

1970

## Book Reviews

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the requisition of a warrant. The person could easily be identified and the nature of the investigation outlined. The problem is the requirement of probable cause. The Court seems to intimate a lesser standard which avoided unnecessary intrusions or inconveniences could be permissible. But a lesser standard would also be subject to all the dragnet type abuses against which the Fourth Amendment stands as a shield. The probable cause requirement is to prevent the Fourth Amendment guaranty from becoming a "mere form of words".<sup>74</sup> The Fourth Amendment

cannot properly be invoked to exclude the products of legitimate police investigative techniques on the ground that much conduct which is closely similar involves unwarranted intrusions upon constitutional protections. Moreover, in some contexts the rule is ineffective as a deterrent.<sup>75</sup>

The key element of the *Davis* case was that the investigation there was not a professional one; it was an abusive, general dragnet based on very few factual leads. To allow this type of activity without the proper intervention and supervision of a judicial officer would be dangerous. Anytime finger-

prints were found at the scene of a crime the populace of that general neighborhood would be subject to the rigor and tensions of a police fingerprinting. Inevitably, the case would arise where one person's prints would match those found at the scene of a wholly unrelated crime. Although this evidence would be highly reliable, the question would be whether that evidence was obtained in a reasonable search or seizure or whether that detention for fingerprinting was legal. The freedom to detain persons for fingerprinting without probable cause could lead to the compilation of fingerprinting files which would include prints of nearly the total community. It is not to be doubted that this would be an effective tool for law enforcement, but the issue remains: would it be the result of unconstitutional procedures. In *Davis* the detentions clearly were illegal and official abuse of the method was evident. What future police procedures might fall within the exception—mentioned but not delineated by the *Davis* opinion—of narrowly proscribed procedures for certain circumstances is not easy to foresee from the decision.

Mr. Justice Black dissented in *Davis* and called on the Court to reappraise and limit the scope of the Fourth Amendment as it has developed over the years in order to create a safer environment for the nation's urban population.<sup>76</sup>

<sup>74</sup> *Terry v. Ohio*, 392 U.S. 1, 13 (1968).

<sup>75</sup> *Id.*

<sup>76</sup> *Davis v. Mississippi*, 394 U.S. 721, 729 (1969).

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## BOOK REVIEWS

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Edited by  
Bernard Cohen

DELINQUENTS AND NONDELINQUENTS IN PERSPECTIVE. By *Sheldon and Eleanor Glueck*. Cambridge, Mass.: Harvard University Press, 1968, pp. xx, 268. \$8.50

*Delinquents and Nondelinquents in Perspective* is the first in a new series of follow-up study reports by Sheldon and Eleanor Glueck on the status of 500 delinquent boys who had been committed to a state training school and their matched controls. Whatever else may be said of this latest effort, one can only express admiration for the sheer persistence of the Gluecks in tracking and studying

these cohort subjects to age 31. The magnitude of this uniquely successful effort is evident in the number of index cases and controls located and studied (438 delinquents and 442 nondelinquents), during the field investigation phase which began in 1948 and was completed in 1963.

By the same token, however, this volume also reflects the persistence and continued commitment of the Gluecks to a largely non-theoretical, attribute difference, multiple causation perspective. As in much of their previous work, the Gluecks take an eclectic position and remain convinced of

the special etiologic significance of physical-organic, emotional, and familial variables in creating and sustaining vulnerability to juvenile delinquency and later adult criminality. As in the past, they again stress a *delayed maturation* interpretation of adult criminality and recidivism. Finally, the Gluecks persist in either totally ignoring or simply dismissing the increasingly sophisticated perspectives—labelling theory, and the complaining and decision making processes in the criminal justice system, for example—which are or could be germane in elucidating the dynamics of vulnerability to delinquency and crime.

