or stigmatize. This may be particularly important for intrusive interventions in family life, such as home visitation programs. Programs offered to all children and all families would also avoid implications of discrimination as well. Service providers could determine the intensity of services required depending on the particular needs of the child, the particular family, and the resources of the community.

So, what do I conclude? Comprehensive parent and early childhood intervention programs are clearly the option of choice. Estimates of the cost of home visiting for 1 year are between \$1,500 to \$3,500 per family. Consider that the total number of newborns born in Washington, D.C., in 1992 was 10,960.<sup>36</sup> If early parent and child intervention services were provided to all mothers of newborns in the District, the total cost per year would be roughly \$38.3 million, using the higher cost estimate. Assuming that such a program were to begin in 1998 and continue for 5 years, at the end of that time we would expect that the entering kindergarten class in the District in the fall of 2003 would show dramatically improved health and academic preparedness. Even though \$38.3 million per year sounds like a lot for a social experiment, such a program would probably pay for itself. At least in the original Elmira project, the cost of this early prevention project for high-risk families was equivalent to government savings associated with lower utilization of Aid to Families with Dependent Children, food stamps, Medicaid, child protection services, as well as tax revenues due to maternal employment.<sup>37</sup> Furthermore, these cost savings do not take into account the costs associated with services for older children and adolescents involving special education, foster care, court expenses, and juvenile detention and incarceration.<sup>38</sup> John Leventhal,<sup>39</sup> a pediatrician at Yale, has suggested that home visiting for high-risk newborns and their families might be covered by medical insurance or managed care plans similar to the cost of medical care. He cites one report that estimated the total costs for each form of transplant—kidney, bone marrow, or liver—in the United States to be about \$1 billion per year.<sup>40</sup> Home visiting, which clearly has the same potential to be lifesaving for some children and to improve markedly the development of many others, is relatively inexpensive per family compared with transplantation. Leventhal suggests that in the course of a child's lifetime, a successful preventive service should be viewed as a modest investment to ensure that the child's first few years of life are spent in a safe and nurturing environment.<sup>41</sup>

Universal parent and child intervention programs beginning during pregnancy are clearly preferable. However, if policymakers are not persuaded by the substantial benefits likely to come from the kinds of intervention efforts suggested here, then the criminal justice literature indicates that interventions targeted at abused and neglected children at a minimum are critical since these children clearly are at high risk for hurting themselves and hurting others.

Problems with attempts to predict future delinquency or adult offending often complicate proposals for early intervention. The situation for victims of child abuse and neglect is different. Abuse and neglect cases are those in which a decision to intervene has already been made and where public officials are already involved. Nonetheless, one important unresolved issue for me is whether targeted intervention strategies can be developed that protect the privacy of the children and their families and guard against the potentially negative outcomes associated with increased surveillance.

I have two simple take-home messages. First, there are promising programs that we should evaluate and build upon. Second, children are able to change given the chance and a little help. Not all abused and neglected children grow up to become violent offenders. And while we do not yet fully understand the factors that make the difference in their lives, we need to intervene early—and the earlier, the better. This is consistent with other social goals: reducing crime, increasing educational achievement, and preventive health care. The cycle of violence hypothesis proposes that yesterday's and today's childhood victims will become tomorrow's offenders and perpetrators of violence. Rather than focusing on responses to child abuse or neglect in court proceedings that "treat" offenders, prevention efforts should target childhood victims to reduce their risk of becoming offenders in the future.

## Question-and-Answer Session

**Duane Ragan, Office for Victims of Crime, U.S. Department of Justice, Washington, D.C.:** Did you include any of the children who had been in Head Start?

**C.S.W.:** I did not include Head Start evaluations in this talk, but certainly some of the children not in the Perry preschool program would have been in Head Start. I know there is controversy about the long-term effects of Head Start, but in some of the work that I've seen, the effects have been quite powerful. I didn't include them here because I simply didn't have the most up-to-date followups. Also, I really wanted to tie in the connection to the criminal justice community, the issue of reduced arrests and chronic offending.

**Christopher Stone, Vera Institute of Justice, New York, New York:** Do you know if there are any child welfare agencies in the country that have held themselves or are held accountable/responsible for the future development of the kids who are currently their wards?

**C.S.W.:** Remember, I'm a researcher; I don't work in child welfare. There are child welfare people here. Certainly, Nicholas Scoppetta in New York City now is trying to take a position, saying that "I'm going to be held accountable for this." I suspect that there are people who are doing that. Whether they are taking as public a stance as Scoppetta, I don't know. He is certainly getting heat.

**Nicholas Scoppetta, Administration for Children's Services, New York, New York:** The question was directed more toward holding us accountable for the future consequences of abuse and neglect. What I've been talking about is holding the system accountable for delivering what we are supposed to be doing, not simply the nobility of our intentions.

**C.S.W.:** Well, you see, I think that, if you don't have the kinds of slippages that you are having in the agency, if you are able to accomplish what you would like to do and do it early enough in the process when you have these definite cases of child abuse and neglect, you will see a reduction of problems in the future. So, if you will be held accountable for dealing properly and responsibly with those kids, then I think the rest will fall into place.

**Edward Cotton, Illinois Department of Children and Family Services, Springfield, Illinois:** I wondered whether, in the early intervention programs, particularly some of the models that are used nationally, you looked at strategies to use with dropouts. Since these programs are voluntary, the ones we looked at had extremely high dropout rates—whether at-risk families were identified in the hospital and said “no” or said “yes” and were never available after that. I guess I want to put things in perspective. These programs are voluntary, the dropout rate seems to be very high, and I wondered if you could discuss any strategies to address that. Because it doesn't matter if a program is great if people are not going to come to it or if they drop out of it.

**C.S.W.:** That's a good question. One of the things that I cut out of my presentation (but is in the paper) is a talk about some of these barriers. A woman named Karol Kumpfer<sup>42</sup> has done some work on parent-training programs that I think is creative. One thing that she has been able to do is to get very high parental attendance rates at her program meetings. One way she has done that is by really paying attention to some of the nitty-gritty issues like transportation, daycare, and all these other things that will actually enable parents to attend. That doesn't get at your issue, which is parents who simply don't want to or are not themselves “together” enough. I think (this is the caution that you heard here in this talk) we need to solve—we need to do some preliminary work to figure out what is the best way to get parents to enroll, to commit to being in these programs, and then to be kept involved in these programs. Because, clearly, if only a very small fraction of the families who are offered these services are taking the services, most likely those avoiding them are

going to be the families who are most in need of the services (the most dysfunctional). Before we plunge into major programming—I guess I shouldn't have said 1998, then, for the newborns in the District—I think we need some preliminary work to deal with these very practical issues. But I don't know, other than Kumpfer's work, whether there is other literature that talks about that.

