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BOOK REVIEWS

ATTORNEY GENERAL'S COMMISSION ON PORNOGRAPHY: FINAL REPORT
JULY 1986. Washington, D.C.: U.S. Department of Justice, 1986.
Pp. v, 1960. \$35.00.

UNITED STATES OF AMERICA VS. SEX: HOW THE MEESE COMMISSION
LIED ABOUT PORNOGRAPHY. By *Phillip Nobile and Eric Nadler*.
New York: Minotaur Press, Ltd., 1986. Pp. 370. \$3.95.

POLLUTING THE CENSORSHIP DEBATE: A SUMMARY AND CRITIQUE OF
THE FINAL REPORT OF THE ATTORNEY GENERAL'S COMMISSION ON
PORNOGRAPHY. By *American Civil Liberties Union: Public Policy Re-
port (authored by Barry W. Lynn)*. Washington, D.C.: American
Civil Liberties Union, 1986. Pp. iii, 188.

On July 9th, 1986, while standing under a Greek statue of a seminude female in the Justice Department, Attorney General Edwin Meese, III released the report of his Commission on Pornography. The report generated considerable controversy, as did Meese's choice of a setting for its release. Many critics labeled the findings "preordained." Comments such as those by Barry Lynn, legislative counsel for the American Civil Liberties Union, were not uncommon. He labeled the report as "little more than prudishness and moralizing masquerading behind social-science jargon."¹ Not only did the report receive the expected criticism of civil libertarians; the press was generally critical of its findings, while satirists celebrated its release.

There has been little subsequent evidence that the Report has affected the public's view of "pornography". Maine voters were asked a month before the release of the Report to approve or disapprove a new four and a half page statute governing pornography. The statute, characterized by the one-liner "Do you want to make it a crime to make, sell, give for value or otherwise promote obscene

¹ Lynn is quoted as stating that "They (the Commissioners) truly want to regulate everyone's sex life, if they had their way, they'd like to crawl into your bedroom and tell you what is and is not appropriate." *Sex Busters: A Meese Commission and the Supreme Court Echo a New Moral Militancy*, TIME, July 21, 1986, at 16.

material in Maine?" was overwhelmingly defeated.² Subsequent surveys by the Media General Associated Press poll,³ Penn and Schoen Associates,⁴ and even the Lawson store poll⁵ have all indicated Americans' abhorrence of censorship.⁶

The Commission Report calls for legal attacks on hard-core porn and urges citizen action against merchants who sell milder sexual material. Although most people are probably aware of the Report, and many may have even commented on it, few have actually read it, and still fewer understand its implications.

The Report addresses an extremely complex subject matter in a sophomoric manner. It must be read carefully to comprehend and adequately understand the issues involved, the unacknowledged internal contradictions, and the spectacularly tenuous chain of causation. Given its voluminous size (1960 pages), there is little reason to believe that it will be either widely or carefully read, despite its forty-three page listing (double column) of adult magazines

² 16,101 citizens voted "yes" and 48,976 voted "no." Hertzberg, *Big Boobs*, THE NEW REPUBLIC, July 14 & 21, 1986, at 21, 23.

³ The Media General Associated Press telephone poll was conducted in April of 1987. It interviewed 1402 adults throughout the United States and concluded that "most Americans are not offended by sex . . . and oppose banning sexually explicit magazines in their communities . . ." A majority did not believe pornography harmful to adults, and 60% reported having viewed an X-rated movie or videocassette. Charlotte Observer, Apr. 12, 1987, at 2.

⁴ The Penn & Schoen Associates survey was of a random sample of 1002 adult Americans interviewed in August of 1986. The overwhelming majority of the responses favored freedom of choice. Typical questions and the responses were: "The government should not try to tell people what they should or should not read?" with which 90% agreed, 9% disagreed, and 1% did not have an opinion. To the question, "Do you think it is healthy or unhealthy for American society to have the government trying to tell people what they should or should not read?" 14% indicated it was healthy, 80% said unhealthy, and 6% didn't know. In this survey, 74% of the "born again" Christians responded that "the American people should have the absolute right to purchase what they want."

⁵ The Lawson Company poll conducted in nearly 700 Lawson Stores in Ohio, Pennsylvania, Michigan, and Indiana had 238,175 customers vote in favor of the store selling adult magazines and 151,064 voting against such practices with 43,286 voting it did not matter. This poll was conducted from May 21-June 13, 1986.

⁶ Two random surveys of midwestern counties were conducted the week before and the week after the Attorney General's Commission on Pornography Report was released. The random sample of adults surveyed were more tolerant of adults having the right to purchase explicit sexual material after the report was issued than before its release. Moreover, there have been several surveys and polls conducted since the Report was issued that indicate that the majority of Americans do not favor censorship. One additional such poll was conducted by Dairy Mart, with 950 outlets in the east and midwest. In April of 1986, it conducted a poll of its patrons in four states. They were asked whether the store should stock magazines such as *Playboy*. Fifty-five percent of their patrons voted "yes" and 35% voted "no," and 10% were undecided. This poll was in response to a boycott organized by an affiliate of the National Federation for Decency. TIME, July 21, 1985, at 18.

(N=4664), twenty-one page listing of adult paperback books (N=3916), and forty page listing of adult films (N=3571). There are an additional 131 pages of detailed descriptions and verbatim quotes from magazines, books, and videos such as "Debbie Does Dallas," "Deep Throat," and "The Devil in Miss Jones" (pp. 1613-1744). The descriptive language cited and quoted over these pages, with no expletives deleted, is representative of what the Commissioners repeatedly referred to in their deliberations as "sick," "disgusting," and "intolerable." Despite the inclusion of this material, only 139 copies of the report were sold on the day it was issued.⁷

This review is primarily concerned with the Commission Report. To adequately understand the Report, however, Nobile and Nadler's *United States of America vs. Sex: How the Meese Commission Lied About Pornography* is necessary reading in order to have some idea of how the Commission went about its work. The ACLU Public Policy Report, *Polluting the Censorship Debate: A Summary and Critique of the Final Report of the Attorney General's Commission on Pornography*, provides an excellent analysis of many of the shortcomings of the Commission's Report and the methods, and lack thereof, relied upon by the Commission in developing the Report.

Nobile and Nadler's book is a devastating critique of the Commission, its hearings, deliberations, and final report. It provides considerable insight concerning the members' respective orientations toward erotic material and their participation and input into the final product. The book is well-written and enjoyable "light" reading. Scholars will be disappointed, however, by its total lack of citations, references, and index. In addition, one may be skeptical of its objectivity, given that Nobile is the editorial director and Nadler, a senior editor of *Forum* magazine. They quote extensively from testimony at the hearings, much of which is omitted from the Final Report. One's confidence in their professionalism is enhanced by checking these quotations against copies of the testimony actually submitted. In doing so, this reviewer found no errors in their representations.

Nobile and Nadler maintain that the Commission's findings were a foregone conclusion. The Report, they maintain, was a blatant payoff to the religious right-wing. Nobile and Nadler point out that the Commission conducted no new research but instead held notoriously ineffective public hearings that tended toward emotional grandstanding. Moreover, they suggest that the Commission

⁷ Gest, *A Bugle Call for a War on Porn*, U.S. NEWS AND WORLD REPORT, July 21, 1986, at 6.

was "stacked" with members who believed that pornography causes crime and simply set out to prove it.

The book is laid out chronologically, from the inception of the Commission through each of its hearings. The end of the book summarizes the respective members' reservations and/or endorsements of the overall Report, as well as comments on the Report by eleven additional individuals, including Betty Friedan, Barry Lynn, John Money, Karen DeCrow, Larry Baron, and Murray Straus.

United States of America vs. Sex traces the origin of the Commission to President Reagan's debts to various conservative groups for their election support. In March of 1983, Reagan told a group of clergymen that his administration had "identified the worst hazardous waste sites in America. We have to do the same with the worst sources of pornography" (p. 14). Various groups were calling for federal action during this period, including some 100 Catholic bishops, the National Organization for Women, and the National Federation for Decency and Citizens for Decency Through Law.

The President announced, while signing the Child Protection Act of 1984, "[W]e consider pornography to be a public problem, and we feel it is an issue that demands a second look." The Attorney General at the time, William French Smith, asked his chief aide, Harold "Tex" Lezar, to get the pornography project off the ground. Lezar was William F. Buckley's former assistant at the *National Review* and a former speech writer for Richard Nixon. In their book, Nobile and Nadler describe how Justice Department officers searched throughout the nation looking for the "right" talent for membership on the Commission.

The eleven Commission members consisted of seven men and four women, all of whom were white. Three of the men were present or past prosecutors. Two additional members were on record as not only opposing pornography and extramarital sex, but also as having worked with groups adamantly opposed to the availability of pornography. Two Commission members came from academe with impressive credentials; both had established positions endorsing "censorship," however, and one had written on the harmful effects of masturbation. The four female members of the Commission consisted of a social worker, a psychiatrist, an editor of a women's magazine, and a Scottsdale, Arizona city councilwoman.

The Chair of the Commission selected Alan Sears, a thirty-four-year-old federal prosecutor from Louisville, as the Commission's Executive Director. Sears was one of the few U.S. attorneys in the country who had prosecuted obscenity in recent years. Law en-

forcement personnel from the FBI, the U.S. Postal Service, the Customs Service, and the D.C. police department served as assistants to Sears.

Nobile and Nadler point out that the anti-porn orientation of the Commission was so apparent that the "attorney general took heat from the press the moment he announced his appointments on May 20, 1985" (p. 22). Despite such criticisms, investigators were sent around the country in search of "victims" of pornography. Investigators contacted groups that work with teenage prostitutes and asked if they could speak with teenagers who had "started turning tricks after their fathers showed them *Playboy* and *Penthouse* magazines" (p. 27). When told they did not have kids who got into prostitution that way, the investigators told the groups the Commission would not need their kids to give any testimony (p. 27). Much of the testimony given before the Commission was from individuals (the "pornoplegics") found and screened by such investigators. Of the 208 witnesses who addressed the Commission, sixty-eight were police officers, eight were elected officials, thirty were victims, and fourteen were representatives of antipornography organizations.

The first meeting of the Commission was held on June 19th, 1985, in Washington, D.C. The meeting was dubbed an overview of pornography. The first witness to testify before the Commission was an assistant U.S. attorney general, who cited the evil of pornography and its relationship to murder, rape, and child abuse. She was followed by an FBI agent with color slides depicting the grotesque aspects of pornography. A founder of Women Against Pornography admonished the Commission that pornography perpetuates the devaluation of women, promotes rape, battery, and incest, and diminishes women's safety and self-esteem.