In *Unraveling Juvenile Delinquency*, the pivotal study, Sheldon and Eleanor Glueck compared a delinquent with a nondelinquent cohort of boys. The latter had been painstakingly matched by residence (in urban slum areas), age (about 14.7 with a range of 7–19 years), I.Q. (a mean of about 93 on the Wechsler-Bellevue) and ethnic origin. In Part I of *Delinquents and Nondelinquents in Perspective*, the Gluecks describe the subjects as they were when initially selected and studied. Parental characteristics, the quality of family life, body build, health, I.Q., emotional status, personality-character structure, and the behavior of the two cohorts of boys in school and in their neighborhoods are presented and contrasted. Needless to say, the cohorts differed significantly in most of these areas and invariably it was the nondelinquents who showed to advantage.

Part II, after an initial chapter outlining the follow-up methodology and specific research procedures presents the status of the two sets of in the first and second follow-up periods. In both periods, and in very nearly every aspect of functioning—education, vocational training and skills, work histories and occupational careers, economic status, domestic relations and attitudes and practices, friendship patterns, leisure activities, military service records and careers, and aspirations—the nondelinquents had done appreciably better than the delinquents.

The most significant findings, however, relate to the criminality of the subjects up to age 31. First, 37 of the nondelinquents appeared in court as juveniles. This contact occurred prior to age 17 but nonetheless after the close of the initial study. In addition, 62 others who had not had previous contact with the police and courts prior to age 17, committed offenses as adults. Forty-six of the original nondelinquents were arrested at

least once during the 17–25 age span and 16 more after age 25. Nearly all of these 62 were convicted for alcohol-connected crimes. Only three were arrested for serious offenses. Second, and in sharp contrast, over 80 percent of the 438 delinquents experienced at least one arrest in age period 17–25 and more than 60 percent had one or more arrests between their 25th and 31st birthdays. Third, the seriousness of the offenses of the delinquent cohort subjects declined with age. In the 17–25 age bracket nearly three-fifths of the offenders had committed serious crimes. This figure reduced to about 29 percent after age 25. Unfortunately, this reduction in serious crimes was offset by an increase in lesser offenses particularly those related to intoxication and inebriety.

Even though the comparative data on the criminalism of the nondelinquent cohort is a bit thin (pp. 142–143) there can be little doubt that at least as far as official reports are concerned, a delinquent career is excellent preparation for adult criminal involvement. Whether or not one accepts the late maturation and related explanations of the Gluecks, it is indisputable that this excellent longitudinal study enriches the literature on crime and delinquency.

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*THE BATTERED CHILD*. Edited by Ray E. Helfer, M.D. and C. Henry Kempe, M.D. Chicago: University of Chicago Press, 1968. Pp. XV, 268. \$12.50

It has been estimated that each year in the United States 30,000 children are severely battered or killed by their parents or by others responsible for their care. Physical abuse of children may be a more frequent cause of death in children than leukemia, cystic fibrosis or muscular dystrophy. Curiously it is only in the last decade that attention has been drawn to the serious incidence of child abuse. In the early nineteen sixties Kempe became alarmed by the large numbers of children admitted to his pediatric service suffering from non-accidental injury. This book is an outgrowth of his continued concern for the welfare of these young victims.

Most victims are under three years of age and it is upon these very young children that the more severe physical injuries are usually inflicted. These unfortunate victims can neither defend themselves from attack nor seek the protection of the law.

Although all fifty states have passed laws providing for mandatory reporting of suspected cases of child abuse, Paulsen in his review of legal aspects of child abuse, reminds us that no law can be better than its implementation. All too frequently the victims do not receive legal protection.

One child was still at home after his *eleventh fracture* because the child welfare agency was unwilling to file a dependency petition. He was not removed from the home until the judge, upon a physician's request, forced the agency to file on the child's behalf. This example is given by Helfer. Although he writes on the responsibility and role of the physician, he provides a comprehensive review of the practical problems involved in protecting battered children. The welfare worker and the welfare agency's attorney, the judge and the police officer, the pediatrician and the psychiatrist will profit from reading this chapter. The importance of combined effort and acceptance of responsibility is stressed.