**Donald Murray, National Association of Counties, Washington, D.C.:** Dr. Widom, I was very interested in your highlighting the problems of accessibility to services. In so many of our communities we see a lot of fragmentation where the community doesn't have a strategy. In terms of holding the community accountable, making sure all the players are at the table, we're excited by what Governor Hunt in North Carolina is doing. I'm sure you've heard about it. At the county level, half the counties in the State (shooting for the whole State) have set up boards just to focus on children 0-to-3 years of age. He has put in a little less than \$100 million, but so far the results have been spectacular.

**C.S.W.:** I certainly hope that someone is evaluating from when the program began to 5 years from now, so we can learn what were the good things that were done—what were the things that made a difference—so we can then take them to another community.

**Donald Murray, National Association of Counties, Washington, D.C.:** The central thing is getting the community to come up with a collaborative strategy based on the thinking of all segments of the community. That's usually not done. It's just a very simple idea.

**David Lloyd, Family Advocacy Program, U.S. Department of Defense, Arlington, Virginia:** I'm afraid that you picked a poor example: A child that's the fifth of eight children with umpteen different fathers already is in a family that is probably not going to be one that participates in any type of voluntary early intervention program. It kind of reminds me of Richard Gelles's call for removing those children from their families permanently, thinking about

terminating parental rights early, and moving them into adoption (with the caveat of ensuring that they receive the treatment services to deal with what has already happened to them). Too many of those children do not receive this either in foster families or in adopted families.

But my larger concern has to do with the conflict that we have in child welfare philosophy. The good news, I guess, is that child abuse and neglect is a low base-rate phenomenon. Even if we double or triple the estimates of how frequently it occurs, it is still a relatively (thank goodness) infrequent phenomenon. Combined with that, we have kind of unitary terms to describe very discrete things happening. Neglect is not a unitary phenomenon. There are children neglected for their medical needs, which tend to be rather one-time-only issues. There are children whose educational needs have been neglected, and it is difficult to differentiate these children from truants when they hit a certain age level. Then there is neglect that is clearly poverty related; this probably should not be considered parental neglect but rather economic neglect or American society neglect. Then there is parental disinterest, which is, I think, the hardest one to deal with. It is the lack of attachment. Because we treat all forms of neglect the same, we don't really understand the phenomenon very well. Perhaps we would do better to really study the neglect cases, to really learn from those parents in the same way that we have interviews with serial killers, to try to learn what motivates them and to devise better strategies.

The evaluation of Hawaii Healthy Start over a longer time and some other early intervention programs leads me to a great deal of concern about whether we will get the payoff for the amount of money that it takes to do this with the hard-to-reach families, where the propensity for later delinquency and criminal behavior is the highest. I'm not at all convinced that having paraprofessionals work in a home where there are eight children of umpteen different fathers is really going to pay off when we have a low base-rate phenomenon—whether we are going to see that much change. There are a whole lot of other benefits from early intervention in addition to reduction of abuse and neglect and

dealing with the consequences of abuse and neglect. But I think until we get our minds wrapped around what it is we are really trying to do in child welfare philosophy, we are going to continue to have a lot of problems in terms of preventing further delinquency and adult criminal behavior.

**C.S.W.:** Well, let me respond to that. First of all, although many of my cases do have multiple fathers for the children in the family, that wasn't one of the characteristics of the family that I described here. There were eight children; you're probably right—they probably could have been sired by different people. This case illustrates why I am arguing that it is not enough just to focus on the child. Successful interventions do not simply focus on a child. If one reads this literature, if one thinks about child development, it becomes apparent that the child is very much affected by the complicated dysfunctions of these parents as well as the communities. I think that it is a very important point. Also, we know a lot more about neglect than we did many years ago. There are many forms of neglect that the child welfare/child protection system does talk about. In my own work, however, I'm talking about a simple kind of neglect—it's a very powerful one, though. I'm talking about early neglect. We have eliminated the educational neglect that comes at a later point in time, especially if that's the only evidence of neglect. But these are cases of life-threatening failure to provide services to children: severe lack of food, clothing, shelter, and medical attention. I'm not talking about psychological maltreatment. My cases are from almost 30 years ago, now.

I think what is important is to recognize the effects of deprivation of these fundamental needs in early childhood. There was a psychologist by the name of Abraham Maslow who talked about a hierarchy of needs. At the very bottom of that hierarchy is the need for security, sustenance, the basic things in life. If we don't have that, if a child doesn't have food, clothing, shelter, or medical attention, how can that child go to school and be a well-functioning child? How can such children pay attention or keep their heads up in school?

We don't know enough about the linkages and effects because the field of child maltreatment, in terms of research, is relatively new and vastly underfunded. But I think that in the case of my research, which connects neglect of this sort with violent criminal behavior at a later point, we can't dismiss the connection.

**Marc Mauer, *The Sentencing Project*, Washington, D.C.:** Could you elaborate on what you spoke about as the potential negative consequences of increased surveillance? Wouldn't people make the argument that if more problems are found, the response should be more services? What is the problem with doing that?

**C.S.W.:** This is something that troubles me a lot. Although I really want to argue that we need to intervene in the lives of abused and neglected children, what stops me from endorsing that 100 percent (I don't know if you picked that up in my talk) is that we have these very troubling race-specific findings. Specifically, we find that for the African-American children in our sample (compared with the (control) African-American children—those are kids who grew up in the same neighborhoods, the only difference (at least on paper) is that one group was abused and one group doesn't have an official record of abuse), we find that the effects of childhood victimization are really enormous, very powerful, and much larger than the effects for white children in our sample who were similarly abused and neglected. We have been trying to find an explanation for this seeming difference in what should be a general phenomenon. It even seems to affect males *and* females. So why should it affect one group?

One of the things that we think about is relevant to something Janet Reno talks about—seeing a 3-year-old child or a 6-year-old child on the street at the wrong point in time. The community needs to respond to that child—take him or her home or whatever needs to be done. That is clearly a child in the wrong place. One hypothesis is that if we have a neglected child, it means that

somebody's not paying attention to that child. That child may be out on the streets at the wrong time. If one has a child that is out on the streets, that child has more opportunities to get into trouble and to be picked up by the cops. And if that child happens to be an African-American, once that child gets connected to the juvenile justice system, it is very difficult to get out of the system. The child's attitudes may change, the child may develop hostilities, all kinds of things. So we are concerned that somehow, by following these children and their families, we may not be responding to them and giving them services in the same way.

That's why I say if we can find a way to target these children with full appreciation of the delicate balance between making things better or worse for them, then targeting would be the most effective. But I think we need to do a lot more creative work to figure out how to do that.