Surgeon General C. Everett Koop also appeared at the Washington meeting and advised the panel that "Porn is a clear and present danger to American public health" (p. 35).⁸ Ellen Levine is quoted as saying, "I felt much of [their testimony] had been written and structured for them." Nobile and Nadler quote the Chair of the Commission, Henry Hudson, as admitting that his investigators had helped write out the statements for a number of the witnesses. Such was the beginning of the Commission's hearings and the setting in which they were to conduct their business.

By the end of the first two days in Washington, Levine had

⁸ The Surgeon General even convened a "Surgeon General's Workshop" on June 22-24, 1986 in Arlington, Virginia to consider pornography and its impact on public health. The proceedings of the Workshop were published and basically constitute a number of social science papers given on the topic.

raised the unspeakable question: "When are we going to get around to discussing what is going to be considered pornography?" Chairman Hudson demonstrated his depth of understanding and objectivity by responding: "I appreciate your bringing it up, but I don't know [if] that's within our province." When pressed by Dr. Becker and Levine, Hudson stalled: "I think these definitions are going to have to just evolve as the Commission hears evidence. We may or may not elect to come up with a definition of pornography" (p. 47).

The Commission met for their second working session in Chicago. The purpose of this session was to focus on pornography and law enforcement. The Commission heard from vice cops, prosecutors, and former prosecutors on the methods used to combat pornography. The Chicago sessions also focused on the concerns of women and feminists regarding pornography. One of the first schisms became evident during these sessions. Nan Hunter, speaking on behalf of the Feminist Anti-Censorship Taskforce (FACT), argued against any censorship attempts. Catharine MacKinnon, speaking on behalf of Women Against Pornography, argued fervently for its suppression, maintaining that "if pornography is part of your sexuality, then you have no right to your sexuality."

The third public hearing of the Commission was held in Houston and was scheduled to focus on social science. Nobile and Nadler maintain that the social science testimony was crucial to support the claims of the religious Right and the various feminist groups opposed to erotic material claims as to the harmfulness of such material and to support President Reagan's claim that "[a]cademic studies have suggested a link between pornography and sexual violence."

Many of the most prominent sexologists and social scientists who have conducted sex research did not testify. Notably absent were the current and former directors of the Kinsey Institute, Dr. June Reinisch and Dr. Paul Gebhard. Also absent were Kinsey's co-authors, Dr. Wardell Pomeroy and Dr. Clyde Martin. Dr. Masters and Dr. Johnson and sex therapists such as Dr. Helen Singer and Dr. Bernard Apfelbaum failed to appear as well.

The twenty researchers who did testify cited research supporting both censorship and non-censorship. The two witnesses that the Commission apparently felt would provide the "coup de grace" justifying censorship were Dr. Neil Malamuth and Dr. Ed Donnerstein. Donnerstein, however, argued that violence in the media was the primary factor responsible for callousness and potential violent propensities. When it became apparent that neither witness would

offer the causal link between pornography and violence against women, the Commission was baffled.

At the Commission's first business meeting in Houston, the executive director was asked to put together a list "of every harm that's been brought to our attention." Professor Schauer argued that such a list would be useful because "ultimately the question is not only social science, it is philosophy, it is religion, it is politics, it is everything we are all about. So hopefully it will be a long list" (p. 96). This orientation is reflected in the final report. If social science does not find the harm caused by pornography, then other approaches will be relied upon.

Ms. Levine once again brought up the issue of a definition for pornography, and Hudson suggested that the members go home and write their best definition. In turn, the definitions would be discussed at their next session in Los Angeles. At this time, one-half of the Commission's hearings had been held, and the panel had yet to define what it was that they were examining.

The fourth public hearing focused on the production and distribution of pornography. As Nobile and Nadler describe it, the industry was ready and waiting. The Adult Film Association unleashed their attorney, John Weston, who chastised the Committee for their biased, closed-minded attitude toward adult material. Weston charged: "Today's governmental antieroticism campaign is . . . not based upon a national consensus. . . . Rather, it seems to represent a shameless, undisguised political payoff for a small segment of the President's constituency—the fundamentalist religious Right." He pointed out that in 1984, there were fifty-four million X-rated videotapes rented in the U.S. and that President Reagan had received a landslide of fifty-two million votes in that same year. Drawing from those facts, he pointed out that there were many more adult decisions in favor of sexually oriented materials in 1984 than in favor of the President.⁹

Inasmuch as the Commission was being chastised by the press for not having yet defined pornography, that subject was brought up again at their working meeting in Los Angeles. Dr. Dietz felt his definition could be objectively and empirically operationalized. Dietz suggested that men could be hooked up to penile plethymographs to measure blood flow and erection tendencies to various stimuli. If more than five percent of the men were aroused,

⁹ The number of X-rated video tapes rented per year increased to 100 million in 1986, of which women rent approximately 40%. For a discussion of the changing nature of X-rated videos and their concern with women's sensitivity, see *Romantic Porn in the Boudoir*, TIME, March 30, 1987, at 63.

the stimuli would be considered pornographic. Dietz was concerned that the portrayal of corpses in which there would be no pain or the portrayal of the performance of sex with an anesthetized person would not fit other definitions being suggested by panel members. Ms. Tilton inquired whether "it (is) legal to have sex with a corpse if you are married to it" (p. 127). And so the Commissioners reflected their own concerns and orientations as they struggled for a working definition of what was to be considered "pornographic."

The fifth public hearing of the Commission was held in Miami and was to focus on child pornography. Therefore, police departments in Florida were invited to describe their best arrests. The police responded that tough laws had forced such material off the open market and severely limited under-the-counter purchases. The director of the FBI, William Webster, told the Commission that his bureau did not need any new laws in this area. Even this testimony, however, would not deter the Commission from emphasizing the importance of tough new laws to address the ever-increasing problem of child pornography, a problem that the Commission had so far been unable to find.

The Commission heard from Senator Mitch McConnell of Kentucky that kiddie porn represented ten to fifteen percent of the \$4.5 billion porn empire (the entire gross receipts of Hollywood movies in 1984 was \$3 billion). The Commission also heard from Dr. Judith Reisman, who had received a \$734,000 grant to study pictorials and cartoons in *Playboy*, *Penthouse*, and *Hustler* magazines and whose final report the Government would eventually decide not to publish.

The sixth and last public hearing of the Commission was to focus on the relationship between organized crime and pornography. The hearing was held in New York on January 21-22, 1986. The first day of these hearings was marked by yet another noteworthy occurrence: Dorchon Leidholdt, of Women Against Pornography, grabbed a microphone and began reading twelve nonnegotiable demands. Not only was she allowed to proceed, but Chairman Hudson asked for a written version of her statement.

There was limited testimony asserting the link between pornography and organized crime. Instead of concentrating on the possible tie between organized crime and pornography, several feminists and additional religious groups addressed the New York session. Representatives of the religious groups included a Mormon official, who claimed that "erotic stories and pictures are worse than filthy or polluted food;" a priest from Father Flanagan's Boys' Town, who stated that a photo of a naked woman "destroys the will to live;" a gentleman from the American Jewish Committee, who submitted a

statement noting that Jewish law considers nakedness itself "dehumanizing;" and others denouncing a variety of sexual practices including masturbation.

The New York hearing marked the end of the Commission's formal public proceedings and, inasmuch as no research had been conducted by them or for them, their lone chore remained the writing of a final report. The next work session was scheduled for February 26 through March 1, 1986 in Scottsdale, Arizona. Before the commencement of that meeting, Sears sent his infamous letters to numerous corporations stating they had been identified as pornography distributors and that unless they prove otherwise within thirty days, they would be described as such in the Commission's final report. The corporations receiving such letters included RCA, CBS, Ramada Inns, Warner Communications, and the Southland Corporation. Southland Corporation's 7-Eleven convenience stores were identified as the leading retailers of porn magazines in America based upon their sales of *Playboy* and *Penthouse* magazines. Ironically, neither *Playboy* nor *Penthouse* was named in the more than 4,500 pornographic materials included in the Commission's Final Report.¹⁰

Nobile and Nadler describe the fireworks of February 28th, 1986, when Sears announced that the Commission's documents would no longer be released to the public. This announcement was made in advance of his distributing of his 1200-page draft of the Final Report to the Commissioners. He and his staff of "young Republicans" had drafted the report for the Commissioners to review during the Scottsdale session. The American Civil Liberties Union filed suit against the Commission on April 3, 1986 for withholding draft reports and working papers. On April 10th, 1986, the Justice Department settled the case agreeing to release all materials.

Nobile and Nadler's book reviews the Commissioners', particularly Professor Schauer's, uneasy concern with Sears' drafted report. It describes the eight-page letter Schauer wrote to his fellow Commissioners following the Scottsdale meeting complaining about the substance and accuracy of the draft. He was concerned how the draft report could "justify reprinting 199 pages of victim testimony while not reprinting a single page of testimony about the dangers of overregulation or the alleged benefits of some of this material." Schauer was also concerned about the comments about organized

¹⁰ Attorney General Meese was quoted as telling a group of law clerks of federal district and appellate judges on January 13th, 1987 that he has read *Playboy* and *Penthouse* and does not consider them obscene. Columbus Dispatch, Jan. 29, 1987, at 9a.

crime inasmuch as they were based upon the testimony of a former FBI agent who had himself been arrested and dismissed from the FBI. He told the Commissioners that he would spend the next six weeks attempting to write a draft that more accurately reflected the Commissioners' thinking and that was more objectively based on the evidence.

United States of America vs. Sex also details the last meeting of the Commission, which was held ten months after the Commission had begun its work. The Commission met for four days in Washington to go over the final draft of the Report. The panel agreed to accept Professor Schauer's report as a framework for the final document.

Major decisions remained to be made, however. Should the Commission recommend that police officers pursue the printed word? Sears encouraged them to recommend such action; five members voted for the recommendation, and six voted against it. Should the Commission recommend censoring cable television transmission of sexually explicit themes? This recommendation was also defeated five to six. Sears had asked the Commissioners to label vibrators as obscene. Dr. Dietz argued that "the ordinary vibrator is no more obscene than the Washington Monument" (p. 221).

