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Book Reviews

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BOOK REVIEWS

REVIEW ARTICLES

ANDENAE'S AND THE THEORY OF DETERRENCE*

LARRY I. PALMER**

For at least two reasons, American scholars engaged in an expanding area of criminal law related research cannot afford to ignore this book by the noted Norwegian criminologist and lawyer. First, Andenaes' pioneering work was initially critical of the then predominant theme in American criminology that treated the issue of deterrence as one unworthy of serious intellectual consideration.¹ Careful reading of his book will convince all but the die-hard disbelievers that punishment and deterrence must once again assume a central role in scholarly discussion of the criminal law. Second, perhaps because of increasing skepticism of the efficacy of "treatment" as a justification for the law's control over the individual among lawyers, jurists, and the public, the time has arrived for the idea of deterrence, and thus for Andenaes' book. Scholars must now refine and address the problem of deterrence that has always been foremost in the public's mind in its view of the purposes of the criminal law.²

The major contribution of Andenaes' book, a collection of essays written over the past twenty years, is its coherent and analytical definition of deterrence. It is not surprising that some of the essays as previously published have already had substantial influence on criminal law-related scholarship.³ The book's influ-

ence on public policy discussion may be dormant or emerge indirectly through the other scholarship that has been and will be inspired by its conceptual framework and research questions. Legislators, jurists, police officers, and sentencing and correctional officials are now debating the law's ability to deter certain conduct and the efficacy and legitimacy of punishment. It is hoped that those policy makers will eventually have some notion of Andenaes' concept of deterrence as an analytical starting point of their discussions.

On the assumption that various notions of deterrence will have enduring influence on public policy and scholarship, a reviewer has a special obligation to make both explanatory and critical judgments about such a complete exposition on the subject as Andenaes' book. That obligation will be fulfilled in two ways. The analytical definition of deterrence, carefully developed in the series of essays, will be described. As will be demonstrated, this definition is in fact an analytical perspective on the purposes and justification of the criminal law. Second, to demonstrate both the power and the limits of his analytical framework, I will utilize the book's concepts to illuminate issues often hidden in contemporary debates about the criminal law. I will use the examples of the debate over the efficacy of certain rules to deter police from certain kinds of behavior and the controversy over the "fairness" of Lieutenant William Calley's conviction, sentence, and parole for his participation in the My Lai Massacre during the war in Vietnam. This examination of the limits of the analysis is in

* A review article of PUNISHMENT AND DETERRENCE. By *Johannes Andenaes*. Ann Arbor: The University of Michigan Press, 1974. Pp. vi, 189. \$9.00.

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¹ J. ANDENAE'S, PUNISHMENT AND DETERRENCE 1 (1974) [hereinafter cited as ANDENAE'S, PUNISHMENT].

² As Andenaes points out, a large portion of the public and public officials take the deterrence potential of the law very seriously.

³ See, e.g., H. PACKER, THE LIMITS OF THE

CRIMINAL SANCTIONS 370 (1968); F. ZIMRING AND G. HAWKINS, DETERRENCE: THE LEGAL THREAT IN CRIME CONTROL (1973).

fact a tribute to Andenaes' intellectual powers since the questions his analysis cannot answer are enduring ones for those seriously engaged in criminal law scholarship.

Andenaes writes for an audience, American social scientists and academic lawyers, which he assumes is either disinclined towards any notion of deterrence or so oriented toward reform and rehabilitation that any notion of deterrence is almost foreign and certainly archaic.⁴ The organization of the essays with the three accompanying appendices is designed to convince this skeptical audience of the soundness of Andenaes' position that punishment and deterrence should be a primary justification for the criminal law. First, he bridges the gap between his own perspective and that of his audience by translating and explaining the continental term, "General Prevention," into the more familiar terminology for American readers, "General Deterrence."⁵ Second, he establishes the difference between special and general deterrence in clear terms. He then proceeds to demonstrate what claims can be made for special and general deterrence. It is the latter phenomenon that is Andenaes' primary concern in his first two essays.⁶

General deterrence is an inclusive term that means for Andenaes the ability of "the criminal law and its enforcement to make citizens law-abiding."⁷ By use of this general concept that is focused upon the behavior of the citizenry rather than solely on those small numbers who violate the law and are apprehended, his concept of deterrence includes several distinct features. The general deterrence includes not only psychological dimensions of the threat or fear of punishment, but also the perceived risk of detection. In addition, the term includes the ability of the law to strengthen other inhibitions by performing a moralizing and educa-

tive function.⁸ With such an all inclusive definition, the problem of general deterrence is not merely one of empiricism⁹ for Andenaes, but one of values¹⁰ and specification of conditions under which the law's general deterrence functions can be realized.

