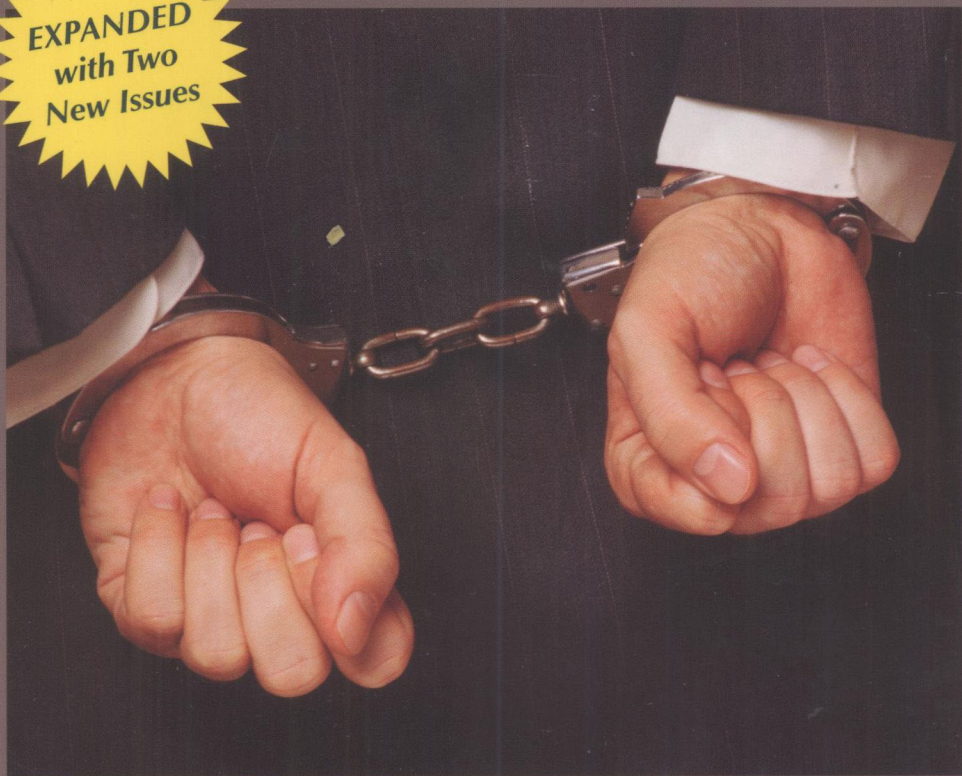


TAKING SIDES



EXPANDED
with Two
New Issues




Clashing Views in Crime and Criminology

NINTH EDITION

Thomas J. Hickey

TAKING SIDES



Clashing Views in **Crime and Criminology**

NINTH EDITION, EXPANDED

Selected, Edited, and with Introductions by

Thomas J. Hickey
*State University of New York
(SUNY Cobleskill)*





TAKING SIDES: CLASHING VIEWS IN CRIME AND CRIMINOLOGY, NINTH EDITION, EXPANDED

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Members of the Academic Advisory Board are instrumental in the final selection of articles for each edition of **TAKING SIDES**. Their review of articles for content, level, and appropriateness provides critical direction to the editors and staff. We think that you will find their careful consideration well reflected in this volume.

TAKING SIDES: Clashing Views in CRIME AND CRIMINOLOGY

Ninth Edition, Expanded

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Preface

But the peculiar evil of silencing the expression of an opinion is that it is robbing the human race, posterity as well as the existing generation—those who dissent from the opinion, still more than those who hold it. If the opinion is right, they are deprived of the opportunity of exchanging error for truth; if wrong, they lose, what is almost as great a benefit, the clearer perception and livelier impression of truth produced by its collision with error.

(John Stuart Mill, *On Liberty*, 1859).