The Commission based their findings and recommendations, according to Nobile and Nadler, more on "gut instinct" than sound reasoning or evidence. As Dietz's two-page statement entitled "The Sentiments of the Commission," which was read at the Washington meeting, revealed, "A great deal of contemporary pornography constitutes an offense against human dignity and decency that should be shunned by the citizens, not because the evils of the world will thereby be eliminated, but because conscience demands it." One must assume Dietz, therefore, is somehow in tune with the American conscience and/or assumes his conscience should be adopted by other Americans. The Commission's policy of relying on non-scientific evidence to justify its conclusions may be credited greatly to Sears, whom the authors refer to as a twelfth Commissioner and a "Baptist Mole" (p. 289). In June of 1986, Sears, as the Chairman of the Resolutions Committee at the annual Southern Baptist Convention, had his church commend the Meese Commission. Apartheid escaped official sanction, Sears explained to the convention, because he did not want to bring up divisive issues.

Nobile and Nadler point out that numerous apparent conflicts of interest occurred during the Commission's proceedings. One such example is Father Bruce Ritter, a Commission member who received the Charles Keating Award and a \$100,000 check for his Covenant House activities from Citizens for Decency through Law

one week before the Miami hearing. When Father Ritter was confronted with this possible conflict of interest, he admitted receiving the \$100,000 and \$1.25 million from Ed Meese's Department of Justice during the previous three years. Yet, he denied any conflict of interest.

The book *United States of America vs. Sex* is essential reading if one is truly interested in understanding how the Final Report of the Attorney General's Commission on Pornography came to fruition. The reader is left wondering whether the Final Report is more a product of the biased Commission or the manner in which the hearings were conducted, or whether that the Commissioners simply tackled a problem that was much too difficult and overwhelming for them to comprehend or understand. In all likelihood, it appears that all three explanations may have some merit in understanding the Commission's Report.

The Final Report of the Attorney General's Commission on Pornography is two volumes, consisting of 1960 pages and 2280 footnotes. The Report is organized in six parts and has one appendix consisting of the Commission's charter, which is four pages in length.

The first part is 212 pages long and consists of the Commissioners' biographies, acknowledgements, and statements by individual Commissioners. Included in this part are such elucidating trivia as an article, reproduced in its entirety by Park Dietz, et al., entitled "Detective Magazines: Pornography for the Sexual Sadist?" from the *Journal of Forensic Sciences*.

Part Two of the Report, although not specifically so identified, contains the Commission's findings. It consists of 215 pages and is the edited version of the Commission's conclusions as prepared by Professor Schauer. The third part of the Report is 334 pages in length and lists ninety-two recommendations by the Commission to law enforcement agencies, legislative bodies, and public interest groups. This part contains pages of verbatim testimony of "victims" of pornography and various obscure accounts of the "evils" of such material.

Part Four of the Report is a potpourri of information and is approximately 1100 pages long with thirteen separate chapters. It begins with a chapter on victimization, followed by chapters on such diverse subjects as: performers; social and behavioral science research; organized crime; the history of regulating pornography; first amendment considerations; citizen and community action and corporate responsibility; the production and distribution of sexually ex-

plicit materials; imagery found among magazines, books, and films in adult-only pornographic outlets; sample forms for search warrants and affidavits for such warrants; witnesses who testified before the Commission; witnesses invited but unable to appear before the Commission; and persons who submitted written statements to the Commission.

Part Five of the Report lists the bibliography of resources the Commission claims it relied upon in drafting and formulating the Report, a second chapter on additional suggested reading material, and a final chapter listing the Commissions' staff. Part Six of the Report consists of photographs of various individuals appearing before the Commission. It is followed by an appendix containing a reproduction of the original charter of the Commission.

If one were grading the Report as a student's paper, an appropriate comment would be: "This is padded and contains a great deal of superfluous material." On the other hand, as Nobile and Nadler cite, one of the female Commissioner's observations with regard to Sears' obsessive interest in the sexually bizarre, the report is more likely a reflection of his personal orientation or "hang-ups."¹¹

The mandate of the Commission was to "determine the nature, extent, and impact on society of pornography in the United States, and to make specific recommendations to the Attorney General concerning more effective ways in which the spread of pornography could be contained, consistent with constitutional guarantees."¹² It has been pointed out that the Commission's charter biased the inquiry from the outset.

The Commission was to complete its work and submit a final report within one year of its first meeting; the Commission did so within one year and twenty days. The charter indicated that Commissioners would receive no remuneration other than compensation for travel and per diem expenses, although \$400,000 was to be available for staff support. The Commission should be complimented for having completed their task in such a short period of time with the limited resources available. The 1970 Commission had a budget of \$2,000,000 and two years in which to complete its

¹¹ P. NOBILE & E. NADLER, *UNITED STATES OF AMERICA VS. SEX: HOW THE MEESE COMMISSION LIED ABOUT PORNOGRAPHY* 289 (1986).

¹² This mandate, as many have pointed out, was not a neutral assignment for the Commission to follow. Most have assumed that the mandate requested the Commission to find the harms of pornography and suggest ways in which its dissemination could be controlled. That being the case, the results released are not surprising. It is interesting to compare the mandate of the Attorney General's Commission to that of the 1970 Presidential Commission on Obscenity and Pornography.

work (a budget 16 times that of the 1986 Commission given the changing value of the dollar).

The 1986 Commission's findings are diametrically opposed to those of the 1970 report of the President's Commission on Obscenity and Pornography that concluded pornography was not a significant cause of crime. The 1986 Report argues that those findings are obsolete, and it claims that pornography is much more violent and explicit and may be causally linked to sex crimes. Ironically, the limited evidence on violence in pornography does not support such conclusions.¹³ This Commission, however, did not allow scientific evidence necessarily to guide or limit its reasoning or findings.

The Report identifies sexually violent pornography as a catalyst not only for violence but also for the greater acceptance of the "rape myth," namely, that women enjoy being coerced into sexual activity. The Report was less conclusive on the impact of material it labeled nonviolent but "degrading." Nonetheless, it concluded that nonviolent pornography fosters callous attitudes toward women and trivializes attitudes toward rape. The findings are couched amid themes of virtue and morality. The documentation of the theme of sexual morality, which has gained acceptance during the Reagan era, is perhaps the significance of the Report.

The difficulty of defining pornography was no less painful for this Commission than for the 1970 Commission or, for that matter, Justice Potter Stewart.¹⁴ The Report states that "where we do use the term. . .[it] means only that the material is predominantly sexu-

¹³ Perhaps the best succinct summary of evidence on this topic is an article by Donnerstein and Linz, *The Question of Pornography*, *PSYCHOLOGY TODAY*, Dec. 1986, at 56-59. In this article, they maintain that it is not sex, but violence, that is an obscenity in our society and which is primarily responsible for aggression against women. They also review the little research available concerning violence in sexual material and conclude there is little if any evidence to conclude that images of violence have become more prevalent in pornography in recent years. Other writings which focus in on this issue include: A. Brannigan & A. Kapardis, *The Controversy Over Pornography and Sex Crimes: The Criminological Evidence and Beyond* (unpublished); A. Brannigan, *Censorship, Pornography and the Evidence of Harm: Proving the Link?* (July, 1986) (unpublished); A. Brannigan and S. Goldenberg, *Social Science Versus Jurisprudence in Wagner: The Study of Pornography, Harm and the Law of Obscenity in Canada*, (August, 1986) (unpublished); 42 *J. Soc. ISSUES* ____ (1986) (entire issue devoted to media violence and antisocial behavior). Another invaluable reference on this topic are the two volumes published by the Fraser Commission, *PORNOGRAPHY AND PROSTITUTION IN CANADA*, Report of the Special Committee on Pornography and Prostitution (1985).

¹⁴ It was Justice Potter Stewart's comment in *Jacobellis v. Ohio*, 378 U.S. 184, 197 (1963) (Stewart, J., concurring), which is so often referred to in discussions of the difficulty of defining pornography. Justice Stewart stated, in defining "hard-core pornography:" "[P]erhaps I could never succeed in intelligibly doing so. But I know it when I see it"

ally explicit and intended primarily for the purpose of sexual arousal" (pp. 228-229).

The Report's review of the history of pornography is superficial. It notes that "descriptions of sex are as old as sex itself" (p. 223) and proceeds to give a short synopsis of the role of religion and the law in regulating such depictions in the past. In analyzing the role of the first amendment, it identifies the predominant use of pornography as a masturbatory aid which is, therefore, not protected. This conclusion echoes the rather novel distinction developed by Schauer, who maintains that pornography involves not so much portrayals of sex or discussions of sex, but simply sex itself. Thus, according to Professor Schauer, the first amendment does not protect pornography.

The Report's analysis of the relationship between organized crime and pornography reflects once again the superficial analysis characteristic of the bulk of the Report. It acknowledges that the Commission spent a considerable amount of time attempting to determine whether there was a connection between pornography and organized crime. After hearing from a large number of witnesses, who were mostly law enforcement personnel, reading reports by various law enforcement agencies, and consulting sources such as trial transcripts, the Commission concluded that "we believe that such a connection does exist."

The Commission acknowledged that such a conclusion was contrary to both the conclusions of the 1970 President's Commission on Obscenity and Pornography and the evidence offered by Director William H. Webster of the Federal Bureau of Investigation. The Commission states: "[W]e reach our conclusions . . . not so much because we disagree, but because we feel that more careful analysis will reveal that the discrepancies are less than they may at first appear" (p. 292).

The Commissioners reached this conclusion by examining various definitions of organized crime, including "any large and organized enterprise engaged in criminal activity, regardless of any connection with La Cosa Nostra" (p. 293). By relying on this definition and by defining some sexually explicit material as obscene, those involved in its production and distribution are, by definition, "organized crime." This is simply tautological reasoning and is of little value in understanding the adult pornography industry. The six pages allocated to the role of organized crime and pornography in Part Two differ considerably from the 202 pages found in Part Four, Chapter Four of the Report, entitled "Organized Crime." The 202 pages are based upon selective testimony presented to the

Committee, including in large part that of a former FBI agent dismissed from the FBI for, among other problems, lying.

The question of harm is the core of the Report. How the Commission operationalized "harm" and determined the causal link between harm and pornography is very controversial. The Report acknowledges that the Commission examined constitutionally protected (not obscene) sexual material. The Report justifies the examination, inasmuch as there are other governmental techniques available to regulate the dissemination of constitutionally protected adult material short of criminal obscenity prosecutions, such as zoning and licensing. In addition, the Report notes various techniques of social control broader than governmental regulation, such as public protests, picketing, and boycotts, which constitute justifiable citizen action against material that may be legally protected.