Severely injured children too often are returned to their parents without effective action to prevent further injury. Helfer reviews the advantages of dependency proceedings to permit temporary or permanent removal of the child from the home. Temporary removal protects the child and permits counselling or psychiatric work with the parents. Prosecution of criminal charges is very difficult and even if successful often results in probation or a short prison sentence. In this situation parents are usually antagonistic and unwilling to receive psychiatric care. In contrast Collins, a police inspector, emphasizes the need for a criminal type of investigation.

Steele and Pollock report their five year psychiatric study of 60 families in which there had been significant abuse of children under three years of age. These authors believe that when abuse begins on children aged four or older, the attack by the parent is instigated by a different type of psychopathology, more involved with matters of sexuality. The majority of the parents were in their early twenties. Their general characteristics differed significantly from those reported by other investigators. Thus, the incidence of poverty, alcoholism, broken marriages and prominence of certain racial groups was not found to be significant. Alcoholism was not a problem, except in one family, and many were total abstainers.

A wide range of psychiatric disorders was found

among battering parents; however, there was a consistent behavior pattern. These parents expect and demand much from their children. They deal with the child as if he were much older than he really is. There is a reversal of the dependency role. Instead of providing love and support to the child, these parents look to the child as the source of reassurance, comfort, and loving response. A "sense of righteousness" facilitates strict punishment for any failure to observe high standards of behavior.

The infant provokes attack by persistent crying or an unresponsive attitude during feeding or diapering. Older children provoke attack by unloving, uncooperative or disobedient behavior. One child may be more vulnerable to attack than his brothers or sisters. The background and life history of the battering parents are considered and helpful advice is given on their psychiatric treatment. Pollock provides a questionnaire to aid in early case finding as a means of prevention.

Other chapters cover the history of child abuse and infanticide, the incidence of child abuse and the roles of the social worker and law enforcement officer. Chapters on the radiological aspects (the bones tell a story the child is too young or too frightened to tell) and the pathologist's post-mortem examination are for the specialist reader but complete this valuable account of the battered child. The many photographs of child victims are not easily forgotten.

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THE CRIME OF PUNISHMENT. By *Karl Menninger*.  
New York, The Viking Press, 1969, pp. xii,  
305, \$8.95

Dr. Karl Menninger needs no introduction to the readers of this journal. As one of the country's leading psychiatrists, as co-founder and Chairman of the Board of Trustees of the Menninger Foundation in Topeka, Kansas, as author of eight books and many articles in professional journals, he has achieved a world-wide reputation in a number of fields related to psychiatry and law. His most recent book, based upon the Isaac Ray Award Lectures which he gave at Columbia University and the University of Kansas in 1963-6, will appear to many of its readers as the capstone of a long and distinguished career.

Its message is simple, eloquent, direct—and very effectively summed up in its title: the crime of punishment. The criminal, so it argues, is in

all of us: we all break the rules, but only some of us—the “criminals”—are caught. The punishment which we then proceed to impose on them is a crime not only because the procedures by which we do so are misguided in concept (as well, of course, as highly arbitrary) but because they are “cruel,” “stupid,” “dehumanizing,” “destructive”—and in fact self-defeating. Instead of reducing crime, our present system increases it. *Our crime* is that “of damning some of our fellow citizens with the label ‘criminal.’ And having done this, we force them through an experience that is soul-searching and dehumanizing. In this way we exculpate ourselves from the guilt *we* feel and tell ourselves that we do it to ‘correct’ the ‘criminal’ and make us all safer from crime. We commit this crime every day that we retain our present stupid, futile, abominable practices against detected offenders” (p. 9).

The book’s eloquence, sincerity, high purpose and vision are among its great virtues, and give it some title to the standing of a classic in its field. Its chapter on “Crimes against Criminals” should be compulsory reading in state legislatures as well as law schools. But many professional criminologists are likely to feel that its virtues somehow fail to offset the weaknesses of its theoretical structure. The plethora of case histories does not make up for the absence of quantification. J. Edgar Hoover is cited with approval to the effect that crime is increasing rapidly, and Daniel Bell with equal approval (and on the very same page) to the effect that it is not (p. 144). Our prison systems are held to be responsible for a great deal of our crime—but nowhere is recidivism given any statistical treatment so we may know its importance as a source of crime. Psychiatry is held to have wider curative powers than many psychiatrists would be willing to allow. Menninger quotes with approval a statement of Dr. Karl Targownik of Kansas: “Give me three to six months, two more psychiatrists, four psychologists, four psychiatric social workers, and adequate clerical staff, and I will reduce the state’s prison population by 50 per cent” (p. 146). But if this statement means that those released will not be back again—or at least not in large numbers—one looks in vain in these pages for the evidence.