Discussion and debate are essential components of the learning process. To have confidence in our viewpoints, we must expose them to others and learn from others' ideas in a constant process of reformulation and refinement. As J. S. Mill teaches, only rarely does any point of view present a complete version of the truth; however, we move closer to the truth when we are willing to exchange our opinions with others, defend our positions, and refine our ideas by what we learn from an intellectual opponent.

This book presents students and teachers with an opportunity to exchange viewpoints by focusing on a series of controversial issues in crime and criminology. Few issues in modern society generate more substantial disagreement in our morning newspapers or around the dinner table. They focus on an important aspect of modern life and were selected in an effort to engage students. Hopefully, they will also generate classroom discussion and debate and provide a vehicle for interactive learning.

Many of the topics presented in this volume are hotly contested. Few reflective people will find themselves adopting truly neutral positions on these issues and there may be a tendency to embrace one side of a debate without fully considering the opposing arguments. As you read these materials, try to resist that temptation and keep an open mind. For example, if you are a death penalty advocate, think about how you would develop an argument against capital punishment. Even though such an exercise may not change your views, it will provide you with greater insight into the capital punishment debate.

Organization of the book This book considers 21 issues in crime and criminology and includes 42 articles presented in a pro and con format. The Introduction to each issue presents a synopsis and sets the stage for the *Yes* and *No* debate between the authors. All issues conclude with a postscript that considers some of the more important points in the debate and includes up-to-date suggestions for further reading on the topics. In addition, the *Internet References* page that accompanies each unit provides a list of Internet site addresses (URLs) that should prove informative. At the back of the book is a list of the contributors to this volume, which provides a short biographical sketch of each contributing author.

Changes to this edition This edition of *Taking Sides* continues the tradition of providing a detailed analysis of contemporary issues in Crime and Criminology. Because this field changes so rapidly, however, it is important to reevaluate prior editions to determine if there are issues that have taken on a greater importance. Thus, considerable changes have been made. There are two new issues: *Does Confining Sex Offenders Indefinitely in Mental Hospitals After They Have Served Their Prison Sentences Violate the Constitution?* (Issue 20) and *Should the United States Abolish the Exclusionary Rule of Evidence in Criminal Cases?* (Issue 21).

A word to the instructor An *Instructor's Resource Guide With Test Questions* (multiple-choice and essay) is available from the publisher for instructors using *Taking Sides* in their courses. A guidebook, *Using Taking Sides in the Classroom*, which considers methods and techniques for integrating the pro-con format into a classroom setting, is available as well. An online version of *Using Taking Sides in the Classroom* and a correspondence service for adopters can be found at <http://www.mhcls.com/takingsides/>.

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Thomas J. Hickey
SUNY Cobleskill

*This book is dedicated to my wife Nancy; my son, Michael;
and my daughter, Megan. I love you.*





Correlation Guide

The *Taking Sides* series presents current issues in a debate-style format designed to stimulate student interest and develop critical thinking skills. Each issue is thoughtfully framed with an issue summary, an issue introduction, and a postscript. The pro and con essays—selected for their liveliness and substance—represent the arguments of leading scholars and commentators in their fields.

Taking Sides: Clashing Views in Crime and Criminology, 9/e, Expanded is an easy-to-use reader that presents issues on important topics such as *racial profiling, juvenile courts, gun control laws, and capital punishment*. For more information on *Taking Sides* and other *McGraw-Hill Contemporary Learning Series* titles, visit www.mhcls.com.

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Issue 2: Is Criminal Behavior Determined Biologically?	Chapter 3: Explaining Crime	Chapter 2: Crime and the Nature of Law	Chapter 4: Psychological and Biological Perspectives
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Introduction

The study of human behavior is a fascinating and complex enterprise. Throughout recorded history, people have speculated about the origins and causes of behavior. Early explanations focused on metaphysical forces, such as evil spirits or the devil, which were believed to somehow compel people to act. Later, the philosophers of the Enlightenment, including Jeremy Bentham and Jean Jacques Rousseau, who emphasized the rational nature of human behavior, believed that one's actions were freely chosen.