**Marsha Renwanz, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, Washington, D.C.:** I've heard you speak several times and am always struck by the importance of your findings about neglect for the reasons that you mentioned, number of cases, etc. Given that we're now embarking on this nationwide experiment with welfare reform in the different States, do you have plans to look at several States in terms of risks of early neglect—catastrophic neglect for infants and toddlers—that you have identified? Will those risks be assessed by you or other researchers?

**C.S.W.:** There is a project that some people are working on in the District of Columbia to develop a proposal to provide services for abused and neglected children. The notion is that there will be an evaluation component to it, and I've been asked to help them with the evaluation component. I am way behind on all the other things that I was supposed to be doing when I was preparing this talk, so I'm trying to figure out how I can be involved. This is the only program that I know of, and that is in the infancy stage. But I am sure that there are lots of people in this room who know of programs in their communities. The

real question is whether, as I said to the gentleman from North Carolina, there is a serious evaluation that is planned. And I'm even happy to say, "Let's have 2 years of this program without an evaluation"; get your program going. Maybe just collect some base-rate information. But let us evaluate these programs. Let us not simply run programs without learning something from them in a systematic way.

**Rosemary Chalk, Board on Children, Youth, and Families, National Research Council, Washington, D.C.:** I want to pursue the whole issue of targeted versus universal interventions. David Lloyd earlier expressed his skepticism about the home visitation approach, based on the results of the Hawaii effort. I think it's very important to distinguish the home visitation model used in Hawaii from that used in the Olds study. There are different types of skills involved, differences in terms of the timing of the intervention. Using the Olds model the intervention seems to have the greatest impact on adolescent first-time mothers, and the impact may have been moderated by their ability to delay a second pregnancy. So we may not be talking about eight children in the household, maybe now about four. We know that neglect occurs in families that have very high numbers of children—that's often a family characteristic. The whole issue of spacing pregnancies becomes a key outcome measure in looking at the effects of some of the home visitation interventions.

I haven't heard you say anything about neighborhoods. It may be that one strategy to use in trying to balance this question of targeting families versus universal interventions is to look at the kinds of neighborhoods in which cases of abuse and neglect tend to concentrate and see whether we can think of some selection criteria. If we have a neighborhood context, we might want to target the intervention on any first-time mothers in that neighborhood, regardless of their family situation or individual characteristics. We could use geographic criteria and look at the role of unrelated adults within that neigh-

borhood as support systems and as support resources who may be helpful in maintaining the quality, timing, and dosage of the intervention that would be offered through some type of organizational approach in its initial stages.

**C.S.W.:** I'm glad you brought up the issue. I appreciate the point about the Hawaii program. One of the programs that I didn't mention follows a model that uses paraprofessionals versus the public health nurse model—they are very different. You can imagine different costs associated with them. One thing I think we need to do is to examine the extent to which these two models may have different effectiveness. If one were to engage in a larger scale intervention, I would like to see both models tried and pitted against one another.

I did mention neighborhoods though, and I think that neighborhoods and communities are terribly important. There is a difficulty in targeting neighborhoods. I thought about saying, "Let's take six cities: D.C., Detroit, Gary, etc.," cities with big crime problems. The difficulty is that, if we target by neighborhood, we are essentially picking African-American and minority communities. I have a real problem with the issue of stigmatization.

James Comer, for example, in his work and programs on schools, specifically chose to do his work in the school system. He worked with the entire school system, so there would not be these issues of unwillingness to accept the resources that might be offered. I think taking a geographic area that does have a high crime problem (like D.C.), taking these kids and starting with the pregnant mother, one is going to get those very high-risk families. As long as we keep track, do a needs assessment at the beginning of such an experiment, and then follow through, we would be able to determine whether it is only the most high-risk mothers and families that are benefiting.

But in the United States 50 or 75 years ago, there were public health nurses going into communities and doing exactly what David Olds' program is doing now, especially in rural or isolated areas. So it is not drawing from the British or drawing from the French, it is going back to a historical time in the United States.

**Rebecca Burkhalter, Burkhalter Associates, Inc., Washington, D.C.:** My question relates to the fact that many of these children we are talking about as preschoolers or infants are going to be in the hands of daycare workers more than anyone else. I was involved in that for many years. One thing that disturbed me, and I am wondering if it has changed, was the absence of required skills and training in daycare workers. We really said, “Well, if she is a nice person. . . .” It didn’t matter if she was qualified in early childhood development. If these people are going to be dealing with high-risk infants, they need to know something about children. Are we going to require more? And are we, as a Nation, going to feel that they are regular teachers and not just daycare workers and babysitters?

**C.S.W.:** I have no particular expertise to answer the question you’re asking me. I would rather turn it back on the audience.

**Shay Bilchik, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, Washington, D.C.:** To build upon a couple of points that were made about the Hawaii Healthy Start model versus home visitation through nurses (and targeting), right now we are in the middle of a project with David Olds in which we are replicating some of his work in six different communities, using that model in a targeted way through the Weed and Seed Office (partnering with Health and Human Services, the Weed and Seed Office, and the Office of Juvenile Justice and Delinquency Prevention). We are finding 100 first-time mothers in those communities to show how we could interrupt that pathway with delayed subsequent births and less welfare dependency. I know that David Olds is about to come out with a 15-year update on his original study that hopefully will show even more promising results.

**C.S.W.:** I’m very excited about that. I can’t wait to see the results. But one thing that I think we have to remember, getting back to Rosemary’s comment and others’, is that anything that we can do to help the development of these children from a very early point is going to have positive benefits. So if we can

have fewer low-birth-weight babies for these high-risk mothers, if we can have better health care—all of these things that one would think we would be able to do routinely—in turn are going to lead to healthier children, children who can perform better academically, and that is such a critical life point for these children. It is a time when they become so susceptible to delinquent peer groups and all the other bad things. Once they are in that risk category, it is simply a playing-out of problem behaviors.

**Shay Bilchik, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, Washington, D.C.:** Cathy, the most promising part of your talk and of the work in this area is that it highlights the gap that exists between the ideal that you're talking about and what we are presently providing to these families. For policymakers it is critical to know that the gap is significant and that there needs to be a substantial investment just to get us to ground zero in doing this kind of work.

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# Crime, the Media, and Our Public Discourse

*Presentation by*

*Norval Morris, LL.M., Ph.D.*

*University of Chicago Law School*

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**F**or 17 years after the end of World War II, I wandered the prisons of England, Australia, the United States, and a variety of Asian countries. I then found a degree of residential stability, and for the past 35 years from an excellent base in Chicago, I have done my best to understand the phenomena of the treatment and prevention of crime. Now, stimulated by the invitation to participate in this series of lectures, I am obliged to give a partial accounting, an apologia. If it proves a disastrous effort, blame Jeremy Travis; if it attracts your interest, praise Jeremy Travis.