The Report struggles with what is and/or should be identified as harm. It states that "to a number of us, the most important harms must be seen in moral terms, and the act of moral condemnation of that which is immoral is not merely important but essential" (p. 303). "Issues of human dignity and human decency, no less real for their lack of scientific measurability, are for many of us central to thinking about the question of harm" (p. 303). The Report discusses the implication of direct and secondary harms as well as the problem of multiple causation. In so doing, it acknowledges that the reduction of weaponry magazines or R-rated "slasher" films might eliminate more of the sexual violence than would the elimination of "degrading" pornography. Despite this admission, the Report fails to pursue this relationship any further, maintaining that the Commission's charter mandated an examination of pornography. The ACLU Report compares this reasoning to a physician who examines a patient complaining of a cold and, during the course of a physical examination, discovers the patient is also suffering from cancer. The physician treats the patient only for his cold and justifies ignoring the cancer because the patient came in for treatment of a cold.

In reviewing the varieties of evidence concerning harm presented to the Commission, the Report cites personal experiences of witnesses, including clinicians and social scientists. Considerable space is allocated to justifying the use of first-hand anecdotal testimony, which is the testimony that Sears' "raiders" found and/or created, according to Nobile and Nadler.¹⁵ This anecdotal victim

¹⁵ P. NOBILE AND E. NADLER, *supra* note 11, at 27.

evidence appears to have been more influential of the Report's conceptualization of harm than any other evidence.

In discussing the empirical evidence of harm, the Report first cites correlational evidence and admits that it "is less scientific" than others, but we refuse to discount evidence merely because the researcher did not have some set of academic qualifications" (p. 316). The Report then refers to considerable evidence from law enforcement personnel that "a disproportionate number of sex offenders were found to have large quantities of pornographic material in their residences" (p. 316). Larger quantities were found on the premises of such offenders than would be expected in a random sample of the entire population, according to these officers. Of course, one must assume that the officers somehow know the amount of such material the general population at large may retain at their premises. The Report then draws the logical conclusion that "there is a correlation between pornographic material and sex offenses" (p. 316).

The Report next reviews the limitations of controlled experiments in a laboratory setting, citing the limitations of generalizing to the population and of isolating single variable's effects. It also develops the justification for examining sexually explicit materials by subdivisions. The examination of sexually explicit material in this manner is identified as "one of our most important conclusions" (p. 321).

The material upon which most of the evidence focused, according to the Report, was Class 1 material, or material that featured violent sexual portrayals. The Report states that material of this sort was, for the most part, unavailable at the time of the 1970 Commission's report. The Report infers a causal relationship between exposure to this material and aggression toward women (p. 324). The Report does acknowledge that although it is

unclear whether sexually violent material makes a substantially greater causal contribution to sexual violence itself than does material containing violence alone, it appears that increasing the amount of violence after the threshold of connecting sex with violence is more related to increase in the incidence or severity of harmful consequences than is increasing the amount of sex (p. 328).

The Report proceeds to acknowledge that the "slasher" films which depict a much greater amount of violence than most of the pornographic films "are likely to produce the consequences discussed here to a greater extent. . ." (p. 329). One must read the Report carefully to ascertain this subtle observation. What the Report seems to be acknowledging is that many of the R-rated movies pop-

ular with teenagers have a more significant relationship to aggression against women than do X-rated material. Inasmuch as the Report focuses on pornography, this distinction seems to be lost in the overall analysis. In fact, the Commission fails to cite the research documenting the minimal amount of violence in X-rated movies and video tapes as compared to other categories, including G and PG ratings.

The Report states that the most dangerous form of pornography is that which includes specifically violent themes. The Report then smoothly adds: "Increasingly, the most prevalent forms of pornography . . . fit this description It is with respect to material of this variety that the scientific findings and ultimate conclusions of the 1970 Commission are least reliable for today, precisely because material of this variety was largely absent from that Commission's inquiries" (p.323).

Members of the Commission apparently shared the popular assumption that images of violence have become more common in pornography in recent years. As Donnerstein and Linz point out, "There has never been a systematic content analysis of X-rated books, films and magazines that would be needed to support such a conclusion."¹⁶ Studies conducted in this area indicate that adult magazines and X-rated films contain less violence than general release-type material. Although the Commission possessed this information, the Commission chose to relegate it to footnotes because of its failure to support the desired conclusions.¹⁷ As Donnerstein and Linz emphasize,

these studies strongly suggest that violence against women need not occur in a pornographic or sexually explicit context to have a negative effect upon viewer attitudes and behavior. But even more importantly, it must be concluded that violent images, rather than sexual ones, are most responsible for people's attitudes about women and rape.¹⁸

The manner in which the Commission finally agreed to consider pornography indicates the impact of feminists and fundamentalists on the members' views. The arguments raised by these two groups are reflected in the classes of pornography defined by the Report; specifically, the degradation aspect of pornography and the

¹⁶ Donnerstein & Linz, *supra* note 13, at 56.

¹⁷ See, Scott & Cuvelier, *Violence in Playboy Magazine: A Longitudinal Analysis*, 16 ARCHIVES OF SEXUAL BEHAV. 279-88 (1987); Scott & Cuvelier, *Sexual Violence in Playboy Magazine: A Longitudinal Content Analysis*, 22 J. SEX RESEARCH ____ (1987); J. Scott, *Violence and Erotic Material: The Relationships Between Adult Entertainment and Rape?* (lecture presented at the American Association for the Advancement of Science Annual Meeting, May 26-31, 1985, Los Angeles).

¹⁸ Donnerstein & Linz, *supra* note 13, at 59.

lowering of moral and/or family values. The Commission evaluates the impact of material on various levels as to class and tiers. A cursory review of the four classes of pornography considered by the Commission is helpful in understanding the Commission's final deliberations. Those classifications, the various tiers of the effects of each classification, and the final determination regarding each classification's harmfulness by Commissioner's vote are:

- CLASS I** Sexual activity, actual or simulated, with violence, regardless of what else is present (i.e., slasher films, rape scenes).
- Tier 1. Social Science Evidence finding: negative effects demonstrated by testing (10-0)
 - Tier 2. Totality of Evidence finding: harms in most sub-tiers:
 - a. acceptance of rape myth (10-0)
 - b. degradation of status of women (10-0)
 - c. modeling of copycat effect (10-0)
 - d. institution of family (5-5)
 - e. societal harm (10-0)
 - Tier 3. Moral Ethical and Cultural Evidence finding: sexually violent materials are immoral and unethical and the willing production, distribution and consumption of them are an offense against humanity. (10-0)
- CLASS II** Sexual activity, actual or simulated, degradation, humiliation or domination, but no violence, regardless of genital display (i.e., scatology, fisting).
- Tier 1. Social Science Evidence finding: harm in all sub-tiers
 - a. acceptance of rape myth (10-0)
 - b. violence against women (10-0)
 - c. feminine degradation (10-0)
 - d. masculine degradation (7-3)
 - e. family (10-0)
 - f. modeling or copycat effect (10-0)
 - g. societal harm (10-0)
- CLASS III** Sexual activity, actual or simulated, without domination, humiliation or violence, regardless of genitals (i.e., Hollywood films, prime time TV, men's magazines like Penthouse and Playboy).
- Tier 1. Social Science Evidence finding: predominantly no negative effects (10-0)
 - Tier 2. Totality of Evidence finding: no harm in sub-tiers
 - a. does not foster rape myth (10-0)
 - b. no feminine degradation (6-3-1)
 - c. positive and negative effects on family (5-4-1)

CLASS IV Pure nudity, without sexual activity, violence or degradation (i.e., works of art, Calvin Klein ads, men's magazines).

Tier 1. Social Science Evidence finding: no harm (10-0)

Tier 2. Totality of Evidence finding: no harm (10-0)

Overall, the Commission seems to have considered pornography to be a stimulus to undesirable behavior. The Commission also appears to have given little consideration to its potential "safety-valve" effects. One of the major problems, however, was the Commission's either biased or selective analysis of much of the evidence available or its inability to adequately assess that information.¹⁹ Given the lack of scholarship, the shoddy editing, and the apparent biased consideration of evidence, the government might have considered the same treatment for this report as they did for Dr. Judith Reisman's \$734,000 research of *Playboy*, *Penthouse*, and *Hustler*, namely, not publish it.²⁰ On the other hand, for those extremely interested in the topic of pornography and sex research, the report does contain a good bibliography of material.

The ACLU Public Policy Report: *Polluting the Censorship Debate*, written by Barry W. Lynn, is a well-written critique of the Commission's Report. It parallels the Commission's Report in its summary and critique and is, therefore, easy to use in relation to the Report. The Commission's report is quoted directly in single-spaced boldface type, with the ACLU's comments following in regular double-spaced type.

The ACLU Report cites a few of the anecdotal comments by Commissioners, such as one Commissioner's inquiry after yet another reference to "victims": "Who are we discussing now, the people who get paper cuts from turning porn magazine pages?" (p. 2). It also identifies one of the true tragedies of this Commission's work: "Rather than clarifying the issues for Americans, this body has largely polluted the debate over sexually explicit materials and censorship" (p. 2).

The ACLU Report reviews the "lopsided search for victims" and the differential treatment witnesses received according to the

¹⁹ For one of the finest analyses of the Commissions' marred use of public opinion, see Smith, *The Polls—A Review: The Use of Public Opinion Data by the Attorney General's Commission on Pornography*, 51 PUB. OPINION Q. 249-67 (1987).

²⁰ For one of the few insights concerning how Dr. Reisman spent her \$734,000 examining *Playboy*, *Penthouse*, and *Hustler* magazines, see *About My Study of "Dirty Pictures,"* THE WASHINGTON POST NATIONAL WEEKLY EDITION, July 1, 1985.

testimony they offered. It criticizes the Commission for seeking to explain the growth of pornography by such external forces as court decisions and the 1970 Presidential Report, while failing to acknowledge an inherent interest in sex as a possible explanation.

Certainly, one of the strengths of the ACLU Report is its criticism of the Commission's Report dealing with the constraints of the first amendment. It argues that pornography may serve a purpose or effect by promoting political or ideological viewpoints, allowing for individual "self-fulfillment," the legitimate exploration of fantasy, and as a "safety valve" in society. It strongly criticizes Professor Schauer's characterization of pornography as solely a "sexual surrogate" by emphasizing that it communicates more than sexual stimulation.

