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**Volume 10**

# **PREVENTING CRIME**

**James A. Cramer**  
Editor



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## **PREVENTING CRIME**

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**JAMES A. CRAMER, *Editor***



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*To March L. Livengood*

## FOREWORD

The subject of deterrence has occupied a central position in criminology and criminal justice for decades. Although some scholars distain the concept of deterrence as being less than useful in the understanding of criminal behavior, the implications of understanding how behavior, criminal or otherwise, can be deterred holds great attraction to theorists and practitioners alike. However, while the theorist is concerned with understanding why certain individuals and groups comply with laws while others do not, criminal justice agencies focus their attention and effort on how to ensure compliance, or conversely, how to prevent violations of law. As in most areas of theory and applied knowledge, there is a convergence of sorts when research findings become incorporated into law, or as is more likely the case, transformed into policy by one or more of the various criminal justice agencies which have access to that information.

In this volume an attempt has been made to address both the major theoretical and methodological issues involved in the study of deterrence, and that which is currently taking place within the criminal justice system on an applied level. Thus the scope and content of the articles contained herein vary considerably. Together, however, they provide a comprehensive look at the issue of deterrence both as a theoretical concern in criminology and a practical goal in the criminal justice system.

Finally, it will become apparent to the reader that there are differences in the opinions of the respective contributors. I think these differences accurately illustrate the divergence of thought that currently exists in the field of criminal justice and criminology.

**James A. Cramer**  
*Georgetown University*  
*Law Center*  
*April 1978*





## *Chapter 1*

# INTRODUCTION

JAMES A. CRAMER

The subject of crime has become a familiar topic to the American public. In public and private sectors, at all levels of government, and with experts and lay persons alike, a growing preoccupation with crime may be observed. From the vantage point of the public the concern is twofold. First, there is apprehension regarding the overall rate of crime, particularly with those offenses which involve personal violence. Second, the public is generally unhappy with how the criminal justice system processes those offenders who are caught.

While the concerns mentioned above are related, they appear to produce different reactions. The general concern with crime is more likely to affect the day-to-day behavior of the public. This is particularly the case for those who see their own chances of victimization as being high. For example, a survey involving eight large metropolitan areas—Atlanta, Baltimore, Cleveland, Dallas, Denver, Newark, Portland, and St. Louis—stated that 82% of the residents sampled believed that crime had increased nationally (Garofalo, 1977:34). Only half that number, however, believe that the rate of crime had gone up in their own neighborhood. Significant, however, is the fact that 82% of the respondents believe that people had altered their behavior and activities because of crime (Garofalo, 1977:70).

Regarding the public concern of how offenders are disposed of, the dissatisfaction felt here, rather than personally affecting the behavior of individuals, seems to undermine the public confidence in society's ability to deal effectively with

the criminal element. Whether or not the information which yields this public judgment is accurate, the result is that many criminal justice officials do not enjoy the confidence of the public whom they serve. In a study of 13 American cities, for example, only 40% of the respondents felt that the local police were doing a good job (Hindelang, et al., 1977:322). Yet another survey reported in response to the question, "In general do you think the courts in this area deal too harshly or not harshly enough with criminals?," that while in 1975 48% responded "not harshly enough," in 1972 74% gave that response (Hindelang, et al., 1977:323). The same survey showed that 79% of those polled said they would be likely to vote for political candidates who advocated harsher sentences for law violators. These reports clearly suggest that the public desires a harsher treatment of those convicted of committing a crime.

## PREVENTION AND CONTROL OF CRIME

An active interest in controlling the behavior of people living in groups is as old as mankind itself. Whether on an informal level such as in familial, kinship, or neighborhood groups, or on a level encompassing larger political entities such as tribes, municipalities, states, and nations, an integral element for the survival of any social group is the ability it has to control and direct the behavior of its members. Numerous sociologists and anthropologists have noted the transition from tribal-like existence to group life characterized by far greater heterogeneity of its population and complexity of its network of social relationships (Redfield, 1947). Researchers have consistently found that the latter form of social organization, with industrialized and urbanized populations, has experienced the highest growth in the crime rate (Clinard 1974). Clinard (1974) also noted that studies conducted in many western European nations lend strong support to these findings.