My plan is to reflect upon the current public and political dialogue concerning crime and its treatment, to consider the relationship between knowledge and practice on that topic, to discuss the extent to which our problems are unique to this country, and to discuss why it is that we *know* so much better than we *do*.

It is not easy to try to speak truth to power. Those with power grow confident that truth is an adjunct of power; they do not welcome the naysayer who propounds a different truth. Power nowadays resides in Washington, and Washington purports to know what to do about crime and drugs and sentencing convicted criminals—and uses its power of the purse to try to impose its ideas on the rest of the country.

Likewise, the national media purport to know the citizenry's prejudices about crime and profit by catering to and reinforcing those prejudices. The naysayer gets rare and brief mention.

So one who risks playing that naysayer cannot expect a rapturous reception, rather the contrary. Nevertheless it seems to me clear that the policies of both political parties about crime and drugs and sentencing are profoundly misguided and that it is my miserable duty to say so. Safer societies are not built on capital punishment, mandatory minimum punishments, three-strikes rules, and fierce drug policies that every informed observer knows to be misguided.

Of course, I do not deceive myself that my perspective on truth is truth, but it is certainly not misled by the temptations of power.

I think it was a French theologian of the Middle Ages who said, "The most corrupting lie is the truth poorly told."

That text, in my view, precisely captures the mischief of the public and political dialogue about crime and its treatment. The media and politicians alike select and sensationalize dramatic and grossly unrepresentative crimes and criminals so that emotion dominates reason and social injury overcomes social protection.

The current political and public dialogue about crime is utterly bereft of sense. On one side are the mindless punishers, confidently planning to reduce crime by relying on the supposed efficacy of condign punishment of convicted

criminals by larger and larger doses of imprisonment and increasing use of the death penalty. “Nothing else works” is their war cry. On the other side are those who suggest that only a program designed to eliminate social inequality can be effective in dealing with crime. But for the most part a malaise compounded of fear, apathy, and inertia prevails, with being “tough on crime” functioning as a condition precedent to holding elective office.

If ingenuous utopianism is unhelpful, so also is the posture of cynical dystopianism, which knows that nothing works, nothing can change. Not all crime is a natural phenomenon. Crime does not consist of inevitable episodes which can in no way be foreseen or guarded against. The histories of this country’s prohibition of alcohol and inept treatment of drugs and guns reveal that the development of violent crime on a scale far higher than in other comparably developed countries can be stimulated by legislative action.

So, let me turn to the relationship between practice and knowledge in this field.

I served on the Police Board of the City of Chicago for 8 years. Each month we held a public meeting. At every such meeting the superintendent (whoever he was for the time being—they came and went with the political winds) would announce the crime statistics, district by district, comparing the last month’s figures for the current year with the figures for the same month in the previous year. If crime had decreased in a district, he would compliment the district commander and his troops on their efficiency, diligence, and great value to the community. If crime had increased in a district, he would castigate the community for their lack of moral and ethical values and note their need for even more intensive policing. He never lost; he was always right.

In recent years, legislators advocating increased severity of punishment bewail the alleged sentimentality of the judiciary and impose mandatory-sentencing laws, truth-in-sentencing laws, and three-strikes laws to constrain judicial discretion. Thus excessive severity flourishes. If crime decreases, the legislators

congratulate themselves loudly on their contribution to social welfare. If crime increases, they reflect on how much worse things would be had they not acted and congratulate themselves loudly on their contribution to social welfare. Like the several superintendents of Chicago's police, they never lose—they are always right. Their nostrums are working, and the dosage must therefore be increased; or their nostrums are not working sufficiently, and the dosage must therefore be increased.

Recently, the prison population has quadrupled by reason of the current attitude to punishment and the length of time prisoners are required to serve. If thereafter crime decreases, prison has “worked” (as some say in the United States and now in the United Kingdom). If crime thereafter increases, it is clear that the dosage must be increased and more and longer imprisonment imposed. Again, whatever happens, it has succeeded; it is the appropriate and necessary remedy. To think otherwise is to be a maudlin sentimentalist, more concerned with the wretched prisoner than the injured victim.

Where does the discipline of criminology stand in relation to these police, court, and corrections scenarios that you all recognize? The answer, I regret, is “on the sidelines.” Does this mean that knowledge is irrelevant to the field of our interests? I think not. When I came to Chicago 35 years ago, there was an appreciable gap between knowledge and practice in crime control. In the intervening three and one-half decades, that gap has grown wider, not thinner, so that it is now a chasm, a gulf, not merely a gap. Relevant knowledge has been acquired; practice has degenerated.

What *do* we know about crime control? Let me make a comparison with the history of medicine (which is not to suggest that crime is a disease). I choose the year 1914. In that year a great deal was known about the prevention of disease: the contributions of pure water, sewage control, general sanitation, the elimination of rodent infestation, vaccination, anesthetics, and similar disease-prevention and pain-reduction methods were known and applied. What was

very much less well known was what to do about a disease or an injury when one had occurred.

Now consider crime control in 1997. We know a lot about the soil in the home and in the community in which crime and delinquency flourish. I could take any one of you to any city, fly you over it, drive you through it, have you talk to no one, and then ask you to mark on a map those areas with high crime and delinquency rates. You would do it about as well as the chief of police of that city. We cannot state the etiology of crime and delinquency in a general, all-embracing theory, but we certainly are well aware of the environment, associations, and family conditions in which crime and delinquency flourish. But, given a criminal or delinquent event, our knowledge of what to do about it remains scant.

Has medicine changed in the intervening 83 years? It certainly has. Knowledge of interventions for the relief of suffering from disease and injury has increased dramatically and, subject to the continuing constraints of inequitable social systems, is applied with skill and efficacy.

There are many reasons for this phoenixlike mutation of the barber into the surgeon, but not the least was the gradual emergence of a treatment classification system related to reasonably precisely defined diseases and injuries. This we lack in criminology. A similar lack in medicine would mean, I believe, that more than one of every three of us in this room would not be here—we would be dead.

Lacking serious evaluations of our treatment interventions and lacking clinical trials, we rely on unreliable, retrospective, statistical matching techniques and evaluations by partisans (conscious or self-deceiving) of the outcome of the study. And recently we have been collecting these unreliable studies into what we pretentiously call megastudies or meta-analyses, multiplying error into confusion. This is by no means ideologically one-sided: meta-analyses can

establish that “deterrence works” as well as that “treatment works”; the trick lies in the spurious belief that adding together a steady flow of faulty studies obliterates their defects. And, in any event, all these outcomes are related to definitions of the group to be treated and by a diversity of treatments, both so wide as to defy useful outcome analysis.<sup>1</sup>

Two of my ideas have been put to the test of independent clinical trials. A plan for a prison for repetitively violent offenders was tested in the Federal correctional center at Butner, North Carolina; a plan for structured plea bargaining, involving the victims of the crime should they wish to be involved, was tested in courts in Dade County, Florida. I had nothing to do with the evaluative processes for either of these experiments. Neither produced the results I had both hoped for and predicted. The clinical trial in the prison did not reduce recidivism. Only one-third of victims attended the plea bargaining sessions. Were they failures? Not at all. A great deal was learned from the Butner prison about the role and organization of prison programs; a great deal about speedy trial and the needs of crime victims was learned from the Dade County courts. Both were difficult to run, indeed, in a sense the prison trial broke down early because the distinctive features of the Butner prison were copied by other Federal and State prisons (and a few prisons in other countries) before the clinical trial could be run, so that the researchers lost the control group rather than the treatment group. But both contributed to knowledge far more than any philosophic study by an academic criminologist.

