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RECENT BOOKS

CRIMINAL LAW AND CRIMINOLOGY: A SURVEY OF RECENT BOOKS

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SYNTHETIC DRUGS—DRUG PROHIBITION—SOCIAL FEAR

PHILIP JENKINS, SYNTHETIC PANICS: THE SYMBOLIC POLITICS OF DESIGNER DRUGS (New York and London, New York University Press, 1999) 247 pp.

In the view of social constructionists, the degree of social fear of a social problem is dependent less on the intrinsic quality and quantified extent of the problem, than on the larger cultural and political context. Of special concern is "moral panic" (an "incident of widespread social fear that appears seemingly out of nowhere and that grows in the space of a few months or years, then fades to nothing" (p. 4)). The author argues that the widespread fear precipitated by reports of the social dangers of various newly appearing synthetic drugs can fairly be categorized as such "moral panic." The level of social fear, which was significantly disproportionate to the actual extent of the use of synthetic drugs, can better be explained by viewing these fears in the context of social values and perceptions. (The author does not argue that synthetic drugs are harmless, but rather that the social fear aroused is often not correlative to the actual harm. Regardless of the actual dangers posed by synthetic drugs, the value of studying the social construction of the associated "moral panic" lies in what is discovered about the society.) Working within this framework, the author, after tracing the general history of drug prohibition in America, analyzes public reaction to the series of synthetic drugs that appeared in the last twenty years. Public reaction is placed in the context of cultural attitudes about class, race, gender, and intergenerational conflict, and the role of the media and law enforcement in the development of public fears is discussed.

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VIOLENCE —RACISM—LAW ENFORCEMENT

BENJAMIN BOWLING, VIOLENT RACISM: VICTIMIZATION, POLICING AND SOCIAL CONTEXT (Oxford: Clarendon Press, 1998) 377 pp.

"Violent racism," the author argues, must be understood as an attitude of racial exclusion, and particular racial attacks should be understood as expressions of the more general attitude, rather than as discreet and isolated incidents. This conclusion was drawn from the author's case study of violent racism and police response in an east London locality between 1988 and 1991 (the "North Plaistow Project"). The purpose of the study was to evaluate the effectiveness of law enforcement policies developed in England in the 1980s to respond to racial attacks. While arrest and conviction statistics would indicate that police response to violent racial attacks was significantly improving, surveys of racial minorities indicated a feeling that police protection of minorities was not improving. This seeming paradox, the author argues, rises from the practice of law enforcement and other agencies of treating racial attacks as isolated events, and the consequent failure to relate specific incidents to more general attitudes. The author provides specific suggestions for improvement in law enforcement's response to violent racism, including changes in the way racial attacks are categorized in criminal statistics, development of proactive and preventative practices by the police, and focus on the quality (rather than the mere quantity) of the criminal justice system's response to racial attacks.

FREEDOM OF SPEECH—FREEDOM OF ASSOCIATION—FUNDAMENTAL LIBERTY—STATE INTERESTS—BALANCING TESTS

HAIG BOSMAJIAN, THE FREEDOM NOT TO SPEAK (New York & London: New York University Press, 1999) 241 pp.

American jurisprudence has generally recognized that the freedom of speech also includes the freedom not to speak, i.e., freedom from compulsion to reveal one's thoughts or beliefs. Freedom of association, similarly is thought to include the freedom from compulsion to reveal one's associations. However, existing legal protections from these compulsions are inadequate, the author argues, because freedom not to speak is not regarded as a fundamental liberty. Constitutional protections of freedom of speech and association are subject to balancing tests, and some compelling state interests can override freedom of speech and association. As part of the freedom to speak, the freedom not to speak is subject to the same balancing test. If the freedom not to speak were considered a fundamental liberty, however, it could be breached only when the governmental interest reached the level of a legitimate exercise of the police powers. After discussing various incidents in American history where individuals were compelled to confess to what was regarded as heresy, to reveal their beliefs or associations, or to participate

in ritualistic affirmation of allegiance (with particular attention to the mid-twentieth century hearings of the House Unamerican Activities Committee and the McCarthy investigations, and the *Barnette* Pledge of Allegiance case) the author concludes that even though current public opinion generally condemns these incidents and regards them as belonging to a surpassed era, our legal protections against these compulsions are no greater than existed before the 1944 *Barnette* decision. Moreover, recent Supreme Court decisions upholding the freedom not to speak as part as the freedom to speak have not overruled the decisions affirming the contempt convictions of those who refused to testify before HUAC and the McCarthy committee. The Court continues to subject the right not to speak to the compelling state interest balancing test, rather than regarding it as a fundamental liberty.

ORGANIZED CRIME—RICO

JAMES B. JACOBS WITH COLEEN FRIEL & ROBERT RADICK, GOTHAM UNBOUND: HOW NEW YORK CITY WAS LIBERATED FROM THE GRIP OF ORGANIZED CRIME (New York and London, New York University Press, 1999) 329 pp.

