
Crime In Society

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Preface

The basic purpose of *Crime in Society* is to provide the student of criminology access to most of the more significant current research and literature in the field. No book of readings can be so broad-based that every teacher and every student finds an abundance of materials fitting his or her own range of interests. On the other hand, a book such as this, attempting to survey the entire field, cannot represent only one point of view or a single version of what is important. In this book and in its companion volume, *Justice and Corrections*, we have attempted to present a range of viewpoints and ideological beliefs that includes both empirical studies and more descriptive selections. The present volume then should be of value to students in a variety of undergraduate or graduate courses in criminology and juvenile delinquency, either as the basic text or as supplemental reading.

We have spent almost two years reviewing an enormous amount of materials, including the usual American and foreign journals as well as governmental and agency reports, books, and relatively inaccessible papers prepared for meetings and private research organizations. In several instances, experts on certain topics have written papers especially for this book, either updating their own earlier work or surveying their fields of expertise anew.

The great majority of items reviewed could not be included due to space limitations. This is particularly true for historical materials. In other instances excellent studies were excluded simply because they were dated, or were too narrow in scope, or were exotically descriptive but not broadly applicable. Some gaps in the

areas covered reflect our inability to find appropriate research.

Some criminology readers, including those that we have previously edited, confine the selections to those more or less sociological in orientation. Such an orientation has been consistent with the mainstream of criminological thought in North America. The present volume, however, reflects a broader perspective which presents a more balanced selection for student and teacher and also represents changes in the field of criminology itself. For example, materials in the areas of the biological-genetic bases of crime and special topics such as drug-related offenses, sex crimes, and white-collar crimes exemplify areas of research and description that were largely unavailable before the 1970s. While we have included up-to-the-minute selections, particularly those dealing with such rapidly changing concerns as juvenile gangs, corporate crime, and newer forms of crime such as computer abuse or record piracy, we have rejected no worthy empirical research, theory, or descriptive materials simply because they were not written within the last several years.

The brief section introductions written by the editors of the book are intended to provide a measure of continuity between the subject matter divisions. Individual selections, however, are presented without comment because it is felt that each instructor will make choices and place the selections in context according to course direction and requirements.

Section I, The Field of Criminology, attempts to orient the student to the discipline of criminology, involving both the legal definitions

of crime and juvenile delinquency and the speculations by social scientists on the nature of law.

Criminal statistics, Section II, have always had an important place in the speculations of criminologists and are at the very center of controversies concerning proper strategies for the treatment of criminals and the reduction of crime. Although practitioners, researchers, and theorists will continue to rely on police-based statistics, dissatisfaction with such data has led to the development of new forms of data acquisition such as victimization surveys and self-reporting surveys. The frequent use and misuse of crime statistics make it imperative that students of criminology understand how such figures are generated, what they mean, and how they should be used.

Section III, Theory and Criminology, deals with several currently relevant or widely discussed theoretical explanations of crime. Although the period of so-called "grand theories" in criminology seems now past, one cannot ignore the more significant theoretical statements concerning the causes of crime in our society. Within obvious space limitations, we can do little more than include several examples of the more prominent current theoretical perspectives, including opportunity theory, labeling theory, and Marxist economic theories.

The search for the causes of crime has become increasingly complex and sophisticated. The latter sections of the book mirror the range of that complexity. Persons who classify themselves as "criminologists" are most frequently sociologists. Nevertheless, psychologists, biologists, and economists have made very significant contributions to an understanding of crime. Over a period of time the field of criminology follows unpredictable fashions and trends in explanations of crime, with first one discipline and then another in the ascendancy. Given the serious, unresolved issues in the study of crime and delinquency, we feel that a multidisciplinary approach in this book is more than justified.

Practitioners from different disciplines such as biology and economics explain crime from different points of view. Researchers studying newer kinds of crime such as, for example, computer-based offenses or large-scale racketeering enterprises, have found it necessary to develop research techniques quite different from those used in studying more conventional offenses such as burglary or theft. Consequently, after a preliminary section dealing generally with the problems of causation and prediction, we have grouped empirical and descriptive studies from biology, psychology, sociology, and economics. These are followed by sections devoted to special categories of crimes that are sufficiently unlike conventional crimes that we feel they merit separate consideration.