In any such attempted delineation of issues the distinction between the various aspects of the deterrent effect of the law and its effect upon the individual offender—special or individual deterrence—must be made. Most of American scholarship has focused generally on the problem of deterrence.¹¹ Once Andenaes is convinced that his reluctant reader is persuaded of the necessity to be more precise in any claims for or against general or specific deterrence, he illustrates the utility of the distinction in his third essay entitled, "Deterrence and Specific Offenses."¹² His fourth essay attempts to deal explicitly with the moral and educative aspects of deterrence.¹³ While admittedly repetitious for readers already familiar with Andenaes' work, the message is clear that discussion of deterrence must become more precise.¹⁴

Andenaes, of course, believes that we know more about the general deterrence effect of the criminal law from common sense reasoning than most scholars have been willing to admit. He is not, however, insensitive to the ethical questions raised by the notion of general deterrence. The reluctance of scholars to give deterrence serious consideration in the past may have been due to their discomfort with the no-

⁸ *Id.*

⁹ ANDENAES, PUNISHMENT.

¹⁰ *Id.* at 77.

¹¹ While Andenaes may be correct that criminologists are "treatment oriented," one group of American social scientists, economists, are becoming aware of the law's deterrent potential. See, e.g., Ehrlich, *The Deterrent Effect of Criminal Law Enforcement*, 1 J. LEGAL STUDIES 259 (1972).

¹² ANDENAES, PUNISHMENT at 84-107.

¹³ ANDENAES, PUNISHMENT, Chapter IV, "The Moral of Educative Influence of Criminal Law," 110-28.

¹⁴ It is also possible that Andenaes' classification of the various categories of offenses could be challenged. *Id.* at 86. I am particularly concerned with whether his distinction between what he calls "police regulations" and "economics crimes" hold law. This review is not the place to attempt to consider when, and under what circumstances Americans use legal regulation rather than criminal sanctions, and how the regulation and criminal sanction interact.

⁴ Since nearly all the essays appeared originally in American journals over the years, Andenaes' assumption about American academic audiences may not hold today. As American audiences grow more familiar with his work, his well-argued position for deterrence must become more analytical.

⁵ ANDENAES, PUNISHMENT at 3-33, 173-74.

⁶ ANDENAES, PUNISHMENT, Chapter I, "General Prevention-Illusion or Reality," 3-33; Chapter II, "The General—Preventive Effects of Punishment," 34-83.

⁷ *Id.* at 7.

tion of using one individual as a means of keeping others law-abiding.¹⁵ He addresses this ethical concern of scholars in his fifth essay, "The Morality of Deterrence."¹⁶ It is in this essay that the reader is made acutely aware of how the ethical issues differ for legislators and sentencing officials.¹⁷ The legislator must consider the general deterrence effect in enacting laws, but whether and under what conditions the sentencing officials should consider general deterrence is a more difficult ethical issue.¹⁸ It is also in this essay that the more careful reader will have an inkling of Andenaes' more generalized theory or perspective on the criminal law.¹⁹

The final essay is "The Future of the Criminal Law."²⁰ The only essay that has not been previously published, it is essentially an exegesis of how central Andenaes thinks the concept of deterrence is to a host of problems in criminal law. For instance, in deciding whether there ought to be a move towards shorter or longer sentences, his analysis, which includes a critique of existing research, leads towards shorter sentences. His suggestion here ought to be given serious attention by researchers and policy makers. As with all good analytical work, all his essays, particularly those in the last appendix²¹ are sprinkled with critical research questions which ought to be refined and addressed by American scholars.