The ACLU Report identifies the Commission's "phantom danger" of censorship as blatantly inexcusable and extremely naive. The ACLU Report also cites a 1986 U.S. National Commission on Libraries and Information Science report that documents the enormous increase in such activities (p. 23).²¹

The ACLU Report cites numerous examples of testimony and research that the Commission omitted from its Report. One such example is apparently the only piece of original research done by the Commission staff. The staff examined the imagery of the April, 1986 issues of the top-selling "male sophisticate" magazines and found that "only 0.6% of the imagery was of force, violence, or weapons" (pp. 41-42).

The ACLU Report raises serious doubt as to the Commissioners' ability to understand and differentiate between research techniques. Cited are examples of the Commissioners' views that "correlative data is said to be of varying degrees of 'scientific' validity" (p. 65). Numerous examples are given of conclusions the Commission reached without any supporting data, such as the assertion that youths between the ages of twelve and seventeen have the "most frequent exposure to pornography," or the researchers' own interpretation of their findings omitted from the text and relegated to a footnote (pp. 68-79). The ACLU Report notes that two of the social scientists on whom the Commission relied most to show the harm of pornography have repudiated the

²¹ 35 INTELL. FREEDOM ____ (1986). This issue of *Intellectual Freedom* focuses primarily on the censorship issues today. Included are a long list of books, records, movies, plays, and even speakers targeted by various censorship groups. A short history of the efforts by such groups is given in each locality, and the efforts they have employed in censoring the "target" material are examined. This is a valuable examination of the various censorship activities occurring throughout our country.

Commission's interpretation of their research. Ed Donnerstein found it "bizarre" to use his research to buttress the claim that sexually violent material causes criminal behavior (p. 84).²² Murray Straus even wrote to each Commissioner, stating that "I do not believe that this research demonstrates that pornography causes rape." (p. 79).

The ACLU Report is most critical of the Commission's recommendations for the role of private action. It acknowledges the Commission's concern for "socially harmful" protests of establishments, such as those resulting from the selling of *Ulysses*, but criticizes the Commission for endorsing protests of establishments selling *Penthouse* or *Playboy* magazines. The ACLU Report maintains that the Commission, in making this differentiation, was apparently endorsing the accessibility of such material to the elite or scholars, but categorizing this type of material as harmful for the average person's view. Many techniques are identified in the Commission's Report as suggestions inasmuch as several Commissioners objected to them being included as recommendations. The danger of such "vice vigilantes" is documented thoroughly by the ACLU. The ACLU Report then reviews the recommendations and the ACLU's concern with them. The implications are well-documented and provide a serious critique of recommended policy.

The three books, while addressing the same topic, are entirely different in content, style, and usefulness. For someone wanting to learn about the Attorney General's Commission and its findings, the simplest way to get an overview of it and understand its implications would be to read Nobile and Nadler's book. Those desiring to simply understand the specific findings and implications of the Report are more likely to gain such knowledge from the ACLU Report than from the 1,960 pages in the Commission's report. For those desiring to read the language and descriptions of pornography available in America today, this can best be found in the Attorney General's Commission on Pornography Final Report.

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²² New York Times, May 17, 1986, at A-1, col. 1.

PRISONERS' RIGHTS IN AMERICA. By *Barbara B. Knight and Stephen T. Early, Jr.* Chicago: Nelson-Hall Publisher, 1986. Pp. vii, 402. \$35.95.

Knight and Early have done a great service for all interested in the rights of prisoners in America. *Prisoners' Rights in America* makes comprehensible the complex and often conflicting findings of prisoners' rights litigation in this country during the past few decades. The student, the professor, the inmate, and the correctional officer will come away from a reading of this book with an insightful understanding of the reality of prisoners' rights in America.

Beginning in the first chapter and continuing to the end of the book, Knight and Early summarize the numerous court findings promulgating the rights of prisoners, couching their findings in the reality of political, administrative, and economic constraints. This format allows the reader to gain an insightful understanding of the rights guaranteed to prisoners, and the actual administrative adherence to these rights, the latter of which is tempered by the need to maintain order and security while punishing and rehabilitating convicted offenders and detaining accused, but not yet convicted, offenders.

The prisoner's right of access to the courts, the right on which all other rights of the prisoner depend, is elucidated. The importance of jailhouse lawyers, access to legal materials, and the right to communicate with counsel are highlighted.

An enlightening exploration of the remedies which allow the inmate to initiate court action in order to define and protect their rights precedes the discussion of the specific rights of prisoners. The use by prisoner-plaintiffs of habeas corpus, the Civil Rights Act of 1871, tort claims, the constitutional guarantee of equal protection under the law, and the constitutional protection against cruel and unusual punishment as grounds for suit are clarified. The difficulties confronted by prisoners in their attempts to gain guarantees of humane treatment via these remedies are also eloquently discussed by Knight and Early.

Knight and Early then explore the specific areas of day-to-day prison experience. Administrative regulations and control, prison discipline, grievance procedures, physical conditions of confinement, classification procedures, transfer procedures, inmate labor, forced rehabilitation, lack of medical and psychiatric care, and parole decision procedures are areas of day-to-day prison life the constitutionality of which have been challenged in court and which are objectively explored in this book. The most recent trends in court

findings relating to these areas of prison life are also realistically presented. Religious freedom, freedom of speech and association, and visitation rights are discussed, and the authors properly note the court-defined deference to administrative concern for the maintenance of control and order.

The special problems of the female inmate are also described. Her lack of equitable treatment in terms of programming opportunities, medical and psychiatric care, as well as court attempts to rectify these problems, based on the Equal Protection Clause and the guarantee against cruel and unusual punishment, are limitedly explored. The special problems of detained offenders, who are not yet convicted, are also presented.

Knight and Early's lucid book covers a great deal of material. The major advances in prisoners' rights are presented through summaries of the most important and recent court cases, with a listing of other relevant cases in the footnotes. This format offers a readable, comprehensive, and up-to-date understanding of prisoners' rights in America. The discussion of the gaps between court findings and administrative adherence to these findings indicates the reality of the situation for prisoners.

Although a greater elaboration of the chapter dealing with the female inmate would be preferable, there appears to be no area of inmate rights overlooked. This book offers a lucid account of the current guarantees of prisoners' rights and an insightful understanding of the reality of administrative adherence to these rights. In addition, the excellent bibliography enhances the significance of the book as an essential reference for anyone interested in prisoners' rights. Indeed, *Prisoners' Rights in America* is a significant contribution to the field of correctional study.

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EXPLAINING DELINQUENCY AND DRUG USE. By *Delbert S. Elliott, David Huizinga & Suzanne S. Ageton*. Beverly Hills: Sage Publications, 1985. \$22.00.

Perhaps the most important issue today in criminological theory is the controversy over integrated theory. Proponents of inte-

grated theory claim that by logically combining variables from divergent theories, they can increase the overall explanatory power of existing theories; thus, the whole is greater than the sum of its parts. Opponents of this theory, on the other hand, argue that theoretical integration is not possible because the basic assumptions between theories are irreconcilable¹ and, when combined, the original intent of each theory may be compromised; therefore, "separate and unequal is better."² Elliott, Huizinga, and Ageton's book represents one of the major contributions to theoretical integration to date. To avoid the current criticism of "anti-integrationists," Elliott et al. might be better off simply giving their theory a name, such as "differential bonding theory," and labeling it as a new bonding theory with different assumptions or as an elaborate social learning theory, rather than as an integrated theory.

In *Explaining Delinquency and Drug Use*, Elliott et al. present an "exploratory model that expands and synthesizes traditional strain, social control and social learning perspectives into a single paradigm" that accounts for the maintenance of delinquent behavior and drug use among adolescents (p. 11). The proposed theory states that strain, social disorganization, and inadequate socialization are the primary causes of weak bonding to conventional groups and norms. Adolescents with weak bonds or high strain become bonded to delinquent peers. Bonding to delinquent peers leads directly to delinquency. Pure control and pure strain paths are also included in the model. According to the authors, the key aspect of the theory is the joint occurrence of weak bonding to conventional social order in conjunction with strong bonding to delinquent peers. The model makes sense, and several chapters are devoted to a review of the theoretical and empirical literature which, for the most part, support the theory's propositions.

Although the theoretical model is well presented, it loses some of its elegance when it is transformed into the measurement model. In 1979, Elliott and his colleagues presented a more elaborate version of the current model³ which was better than the one presented in *Explaining Delinquency and Drug Use*. The earlier model more fully specified the attenuation/bonding processes and assumed multiple

¹ For example, control theory assumes a natural motivation to deviate, while strain theory assumes that motivation is variable. Thus, when integrating these two theories, a basic premise of control theory is sacrificed. I am reminded of an ASC presentation in which control theory was applied to cigarette smoking among adolescents. A member of the audience asked: "Are we to assume that it is human nature to smoke cigarettes?"

² Hirschi, *Separate and Unequal is Better*, 16 J. RES. CRIM. & DELINQ., 34 (1979).

³ Elliott, Ageton & Canter, *An Integrated Theoretical Perspective on Delinquent Behavior*, 16 J. RES. CRIM. & DELINQ., 3 (1979).

etiological pathways leading to delinquency. The new model, while specifying inadequate socialization and social disorganization as potential causes of weak bonding to conventional norms, omits both of these variables from the measurement model and includes strain as the only exogenous variable. Strain is retained, even though the vast majority of research reviewed indicates that it has very little explanatory power in terms of delinquency. The measurement model also includes Time 1 (T1) delinquency as a predictor of T2 delinquency. It is known that the best predictor of any given behavior is that same behavior in the past and, therefore, including this variable alone would result in a relatively large R-square. The design should control for T1 behavior, not use it as a predictor in the model. The authors also test the model without T1 delinquency, obtain lower R-squares, but only present the value for one of thirty of the R-squares.

In *Explaining Delinquency and Drug Use*, Elliott, et al. conduct path analyses utilizing the first two waves (1977 and 1978) of the National Youth Survey data and replicated using the second and third waves (1978 and 1979). These data were originally collected in 1977 from a national probability sample of 1,725 males and females (73% of those eligible) ages eleven to seventeen who have subsequently been followed up on a yearly basis for a three-year retention rate of 94%. Greater detail on subject selection and sample characteristics as well as previous data analyses are reported in several excellent technical reports. Analyses are performed separately for males, females, and the total sample, but not for different age, race or SES groups for five different dependent variables: general delinquency, minor delinquency, index offenses, marijuana use, and other drug use.