In the past ten years the general public, legislators, the legal profession, and researchers have become increasingly aware of the impact of organized criminal syndicates on communities and the nation. Researchers have begun to study groups rarely portrayed in earlier criminology texts, such as persons who make life careers out of crimes of bank robbery, confidence games, or pickpocketing. Section IX contains selections dealing with some of these skilled and lucrative crimes and pays particular attention to the reality of several of the more spectacular and colorful claims about the existence of a nationwide criminal conspiracy called the "Mafia."

The last four sections of this book emphasize certain types of criminal activities which have either come into existence within the last decade or else have been the object of increased public concern or fear. Thus we have witnessed since 1967 an "epidemic" of drug-related crime which has not disappeared or been seriously reduced even after considerable governmental concern and funding. The section on sex crimes emphasizes newly arising forms of sexual offenses—teenage prostitution, massage parlor prostitutes, and relatively open homosexual prostitution. Crimes of business executives and politicians have recently captured the public's attention due, primarily, to Vice President Ag-

new's criminal activities, the Watergate scandals, and illegal political contributions by large corporations, all of which have received extensive publicity in the mass media. These "white-collar crimes" are described in Section XII.

The final section contains descriptions of some new forms of crime, including illegal manipulation and use of computers, the piracy of popular music records, and the fraudulent acquisition of welfare payments.

We would like to express our gratitude and respect to the authors and researchers whose

work has made this book possible and especially to those who have contributed papers. Finally, we would also like to express our appreciation to our own students who were exposed to many of these and other selections before the book was put together and whose reactions have guided our final selection.

Leonard D. Savitz
Norman Johnston

Philadelphia, 1978

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SECTION

I

The Field of Criminology

CRIMINOLOGY AS A FIELD OF INVESTIGATION ENCOMPASSES A NUMBER OF DISCIPLINES and rather distinctive approaches. This introductory section attempts to provide some awareness of its sociological and legal underpinnings. We view criminology as a fundamentally scientific enterprise that aims at determining and perhaps even utilizing patterns of crime and criminal behavior, and that attempts to understand the factors that in some still uncertain manner, seem to be related to the development of criminal behavior.

The first three selections in this section were written by sociologists of quite different philosophic and ideological persuasions. Emile Durkheim, by common consensus, is considered one of the "founding fathers" of sociology and is among the most seminal theorists in the field. It was his belief that crime, in some form, was an inevitable, *normal* phenomenon in all human societies. He argued that even in a society of saints, a minor, venial sin would, in time, be defined as crime and the perpetrator would be "corrected." Beyond this, he contended that crime is necessary and, in fact, useful for human society. A current social theorist, Richard Quinney, who later in this volume will offer his views concerning crime as a product of our capitalist society, details in selection 2 the development of sociological jurisprudence and its historical transition to its present status as the sociology of criminal law. Within his theoretical perspective, society is characterized by diversity, coercion, and change more than by consensus and stability, and social law typically incorporates the interests of specific persons and interest groups. The Canadian sociologist Gwynn Nettler develops a fascinating exposition on the often implicit assumption that "evil [deviance] is illness." From this it follows that bad people perceive the world around them differently than good people do. With selected bodies of data, Nettler finds, surprisingly perhaps, that good people's view of reality is at least as inaccurate as that of "villains."

Criminology essentially examines the creation and violation of legal norms. (Deviance as a field of investigation focuses on the broader area of violation of social norms.) Most data produced in criminological research are based on the violation of misdemeanors and felonies and other legally specified crime categories. From a classic treatise on crime by Clark and Marshall, the next selection depicts the common law requirements for "crime," specifies culpable

(blameworthy) parties in a crime (principals and accessories), and illustrates the careful legal description of a specific crime: rape.

The concepts of crime and criminal in our society apply, with rare exception, to adults, persons who are older than the varying age minimums set in different jurisdictions. Juvenile delinquencies, as Levin and Sarri reveal, are events or actions prohibited to all persons *below* specified ages. Some of these prohibitions are delinquent offenses, actions prohibited to both juveniles and adults. Others, however, are status offenses, such as incorrigibility, unruliness, and truancy, forms of behavior that, if performed by an adult, would not be crimes and would not result in intervention by the state.