Until Americans become at least as critical and precise as Andenaes in their use of the concept of deterrence, our public and scholarly debates will add very little to his pioneering theoretical work. Judicial and scholarly debate over the deterrent effect of the fourth amend-

ment's exclusionary rule²² is an excellent example of our present confusion about the concept of deterrence in general. Most participants in this debate fail to include in their discussion an explicit treatment of the issue of "punishment" of police officers.²³ Assuming that some aspect of visiting sanctions upon the wrongdoer is involved in the rule of exclusion, few participants question why the sanction should in fact fall on the prosecutor rather than the police. The jurists, as one would expect from Andenaes' analysis, are at least a bit more aware that they are considering the moralizing and educative function of the rule of exclusion on police officers who are part of the citizenry.²⁴ If it is the moralizing effect of law that is in question, a better analysis involves the value conflicts that jurists must make in deciding these cases, rather than on whether we can measure the number of "illegal searches" before and after the rule.²⁵ Andenaes' concept of deterrence is broad enough to

²² See, e.g., Oaks, *Studying the Exclusionary Rule in Search and Seizure*, 37 U. CHI. L. REV. 665, 670-72 (1970).

²³ The notion of condemning the police officer seems to arise when the jurists debate whether "good faith" or technical violations of the "illegal search and seizure" doctrine ought to lead to exclusion in a given case.

²⁴ Even an opponent of the exclusionary rule, Chief Justice Burger, appears to recognize the educative influences of the judicial rule. He has stated in the course of a critique of the rule:

I do not propose, however, that we abandon the suppression doctrine until some meaningful alternative can be developed. In a sense our legal system has become the captive of its own creation. To overrule *Weeks* and *Mapp*, even assuming the Court was now prepared to take that step, could raise new problems. Obviously the public interest would be poorly served if law enforcement officials were suddenly to gain the impression, however erroneous, that all constitutional restraints on police had somewhere been removed—that an open season on "criminals" had been declared. I am concerned lest some such mistaken impression might be fostered by a flat overruling of the suppression doctrine cases. For years we have relied upon it as the exclusive remedy for unlawful official conduct; in a sense we are in a situation akin to the narcotics addict whose dependence on drugs precludes any drastic or immediate withdrawal of the supposed prop, regardless of how futile its continued use may be.

Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388, 420-21 (1970) (Burger, C.J., dissenting).

²⁵ See note 22 *supra*.

¹⁵ *Id.* at 129.

¹⁶ *Id.* at 129-51.

¹⁷ *Id.* at 135.

¹⁸ *Id.* at 135.

¹⁹ Readers familiar with the debates in American criminal law will find Andenaes' discussion of risks of litigation inadequate. *Id.* at 78, 146. For instance, Andenaes does not discuss how the lack of review of sentence in most American jurisdictions creates a host of institutional problems. See note 29 *infra*. But the inadequacy here is well compensated by the richness of his insights from the Scandinavian experience.

²⁰ ANDENAES, PUNISHMENT at 152-72.

²¹ *Id.* at 183-89. "The Relevance of Psychological Research for Deliverance Theory" has great relevance to questions of the permissibility of using scientific behavior control in prisons.

be translated into an operational and conceptual framework for rethinking the issue of the use of law to control state officials from impermissible, although not criminal, conduct.²⁶

Recent discussion of the "fairness" of infliction of sanctions on Lt. William Calley, especially among the "liberal minded and educated"²⁷ miss Andenaes' analytical distinctions in talking about deterrence. Those who claimed at one time that it was "unfair" to punish Calley because other wrongdoers are free,²⁸ failed to perceive that their opponents spoke explicitly about the moralizing and educative effect of the criminal law.²⁹

With a clearer delineation of the issues, we might have had more cogent debate over whether the general deterrence effect can be achieved through an adjudication of Calley's crimes and a short sentence. In other words, is the need for general deterrence met by a short prison sentence in his case? While Andenaes'

²⁶ What is often implicit in Andenaes' book is the idea that other types of legal schemes other than criminal law ought to be examined in any discussion of the deterrent effect of the criminal law. See, e.g., ANDENAES, PUNISHMENT at 76, 125. When dealing with deterring non-criminal conduct, it is apparent that jurists do not think of deterrence in a mechanical fashion. See *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1970). At some point the deterrent effect of mere regulation of such various activities as drugs and alcohol ought to be critically examined.