It will take decades to develop even the outline of a prevention and treatment classification system in criminology equivalent to those in medicine; nevertheless it is the only rational path to the effective prevention and treatment of crime.

But in the meantime we already have enough knowledge to do a lot better than we now do. Setting the future aside, what of the present? It seems to me that bad crime control policies have driven out better crime control policies.

Over the half-century of my observations, the police, the courts, the correctional authorities, and the scholars of criminology have all greatly improved the quality of their work.

The police have become better trained, less venal, less brutal, less corrupt, and much more efficient. They have recognized the limitations of their role and their need for collaboration with the various communities they serve. And slowly they are coming to understand the need for the closest collaboration with private police, who, in most industrial countries, outnumber them and are the main providers of police services for other persons than the poor.

The courts handling criminal matters have been increasingly burdened by swelling caseloads, but they have developed better case management systems and there is some improvement (though far from enough) in the appointment of their support personnel.

The staff of the prisons and probation services are far better trained, far better led, and clearly more efficient and decent than their predecessors whom I met 50 years ago.

And finally, in this catalog of virtues, scholarship and research concerning the criminal justice system and the statistical data on which policy decisions should be based have improved dramatically. We now know a great deal more than we did 50 years ago, not only about the soil in which crime flourishes but also about what to do about it.

Why, then, given all these advances over the same time period, have problems of crime in our society grown worse rather than better?

Starkly opposing the encouraging positive developments in the work of the police, the courts, and corrections that I have listed, one must acknowledge two powerful negative forces. Legislators, Federal and State, of both parties, have politicized their interventions on crime control in ways which are almost uniformly counterproductive and are widely known to be counterproductive. Cheaply, they buy votes by stimulating the fears of many and sacrificing the

freedom of others. This process continues today, urged on by distressingly superficial proposals by the leaders of both political parties. Every informed student of drug policy, including such tough-on-crime observers as James Q. Wilson and Daniel Patrick Moynihan, acknowledges that mass arrests of retail drug sellers, source-country eradication programs, and interdiction efforts are ineffective. Wilson advanced this opinion in the late 1980s. Yet, inexorably, year by year the budgets for these initiatives increase, and politicians claim to believe that they work.<sup>2</sup>

The politicians, Federal and State, have been abetted in this mischief by the greatly increased attention that the media (print and electronic) pay to sensational aspects of criminality. For them it is cheap and popular, easy to acquire and display, and by statistical reality there is always plenty to acquire and display.

Hence, Gresham's Law applies: False political promises and the sensationalism of the media drive out rational policy. As Dean Pound of the Harvard Law School suggested, if the 18th century was the century of the Enlightenment, and the 19th century the century of Empiricism, our century has been the century of Emotionalism.

For many years I have associated with prison administrators, senior police, and judges and lawyers involved in the criminal courts. A leading impression that I am left with is that the public perception of crime and its treatment is far removed from the realities with which the wardens and judges and police daily deal. Over the last 20 years, the correctional people—prison and probation administrators—as well as a substantial number of judicial and police leaders have been radicalized. They believe, as I do, that many of our crime control policies do more harm than good. But talking with them with a drink in hand is an experience far removed from listening to them speak in public. In public they avoid criticism; in private there is little else. Radicals they have become, yes, but publicly silent radicals.

And this is true of many elected officials. In private, they will admit that much of our crime control policy is cruel, wasteful, and ineffective. In public, they say otherwise. For example, consider the 100:1 difference there was between sanctions for crack and for cocaine in the U.S. Sentencing Guidelines. It is doubtful that any member of Congress believed this extreme distinction made sense and yet virtually none was prepared to vote to support the U.S. Sentencing Commission's proposed elimination of the differential.

With few exceptions, the functionaries of the media seem to me to parrot what is said in public and fail to bring to bear on crime and punishment the cynicism on which they pride themselves.

"Crime does not pay," I am told. The hell it doesn't! It clearly pays the newspaper publishers and the TV giants. It pays many of us in this room, even helping my family somehow to survive on an academic salary. But it pays the publishers extraordinarily well—and increasingly they rely on it to fill the airwaves and newspapers.

Crime news is cheap to acquire. For local TV, one camera and one camera crew led by an inexperienced or about-to-retire reporter suffice to gather the police handout and have the arrested suspect led disconsolate across the path of the camera's eye.

The stereotypes of the criminal and the prisoner in the public's mind thus become projections of the exceptional and unrepresentative criminals they have seen or read of in the daily flood of television and newspaper sensationalism.

Politicians properly caring for their election or reelection, who also wish responsibly to advance social welfare, require the existence of a reasonably well-informed public. Here is where the corrupting half-truths of the media produce the dominating sensationalism of crime news and the false promises of quick and emotionally satisfying punitive responses to criminals. "The most

corrupting lie is the truth poorly told.” Populism is pressed on the politicians in this way, and of all the great cities of the United States, the District of Columbia—followed closely by Los Angeles—seems to have the disease in its most virulent form.

Let me give some numerical details to this flood of sensationalism about crime, this corruption of truth poorly told.

The Center for Media and Public Affairs in this city keeps a record of the number of crime stories on the ABC, CBS, and NBC evening national television news broadcasts. From 1991 to 1995 inclusive, the frequency of crime stories increased by a factor of four—four times as many in 1995 as in 1991! For the years 1993 through 1995, crime was at the top of the list of newsstories, outranking the war in Bosnia, health issues, the economy, and the Federal budget. In 1996, however, crime fell to second place, being bumped out of first place by the Presidential campaign. Please note that over these 6 years, this grossly increasing preoccupation with crime stories came at a time of steadily declining crime and violence.<sup>3</sup>

This skewed focus on the sensational aspects of crime is, of course, even greater in local, as distinct from national, television sound bites.