For a book which finds so much at fault in our criminological system, and carries a seemingly remorseless sequence of horror stories to underline its arguments, *The Crime of Punishment* is curiously optimistic in tone. Menninger believes

deeply that the system can be made to improve upon its present levels of performance. He places his hopes on a wide range of reforms: trials should determine the facts of a crime; sentences should be of indeterminate character, to be decided by penologists on the basis of each prisoner’s response to treatment; diagnostic centers should be established for the criminally inclined (as in Kansas); industrial schools should be established for delinquent boys (again, as in Kansas); pre-release and post-release programs should be greatly extended. It is a pity that these proposals are not accorded far more detailed treatment.

But some of the more substantive shortcomings of the book relate directly to its major theses. Probably few informed people would care to dispute Menninger’s arguments that only inadequate efforts are now made within our criminological system to distinguish between detected offenders who are psychologically sick and may hopefully be cured by treatment, and the others (whatever one may wish to call them). But Menninger does in fact go much further: he is in favor of penalties—“a pre-determined price levied automatically, invariably, and categorically in direct relation to a violation or infraction of a pre-set rule or ‘law’”—as opposed to punishment, which “corrupts the legal principle of *quid pro quo* with a ‘moral’ surcharge” (pp. 202–3). He does not seem to recognize that this argument is in conflict with some of his other ones—most notably his appeal for more selective treatment of offenders. Nor does he show us how the automaticity of pre-determined punishments would increase their deterrent effect; in many cases it might tend to reduce it, a fact which he recognizes elsewhere in an entirely different connection (p. 255). More importantly, however, in urging more treatment and less punishment, he fails to explore the full implications of his argument. Having examined some of the weaknesses of the psychiatric profession early on in the book, he seems to forget his own arguments when a few chapters later he urges that psychiatrists be given far greater autonomy in determining how convicted offenders be treated. The curative process is, after all, open ended, and while the present system (or non-system) of sentencing may now be far worse than it need be, its shortcomings are surely no argument for replacing it with a system which might be no less arbitrary than the present one, and might readily be more so. Menninger has written a book which his many readers will be glad he wrote.

But few will put it down without wishing that he accorded some of his central themes more careful consideration and rested them on a broader base of empirical research.

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VARIETIES OF POLICE BEHAVIOR: THE MANAGEMENT OF LAW AND ORDER IN EIGHT COMMUNITIES. By *James Q. Wilson*. Cambridge, Mass.: Harvard University Press, 1968. Pp. xi, 309, \$6.50

The theme of this timely study is that police departments have distinct personalities, and that police administrators are severely constrained in their ability to modify the personality of their own department in any substantive way. Beginning in 1964, students under the author's supervision undertook a series of field studies to observe the operation of police forces in a number of major metropolitan areas across the country. Eventually, eight communities were selected for detailed observation. Six of them are in New York State: Albany, Amsterdam, Brighton, Newburgh, Syracuse, and Nassau County. The other two are Highland Park, Illinois; and Oakland, California.

The particular personality, or style, of a department arises out of the balance which develops there between the two major police functions of order maintenance and law enforcement. The problem of maintenance of order is central to the patrolman's rôle because he spends the vast majority of his time performing this function and because he exercises substantial discretion in doing so. Formally, the police are supposed to have almost no discretion, but it is well known that actually the patrolman decides whether to intervene in each circumstance, the form of his intervention, and whether to invoke law enforcement procedures. The discussion of police discretion by Wilson is particularly lucid and detailed.