²⁷ ANDENAES, PUNISHMENT at 133.

²⁸ Marshall, *We Must End the War*, N.Y. Times, April 10, 1971, at 23, col. 3.

²⁹ Goldstein, *The Meaning of Calley*, 190 THE NEW REPUBLIC, May 8, 1971, at 13, 14.

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AMERICAN CRIMINOLOGY: NEW DIRECTIONS. By *Walter C. Reckless*. New York: Appleton-Century-Crofts, 1973. Pp. x, 487. \$12.95.

In his latest book, Walter C. Reckless focuses on "the major exhibits of the new pathways and directions in the development of American criminology"—including data-gathering instruments as well as summaries of research reports. These "exhibits" appear as appendices to the chapters which introduce them. Unfortunately, Reckless' actual accomplishments fall far short of his expressed aims. Hardly symbolic of "new pathways," the bulk of the research reported, particularly in the first section, is indistinguishable in conception

work cannot answer that question, his analysis would provide support for those seeking to justify punishment in terms of retribution or the need to deter Calley (special deterrence).

For criminologists, the book is probably the modern statement on the problem of deterrence. For lawyers concerned with cases³⁰ and legislation, the book must become a cornerstone in modern scholarship. For too long, Americans have let notions of "individualization" of the criminal law mask the difficult questions that general deterrence raises.³¹ While the book is surely for scholars in terms of its depth, it is certainly well written enough for students in various disciplines, as well as for the lay reader. Ordinarily, I would prefer not to see things in print reprinted as books, but this collection of essays is well worth the effort of reprinting and adaptation since read together the essays form a coherent book. My only regret is that this is one of the few modern statements on deterrence. We desperately need more theoretical as well as empirical work in this area. For those already aware of Andenaes' work, the book breaks no new ground and adds no new theoretical insights. For those unfamiliar with his work, the collection presents his position in a coherent fashion.

³⁰ *Furman v. Georgia*, 408 U.S. 238 (1972) (White, J., concurring) (constitutionality of the death penalty).

³¹ See, generally, Frankel, *Lawlessness in Sentencing*, 41 U. CIN. L. REV. 1 (1972); Palmer, *A Model of Criminal Disposition: An Alternative to Official Discretion in Sentencing*, 62 GEO. L.J. 1 (1973).

from the major quantitative criminological studies of the 1950's. Less than a thorough documentation of the new pathways of American criminology, this book operates on one level, at least, as a kind of intellectual history of a style of criminological research—quantitative, theoretically unimaginative, and ahistorical—that apparently dominated one major American university and undoubtedly countless others during the 1950's and 1960's. About a fifth of the fifty-four appendices describe research conducted by Reckless and his associates at Ohio State University.

The first half of the text examines the process of involvement of individuals in delinquent and criminal behavior. Rather than develop an integrated

theory of crime causation, Reckless isolates "the most immediate and more direct propulsions and processes of behavior"—*e.g.*, norm erosion, peer group contacts, cultural transmission, mental proclivities, biophysical factors, etc. His strategy is, first, to describe a particular process through which individuals allegedly become involved in nonconforming behavior and, second, to refer to theoretical formulations and quantitative studies consistent with his position. In effect, Reckless examines several possible determinants of delinquent and criminal behavior without assigning preeminence to any single factor. Yet the only empirical research referred to documents the operation of single factors. Nowhere in the text does Reckless acknowledge the value of empirical studies which attempt either to assess the relative importance of key determinants of criminal action or to test the accuracy of causal models involving the logical ordering of three or more variables. The close intellectual affinity between Reckless' own theoretical perspective (containment theory) and social control theories of crime makes the omission of Travis Hirschi's multivariate analysis of the control perspective particularly surprising. Since the author directs his book to an advanced audience, his failure to discuss the value of multivariate procedures cannot be rationalized as a casualty of a simplified presentation.

A blurred distinction between predictive and causal modes of presentation further weakens the first half of the book. When Reckless reproduces a prediction table from the Gluecks' famous delinquency study, he does not provide the reader with information necessary to adequately interpret the table. That is, there is no mention that the Gluecks selected 500 delinquents and 500 non-delinquents from a population obviously containing a higher proportion of non-delinquents than delinquents and that this lack of representativeness of the sample could seriously affect the predictive power of the instrument, especially in populations where the percentage of non-delinquents far exceeds 50 per cent.