The crime organization generally known as Costa Nostra is distinguished from almost every other organized crime group in that much of its activity was directed at infiltration into legitimate business. Beginning in the 1930s, with the end of prohibition, several Italian-American criminal groups (which became known as "families") moved into labor and industrial racketeering. By the 1950s, they were entrenched in 24 major American cities, and had achieved hegemony over much of the underworld's activities. The first part of this book explains how the five "families" in New York infiltrated and exercised power over numerous sectors of the city's economy, including construction, the garment district, the Fulton fish market, and the waste-hauling industry. The authors attribute the racketeers' success to several factors. The groups relied on a reputation for violence, and so had to commit relatively few overt criminal acts. The families exhibited general business acumen, thereby achieving a rapport with legitimate business people. They did not try to take over the businesses, but sought only a portion of the profits. They controlled other underworld activities so that the general business environment was not disrupted. Corruption of public officials was also an important factor. The authors suggest that these methods deserve further criminological study. The second part of the book explains how a federal program of organized crime control, developed in the 1970s, and the use of the civil RICO statute ended the racketeering influence over the organizations discussed in the first part. Conviction of single individuals, which did little to affect the organization, had been the primary law enforcement technique against organized crime. Civil RICO allowed several effective innovations, the most important of which was the appointment of trustees to enforce court orders against racketeer infiltrated organizations. The authors single out Rudolph Giuliani's role, as

U.S. Attorney and later as mayor, in defeating the New York crime families, and cautiously conclude that racketeer influence seems to have waned.

VIOLENCE—BATTERED WOMEN—COURTROOMS

JAMES PTACEK, BATTERED WOMEN IN THE COURTROOM: THE POWER OF JUDICIAL RESPONSES (Boston, Northeastern University Press, 1999) 240 pp.

This is a study of how the courts are responding to battered women seeking legal protection. The issues guiding the study include the types of violence women are reporting to the courts, how judges respond in court to women seeking protection, how judges exercise their restraining order authority, and how effective courts are at protecting from women violence. In pursuing these questions, the author emphasizes the distinction between an "incident-based" definition of battering (which focuses on discrete episodes of violence that violate criminal laws) and a "control-based" definition (which characterizes battering as a web of coercive tactics, including but not limited to actual physical assault). The latter conception of battering implicates social institutions, in that the perceived or actual indifference of medical, legal, and other institutions to the battering, contributes to the coercive control exercised by the battering man. The frequent failure of those from whom battered women seek help, to fully understand the obstacles to escape from battering, contributes to the entrapment of women. While the responses of police and medical personnel to battered women have been studied, this study looks at the courtroom interaction of judges, battered women, and their batterers. This interaction can become part of the overall dynamic of battering and coercion. The judge's demeanor in courtroom encounters has important consequences, the author states, both for the women seeking protection and the men identified as violent. This study looks at what judges think is the proper demeanor in these cases, and how a judge's demeanor (as well as the overall courtroom setting) affects the woman's fear that she will not be believed or that her experiences will be trivialized. The author also examined the testimony of battered women for what can be learned about the methods and purposes of their batterers. The effectiveness of restraining orders is limited, but interviews indicate that women think they are better off for having obtained them. The author also discusses concerns that battering creates a sense of lawlessness in society and that the batterer's frequent disregard of a restraining order undermines judicial authority. Nevertheless, there are significant possibilities for improving the judicial response to battered women.

CRIMINOLOGY—NUCLEAR WEAPONS—STATE ACTION

DAVID KAUZLARICH & RONALD C. KRAMER, CRIMES OF THE AMERICAN NUCLEAR STATE AT HOME AND ABROAD (Boston, Northeastern University Press, 1998) 195 pp.

The authors present three case studies of American state action regarding nuclear weaponry, and argue that these can properly be understood as state crimes which are best explained using the principles and substantive content of criminology. While no behavior or action can be examined as a criminological question if that action has not been defined as a crime, and criminology can therefore study state action only if that action is a criminal violation within some pre-existing legal framework, the criminological definition of "crime" should not be limited to codes promulgated by individual nation-states. The authors, therefore, first set out the legal framework for their analysis, discussing various international standards, including customary international law, clauses of the U.N. Charter and the Nuremberg Charter, treaties, and other agreements. In the first case studies, the authors examine the events surrounding and leading up to the Eisenhower Administration's threat to use nuclear weapons to bring a negotiated settlement to the Korean War, and a similar threat by the Nixon Administration during the Vietnam War. The authors conclude that these threats constituted nuclear extortion, violated international law that existed before the invention of nuclear weapons, and therefore were state crimes. In the next case study, the authors conclude that federal laws were violated by the environmental contamination resulting from nuclear weapons production. In the final case study, the authors look at various radiation experiments performed on human subjects by the U.S. government, and conclude that these violated the Nuremberg Code, which is thought to be binding on all nations. The authors present an integrated framework for the study of organizational crime, and use this framework to present a criminological explanation for the state actions described in the case studies.