In reference to the control of behavior in general and the prevention of crime specifically, one must understand the

emergence of systems designed to prevent and control crime as a part of the larger design for social life. Stated otherwise, only when we can accurately determine the relationship between the major institutional structures in a social organization (e.g., political, economic, religious) and the emergence of particular methods for prevention and control of crime will we be likely to understand which of these methods are effective and which ones are not. It is critical to understand this relationship in that the particular forms of prevention and control that emerge and persist are often designed for the protection and maintenance of the very institutions which created them. In the United States, for example, we have experienced the development of a vast criminal justice system comprised of numerous agencies such as the courts, law enforcement organizations, adult and juvenile detention centers, prisons, probation and parole offices, and legal aid centers. Further, these agencies have been developed on local, state, and federal levels. By and large, the development of a formalized criminal law and the corresponding agencies to administer the law has been reactive rather than proactive—reactive to the needs and demands of the institutions that designed and nurtured these very agencies. Even activities designed specifically for the prevention of crime such as incapacitation, legislation providing for mandatory sentences, and generally harsher penalties for crimes have tended to fall within this vein. Moreover, while this approach is understandable and perhaps the easiest policy to follow, it is almost invariably contingent upon perceiving an increased threat. Thus, when crime rates, real or imagined, do not increase, there is very little evidence that significant efforts are undertaken to develop further preventive measures.

## **CRIME PREVENTION AS A SOCIAL GOAL**

While the prevention of crime is often stated as a widespread social goal and specifically a goal of the criminal justice system, there is some question as to the importance attached to achieving that goal. As I have noted elsewhere in this chapter,

there are often competing goals within the multiagency structure of a criminal justice system. One may now extend this further to state that there may be competing and antagonistic goals within the same agency. Accordingly, it is clear that in at least some instances the police, prosecutors, and courts set aside the goal of crime prevention in favor of other, usually immediate, goals.

On a theoretical level, it should be noted that at least one perspective implies that the control and prevention of crime may not be a goal at all. In Marxian thought, crime may be seen as functional for the ruling class. Chambliss (1975:152) succinctly set forth the Marxian view on the consequences of crime for society.

1. Crime reduces surplus labor by creating employment not only for the criminals but for law enforcers, locksmiths, welfare workers, professors of criminology, and a hoard of people who live off the fact that crime exists.
2. Crime diverts lower classes' attention from the exploitation they experience, and directs it towards other members of their own class rather than toward the capitalist class or the economic system.
3. Crime is a reality which exists only as it is created by those in the society whose interests are served by its presence.

Thus, while others have drawn upon the work of Durkheim (1933) in pointing to certain functional aspects of crime, the Marxian position more explicitly links what are considered positive functions of crime with a particular political and economic order. Again, the argument is not that only in capitalist systems will one find positive functions of crime, but rather that these positive functions will be both intended and supportive of the existing order. This illustrates the point that the goal of preventing crime may be either: (1) not actually a goal at all; or (2) a goal which has a relatively low priority from the social structural level down to the agency level. The following example is instructive.

With reference to the police function, situations arise where the goal of prevention is subordinated to other organizational interests. It should be noted that this can take place at either the individual officer level or the agency level in terms of formal or informal policy.<sup>1</sup>

In instances involving domestic relations disputes between familial members or neighbors, a common situation which consequently consumes a considerable amount of police patrol time, the goal of keeping the peace is paramount. The usual policy of prosecutors in situations like this is not to file a charge unless there has been a very serious injury, and even then only if the complaining witness appears to be reliable and will not back out. Even when the same parties become involved in repeated episodes, the peace-keeping function of the police, in conjunction with consuming as little police time as possible, completely overshadows any desire to prevent the reoccurrence of these incidents. This is so for a number of reasons. First, police are unhappy about spending an inordinate amount of time on a case when after arrest there will be no prosecution. There are exceptions, however, as in cases where the police want to detain a particular individual when they know there is little likelihood of a successful prosecution. In the main, however, police feel they have a stake in the case after an arrest is made and prefer to see a successful prosecution. It should be noted that many of these offenses can be quite serious. Despite the rather innocuous label of "domestic relations," many such instances often involve assault with a deadly weapon, aggravated assault and battery, and destruction of private property. In some instances there may even be an allegation of rape. While the foregoing offenses are not normally thought of as domestic relations offenses, their occurrence may be interpreted by the police, prosecutors, and courts as essentially that type of problem.

A second reason why the police and others may feel that the goal of prevention is not appropriate in these offenses is that they are seen as expressive rather than instrumental behaviors. Despite the conflicting evidence regarding which of these types

of behaviors are most likely to be prevented by legal sanction, a common assumption that many police administrators and officers tend to make is that there is little one can do at any level to prevent crimes involving expressive behavior. The overall result of this policy is that prevention, for the most part, is not an issue.