The second half of the book describes how cases are processed through the "way stations" of our criminal justice system. Included are summaries of several excellent studies of the 1960's documenting the extent to which the discretionary powers of law enforcement personnel influence the processing of criminal cases. Also presented are recent research findings that not only illuminate

the actual workings of selected aspects of the criminal justice system but also justify narrowly circumscribed reforms of it, such as encouraging personal recognizance as an alternative to pre-trial detention.

Given the growing body of textbooks, anthologies, and specialized monographs that do represent "new directions" in criminology as well as a plethora of earlier books that more adequately document the ethos of traditional styles of criminology, Reckless' book, as a whole, is not recommended. Two chapters, one devoted to problems in operationalizing the extent of crime, the other, a kind of inventory of official crime statistics, might serve as a valuable supplement to required readings in advanced criminology courses. Also of merit are the appended data-collecting instruments found at the end of each chapter throughout the book.

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UNDERSTANDING CRIME AND DELINQUENCY: A SOCIOLOGICAL INTRODUCTION. By *Michael Phillipson*. Chicago: Aldine Publishing Co., 1974. Pp. xiv, 210. Cloth, \$7.50. Paper, \$2.95.

The main argument of the book is that the author offers an alternative, the "interactionist perspective," to the shortcomings of what he calls "traditional criminology." The author adopts a critical stance toward traditional criminology, but he does not reveal just what criminological works are the object of his criticism. Chapter 1 (which introduces the failings of traditional criminology) contains not one reference or citation to any literature representing traditional criminology. On page two we are told that "the term *criminology*" refers to "work done in other disciplines such as law and psychology," but also "includes most sociological studies of crime and delinquency up to the emergence of the interactionist perspective." We are not told if this means all criminology or just traditional criminology; there are no citations to these studies, and no date is given when interactionism emerged. In Chapter 6 the social policy implications of traditional criminology are unfavorably compared with those of the interactionist approach without

once revealing from which traditional criminologists the implications are drawn. On page 152, Downes, Wolfgang and Ferracuti are identified as within the "traditional sociological framework" and on page 189, under the heading "For Further Reading," it is stated that the development of traditional criminology has been documented elsewhere in Mannheim and that Vold provides a critique of traditional criminology. It is also stated that the work of the Gluecks "epitomizes the methods and assumptions of traditional criminology." This will not do as documentation of the weaknesses attributed to traditional criminology by the author.

It makes a good deal of difference if the author means only to include the Gluecks or means to include also Sutherland, The Chicago School, Merton, Cohen, Cloward and Ohlin, and others critically discussed in Chapter 5. But the reader is left grasping for some indication of which of these are included in traditional criminology. Although it would not seem to make much sense to include these latter theories in the same category with the Gluecks (of whom most sociologists have been very critical), it seems that the author means to include all approaches except his own as traditional. (If otherwise, why call Downes, who analyzes the subcultural theories of Cohen and others, traditional?) If this is true, then his descriptions and criticisms are wrong because they do not fit these other approaches. In fact, it is difficult to recognize *any* approach, old or new, which fits entirely into the author's description of traditional criminology, which is that it is unaware of the relativity of crime; makes no distinction between social and sociological problems; accepts without question the legal definition of crime; ignores entirely the process by which these definitions are arrived at; is value laden in spite of pretensions to objectivity; restricts its search for causes to the personal biographies of convicted populations of offenders; equates noncriminality with non-conviction; is unaware of or ignores the problems of official statistics; is guilty of a "naive positivism" and "naive search" for universal causes; is strictly deterministic (Ch. 1 and elsewhere); explains crime as the "product of a minority of unfortunate individuals" (p. 29); and assumes that crime is caused by "some-

thing within the individual convicted criminal" (p. 87). With these and other characterizations the author presents an artificial, grossly oversimplified version of traditional criminology as a straw man against which any perspective would look good. One cannot decipher from the author how much or which sociology was or is implicated in traditional criminology, but that described by the author probably never existed as the dominant paradigm in American sociology. At the very least such a criminology as practiced by American sociologists has not existed for a great many years.