1. The Normal and the Pathological

EMILE DURKHEIM

CRIME IS PRESENT NOT ONLY IN THE MAJORITY OF societies of one particular species but in all societies of all types. There is no society that is not confronted with the problem of criminality. Its form changes; the acts thus characterized are not the same everywhere; but, everywhere and always, there have been men who have behaved in such a way as to draw upon themselves penal repression. If, in proportion as societies pass from the lower to the higher types, the rate of criminality, i.e., the relation between the yearly number of crimes and the population, tended to decline, it might be believed that crime, while still normal, is tending to lose this character of normality. But we have no reason to believe that such a regression is substantiated. Many facts would seem rather to indicate a movement in the opposite direction. From the beginning of the [nineteenth] century, statistics enable us to follow the course of criminality. It has everywhere increased. In France the increase is nearly 300 percent. There is, then no phenomenon that presents more indisputably all the symptoms of normality, since it appears closely connected with the conditions of all collective life. To make of crime a form of social morbidity would be to admit that morbidity is not something accidental, but, on the contrary, that in certain cases it grows out of the fundamental constitution of the living organism; it

would result in wiping out all distinction between the physiological and the pathological. No doubt it is possible that crime itself will have abnormal forms, as, for example, when its rate is unusually high. This excess is, indeed, undoubtedly morbid in nature. What is normal, simply, is the existence of criminality, provided that it attains and does not exceed, for each social type, a certain level, which it is perhaps not impossible to fix in conformity with the preceding rules.¹

Here we are, then, in the presence of a conclusion in appearance quite paradoxical. Let us make no mistake. To classify crime among the phenomena of normal sociology is not to say merely that it is an inevitable, although regrettable phenomenon, due to the incorrigible wickedness of men; it is to affirm that it is a factor in public health, an integral part of all healthy societies. This result is, at first glance, surprising enough to have puzzled even ourselves for a long time. Once this first surprise has been overcome, however, it is not difficult to find reasons explaining this normality and at the same time confirming it.

In the first place crime is normal because a society exempt from it is utterly impossible. Crime, we have shown elsewhere,

►SOURCE: *Rules of Sociological Method* (Eighth Edition, translated by Sarah A. Solvay and John H. Mueller and edited by George E. G. Catlin), Glencoe, Ill.: The Free Press, 1950, pp. 65-73. Reprinted by permission.

¹From the fact that crime is a phenomenon of normal sociology, it does not follow that the criminal is an individual normally constituted from the biological and psychological points of view. The two questions are independent of each other. This independence will be better understood when we have shown, later on, the difference between psychological and sociological facts.

consists of an act that offends certain very strong collective sentiments. In a society in which criminal acts are no longer committed, the sentiments they offend would have to be found without exception in all individual consciousnesses, and they must be found to exist with the same degree as sentiments contrary to them. Assuming that this condition could actually be realized, crime would not thereby disappear; it would only change its form, for the very cause which would thus dry up the sources of criminality would immediately open up new ones.

Indeed, for the collective sentiments which are protected by the penal law of a people at a specified moment of its history to take possession of the public conscience or for them to acquire a stronger hold where they have an insufficient grip, they must acquire an intensity greater than that which they had hitherto had. The community as a whole must experience them more vividly, for it can acquire from no other source the greater force necessary to control these individuals who formerly were the most refractory. For murderers to disappear, the horror of bloodshed must become greater in those social strata from which murderers are recruited; but, first it must become greater throughout the entire society. Moreover, the very absence of crime would directly contribute to produce this horror; because any sentiment seems much more respectable when it is always and uniformly respected.

One easily overlooks the consideration that these strong states of the common consciousness cannot be thus reinforced without reinforcing at the same time the more feeble states, whose violation previously gave birth to mere infraction of convention—since the weaker ones are only the prolongation, the attenuated form, of the stronger. Thus robbery and simple bad taste injure the same single altruistic sentiment, the respect for that which is another's. However, this same sentiment is less grievously offended by bad taste than by robbery; and since, in addition, the average consciousness has not

sufficient intensity to react keenly to the bad taste, it is treated with greater tolerance. That is why the person guilty of bad taste is merely blamed, whereas the thief is punished. But, if this sentiment grows stronger, to the point of silencing in all consciousness the inclination which disposes man to steal, he will become more sensitive to the offenses which, until then, touched him but lightly. He will react against them, then, with more energy; they will be the object of greater opprobrium, which will transform certain of them from the simple moral faults that they were and give them the quality of crimes. For example, improper contracts, or contracts improperly executed, which only incur public blame or civil damages, will become offenses in law.