Aided and abetted by this flood of misinformation, the politicians—Federal, State, and local—foster the view that the public demands our present “get tough” policies. This may be true, but it is difficult to be sure, because opinion polls on that question give a variety of answers depending mainly on the form of the questions asked. A careful study by Professor Katherine Beckett soon to be published by Oxford University Press establishes that, when one analyzes political statements and public opinion polls on given issues in this arena, it becomes clear that the political statements antedate the opinion polls. They interact, of course, but there is no “chicken and egg” argument here. It is the political statements and the way that they are reported that generate changes in the opinion polls, not the reverse.<sup>4</sup>

Heated argument surrounds the question of whether this outpouring of media violence increases the actualities of violence, but there is no argument whatsoever that it shapes the public stereotype of the criminal and thus leads to unintelligent public policies concerning the prevention and treatment of crime and violence.

One quality deeply influencing the political and public dialogue in this country is the belief that our problems of crime and punishment are profoundly different from those of other Western industrialized countries. We have far worse problems, I am constantly told, because our vast, racially and ethnically heterogeneous population, dedicated to the protection of individual freedom, generates crime on a scale far different from those other countries. This thought is regularly offered to justify the unusual severity of our system of punishment.

Until recently there was a pervasive myth that crime in the United States far exceeded that in other Western industrialized countries, that it was annually and inexorably increasing, and that its cruel advance could be met only by unrelenting severity. In the last few years it has come to be appreciated that since 1990 we have witnessed a decline in the incidence of most categories of crime, including homicide, but the public still holds to the view that crime in these Excited States is far worse than in Western Europe, Canada, Australia, or New Zealand. This belief is wildly wrong, but it is held as an article of faith by most people.

We have hard data on this—data gathered by identical means in those otherwise similar countries by projects in which the Department of Justice played a leading role. The blunt conclusions are these: Crime rates in the United States are slightly on the high side compared with the average of those countries, but in only two categories of crime are we clearly at the top—homicide and gun robbery. We do not lead in property crime, theft, robbery, rape, or burglary. We certainly do lead in homicide and gun robbery—far ahead of the field.<sup>5</sup>

As my excellent ex-colleagues Franklin Zimring and Gordon Hawkins demonstrate in a book soon to be published, crime is not the problem. Violence is the problem. To confuse the two, as we do in our sentencing policies and community protection policies, is a sin against the light, generating inefficiency and producing cruelty.<sup>6</sup>

This is an essential insight, highly relevant to shaping our crime prevention and control measures, but it is only the beginning of what serious, comparative criminological research could supply. Fifty years ago, from international comparisons of “two and three strikes and you’re out” laws in continental Europe and England in the last quarter of the 19th century, and in England and this country in the first half of the 20th century, I learned of the futility and the inexorable failure of such legislation. Now we seem doomed to learn that lesson again.<sup>7</sup>

We may also lead other countries in this popular “which is the worst” competition in the ingestion of prohibited drugs. It is impossible, however, to make reliable international comparisons on that topic, because no other country relies to the extent that we do on the criminal law to reduce the ingestion of drugs. They all prohibit the usual drugs—no Western country legalizes those drugs, as some people still seem to believe (and that certainly includes England and the Netherlands), but none either makes the criminal conviction the front line of defense. All prefer policies of harm reduction in which criminal prescriptions play their proper, lesser, and supportive role.

By international standards, therefore, our crime problem is not unique; it is quite ordinary and is likely to stay quite ordinary. What is unique is our problem of violence and our extraordinary use of imprisonment as a punishment, our imprisonment rate being over six times that of any of those other countries.

Until it is better understood that our problem is not crime per se, but criminal violence, there is little chance of our making headway toward rational

prevention and punishment of crime and violence. It sounds like a small point, but it is of central importance.

The human animal, particularly the young adult human male, has a propensity to violence in all cultures and all ethnicities, yet produces very different rates of violence. Break these diversities down by categories of crime, age, culture, instrumentalities of violence, and other relevant distinctions and relate the disaggregated differences to the role of the criminal justice system, and knowledge of more effective primary and secondary prevention efforts will inevitably advance.

The neglect of these comparative opportunities between countries and between States within our own vast country encourages emotional rather than rational responses to the genesis and commission of delinquency and crime. Research on these issues is urgently needed and requires Federal support. It should take up the slack of our alleged demonstration projects, which are generally retrospectively analyzed by their advocates or those close to them and are widely understood to belong to the skills of Madison Avenue rather than to social science.

Rudyard Kipling, too often seen as a xenophobe, put the case for comparative criminological research with poetic power: "And what should they know of England, who only England know?" Recently, that astonishing Polish poet, Wislawa Szymborska, put the same thought even more sharply: "Get to know other worlds, if only for comparison."

Comparative criminological research should be pursued, not to denigrate or emulate foreign practice; rather it should be pursued to advance knowledge of what we do and what we might do better. Volume 21 of *Crime and Justice: A Review of Research*, entitled "Ethnicity, Crime, and Immigration," edited by Michael Tonry, was subsidized by the U.S. National Institute of Justice and the governments of five European countries. The book brings together data on race,

ethnicity, and crime in nine countries. It is a model of what comparative research would produce. It is an opening wedge to a core of policy-related knowledge.

The public and political discourse to the contrary notwithstanding, until the United States develops responsible policies about drugs and guns, there is little likelihood of bringing even relative peace to our destroyed inner-city areas. I do not mean that drugs and guns describe the entirety of the problem. They do not, but sensible drug and gun policies are conditions precedent to change.

The strident peddlers of cheap and swift solutions to the problems of crime in this country have become too powerful by far. Rethinking our policies on guns and drugs is an urgent necessity. I am told that even rational policies now would take decades to have significant effect. That may well be so, but the preachments have been made and ignored for many decades already.

Let me add a third item to this preachment—we must also join the rest of the allegedly civilized world in our punishment of homicide. Capital punishment has no place. This would have no effect on homicide rates, but it is an important symbol of rationality.

Let me make the case for that also by a comparison with another country, taken from my storehouse of anecdote. In October 1958, I was invited by the Governor-General of Ceylon (now Sri Lanka) to be Chairman of the Commission of Inquiry on Capital Punishment. Then and now, Ceylon did indeed suffer a high homicide rate, a rate which tested the beliefs of an abolitionist. But as we took testimony and visited the courts, prisons, and villages of that lovely country and came to learn of its culture, economy, and politics, the reasons for this rate became apparent and seemed independent of the different likely punishments for killing.