Wilson then goes on to identify three distinct styles of police departments: the watchman style, the legalistic style, and the service style. No single police department will fall precisely into one of these categories, but each of the communities studied is much closer to one of the styles than to the others. Although each style is described vividly enough to enable the reader to typify the departments he may be familiar with,

no empirical methods are proposed for making this determination, and, indeed, it is not clear how one's understanding of a particular department would be improved by categorizing its style. Nonetheless, the notion that one cannot group all departments indiscriminately together for the purposes of analysis, and that changes which improve one department may be irrelevant for another, is a very useful contribution of this study.

Perhaps the most informative insights in Wilson's book involve the motivations of police administrators and the obstacles to their effective management which arise from the style of their departments. Although the main function of the police is order maintenance, the emphasis of both the public and the administration is on law enforcement. Thus organization, training, and reporting methods are designed to facilitate and control the latter function, but there are no specialists in order maintenance or organizational resources on which the administrator can rely. Moreover, administrators cannot directly observe the performance of men in the field, and; even if they could, there would be serious disagreement about how to evaluate the performance. Thus the informal procedures, which one patrolman learns from another, and which constitute the style of the department, are determining influences.

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SOURCEBOOK ON PROBATION, PAROLE AND PARDONS. Third Edition. By *Charles L. Newman*. Springfield, Illinois: Charles C. Thomas, 1968. Pp. xvii, 469, \$14.75.

Of recent years there have been major changes and new orientations in corrections, toward adequate preparation of practitioners, a scientific approach to treatment, and the application of research findings. It will therefore please those who know Professor Newman's very useful sourcebook on probation, parole, and pardons, that a third edition is now available, noting many of the recent developments. Like the second edition, the latest revision contains reprints of 41 items, but 16 of these are new entries, replacing earlier inclusions. Each chapter carries comment by the editor, introducing material on the origins of probation, parole, and the pardoning power; selection for probation and parole; conditions of

supervision and revocation; educational preparation and recruitment of personnel; treatment strategies; administrative considerations; prediction methods; and correctional research.

The range of subject matter is suggested by inclusions such as those on statutory and common law roots of probation; parole revocation procedures; the legal rights of prisoners; the probation officer's personality; in-service training; the therapeutic approach in treatment; promiscuous girls on probation; release preparation of prisoners; and employment problems of ex-offenders.

Food for thought is the late Paul W. Tappan's discussion of the suspension or loss of civil rights suffered by particular classes of offenders. We demand that they become responsible citizens, but deny them the right to vote in some 35 states. We make it difficult or impossible for them to get jobs and to re-enter professions.

A 1951 article from the *Harvard Law Review*, on parole revocation procedures, points out that a parole authority's decisions in these matters are reviewable by the courts only under the most narrowly restricted circumstances. The majority of tribunals "have relied on antiquated legal formulae in denying necessary protections to the parolee." Let us take note, however, that since the article appeared there has been a slight trend toward according alleged parole violators greater opportunity to be heard before appellate courts.

The material on preparation for corrections states the dilemma: Some say it is social work, others maintain it is a specialization in its own right. Newman leans toward the latter position. He acknowledges that corrections "is a consumer of the products of a number of disciplines and occupational groups . . ."; but he maintains that it "has a unique content as a professional area. . . ." He sees it as a discrete educational area rather than as a sector of social work, sociology, law, psychology, or psychiatry. Regardless of where one stands on this matter, he will agree with Newman that before we can have a unified approach to correctional work, "we are going to have to decide what it is that the correctional field is to accomplish." This will clue us to the optimum preparation for day-to-day practice.

On treatment, the book includes an item by Hyman S. Lippman, M.D., published in 1948. It tells us that a probation officer must gain the confidence of the delinquent with whom he is dealing, and that he needs to have a good relationship with the probationer. More sophisticated and contemporary are Newman's own contribution, "Concepts of Treatment in Probation and Parole Supervision," one by Oliver T. Irwin on an experiment in group reporting by juvenile probationers, and William H. Parsonage's discussion of group supervision of probationers and parolees.