The operationalization of the predictor variables is disappointing. The data set contains many good variables to choose from, yet the authors chose (by some vaguely defined empirical procedure) to include only eight of the twenty-five in the path analyses. Unfortunately, the ones they chose are not the most appropriate indicators of the concepts they are tapping. The strain variables resemble control variables (i.e., aspirations and achievements in home and at school); two of the control variables are poorly defined and can be conceived of as strain variables (i.e., family and school normlessness); the other two control variables are poor constructs (i.e., time spent with family and inschool pursuits regardless of quality or content of the time spent); and one of the deviant peer bonding variables is clearly a control variable (i.e., attitudes about deviance). The other deviant bonding measure, involvement with delinquent

peers, is standard. The authors point out, however, that similar results were obtained when all possible predictors were included in the analyses, so the choice of this specific set of predictors did not affect the outcome.

The temporal ordering of the variables causes reservation. Certain predictors are measured at T1 and others at T2, but the dependent variable is measured at T2. In order to take advantage of the longitudinal design, it might have been better to measure the dependent variable at T3. The authors claim that more than a two-year lag between predictors and the behavior of interest is too long. But, if we cannot predict a behavior at least two years before it becomes a sustained behavior pattern, how can we understand and prevent it?

In general, the author's model is supported. Previous delinquency and friend delinquency contribute virtually all of the explained variances and account for relatively high R-squares, especially for marijuana use (.51 - .62) and general delinquency (.43 - .58). Strain and control variables have only a small, indirect effect on delinquency or drug use. In the path analyses, the interaction of conventional bonding and delinquent peers increases the R-square by only a fraction (approximately 2%), which is approximately the same amount the strain and control paths increases the R-square. Thus, the path analyses do not justify the integrated model over a pure social learning model. After several additional analyses, the authors finally arrive at a statistically significant result indicating that bonding to delinquent peers in conjunction with weak conventional bonds increases the risk for delinquency. But, still the strongest finding is that those with delinquent friends, as compared to those without delinquent friends, are more likely to be delinquent themselves. This result is nothing new and does not inform us about the origin of the group of delinquent peers. Because selection and socialization are reciprocal processes, the adolescent friend-delinquency relationship is a "chicken and egg" question that may never be resolved. In future research, it might be best to treat one or the other of these variables as the dependent variable excluding the other one from the model. Perhaps, then more will be learned about the process of becoming delinquent.

In the final chapter, the authors present a revised model that they intend to test in the future. The revised model delegates strain to the position of an untested exogenous variable with no direct effect on delinquency. Social disorganization is moved to a testable status, although there is no explanation for why it was not tested originally but will be tested in the future. Prematurely discarding

strain should be cautioned against because reconceptualized strain might be an important factor leading to deviant behavior. Merton proposed strain theory to account for deviance on the part of adults who could not attain their aspirations (life goals). Among adolescents, strain may reside on a personal level, such as not being able to get a date for the prom or not displaying competence in school or in social relations. Instead of abandoning strain, it should be reconsidered in terms of life stresses. Thus, we should pay greater attention to motivations and examine delinquency and drug use from a coping perspective, that is, as mechanisms for dealing with stress.⁴

In a recent article, Elliott distinguished between proposing a theory and validating a theory.⁵ The authors of this book have succeeded at developing a sound theory, and all scholars can benefit from their description of the model and their literature review. Unfortunately, they are less successful in validating it. Hopefully, their future tests of the revised model will answer more questions and fill in the blanks on the left as well as the right side of the model.

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PUNISHMENT AND WELFARE. By *David Garland*. Hants, England: Gower Publishing, 1985. Pp. 297. \$41.95.

Punishment and Welfare is a very ambitious book, which attempts no less than a critical and historical analysis of criminology in Great Britain from 1865 to 1914. The author, David Garland, argues that modern day penalty represents a new structure, one formed out of the social, political, and economic crises of the Victorian era and one which has been remarkably enduring and successful in its own terms up to the present day. For Garland, the emergence of the particular set of penal practices, philosophies, and programs which exist in Britain today is a phenomenon which must be explained. He rejects the idea that the natural progression of scientific discovery, as traditional scholars would have it, is an adequate explanation. He also rejects the Marxist-based argument that labor market

⁴ Labouvie, *The Coping Function of Adolescent Alcohol and Drug Use*, in *DEVELOPMENT AS ACTION IN CONTEXT* 229 (R.K. Silbereisen, K. Eyferth & G. Rudinger eds. 1986).

⁵ Elliott, *The Assumption that Theories Can Be Combined With Increased Explanatory Power: Theoretical Integrations*, in *THEORETICAL METHODS IN CRIMINOLOGY* (R. Meier ed. 1985).

forces or ruling class needs required the particular forms which developed. Instead, he documents that changes in attitudes and practices occurred as part of a larger social process marked by struggle, resistance, and compromise. Such a process is too complex to be summarized by simplistic formulas. *Punishment and Welfare* is a book in the tradition of Michel Foucault,¹ Stanley Cohen,² and Stuart Hall,³ but it attempts to go beyond these authors by specifying exactly how a new structure of penalty, a term encompassing social and intellectual structures as well as penal and social institutions, rose out of the perceived inadequacies of the old regime.

Garland begins his study by looking at the late Victorian penal system (1865-95) and comparing it with the one which emerged between 1896 and 1914, a period he identifies as seminal. The first period, Garland argues, is characterized by the principles of classicism, whose aims of deterrence and punishment were grounded in the belief that all citizens were free, equal, and rational beings who chose to obey or disobey the law. These principles failed because they were incapable of responding to the social crises arising in the 1890's. The dangerous classes were perceived to be growing, and prisons were unable to either control or deter offenders. Moreover, it was believed that a growing segment of the "respectable" working classes or their children were in danger of slipping into the dangerous classes. In response to these crises, a number of responses and solutions were offered from a variety of sources. To understand why certain ones were accepted and others rejected, Garland believes one must examine the social, ideological, and political forces, ideas, and institutions which were sparring for dominance at that time. He concentrates on four major programs which he sees as the bases of the transformation which occurred: eugenics, social security, social work, and criminology. Each is treated as a new form of knowledge, and the principles, strategies, institutions, and programs each sponsored, as well as the successes and failures each met in having their agendas adopted, are analyzed.

The criminological program receives the bulk of the attention, as Garland sets out major themes of the forty governmental reports issued between 1894 and 1914. He traces criminology's roots and success back to the nineteenth century faith in scientific method/positivism, the need of psychiatry to have a politically central territory to call its own to establish its own legitimacy and domi-

¹ M. FOUCAULT, *DISCIPLINE AND PUNISH* (1979).

² S. COHEN, *VISIONS OF SOCIAL CONTROL* (1985).

³ S. HALL ET AL., *POLICING THE CRISIS* (1978).

nance, the existence of ready-made experimental laboratories (prisons) offering the raw material upon which one could try out new theories, and the close ideological fit between the concepts of individualization and differentiation, exemplified by criminology, with the tenets of bourgeois ideology. Garland also shows how the early criminologists slanted their theories to fit dominant ideological concepts in well-meaning attempts to make their proposals both politically acceptable and practically useful.

The methodology is empirical but not positivist. The analysis of many of the social work, social security, and eugenics programs is based on an in-depth reading of mainly secondary sources. The author calls this analysis "discourse analysis" but it does not appear to be essentially different from the critical interpretation scholars have traditionally employed. The criminological program is reconstructed primarily through an analysis of the forty aforementioned government reports relating to penal and social regulation issued within the twenty-year period ending in 1914. The reports are summarized in the appendices of *Punishment and Welfare*, along with the major penal and social measures passed in this period. Garland uses these sources to contextually ground concepts, such as ideology or crisis, which have too often been only tenuously related to the evidence from which they were derived, leaving authors easy prey to charges that their theoretical bias determined the interpretation. Given the amount and the detail of the evidence presented here, such a charge is difficult to level at Garland.

One would not present this book to a student taking an entry-level course in criminology. Both the style and the subject matter of *Punishment and Welfare* require considerable adjustment for those versed in the criminological and sociological styles dominant here. One has to learn how to read this kind of text, just as one has to learn to read an account of a laboratory experiment. Moreover, the background of most North Americans in British social history is often nonexistent, which makes some of the events and personalities alluded to obscure. The level of detail presented detracts from the arguments in places, because the author fails to clarify just how each piece is related to the whole. In addition, there is always the problem in this kind of work that some of the evidence presented could support a different conclusion, one which is more pluralist and less Marxist in tone.

The strengths of *Punishment and Welfare*, however, are substantial. First, although it comes out of the Marxist/revisionist/structuralist tradition, Garland's book is light years away from the early simplistic conspiracy theories or instrumental

Marxism which disillusioned all but the already converted. Garland leaves the complex complicated; he does not force his material to support the argument. The dominance of certain classes, the compromises they had to make (or did not have to make), the interaction of professionals and their interests in transforming policy, and the roles of the media (especially the *London Times*), prison administrators, philanthropists, voluntary groups, and politicians all are considered. Although one might disagree with the conclusions reached, one has to engage the evidence to do so, and the evidence is, overall, highly convincing. How well the conclusions translate to explain Canadian or American structures of penalty, however, is not addressed by the author. In view of Garland's belief in the need to investigate national conditions to explain national structures, such an inquiry would seem to require equally exhaustive studies of the conditions which gave rise to the criminological enterprise in Canada and United States. Beyond this, however, *Punishment and Welfare* serves as an essential corrective to the superficial research which has so often been presented as "proof" of the origins of the penal experiment.

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BLOOD REVENGE: THE ENACTMENT AND MANAGEMENT OF CONFLICT IN MONTENEGRO AND OTHER TRIBAL SOCIETIES. By *Christopher Boehm*. Philadelphia: University of Pennsylvania Press, 1987. Pp. vii, 263. \$14.95.

KILLINGS: FOLK JUSTICE IN THE UPPER SOUTH. By *William Lynwood Montell*. Lexington: The University Press of Kentucky, 1986. Pp. ix, 184. \$19.00.

Blood Revenge: The Enactment and Management of Conflict in Montenegro and Other Tribal Societies and *Killings: Folk Justice in the Upper South* represent ethnohistoric accounts of two distinct forms of interpersonal homicide as they were practiced in two remote and totally unrelated preindustrial social units: the Upper Moraca tribe in eighteenth- and nineteenth-century Montenegro, which today is part of Yugoslavia, and the inhabitants of a small, clearly-defined area surrounding a portion of the Kentucky-Tennessee state line between 1865 and 1979. The study of Montenegro is a far more ambitious undertaking, partly due to the fact that the book is intended as an ethnography to be used in introductory courses in anthropology. Thus, the book is more broadly inclusive of the social context surrounding the killings under observation in Montenegro.