It became clear that if one action would diminish the rate of these killings it would have been a precise survey of landholdings. Lacking this, with a testamentary law

that divided land equally among the male survivors of the deceased owner, brother fought brother over who owned that coconut tree on or near the border of their lands. These conflicts were fueled by the liquor laws, which put high government taxes on alcohol, but did nothing to inhibit the production of “palmyra toddy,” a vicious, homegrown, fiery beverage. These conflicts found their instrumentalities of violence in the curved coconut knife. And the whole mixture was fertilized by racial and religious intolerance between Tamils and Singhalese. Compared with these pressures, the death penalty was a trivial factor in the brew that sustained homicide rates in Ceylon.<sup>8</sup>

Let me leave Ceylon and suggest that similar analysis of homicide in all countries with abnormally high homicide rates is the clue to an understanding of those rates. In some societies the homicide numbers inflate—in Ceylon for the reasons suggested above, in Colombia for reasons of political turmoil and cocaine production and distribution, in the United States . . . well, why? Could it be the obvious analogs of the coconut knife, palmyra toddy, and racial intolerance?

The unconscionable search for votes in legislatures, Federal and State, by increasingly expansive and unenforced laws concerning capital punishment will have no measurable effect on homicide rates and none on other rates of violence and crime. With well over 3,000 inmates now on death rows and about 60 executions a year, the present laws relevant to capital punishment are fundamentally unsatisfactory to retentionists and abolitionists alike. Major and, in my view, unwise, Federal initiatives may in time somewhat reduce the delay between the pronouncement of the death sentence and the execution, but it remains an exercise in hubris to think that we can distinguish the more wicked homicides from the less wicked homicides and confine executions to the former. I am told that the Archangel Gabriel can perform this feat. I know I cannot. I know the Supreme Court of the United States cannot. While we live in a constitutional democracy, there is only one way out.

Back to Ceylon to conclude. An eighth-century Buddhist king solved the capital punishment problem. To increase the symbolic and deterrent effects of execution, he proclaimed that the heads of executed murderers would be set on pikestaffs high on the castle walls for all to see. Suitably gruesome heads were then removed from citizens who had recently died of natural causes. Bloody and contorted, they were indistinguishable from the real things. They were then exposed high on the castle walls to demonstrate the grim fate of murderers. I can think of no similar ruse available to us. Again, on this topic we had better join the rest of the civilized world.

Mine is a traditional preachment. Enact sensible and enforceable laws about guns, drugs, and the punishment of crime. Learn from such responsible studies as have been done and from the experience of other countries. It has taken many decades of emotional and mindless wars on crime and drugs for us to reach our present absurd situation. It will take decades to get back on track, but sometime we must take the first steps, and for drugs, guns, and sentencing, the first steps are obvious and long, long, long overdue.

You say I have devoted this talk to demolition rather than to construction, to carping criticism rather than to creative suggestions. You are right, but I make no apology. Our legislatures, Federal and State, have forgotten a primary obligation—*primum non nocere*—in the first place, don't make the disease worse.

I conclude with a sentence of my mentor and friend, Glanville Williams (who died last month), one of the 20th century's two greatest English-speaking analysts of the criminal law: "Criminal law is an instrument to be used to further the well-being of society and not to diminish that well-being."

Do we have the integrity, the political will, indeed the courage, to try so to use it ?

## Question-and-Answer Session

**Patrick Murphy, U.S. Conference of Mayors, Washington D.C.:** What has happened in gun control in the past 10 years or so, with the police becoming vocal, has had impact. Recently, police chiefs have been speaking out more on some of the social issues. Your superintendent in Chicago, someone I regard very highly, is very outspoken today on the issue of children. He's become a spokesman for a new organization, Stop Crime—Invest in Kids. A number of chiefs across the country have associated with that, and a smaller number of chiefs with drug reform. I wonder if it is your view that the opinions and public positions of the police have an impact on legislators and the public.

**N.M.:** Matt Rodriguez certainly pursues the possibility of minimizing the number of ill-educated, poor children who have handguns and automatic weaponry. That would seem obvious and important and good. It is of course perfectly true that there has been a great change, particularly in the big-city police forces. I met with the IACP [International Association of Chiefs of Police] yesterday, and it is not as enthusiastic nationwide but it is encouraging. I think the point you are making is that I overstated the impression about not speaking out.

Well, perhaps. I talk to lots of people about why they are so silent. It's true that some of the police chiefs have become less silent and that's very encouraging and very important. I wish the press took greater notice of it. Their reply—many of them—is, "Well, it's easy for you!" They are quite right. It takes no great courage to say what you think when you have that wonderful thing called tenure. It's a little harder when your job and your family's health and well-being turns on the whim of a political superior. But it is encouraging, and I am encouraged by those changes. I think we should all try to foster them. In relation to guns, there is an

increasing line of good ideas. Jeremy Travis and James Wilson mentioned that in the first lecture here, and Jeremy is supporting them.

**Ted Gest, *U.S. News & World Report*, Washington, D.C.:** I wanted to ask you to elaborate a bit on the public opinion polls, if you could. My reading of them—and I read them pretty carefully too—is that . . . I think you said that it depends on what question you ask. When you ask the public if they want higher sentences, they say, “Yes.” When you also ask them (as we at *U.S. News* and others have), “Do you favor preventive or rehabilitative approaches, even in comparison to prison sentences?” They also say they do. So I wonder if the public opinion is really as one-sided as you make it out to be and if the problem is that the politicians just don’t act on certain parts of it.

**N.M.:** Well, you are, of course, right. I had in mind the central importance of the form of the question, but I don’t think you would deny that it is seen (at least politically) as a guaranty either of resignation or non-reelection to be other than “tough on crime.” Part of that, I think, has been fostered by pervasive opinion polls in one form. What I thought was interesting (and I think you will find interesting) is Katherine Beckett’s book, in which she establishes that the public statements by politicians seem to antedate what the opinion polls produce rather than the other way around. Obviously, I’m not suggesting we *not* have a First Amendment; it’s the great strength of the country. But I am wishing that there could be an increase in the number of good reporters (and there are some very good reporters). But it isn’t the stuff that most people read. Most people read the “tough on crime” stuff, I think. And most politicians believe that too. I have a storehouse of anecdotage on that, most of it not capable of being reported.

**Vince Schiraldi, Justice Policy Institute, Washington, D.C.:** You talked a little about the need for research, but what struck me was that you talked about the widening gap between research and practice. I just wonder if our numbers are not good—if we perhaps don’t already have quite an amount of research at this time, and what we actually need to do is package and market it

better, the way the folks who want to lock more people up do. I wonder if you could say a little about that. A lot of good stuff exists in books of yours and other people's. Most of the public doesn't get a chance to see it.

**N.M.:** Let me try and state what I believe more precisely. I think we have a lot of knowledge concerning the prevention of crime and delinquency—that is to say, primary prevention. We have a lot of knowledge relevant to that, and I think we should apply much of it. But the quite different step of trying to develop a relationship between treatment interventions and crime/criminal situations has not yet been taken. That will be very important for the future. So, we can do better with the storehouse of knowledge we have, but to do really well, we have to begin clinical trials—and there are very few.