The author does a better job of delineating what he means by and citing literature in support of his "interactionist" alternative (Chs. 2, 3, and 4). This term is familiar to us and has essentially the same meaning that it does in this country; in presenting it he draws upon labelling, social constructionist, phenomenological, and other similar perspectives. However, in presenting his approach, the author continues to rely heavily on contrasting it with and showing its obvious advantages over his image of traditional criminology. He does not contrast it very carefully with any of the other approaches to deviance which he discusses (indeed, some approaches such as learning theory, conflict theory, and control theory get no mention at all). Therefore, he fails to note that the advantages claimed for his perspective can also be rightfully claimed for any sociological perspective. This failure to show what is common to or distinguishes among several current approaches results in repetition of routine notions found in sociology textbooks on deviance as if they were new and unique to the interactionist approach. For instance, on page twenty-three it is stated that the "proposed alternative" includes crime and delinquency within the general "analysis of social deviance." On page twenty-six, we are again informed that "according to this perspective, then, criminal and delinquent behaviors become particular examples of the general phenomenon of social deviance." The pages are replete with ideas from general sociology of deviance as if these were characteristic only of this one approach. Therefore, the author fails entirely to convince the reader that the inter-

actionist perspective has any advantage over traditional criminology which other approaches do not or that it is the best alternative.

There are many other inconsistencies, misrepresentations, and instances of fallacious reasoning. Indeed, I found something wrong or objectionable on virtually every other page. This book was originally published in Great Britain in 1971 for English sociology students, and I am completely at a loss to decide what the author, Messinger (who writes the foreword), and the publisher think this "substantially revised" edition offers American readers in 1974. I would not like to believe that they somehow consider this re-hash of a British text (using mainly American sources) an original contribution to the American literature. At the same time, there is little to recommend it as a general textbook for American students in courses in deviant behavior, criminology, or delinquency. It so incompletely covers any of these subjects that it would not be very useful for such a purpose, and the treatment given the limited range of topics which it does cover is inferior to much of what is available in American texts.

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AN INTRODUCTION TO THE CRIMINAL JUSTICE SYSTEM AND PROCESS. By *Alan Coffey, Edward Eldefonso* and *Walter Hartinger*. New Jersey: Prentice-Hall Inc., 1974. Pp. viii, 344. \$11.95.

Despite the title and the intentions stated in the preface to focus on "the *system* of criminal justice," this book not only fails to provide any systemic insights but also has little fresh thinking on the various components it discusses. If this text is intended for use in training police, probation and correctional officers or students interested in criminal justice system careers, it is particularly unfortunate that a systems approach has been so poorly applied, because there is a genuine need for practitioners to understand the interdependencies.

The opening chapter purports to develop some system concepts—input, process, output,

feedback, efficiency and effectiveness. Not only are these poorly defined but they are rarely used in the following chapters on the specific functions.

The overall organization of the book is confusing. The chapters dealing with definitions of crime and theories of crime and delinquency are inexplicably placed under Part Two, "The Police Role, Function and Power in Dealing with Criminal Behavior" instead of the more logical place under "Crime, Justice, and Society." Part Three, "Special Enforcement Problems and the Police Role in Court," contains a discussion of general social problems that would have been far more appropriate in some earlier chapter discussing some of the dominant environmental forces that impinge on all components of the criminal justice system. The chapters on Prosecution and Defense follow with little significant discussion of police role, despite the major heading. The final major section deals with corrections in a fragmented fashion that mixes history and types of institutions, with a few pages on "Conflict between Freedom and Order."

A major system issue of court backlog is ignored entirely. There is no discussion of sentencing despite the critical implications for corrections which cannot control its input. The jail is quickly passed over with no discussion given to the special problems of pre-trial detentions and the appropriateness of correctional agencies administering such facilities.

People interested in pursuing careers in the criminal justice system should be exposed to the very best systems thinking that helps them develop an appreciation of how systems behave, how they change, how they stay "dynamically conservative," in Donald Schon's phrase. They should also be exposed to the best substantive thinking about the various components in ways that help them question the conventional wisdom of patrol effectiveness, caseload size, treatment, etc.