Despite the wide array of subjects covered in this volume, it will not, of course, completely satisfy any one reader—nor can it be expected to do so, considering the vast backlog of alternative possibilities. Every informed teacher and practitioner knows of something *he* would have used. I, for instance, would have liked to see items on the current experiments with reality therapy, operant learning theory, and the use of ex-offenders in treatment work. But then, in their absence, this gives me an opportunity to impress my students with my brilliance and scholarship when I bring material on these subjects into class myself.

No, Newman did what he had to do—sweat it out, discard things he would have liked to include, make his own final decisions on what will reasonably constitute a cross-section view of the field. He has done this, and the result is satisfying. Refreshing too, is what is *not* included, that is, the overdefensiveness of earlier decades. The items in this volume make it clear that we have vast blind spots, that we do not know how to solve certain problems, that we operate to a considerable extent on a wish, a prayer, and yesterday's stew with an onion added. That is healthy, if we are to move ahead.

This compendium can be effectively utilized in classrooms and in-service training. It is also a logical acquisition for the personal library of practitioners.

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### Books Received

- BETWEEN LIFE AND DEATH. By *Richard Hammer*, MacMillan Company, New York, New York, May, 1969, pp. vii, 305. \$6.95
- SYSTEMATIK DES STRAFRECHTS. By *Dr. J. Hellmer*, Duncker & Humblot, Berlin, 1969, pp. 51. 9.8 Deutsch Marks
- TO WALK THE STREETS SAFELY. By *Congressman James H. Scheuer*, Doubleday & Co., Inc., Garden City, New York, 1969, pp. xxiv, 236. \$5.95
- COURT AND CONSTITUTION IN THE 20TH CENTURY. By *William F. Swindler*, Bobbs-Merrill Co., Indianapolis and New York, 1969, pp. xii, 410. \$11.50
- INTERVIEWING—ITS PRINCIPLES AND METHODS. By *Annette Garrett*, Family Service Association of America, New York City, 1968, pp. 123. \$1.50
- REGIONAL LAW ENFORCEMENT. By *David L. Norrgard*, Public Administration Service, Chicago, Illinois, 1969, pp. viii, 58. \$3.00
- RACE, RESEARCH, AND REASON: SOCIAL WORK PERSPECTIVES. By *Roger R. Miller*, National Association of Social Workers, New York, 1969, pp. 190. \$3.75
- THE FBI IN OUR OPEN SOCIETY. By *Harry and Bonaro Overstreet*, W. W. Norton & Company, New York, 1969. pp. 387. \$6.95
- ACTION ON THE STREETS. By *Frank Carney, Hans W. Mattick & John D. Callaway*, Association Press, New York, 1969, pp. 160. \$4.95 cloth, \$2.95 paper
- THE CRIMINAL LIABILITY OF CORPORATIONS IN ENGLISH LAW. By *L. H. Leigh, Weidenfeld and Nicolson*, London W1, 1969, pp. 221. F2.80
- DOUBLE JEOPARDY: THE DEVELOPMENT OF A LEGAL AND SOCIAL POLICY. By *Jay A. Sigler*, Cornell University Press, Ithaca, New York, 1969, pp. x, 264. \$9.75
- MARIJUANA. Edited by *Erich Goode*, Atherton Press, 70 Fifth Avenue, New York 10011, 1969, pp. xii, 197. Paper \$2.95, Cloth \$6.95
- BLACK ECONOMIC DEVELOPMENT. By *The American Assembly, Columbia University* (Editors: William F. Haddad and G. Douglas Pugh), Prentice-Hall, Inc., Englewood Cliffs, New Jersey, 1969, pp. x, 176. \$1.95 soft cover, \$4.95 hard cover
- KIDS, COPS & KILOS by *G. Thomas Gitchoff*, Walter Westerfield Publishing Company, 3051 Briand Avenue, San Diego, California 92122, 1969, pp. xviii, 178. \$2.95
- VIOLENT BEHAVIOUR. By *Marvin E. Wolfgang*, W. Heffer & Sons, Ltd., 3 & 4 Petty Cury, Cambridge, England, pp. 27. (Pamphlet) 7 shillings