Based on this important idea, the early classical theorists maintained that crime could be controlled by making punishments associated with criminal behavior more painful than the pleasure that could be derived from the acts. Later, with the emergence of positivism, biological theories of human behavior became popular. Early biological positivists believed that a person's propensity for criminal behavior could be determined with simple measurements of physical features. For example, in the late nineteenth century, Cesare Lombroso, regarded by many to be the father of modern criminology, believed that the length of a person's arms and the size of his teeth could indicate a criminal predisposition.

During the 1930s, sociological theories of criminal behavior became prominent in the United States. Theorists of the Chicago School of Sociology emphasized urban social conditions as the primary determinant of criminal behavior. The social policies that emerged from these theories became the driving force behind modern efforts to eradicate poverty, provide children with better educational opportunities, build stronger communities, and create better employment prospects for the poor. In fact, many of the crime control strategies that emerged from the Chicago School have become cornerstones of American social policy in the twenty-first century. For example, social programs with slogans such as "no child left behind," proceed directly from the assumption that adverse social conditions, such as those produced by bad schools, broken homes, single-parent families, a lack of parental attachment, and drug abuse lead directly to antisocial behavior.

While many U.S. social programs continued to assume a deterministic relationship between adverse social conditions and criminal behavior, a more conservative political climate began to emerge in the early 1970s. One influential criminologist, Robert Martinson, who had evaluated prison rehabilitation programs throughout the United States, concluded that they were largely ineffective. In the aftermath of these findings, as well as the realization that official measures of reported crime rates had increased during this period, conservative criminologists began to embrace a "new," more punitive approach to criminals and a return to the classical approach. This time, classical criminology was repackaged as rational choice theory.

James Q. Wilson, a UCLA political scientist, became one of the primary crusaders for the new classical movement. Wilson believes that regardless of

the causes of criminal behavior, society must recognize the fact that “[w]icked people exist.” Thus, the only solution is “to set them apart from innocent people.”¹ The revised edition of his now-classic 1975 work, *Thinking About Crime*, outlined the foundations of the new classical philosophy:

[T]he rate of crime is influenced by its costs. It is possible to lower the crime rate by increasing the certainty of sanctions. . . . the wisest course of action for society is to try simultaneously to increase both the benefits of non-crime and the costs of crime. . . .²

Other prominent criminologists also embraced the new conservative approach to crime prevention. Economist Andrew Von Hirsh developed a model of punishment termed “just desserts,” which emphasizes that criminals should be punished simply because they have earned it. Moreover, Von Hirsh believes that punishing criminals can have a utilitarian effect: It helps to return society to a condition of equilibrium that is disrupted by crime. In addition, imitating the philosophies of Cesare Beccaria and Jeremy Bentham of the late eighteenth century Von Hirsh asserts that principles of social justice require that all criminals who commit a particular offense should be punished in the same way.

Rational Choices, Irrational Policies?

Has rational choice theory produced irrational social policies? After three decades, the weight of the evidence suggests that it may have. According to some criminologists, the ideas of the new rational choice advocates were converted into draconian and regressive social policies by politicians eager to find reductionist, “sound bite” solutions to criminal behavior. The problem is that some of these policies have had disastrous consequences for the U.S. justice system. For example, during the early part of his presidency, Ronald Reagan, who had embraced James Q. Wilson’s new classical criminology, declared a “War on Drugs.” Since it began, this initiative has emphasized stringent law enforcement, interdiction efforts, and increasing sanctions for drug law violations, including mandatory minimum sentencing policies. The results of these initiatives have been striking: From 1980 to 1997, the number of persons incarcerated for drug offenses has risen by approximately 1040%, an eleven-fold increase.³

More recently, even very conservative social critics such as William F. Buckley, Jr., have questioned the wisdom of this so-called War on Drugs. Stated Buckley:

What are the relative costs, on the one hand, of medical and psychological treatment for addicts and, on the other incarceration for drug offenses? [T]reatment is seven times more cost-effective. By this is meant that one dollar spent on the treatment of an addict reduces the probability of continued addiction seven times more than one dollar spent on incarceration. . . . [T]he cost of the drug war is many times more painful, in all its manifestations, than would be the licensing of

drugs combined with intensive education of non-users and intensive education designed to warn those who experiment with drugs. . . . [I]t is outrageous to live in a society whose laws tolerate sending young people to life in prison because they grew, or distributed, a dozen ounces of marijuana.⁴

Data from a wide variety of sources, including the U.S. Department of Justice, appear to support Buckley's position. According to the Bureau of Justice Statistics, in 2000, 64.4% of the inmates confined in U.S. federal prisons and approximately 20.7% of those in state prisons were confined for drug law violations.⁵ The costs of confining these individuals are a fiscal time bomb. At an average rate of \$21,837.95 per inmate, per year in the federal prison system, the annual cost to confine the 72,764 incarcerated drug offenders is approximately \$1.6 billion.⁶ At an average cost of \$20,261.15, the price tag to the states for confining drug offenders exceeds \$50 billion annually.⁷

A related policy trend has been the passage of "three strikes" sentencing laws, which provide generally that an offender will receive a mandatory life prison sentence upon conviction of a third felony. Such laws are rapidly turning U.S. prisons into expensive retirement homes for an aging inmate population. One study has projected that in 2010, U.S. prisons will confine approximately 200,000 elderly inmates, who will require special treatment and advanced medical care.⁸ At an average cost of \$75,000 for each elderly inmate, that amounts to a price tag in the neighborhood of \$15 billion annually.⁹

Furthermore, the Bureau of Justice Statistics has found that in 2000, persons 45 years of age or more, who comprise approximately 33% of the U.S. population, accounted for less than 10% of the serious crime arrests.¹⁰ This finding is consistent with virtually all of the credible research that points to a very strong inverse relationship between age and crime. Thus, it makes very little sense to confine elderly inmates in U.S. prisons. In view of these policies, perhaps the new mantra for U.S. corrections will become: "Three strikes, we're out of money."

Moreover, the preceding discussion considers only the direct costs of imprisoning large numbers of nonviolent offenders. The indirect costs of confining these individuals may be substantially greater still. According to criminologist Todd Clear, "The removal of offenders who pose no risk to society can deplete valued resources, a particularly costly outcome for already disadvantaged neighborhoods." One must also question the wisdom of nonviolent offender confinement policies that produce single-parent households, financial instability, and social disorganization in many of our nation's poorest neighborhoods. As one of my students has cogently observed, "It's hard to coach your kid's basketball team from the inside of a prison."

Several important questions emerge logically from the preceding analysis: Are we utilizing justice system policies that simply don't work? Are governmental budgets so flush with cash that we can afford to fill our prisons with nonviolent inmates who present little genuine threat to society? Are we wasting our money on failed crime control policies when we could better spend it providing shelter for homeless families, affordable health care for the poor, or

a better education for our children? Are we as a society being sold a “bill of goods” by persons masquerading as experts who have a vested interest in keeping the current system the way it is?

Answers to the preceding questions must emerge from the systematic scientific study of crime and human behavior. Moreover, although there is much that we still have to learn, substantial progress has already been made.

Rational Justice System Policies that Work

Our thinking about crime has often been preoccupied with the idea of “causation.” Voluminous research into crime and criminality demonstrates conclusively, however, that social scientists are on much more solid footing when they identify factors that correlate with higher crime rates. For example, while it would be inaccurate to state that “drinking alcohol causes crime” (because not all people who drink alcohol commit crimes), it would be quite accurate to suggest that alcohol consumption correlates with higher crime rates. Moreover, a great deal of solid research suggests that the relationship is a compelling one.