In my life, I have been associated with two clinical trials: one in relation to the Federal prison at Butner, North Carolina, in which a stratified random sample of inmates sent to a new prison program was compared with a sample of inmates in a traditional program. Another was in Dade County in five courts, an experiment concerning plea bargaining. The prison program broke down as a clinical trial because other prisons appropriately (and early) emulated one of the things being tested, which was voluntary programming. It simply works better than compulsory programming. Second, the then-Federal parole board started giving prisoners predicted release dates subject to good behavior. The two things we were mainly testing at Butner prison were fixed release dates and voluntary programming. So we lost the control group and the clinical trial broke down. But a great deal was learned about running prisons. And much of it has been applied.

In Dade County, plea bargaining is totally within the control of a prosecutor. If the prosecutor's office decides it will not do plea bargaining, plea bargaining won't happen. They can stop it; you don't need legislation. So for the clinical trial we persuaded five courts in Dade County to notify the alleged criminal and counsel that there would be a pretrial meeting under the administration of

a judge (not the trial judge, but a judge), at which the prosecutor would be present and to which the victim would be invited. At that one meeting, totally off the record, there would be a decision made of how to settle this question—by confession, plea, or compensation—and everyone would be heard, including the victim. We ran it for quite a protracted period; the outcome was entirely negative, judged by severity of punishment and disposition of cases. They came out much the same in the treatment group as they did in the control group. Only about a third of the victims came. I, at first, thought that was bad, but if a third of victims want to come and do come, and are treated respectfully, that's fine. The thing that most changed was speedy trial. If there couldn't be a settlement at that one meeting, the case was set down for trial. So it was a leap forward in knowledge. But we ignore this stuff.

So I do believe that the crime/criminal relationship makes up a treatment entity. Available treatment resources, community-based or institution-based, make up other entities. We haven't done the matching.

**Samuel Dash, Georgetown University Law Center, Washington, D.C.:** I think the last couple of questions and particularly your responses touch on this but maybe not sufficiently. You've been involved enough in empirical research, and there has been so much empirical research, particularly since the late 1960s and 1970s, on how to understand crime and how to intervene in crime. But very little of it called for more than the study and the publishing of the results. I remember when Roscoe Pound and Felix Frankfurter went to Cleveland to study the Cleveland crime survey. They wrote a wonderful book, but in the introduction, Frankfurter said, "Prior to our coming here, there wasn't an understanding of why the people in Cleveland couldn't control their crime. Now that we have been here and given them the answers, there is no excuse."

Haven't you thought (and perhaps you touched on it) that every research program, particularly those funded by the National Institute of Justice or any other major foundation, ought to have as part of its methodology a require-

ment that there be an implementation and evaluation? The books sitting on the shelves gathering dust don't really communicate to the people as Frankfurter naively believed.

Now, I agree—you are quite right—that politics, emotionalism, is the mortal enemy of research facts. But if it can be shown that this is not only information in a book, but there is an implementation of it—via a demonstration program and evaluation—and that this is highly publicized, would this at least be a better way to go?

**N.M.:** Sam, there are always such countervailing pressures. The preoccupation with reducing the incidence of repetition of crime, which I take it is what people talk about so much in evaluations, is really quite difficult to do. There are so many other pressures about. You don't make that same complaint about medical research. Every serious medical research has some incremental better understanding about a problem. And mostly, implicitly or explicitly, about how we can move forward. There aren't "sort-of solutions" to this "repeating." It seems strange, but you didn't make man. People have all sorts of complex processes, and crime is going to continue at varying rates (not very serious rates, actually, except for violence) no matter what we do. What we have to start doing is less harm. It is a much harder case to make—much harder!

I go back to my analogy of the doctor in 1914. Since 1914, first of all, there was the cataclysm of the 1914–1918 War, with massive injuries and an extraordinary range of acquisition of knowledge about what to do and what not to do about them. But second, there was the beginning of clinical trials. Each month, articles from the *New England Journal of Medicine* are featured in the press. . . . I don't see anything like that in our field. I'm not making the "crime is a disease" point; I'm simply talking about the fact that if we want to do better in this field, we have a lot of knowledge (Frankfurter was right presumably) about how to stop doing harm, and we are gradually acquiring knowledge about how to do better. But no, I don't think people who try to find out facts of issues understand the politics or understand the other pressures that inhibit change.

**D. Alan Henry, Pretrial Services Resource Center, Washington, D.C.:** It seems that the most current and popular way for legislatures to address the problem of violence is evidenced by the 42 States that have, within the past 3 years, expanded their laws to target children and to charge them as adults. We see currently that the House has just passed a bill that would expand significantly the age and the charge groups, which traditionally had been in the juvenile system, that would be brought into the adult system. I wonder if you could comment on that, telescope ahead, and tell us how you see the adult courts and adult correctional systems dealing with this and whether you think it will address violence.

**N.M.:** Well, it seems to me a perfect paradigm, an example of politics and emotionalism dominating good sense. The movement you speak of seems to be based in part on the belief that the juvenile courts of the United States are sentimentally lenient. I go periodically to visit the first children's court in this country, the Children's Court in Cook County. It is overcrowded. Its leading characteristic is the continuance. It doesn't have anything like the sort of sentimental care for the child that it is supposed to have. Good people are working in it. It's flooded. So all of this about controlling violence in children by *procedures* of their trial is an irrelevancy. Trying juveniles as adults is not even likely to result in more severe punishment. It is a little more severe in the duration of detention prior to trial. Really, I think it is a perfect example of spinning wheels to no effect whatsoever, except perhaps some emotional satisfaction for some people.

**Timothy J. Flanagan, Sam Houston State University, Huntsville, Texas:** Professor Morris, could you comment a little bit on who's leading and who's following in the public debate about life within prisons? It seems to me the polls show that the American public still has very strong expectations about the provision of rehabilitative services within prisons, but the politicians are only hearing the message of "fewer services" and "tougher prisons."

**N.M.:** Well, I think that this is one of the problems that has radicalized the prison administrators. I visit quite a few State prisons, and the general view that I get from senior people is that they think that roughly one-quarter of the people in their institutions—these are the crowded inner-city ones—shouldn't be there. I think they are probably right. To run the institutions, activities for prisoners are essential as an administrative matter. And there is no doubt that some prisoners are assisted as a result of rehabilitation programs, in terms of cost-benefit. It's not a huge amount of funds to expend, and the programs do help some prisoners. The thought that prisons are thus made into country clubs can only be held by people whose knowledge stops at the front gate.

You have all been kind enough to throw up questions that illustrate my point: in this field, emotion dominates reason.

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# Notes

## Lecture 1: What, If Anything, Can the Federal Government Do About Crime?

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## Lecture 2: Why Can't We Make Prohibition Work Better? Some Consequences of Ignoring the Unattractive

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## Lecture 5: Crime, the Media, and Our Public Discourse

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