The idea of an introductory textbook that concentrated on system interrelationships is commendable. Its execution is a major disappointment.

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CRIME AND CRIMINALIZATION. By *Clayton A. Hartjen*. New York: Praeger Publishers, 1974. Pp. ix, 213. \$8.00.

This is a concise and unpretentious discourse on the conflict/labeling approach to criminology. It begins with discussions of the nature of "crime" and law. While the author recognizes that some laws reflect the general interests of a society, he advocates the concept of "criminalization"—"criminals" are the result of a labeling process symptomatic of interest group conflict and differential power. Nevertheless, there are two chapters on theories of criminal behavior. Chapter Three presents very brief descriptions of the classical and positivist schools, differential association, typological approaches, and a smattering of miscellaneous offender theories (gangs, embezzlers, etc.). For anomie and ecological studies the reader must skip to Chapter Seven which deals with crime statistics.

Chapters Four through Six deal respectively with the police, courts, and corrections, all of which are described in the context of the book's theoretical orientation. The justice system, for example, is seen as reacting toward individuals on the basis of their social position or group identification, not their behavior. The eighth and final chapter is a plea for "humanistic criminology;" that is, a discipline which recognizes the political source of law and law enforcement and which takes as its subject matter the behavior of society's rule makers as well as its rule breakers.

This work is definitely not everyone's idea of what a text on criminology should be, particularly those who are not enamored of the conflict approach. But even those who favor such an approach (the reviewer among them) might experience an uneasiness at the apparent overwhelming evidence favoring the author's conclusions. The brevity of the book is partly to blame—to build a case quickly one must necessarily exclude confusing and marginally relevant material. But one also runs the danger of making things too easy. Hartjen does this by overemphasizing the arbitrariness of the justice system. For example, when he discusses police and courts he cites studies indicating that official reaction toward individuals occurs on the basis of their race, demeanor, etc. He

ignores, however, studies indicating the opposite: namely, that officials often respond to seriousness of offenses quite independently of nonlegal variables.

Nevertheless, for the instructor who requires a straightforward introduction to the conflict/labeling perspective, this book definitely meets the requirement. The work is generally free of stupefying sociological terminology. In fact, Hartjen's discussions of the formulation of criminal law (pp. 16-39) and the guilty plea (pp. 96-109) are exceptionally lucid. I would recommend the book to both police trainees and college undergraduate classes.

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SOCIETY AND THE YOUTHFUL OFFENDER. By *Charles E. Goshen*. Springfield, Illinois: Charles C. Thomas, Publisher. 1974. Pp. vii, 167. \$11.50.

Goshen has a frustrating tendency to interperse interesting, but frequently unsupported, insights into the problems of juvenile justice with gross overgeneralizations. The first chapter is a general overview of the criminal justice system. This is followed by "Prevailing Concepts of Delinquency" in which the author summarizes a wide variety of theories about crime and delinquency. While this effort appears to be reasonably comprehensive, Goshen's refusal to refer to specific works or authors, except Lombroso, makes it difficult to assess the accuracy of his comments.

The third chapter, "A New Approach to Understanding Delinquency," deserves special mention only because of the promise in the title. In essence, he states that delinquency results from "family disharmony" and that delinquents breed delinquents. When such families are concentrated geographically, the "critical mass effect" becomes operative, thus exacerbating the crime problem. When these factors are considered in conjunction with the "victim's role in delinquency" and the adolescent tendency to test the frequently conflicting behavioral standards expected of him, delinquency commonly results.

In the fourth and fifth chapters, Goshen discusses his study of approximately 250 incarcer-

ated youthful (16-25) offenders who volunteered for a pre-release vocational training program. Based on his in-depth, psychiatric interviews with this population he concludes they have "impoverished" language skills, disliked school, have little "pride of ownership" or understanding of long-range financial planning, were more influenced by their mothers and peers and were largely ignorant of the most fundamental employment information. In general they were seen as passive, dependent and of "limited intelligence" except for a few characterologically variant subgroups.