If one moves to the prosecutor's office, one sees an example of a criminal justice agency where not only is the prevention of crime often a secondary consideration, it may not be viewed as a formal goal of the agency at all. Jacoby outlines this position in detail in Chapter 6.

## **APPROACHES TO PREVENTING CRIME**

As noted elsewhere, the preventive effect of law has developed out of three perspectives: (1) The classical school of criminology, (2) the Sumnerian position, and (3) the Durkheimian position (Bankston and Cramer, 1974). The classical position held that the behavior of man was the result of a rational calculation of its likelihood of producing pleasure over pain. Legal sanctions were to be characterized by certainty with variable degrees of severity consonant with the seriousness of the offense. Thus the major justification for punishment that it made the prohibited behavior generally unprofitable. Conversely, Sumner held that law could only be effective when it was in conformity with the generally recognized mores of society (Zimring and Hawkins, 1971). If there was little congruence between law and social custom, and generally speaking the informal network of norms which Sumner deemed to be critical in regulative behavior, law would not successfully perform a deterrent function. Lastly, Durkheim (1933) maintained that whatever preventive effect law had on behavior was indirect, the primary function for punishment being that of increasing the moral solidarity of social groups.

Contemporary thought on deterrence has managed to incorporate elements of each of the above approaches into a more comprehensive theoretical framework. For example,

most criminologists make the assumption that a considerable amount of criminal behavior is the result of rational calculation. The notion that laws which are supportive of (and often times a result of) shared norms and values are likely to have a greater deterrent value than those laws which do not correspond to such values has also received a great deal of support. Finally, whether or not the deterrent function of any legal sanction is direct and intended (manifest) or indirect and unintended (latent) is critical for our analysis only insofar as it provides us clues for understanding the ways in which the control and prevention of crime are approached. In the following chapters, the degree to which the major approaches have been synthesized should become apparent.

## LEVELS OF ANALYSIS

While one may select a particular theoretical stance on the general nature of law as a deterrent function, one must also select the level at which the analysis is to be directed. Before doing so, however, it is useful to make a distinction between primary and general deterrence. The former refers to the preventive influence on persons on whom particular sanctions have been placed, while general deterrence is the preventive influence of legal sanctions on those who have not been previously sanctioned (Bankston and Cramer, 1974; Andenaes, 1971a, 1971b; Zimring, 1971). A third concept, that of partial deterrence, may also be delineated. In this instance we speak of the ability of the deterring sanction or agent to regulate the severity of any violation, e.g., the thief who, in light of the greater penalty, refrains from grand larceny in favor of petty larceny (Bankston and Cramer, 1974). It should be noted that the concept of partial deterrence can be applied at either the primary or general deterrence level.

The levels-of-analysis issue concerns the nature of social organization in a political system and the units which comprise the system. For our purpose three basic levels may be identified: (1) the social structure level, (2) the organizational



level, comprising the entire criminal justice system, and (3) the agency level. In our discussion of prevention of crime, it is useful to identify the respective levels at which efforts are directed.

The highest and consequently the most difficult level to effect changes in relation to the goal of preventing crime is that of the social structural level. Changes at this level entail a major alteration of the basic institutions of society or a change in the existing arrangement between institutions. If, for example, it was deemed that the present distribution of economic wealth in our system was a basic contributor to the existing rate of crime, prevention on the social structural level would mandate a basic change in the entire economic arrangement of our system, e.g., nationalizing of private industry with maximum wage and salary levels to reduce income disparities. Other types of major social changes may be unplanned, such as the shift from an agricultural- to industrial-based economy. It holds, of course, that such changes are unlikely to occur as a result of planned change. It is more likely to occur through political or economic revolution. Certainly it has not been seriously entertained by those in a position to implement such change that crime is a serious enough problem to merit action on that level. The general position appears to be that the basic design of our social machinery is good; we just need to tune it better.

The next rung at which change may be addressed is that of the organizational level. Attempts to introduce change at this level would entail a comprehensive realignment of the entire criminal justice system. Again, this is highly unlikely for several reasons. First, the criminal justice system, as has been noted elsewhere, is in many respects a nonsystem (Miller, et al., 1978). The different agencies within the criminal justice framework have separate hierarchies of administration and control, different tasks, and often times conflicting if not directly antagonistic goals. Further, given the design of the American criminal justice system, with its doctrine of separation of powers, compliance to any overall plan would be to a