There are other things we know about crime as well, although once again, the relationships are best described as correlations, rather than causes. While far from exhaustive, the following list of factors that appear to correlate with higher crime rates is instructive:

- Broken homes produce more criminals than two-parent families;
- People learn to commit crime; therefore, many children who are abused by their parents are more likely to become abusive adults;
- Children need a structured home environment in order to develop their full human potential;
- The ingestion of lead paint by children is strongly related to low intelligence and failure in school;
- Substance abuse (including alcohol and illegal drugs) is related to criminal behavior;
- Deteriorated urban areas have higher crime rates;
- African-Americans and members of other minority groups are more often arrested and processed in our justice system;
- Women commit less crime than men, but the rate of female offending is increasing;
- Older people commit less crime than young persons;
- People tend to drift in and out of conventional and criminal behavior;
- Areas that have developed a sense of “community” have lower crime rates;
- Some human behavior may have a biological/genetic basis. Punishing such behaviors may be a waste of time and resources.

What we do know about crime and criminality should be used to develop effective social policies. For example, if poor nutrition is related to deficient school performance, policies that provide children from low income homes with an adequate breakfast make a great deal of sense. While spending on prisons

skyrocketed under the former Bush administration, nutritional programs were gutted. It may be that such “liberal” policies are inconsistent with a conservative ideology stressing “just desserts” and social Darwinism. In the long run, however, providing children with a nutritious breakfast, better schools, and a stronger sense of community affiliation may be far cheaper than incarcerating them in prison for the rest of their lives.

The Circularity in Justice System Policy—Old Becomes New Once Again

As George Santayana once said, “Those who cannot remember the lessons of history are condemned to repeat it.” It is hard to study the history of crime and criminality and fail to notice a striking circularity in criminological theory. To illustrate, the Classical approach, which originated in the late eighteenth century, emphasized free will and a utilitarian approach to punishment. The early classicists also urged the elimination of judicial sentencing discretion, adoption of determinate sentencing laws, and the use of imprisonment as a form of punishment. Rational choice proponents also emphasize free will and a utilitarian approach to punishing criminals. Furthermore, the determinate sentencing laws that have been adopted by many states and the federal government virtually eliminate judicial sentencing discretion.

Just as classical criminology reemerged during the 1970s, biological positivism has reappeared more recently. Although the theories of the nineteenth- and twentieth-century positivists were interesting and novel in their time, their technical ability to measure and quantify their findings in a scientifically accurate way was very limited. As we begin the new millennium, we may be witnessing the development of a new biological positivism in criminology, one that emphasizes the interaction of genetic and environmental forces to produce human behavior. This time, however, our scientific measurement capabilities may actually have evolved to the point we will be able to draw meaningful conclusions about how biological factors interact with environmental forces to produce human behavior. In fact, we may be at the cutting edge of the emergence of a truly “new criminology,” which emphasizes a synthesis of biological and social forces that produce human behavior.

In any case, it is an exciting time to be engaged in the study of criminal behavior. Criminology in the twenty-first century may provide us with the opportunity to learn to creatively manage human behavior in a way that is more consistent with human value and dignity. In the years ahead, criminologists will be called upon to provide honest answers to important policy questions that will have a substantial impact on the quality of life in the United States. We can only hope that those entrusted to develop enlightened social policies based on the answers we provide will learn history’s lessons and resist the temptation to embrace politically expedient solutions that will eventually be exposed as expensive policy failures.

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The Critical Criminology Division of the ASC

This site of the American Society of Criminology links to basic criminology sources and to resources developed within a critical sociology framework.

<http://www.sociology.niu.edu>

National Crime Victims Research and Treatment Center

This site, sponsored by the National Crime Victims Research and Treatment Center of the Medical University of South Carolina, describes the work of the center and provides an excellent list of related resources.

<http://colleges.musc.edu/ncvc/>



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