The sixth chapter is a routine listing of the problems engendered by incarceration. The final chapter, "New Approaches to Solving the Problem," includes proposals to: (a) reduce the number of criminal laws; (b) make restitution to the victim; (c) "professionalize" law enforcement and correctional personnel; (d) tie length of incarceration directly to specific inmate behaviors; (e) divert the bulk of the offender population from the prison, perhaps to the military; (f) increase the number of positive male role models available to this population, especially through the schools and volunteer programs; (g) remove obstacles to employment of delinquents; (h) prevent the "multi-problem family" from rearing children either through judicial removal of children from such homes or through sterilization; and (i) realign the responsibilities of criminal justice agencies so that the system as a whole functions more effectively.

In summary, other than a few interesting insights based on the author's rather limited experiences, this book has little to offer the reader interested in resolving the problems of juvenile crime and justice. If it had been published five years ago when it appears to have been written it might have seemed less commonplace and irrelevant.

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CRIME AND JUSTICE 1971-1972, VOLUME II.

By Jackwell Susman, Editor. New York: AMS Press, 1974. Pp. 491, \$15.00.

This is the second edited volume by Susman on crime and justice (the first was titled

Crime and Justice 1970-1972: Drug Use and Social Policy, Volume I) and it is partially based on the premise that "social order should be viewed as a reality that has been constructed by those in authority." It is further argued that this constructed reality divides the population into "us" and "them" who in turn unquestionably accept the constructed reality to such an extent the social order is reified. It is also contended that for such a reality to be maintained, society and officialdom must take the authority structure for granted and also have a categorical and unambiguous conception of social order. However, the editor sees the acceptance and maintenance of the officially constructed reality as becoming increasingly problematical. The articles, therefore, are selected to examine the changing nature of the conditions associated with the acceptance and maintenance of the officially constructed reality, as well as some of the implications of the changes.

The book's thirty-five articles are well-chosen for demonstrating the problematic nature of the social order. Of the book's five major sections, the best was "Community Influences and Effects on Crime and Justice." Empirically, the most inadequate section was on politics. Hopefully, Susman will have an opportunity to edit another book which would report more research on politics in relation to crime and justice. This would be especially helpful in view of such a phenomenon as the Watergate scandal.

The major advantages of this collection for the student and the professional are its inclusiveness of pertinent subject matter, its international orientation and its clear organization. None of the articles were originally written for this volume. They were selected from sociology, orthopsychiatry, political science, business, criminology and psychology journals, books, law reviews, newspapers and the proceedings of one international institute. The articles by Tapp and Kohlberg, Goode, Berkowitz and McCaulay, Pitts, Freed, Geis, Bronfenbrenner, Junker, Bazelon, Johnston, Quinney and Moss are especially useful and well done.

The reader is well advised to have some previous introduction to crime and justice as well

as research methods, before attempting to digest the entirety of this book because no introductory or transition statements are provided for the five sections. A minor complaint is that the print is relatively small. Generally, this anthology is among the better ones available on crime and justice.

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CHICANO PRISONERS: THE KEY TO SAN QUENTIN. By *R. Theodore Davidson*. New York: Holt, Rinehart and Winston, Inc., 1974. Pp. v, 196.

This work represents one of the rare studies that deals with the Chicano in the prison system. The Chicano, like the Black, is greatly over-represented in the total prison population. Chicano prisoners' excessive violence and their reluctance to participate in the "rehabilitation" activities, prompted the Davidson study. The study found that Chicano prisoners were very concerned with the physical and mental abuses and the manipulation by the prison staff which they received. Drawing on cultural beliefs con-

ditioned by external, societal abuses, the prisoners formed the "Baby Mafia" later renamed the "Family" which provided the means for coping within the system. Through the support of the "Family," Chicano prisoners were able to present a strong, unified front to the staff and other prisoner groups. In fact, the scope of the "Family" extended to every aspect of the prison and the outside world for the prisoners. Davidson described in detail the subculture's laws, social control, leadership, and the prison economy. Parallels can easily be drawn between the rationale and function of the "Family" and that of the "Mafia" and "Black Mafia."

Davidson confronts the reader with the need for general prison reform in such critical areas as the probation-parole system and the need for a critical reexamination of the myth of rehabilitation and the establishment of a prison ombudsman. Finally, Davidson points out that penal institutions must develop a clear understanding and positive action plan for the Chicano prisoner.

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