The form of homicide associated with tribal Montenegro is an institutionalized and well-elaborated practice of vengeance-killing, complete with rules for scorekeeping and pacification. In *Blood Revenge*, Boehm describes this blood-feud system as an expression of the tribesmen's noblest concepts of morality and honor, regulated by a strict set of social controls. He laid the foundation for his research with fieldwork conducted in Montenegro in the mid-1960s. At that time, the blood-feud had been officially suppressed for more than a century, but the concept remained intact and was sometimes acted upon. Based on in-depth interviews, Boehm describes the modern indigenous perspective on blood revenge and then uses this information to interpret historical accounts of feuding. He then outlines the stages of development and/or pacification of a feud and the associated decision-making process. Additionally, he analyzes the functions and dysfunctions of revenge-killing in the context of Montenegro's cultural setting.

The blood-feud in tribal Montenegro is portrayed as a system of revenge motivated by honor. To the tribal Montenegrin warrior, honor was all-important and was maintained by the public degradation of warriors of other clans. A critical personal skill was the ability to demonstrate courage through minor insults, while taking care

not to offend to the extent of seriously impugning the other's honor. If the other's honor were impugned, retaliation in the form of killing the original aggressor or a male member of his family, clan, or tribe would occur. This carefully monitored exchange of one-on-one lethal violence between the males of two clearly defined social units could continue indefinitely, with each incident surpassing the former in degree of offensiveness, so as to leave the most recent aggressor with the highest score and, therefore, the most honor. In general, however, these honor-based conflicts were pacified early, so as to avoid their associated impracticalities and stresses.

Boehm emphasizes decision-making as a rational component of the feuding process and considers his inclusion of this element into the analysis of feuding to be a major contribution of his work. Other functional analysts before him have recognized the general value of feuding to tribal warrior societies; it serves as a means of social cohesion; a latent social sanction discouraging seriously offensive and destructive behavior; a form of population control; an activity to maintain warring skills; and an inhibitor to external predators, in this case, the Ottoman Turkish Empire. But none of these theorists have recognized individual and community-level decision-making as an important part of the feuding process. It is Boehm's contention that a successfully implemented feuding system can thrive only in a socially and politically sophisticated society. Credit is due to the competent and creative individuals and communities who are able to make and implement the strategic decisions necessary to orchestrate feuding as a mechanism to reduce the chances of their extinction. From this evolutionary perspective, feuding is seen as an adaptation to problems of survival and, in that sense, an expression of mankind's basic nature.

Montell's analysis in *Killings*, which focuses primarily on the fifty documented killings that occurred among the virtually stable population of 1,225 inhabitants of "State Line country" between the mid-1880s and 1940 (reflecting inordinately high annual homicide rates by national standards), is simple by comparison. He utilizes information from sixty current residents and all accessible historical documents to describe the nature and explain the cultural-level sources of these fatalities, which resulted from unrestrained acts of passion and greed. Always stressed is the author's observation that these incidents of violence, although illegal, appear to reflect conformity to the local structure of morality. The subject matter of this book is divided into four distinct time frames covered in Chapters 1 through 5. The nine non-Civil War killings that occurred between 1865 and

1890 are described against the background of Civil War-related guerrilla activities and the federal tax placed on distilled whiskey after 1873. The number of killings increased to thirteen during the second era, which includes the years between 1890 and 1915, but the author offers no explanation for this increase. The second era is described as a time of economic self-sufficiency and overall cultural stability. The period roughly covering the years between the two world wars, 1915-1940, showed another increase in killings to thirty-three, blamed by the author on the introduction of sawmilling into the community and the accompanying loss of economic self-sufficiency and the separation of men from their families. Finally, the post-World War II era is characterized by migration to midwestern agricultural and industrial centers, perhaps accounting for the sudden decline in moonshining and homicidal activities. In addition to the unique contributors to homicide associated with the first and third periods, the general availability and use of alcohol and firearms, plus the geographical isolation of State Line country were critical. The isolation from centers of law enforcement (county seats) encouraged an independent system of order based on local definitions of morality.

A comparison of these two ethnohistoric works on interpersonal homicide indicates clearly that they represent totally different styles of presentation designed to accomodate totally different audiences. Boehm's study of Montenegrin feuding is truly an example of analytical scholarship. His unambiguously stated goal is to "simply explain how the Montenegrins' blood feuds work" (p. 11), and he does just that by skillfully leading the reader through a complex analysis, which is both functionalist and social-psychological in nature and which is made relatively painless by an effective organization and an engaging writing style. *Blood Revenge* is tightly-structured conceptually and leaves no loose ends or unexplained factors. The reader is left with a sense of closure and a satisfaction that he has been exposed to a thorough coverage of the designated topic. The only criticism of Boehm's book is that it may contain extraneous material. Chapter 11, entitled "Feuding in the Nonliterate World," and Chapter 12, entitled "An Ethnological Perspective on Feuding," seem weakly integrated into the rest of the text and may be too general to be useful. It is without doubt that Boehm has met his objective in providing a nontechnical ethnography for introductory courses along with a treatise to benefit professional anthropologists interested in the feud. His work also serves well as a cross-cultural reference for sociologists and criminologists who study interpersonal violence and its threat as a form of social control.

Montell's study of State Line country in *Killings* consists essentially of a long series of descriptive cases of unrelated interpersonal killings, accompanied by historical-cultural explanations and the recognition that such acts of violence were tolerated in varying degrees by the local community. This particular research would be of interest to a very specialized audience consisting of social scientists or laymen concerned with Southern culture in general or Southern violence. Although the cases provide interesting reading and the writing style is superb, the analysis is loosely-structured and perhaps poses more questions than it answers. The full purpose of the research remains unclear. The stated hypothesis suggests that the study is designed to determine whether interpersonal killing was an acceptable way of handling conflicts (p. xv), but a review of the work indicates that the author places greater emphasis on describing the nature and explaining the cultural origins of such violence than on attempting to learn the degree of its social acceptance. Certainly, the integrity of the study would have been enhanced if the hypothesis had been excluded and an inclusive and concise statement of purpose had been provided.

Montell's concluding reference to his hypothesis is bewildering. He states:

I have hypothesized that the State Line country may have produced a culture in which a code developed that permitted violence as an acceptable means of settling interpersonal disputes resulting from the defense of honor, person, or property. Both the features of the killings themselves and the historical-cultural complex within which they occurred indicate that such was indeed the case (pp. 162-63).

Actually, the hypothesis does not mention honor, person, or property. This reviewer is aware of no data describing the killings or the historical-cultural complex that warrant such a conclusion, and Montell fails to elaborate on and justify the statement.

The most debilitating flaw of Montell's work is the lack of effort to explain patterns associated with the killings. Each incident is treated as a more or less random occurrence resulting from a combination of the following cultural conditions: cultural components conducive to human frustration such as guerilla warfare activities, the taxation of whiskey, and the introduction of a logging/sawmilling economy; freely available liquor; freely available firearms; lax law enforcement; and a moral code that permitted violence as an acceptable means of settling interpersonal disputes. Upon reading this book, the social scientist must ask: Under what conditions do these killings take place? What are the precipitating factors? We believe that all human behavior is patterned and that

our job is to unearth these patterns, thereby allowing prediction and, perhaps, ultimately control. The material in this volume begs the question: Under exactly what circumstances would the next killing predictably occur? Montell brushes by this critical question with statements such as: "many area residents resorted to killing to ease their anger and frustration" (p. 94) and "[w]ith these two lethal factors at work [alcohol and firearms], a shooting resulted from virtually any confrontation among these fellows" (p. 150). But, it cannot be true that all confrontations between men in this cultural environment culminated in homicide. In fact, with an average of less than one killing per year, we are safe in assuming that nearly all such confrontations did *not* end in death. If not all situations resulted in a killing, what factors differentiated those that did from those that did not? Exactly what factors called for a homicidal response? It is the treatment of this very question that differentiates the analytical quality of Boehm's work from that of Montell.

Montell states an hypothesis, asks questions about the causes of violence in his area of study and the rural South as well, and offers some provisional answers. This, however, appears to be similar to a dabbling in social science—a deferential or a polite recognition that much of his public would want explanations. His strength is in his establishment of rapport and his empathy with his subjects. *Blood Revenge* remains in the mainstream of American folktales, not social science.

If the reader does not gain a good understanding of the violence that Montell describes so clearly, it is at least possible to understand why family feuds were rare and so circumscribed when they did occur. The area he studied is no different from the remainder of the nation with respect to its having a bilateral kinship system and predominantly nuclear families. Boehm's society, on the other hand, was patrilineal and characterized by organized lineages. Effective kinship ties are unambiguous in such societies, and the lineages persist through many generations. They can sustain feuds.

Both authors describe societies in which centralized authority did not exist (Montenegro) or was totally ineffective (State Line country). The later imposition of government rule in both societies was followed by a radical reduction in homicides. Both books are

interesting and readable, and one, the Montenegrin study, stands as a model of social scientific analytical scholarship.

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STOP DWI: SUCCESSFUL COMMUNITY RESPONSES TO DRUNK DRIVING.
Edited by *Denis Foley*. Lexington: Lexington Books, 1986. Pp.
xi, 181.

In the past seven years, the problem of the drinking driver has come to the forefront of national attention. During this period, much has been done to understand the problem and the effects of treatment and enforcement. *Stop DWI: Successful Community Responses to Drunk Driving*, edited by Denis Foley, points out that one of the major difficulties in responding to drunk driving has been the lack of a unified effort on the part of the agencies involved with the drinking and driving problem. The effectiveness of the successful Stop DWI programs appears to be a result of the coordination and organization of the efforts of the agencies involved. Foley has produced a well-written and well-edited book concerning those areas of the DWI problem which are of major concern, not only to enforcement officials but to the public in general.

One Stop DWI program, which is detailed in Foley's own article entitled "A Case Study in DWI Countermeasures," has been especially successful, and Foley advocates its adoption by other jurisdictions. Although this would seem desirable, it is unclear to the reviewer how such a goal could be accomplished, given the political and financial constraints acknowledged by Foley.

Stop DWI is divided into three parts. The first part deals with the major responses toward alleviating the DWI problem. The second section presents a review of treatment, diagnosis, and rehabilitation problems. The final section provides information on innovative responses, such as public information campaigns, and their effects on segmented parts of the population.