Imagine a society of saints, a perfect cloister of exemplary individuals. Crimes, properly so called, will there be unknown; but faults which appear venial to the layman will create there the same scandal that the ordinary offense does in ordinary consciousnesses. If, then, this society has the power to judge and punish, it will define these acts as criminal and will treat them as such. For the same reason, the perfect and upright man judges his smallest failings with a severity that the majority reserve for acts more truly in the nature of an offense. Formerly, acts of violence against persons were more frequent than they are today, because respect for individual dignity was less strong. As this has increased, these crimes have become more rare; and also, many acts violating this sentiment have been introduced into the penal law which were not included there in primitive times.²

In order to exhaust all the hypotheses logically possible, it will perhaps be asked why this unanimity does not extend to all collective sentiments without exception. Why should not even the most feeble sentiment gather enough energy to prevent all dissent? The moral consciousness of the society would be present in its entirety in all the individuals, with a vitality sufficient to

²Calumny, insults, slander, fraud, etc.

prevent all acts offending it—the purely conventional faults as well as the crimes. But a uniformity so universal and absolute is utterly impossible; for the immediate physical milieu in which each one of us is placed, the hereditary antecedents, and the social influences vary from one individual to the next, and consequently diversify consciousness. It is impossible for all to be alike, if only because each one has his own organism and that these organisms occupy different areas in space. That is why, even among the lower peoples, where individual originality is very little developed, it nevertheless does exist.

Thus, since there cannot be a society in which the individuals do not differ more or less from the collective type, it is also inevitable that, among these divergences, there are some with a criminal character. What confers this character upon them is not the intrinsic quality of a given act but that definition which the collective conscience lends them. If the collective conscience is stronger, if it has enough authority practically to suppress these divergencies, it will also be more sensitive, more exacting; and, reacting against the slightest deviations with the energy it otherwise displays only against more considerable infractions, it will attribute to them the same gravity as formerly to crimes. In other words, it will designate them as criminal.

Crime is, then, necessary; it is bound up with the fundamental conditions of all social life, and by that very fact it is useful, because these conditions of which it is a part are themselves indispensable to the normal evolution of morality and law.

Indeed, it is no longer possible today to dispute the fact that law and morality vary from one social type to the next, nor that they change within the same type if the conditions of life are modified. But, in order that these transformations may be possible, the collective sentiments at the basis of morality must not be hostile to change, and consequently must have but moderate energy. If they were too strong, they would no longer be plastic. Every pattern is an obstacle to new patterns, to the extent that the

first pattern is inflexible. The better a structure is articulated, the more it offers a healthy resistance to all modification; and this is equally true of functional, as of anatomical, organization. If there were no crimes, this condition could not have been fulfilled; for such a hypothesis presupposes that collective sentiments have arrived at a degree of intensity unexampled in history. Nothing is good indefinitely and to an unlimited extent. The authority which the moral conscience enjoys must not be excessive; otherwise no one would dare criticize it, and it would too easily congeal into an immutable form. To make progress, individual originality must be able to express itself. In order that the originality of the idealist whose dreams transcend his century may find expression, it is necessary that the originality of the criminal, who is below the level of his time, shall also be possible. One does not occur without the other.

Nor is this all. Aside from this indirect utility, it happens that crime itself plays a useful role in this evolution. Crime implies not only that the way remains open to necessary changes but that in certain cases it directly prepares these changes. Where crime exists, collective sentiments are sufficiently flexible to take on a new form, and crime sometimes helps to determine the form they will take. How many times, indeed, it is only an anticipation of future morality—a step toward what will be! According to Athenian law, Socrates was a criminal, and his condemnation was no more than just. However, his crime, namely, the independence of his thought, rendered a service not only to humanity but to his country. It served to prepare a new morality and faith which the Athenians needed, since the traditions by which they had lived until then were no longer in harmony with the current conditions of life. Nor is the case of Socrates unique; it is reproduced periodically in history. It would never have been possible to establish the freedom of thought we now enjoy if the regulations prohibiting it had not been violated before being solemnly abrogated. At that time, however, the violation was a crime, since it was

an offense against sentiments still very keen in the average conscience. And yet this crime was useful as a prelude to reforms which daily became more necessary. Liberal philosophy had as its precursors the heretics of all kinds who were justly punished by secular authorities during the entire course of the Middle Ages and until the eve of modern times.