The first article, by Reese I. Joye entitled "Drunk Driving: Recommendations For Safer Highways," is a critical review of the DWI enforcement portion of the criminal justice system, with special emphasis on the impairment issue as the probable cause necessary for

an arrest. Joye concludes his article with several recommendations. The major thrust of these recommendations are toward the education of youths, the training of police officers, and the standardization of testing and equipment. A number of these suggestions are practical and have already been implemented in many areas. The remainder seem somewhat impractical given the nature of DWI arrests. The recommendation for two tests separated by thirty minutes, for example, would drastically increase the time required to process each arrestee and would thereby decrease the number of officers available to enforce the DWI laws. Furthermore, the recommendation that police officers be given the authority to "reconsider" their arrests sidesteps the separation of enforcement and judicial processes and would leave the system even more vulnerable to abuse by those with influence. Finally, Joye's condemnation of all breathalyzers because of a fault found in one type of machine (a fault since corrected) is misleading.

In addition to editing the book, Foley also contributed two chapters. With Karen Leschuk in an article entitled "The Presidential Commission on Drunk Driving: An Analysis and Summary," he reviews the Presidential Commission on Drunk Driving, making the essential point that a very low percentage of people who drive drunk are actually arrested. He also presents a case study of the success of a locally funded anti-drunk driving program. The key statement in this article is that "within the legal environment key actors must be encouraged to work in unison." This should be the cornerstone of any attempt to implement a DWI enforcement program.

Robert T. Holden's article entitled "Rehabilitative Sanctions For Drunk Driving: An Experimental Evaluation," on the other hand, presents a case study in the failure of a DWI enforcement program. His data are drawn from a Tennessee DWI rehabilitative program which, he concludes, may simply have been too weak to have a significant effect.

The second section deals with various treatment problems used to reduce recidivism in drunk drivers. Unfortunately, all of the articles conclude that, although society has adequate diagnostic methods for identifying problem drinkers, it lacks the treatment programs necessary to reduce recidivism. A possible explanation for this result is that, although the programs may change attitudes, they do not change behavior. A second and related argument is that the treatment programs were not strong enough to have an effect on recidivism. In establishing the goals for these programs, the researchers failed to consider that the DWI incident must be viewed as part of a larger pattern of problem drinking in the individual which

has been in effect for years. A few days of treatment or education is unlikely to effect a permanent or even a long-lasting change in such problem drinkers. It would be wise for future researchers to not only read the studies presented here but to review such studies as the Cambridge-Somerville experiment,¹ as well as related material concerning the difficulty of changing an individual's social patterns.

The third section is more helpful, emphasizing the "Four P's": Prevention, publicity, perception, and prioritization. Special attention should be paid to the Morehouse, et al., article entitled "Reducing the Risk of Alcohol- and Drug-Related Driving Accident for Adolescents," which shows the results of a student counseling program that demonstrated both an increase in students' knowledge and a move toward healthier attitudes about using alcohol and/or drugs while driving. It should be noted, however, that the changes are of an attitudinal nature rather than a behavioral one. The other three articles, "Public Information for DWI Countermeasures," "Public Information and Public Tolerance of Drunk Driving," and "Management Information and Measurement in Treatment Countermeasures," present outlines of programs for public information and illustrate the application of developments in information systems tracking the effectiveness of programs.

The combination of legal questions, law enforcement, treatment responses, and research covered in this book makes it relevant reading for funding agencies, administrators of local DWI programs, as well as researchers. The work not only highlights the successes but also points out the difficulties and the failures of attempting to reduce the number of alcohol-related accidents. *Stop DWI* certainly provides hope that these efforts can lower the number of alcohol related accidents. The desired results, however, will not be achieved without some cost and disappointments. As pointed out by Joye in Chapter 1, the criminal justice system cannot disregard due process in its efforts to deal with the drinking driver. Moreover, improvements in the evaluation of the drinking driver by law enforcement officers are needed in the reporting and the standardization of testing and field sobriety procedures.

As pointed out in Chapter 3, a program of the nature described by Foley might have trouble obtaining the necessary funding due to political interference or a lack of community commitment. The major battle, though, is not simply one of enforcement and treatment,

¹ E. POWERS & H. WITMER, *AN EXPERIMENT IN THE PREVENTION OF DELINQUENCY: THE CAMBRIDGE-SOMERVILLE YOUTH STUDY*, New York: Columbia University Press (1972).

but one of education. The public must be made aware of the problem of the drinking driver, and the drinking driver must be discredited in the public's eyes. Even more importantly, the public must become aware of the actual effects of alcohol on the human body. Morehouse, et al. note the need for public awareness when writing about alcohol education for the very young.

The importance of *Stop DWI* is in its advocacy of education rather than just enforcement as a response to drunk driving, especially in light of recent literature concerning the American public's ignorance in the realm of drinking and driving.² Threats of harsher laws and stiffer enforcement alone will simply not produce the desired long term effects on behavior drinking driver behavior.³ This is not to say that we should ease up on enforcement, but rather that we should follow Foley's advice and extend our efforts from a strictly criminal justice endeavor to a community-wide effort. *Stop DWI* is indispensable reading for persons associated with the DWI issue, whether they be in enforcement, rehabilitation, or planning.

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THE POLITICS OF VICTIMIZATION: VICTIMS, VICTIMOLOGY, AND HUMAN RIGHTS. By *Robert Elias*. New York: Oxford University Press, 1986. Pp. xiii, 395. \$39.95 (cloth), \$13.45 (paper).

The greatest achievement of *The Politics of Victimization* comes near the end of the book in the author's definition of victimization as oppression, a lack of human rights, and a criminal attack. This definition is international. Victimization includes more than victims of crime, for Elias implies that almost everyone is a victim. Elias sees a movement toward the politicization of the victims of oppression and of crime, not only in America, where the crime and punishment rate is greatest, but internationally as well. He proposes that political forces must join victims of crime and oppression to formulate a plan for human rights that eliminates the root causes of victimization, namely, inequality, alienation, competition, bureaucracy,

² Snortum, Hauge, & Berger, *Deterring Alcohol-Impaired Driving: A Comparative Analysis of Compliance in Norway and The United States*, 3 JUSTICE QUARTERLY 2 (1986).

³ Ross, *The Scandinavian Myth: The Effectiveness of Drinking-and-Driving Legislation in Sweden and Norway*, 4 J. LEGAL STUD. 285 (1975).

and violence. Movements for the elimination of victimization have thus far enjoyed only token success, mainly because victims tend to blame themselves or institutions instead of looking at the root causes of victimization in the structural conditions of society. Some victims, in fact, do not realize that they are victims. Because society has not yet discovered the causes of crime, says Elias, it is thought that little can be done to eliminate crime.

Elias claims that victims lost their power in the middle ages with the emergence of the state, which dispossessed victims of most of their power. There were some exceptions, such as colonial America, where victims possessed significant power. In the last twenty-five years, however, the victims' movement has resurged, due to the conservative political movement of the 1960s and the victims' advocate movement. Even with this resurgence, claims Elias, victims' credibility is often questioned. In rape cases, victims' credibility depends, in part, on class, race, demeanor, and employment. Upper-middle class whites who are employed and have no criminal record are more credible than others. Furthermore, victim priorities are in conflict with those of the criminal justice agents, as victims have virtually no power in the charging or in the plea-bargaining processes and are rarely told of the outcomes of their cases which do not result in a trial. However, victims may have limited power in sentencing. In addition, criminal justice agents tend to treat all cases alike, with case management being more important than the individual dispensation of justice.

Most important, says Elias, advocates of victims' rights, such as agents of the criminal justice system, potentially could use the victims' movement to preserve the status quo and to impose social control in order to preserve their own power. In other words, the victims' movement is a political device to preserve the structure and function of the criminal justice system. For example, victims are often persuaded to accept plea-bargaining offers. Prosecutors claim that they lose certain cases because of the noncooperation of victims, but Elias claims that prosecutors would lose these cases regardless of whether they received help from the victims. Police arrests depend on victims' cooperation to a great extent, but Elias claims that police priorities often determine the quantity and quality of the arrests.

In *The Politics of Victimization*, Elias discusses his findings of discrimination in our criminal justice system. Although street crime is given the most attention and resources in the criminal justice system, crime pervades all social classes. Elias believes that white-collar crime is neglected both legally and sociologically, with the result

being favorable sentences for upper class white-collar criminals. Organizational crime, such as employee theft, environmental crime, and medical crimes, are all neglected.

Elias believes that victimology is a science. He believes that movements recognizing victims of oppression and new human rights are not a science, because the methodology employed in victimization should be applicable to the movement toward the elimination of oppression and the movement toward the infiltration of human rights to embrace a scientific orientation to a world problem.

Two main criticisms of Elias' analysis emerge. First, although Elias speaks of the loss of the victims' role in criminal justice, he does not specifically state the desired resurgent role of victims. Should victims possess the same power they did in ancient times? Should victims act as prosecutors? Should they determine punishment? What role should criminal justice agents play? What are the societal advantages of the current criminal justice system functions compared to the historic system in which the victims had all the power? One disadvantage of the old system appears to be that victims could falsely accuse people of crimes and then take the law into their own hands, with dire consequences for a supposed offender. This criticism applies not only to Elias' analysis, but to all proponents of crime victims' rights. Elias claims that greater participation by victims can eventually bring the criminal justice system to a halt. Does this assertion imply change?

Second, although Elias repeatedly states that victimization is a science, especially in the offender-victim category, he never specifies why victimization is a science. For example, he fails to specify the theoretical aspects of victimology, such as theorems, propositions, and inferences, which are all logically interrelated. Because victimology and sociology are part of criminal justice and because criminology is part of sociology, if victimology is a science, so too is criminal justice. All kinds of problems arise from Elias' statement that "victimology is a science."

In the first part of *The Politics of Victimization*, Elias states what has been stated before, namely, that victims are treated as second-class citizens; the reasons why victims cooperate (*e.g.*, economic motives); the reasons why they do not cooperate (*e.g.*, limited success with criminal justice); that the criminal justice system is class-based (*e.g.*, white-collar crime is neglected); that criminal justice agents try to perpetuate their power and the status quo; and that structural changes are needed in society to eliminate the crime problem. However, as mentioned, Elias' greatest contribution is that he sees a movement toward international human rights which includes crime

victims and victims of oppression. Elias does not necessarily advocate the elimination of the capitalist system, although he finds defects in the system. In addition, he does not inform the reader how the structure of society should change if at all. Marxists, however, can use Elias' thesis to support their own views. The movement that Elias proposes is only in its infancy, and much work remains in order to shape and structure it. This task is indeed a gigantic one.

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