From this point of view the fundamental facts of criminality present themselves to us in an entirely new light. Contrary to current ideas, the criminal no longer seems a totally unsociable being, a sort of parasitic element, a strange and unassimilable body, introduced into the midst of society.³ On the contrary, he plays a definite role in social life. Crime, for its part, must no longer be conceived as an evil that cannot be too much suppressed. There is no occasion for self-congratulation when the crime rate drops noticeably below the average level, for we may be certain that this apparent progress is as-

sociated with some social disorder. Thus, the number of assault cases never falls so low as in times of want.⁴ With the drop in the crime rate, and as a reaction to it, comes a revision, or the need of a revision in the theory of punishment. If, indeed, crime is a disease, its punishment is its remedy and cannot be otherwise conceived; thus, all the discussions it arouses bear on the point of determining what the punishment must be in order to fulfill this role of remedy. If crime is not pathological at all, the object of punishment cannot be to cure it, and its true function must be sought elsewhere.

⁴Although crime is a fact of normal sociology, it does not follow that we must not abhor it. Pain itself has nothing desirable about it; the individual dislikes it as society does crime, and yet it is a function of normal physiology. Not only is it necessarily derived from the very constitution of every living organism, but it plays a useful role in life, for which reason it cannot be replaced. It would, then, be a singular distortion of our thought to present it as an apology for crime. We would not even think of protesting against such an interpretation, did we not know to what strange accusations and misunderstandings one exposes oneself when one undertakes to study moral facts objectively and to speak of them in a different language from that of the layman.

³We have ourselves committed the error of speaking thus of the criminal, because of a failure to apply our rule (*Division du travail social*, pp. 395-96).

2. Criminal Law in Politically Organized Society

RICHARD QUINNEY

THE STUDY OF CRIMINAL LAW¹

PARADOXICALLY, WITH LAW AND SOCIAL SCIENCE gradually converging, we have no greater theoretical understanding of legal matters than we did all of half a century ago. The rapprochement that we are currently witnessing is not novel; a similar trend appeared in the United States shortly after the turn of the century. At that time social scientists, the early American sociologists in particular, were incorporating law into their scheme of things. E. A. Ross referred to law as "the most specialized and highly furnished engine of control employed by society."² Lester F. Ward, an advocate of government control and social planning, foresaw a day when legislation would undertake to solve "questions of social improvement, the amelioration of the condition of all the people, the removal of whatever privations may still remain,

and the adoption of means to the positive increase of the social welfare, in short the organization of human happiness."³ The possibility of social reform, through legal means available to the state, was also emphasized by Albion W. Small.⁴

The ideas of the early sociologists directly influenced the school of legal philosophy that became a major force in American legal thought—sociological jurisprudence—in which Roscoe Pound was the principal figure. He drew from the early sociologists in asserting that law should be studied as a social institution.⁵ Pound saw law as a specialized form of social control that brings pressure to bear upon each man "in order to constrain him to do his part in upholding civilized society and to deter him from anti-social conduct, that is, conduct at variance with

►SOURCE: *The Social Reality of Crime*, Boston: Little, Brown, 1970, pp. 29–42. Reprinted by permission.

¹Portions are adapted with the publisher's permission, from the introduction to my *Crime and Justice in Society* (Boston: Little, Brown and Company, 1969), pp. 20–30.

²E. A. Ross, *Social Control* (New York: Macmillan, 1922), p. 106 (originally published in 1901).

³Lester F. Ward, *Applied Sociology* (Boston: Ginn, 1906), p. 339.

⁴Albion W. Small, *General Sociology* (Chicago: University of Chicago Press, 1925).

⁵The relationship between early American sociologists and the development of Pound's sociological jurisprudence is discussed in Gilbert Geis, "Sociology and Jurisprudence: Admixture of Lore and Law," *Kentucky Law Journal*, 52 (Winter, 1964), pp. 267–293. Also see Edwin M. Schur, *Law and Society* (New York: Random House, 1968), pp. 17–50.