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Approximately fifteen years ago, a major debate raged in academic sociology between theorists identified as consensus oriented and those defined as conflict oriented. A central theme of this great debate was whether social order was best described as emerging from a commonly held set of values and beliefs (the consensus position) or is, instead, due to power and coercion (the conflict position). Although much was written by both sides, the debate never attained satisfactory closure and the issue slowly faded from sociological attention. Now there appears in journals only scattered essays related to the consensus-conflict debate. In his book, Thomas Bernard has not only resurrected the consensus-conflict debate, he has made it more general by examining the writings of classical moral and legal philosophers as well as sociologists.

Bernard examines seven pairs of social thinkers. One of each pair is classified as a consensus-thinker, the other as a conflict thinker. The basis on which the various theorists are classified as either consensus or conflict appears at first to be quite clear. Bernard states that, "[i]n the present study, theorists are classified in the consensus-conflict dichotomy on the basis of their descriptions of contemporary societies. . ." (p.17). One might first assume from this that Bernard's categorization scheme is premised on the theorist's devised solution to the Hobbesian problem of social order, i.e., what keeps society intact, consensus or coercion. Had Bernard done this, while one could have faulted him for a lack of creativity, he would have cast the consensus-conflict debate in a familiar mold since most previous discussions have used the Hobbesian problem of social order as the starting point. Bernard, however, notes that a theorist will not necessarily be categorized as a conflict theorist if he describes contemporary societies as rife with conflict and coercion, nor will the reverse necessarily be true. He states: "[t]he present examination does not assume that those who describe contemporary
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societies using consensus terminology are necessarily asserting that there is more 'agreement' in those societies than those who describe contemporary societies using conflict terminology, or vice versa" (p. 15).

Bernard's point throughout his text is that consensus and conflict theorists differ very little in terms of the amount of conflict described in contemporary societies. If this is so, the reader is now wondering, what information about theorists' descriptions of contemporary society is Bernard employing to classify them as a consensus or conflict theorist? Bernard answers that "what is crucial for the examination of the consensus-conflict debate is the terminology used as the basis for the descriptions of those societies" (p. 16) (emphasis in original). Consensus theorists are such, then, because they employ consensus terminology while conflict theorists use conflict terminology. This, however, only begs the real question, which the reader by now is begging to have answered: "What are the features of this 'terminology' which allows a distinction as consensus or conflict?" Bernard states that one way to distinguish between consensus and conflict terminology is the "evaluation implicit in the theorist's description of contemporary societies; that a positive evaluation is inferred when a society is described in consensual terms, while a negative evaluation is inferred when one is described in conflictual terms" (p. 23). This, however, does not provide an answer to the question of how one knows when a theorist is using "consensual terms" or "conflictual terms." The answer Bernard finally supplies is that consensus theorists describe the use of force by ruling groups in suppressing conflict in their societies as "legitimate" while conflict theorists evaluate such actions as "illegitimate" (p. 25).

Bernard classifies a consensus theorist, then, as one who implies that the suppression of conflict by ruling groups in contemporary societies is legitimate and a conflict thinker as one who perceives such use of force as illegitimate. Bernard refines his typology by noting that both consensus and conflict theorists can differ in terms of their underlying assumptions about the nature of human beings. Some theorists assume human actors to be social, moral beings while others view them as inherently evil and asocial. Bernard uses this difference to create a fourfold classification scheme of theorists: (1) conservative consensus theorists, who view contemporary societies as characterized by "full and free agreements" among mutually cooperative actors; these theorists include Aristotle, Aquinas, Locke and Comte; (2) sociological consensus theorists who describe contemporary society in consensual terms but view human
actors as aggressive and naturally uncooperative, such as Hobbes, Durkheim, and Parsons; (3) radical conflict theorists who describe contemporary societies in conflictual terms but human actors as naturally cooperative and social; these theorists include Plato, St. Augustine, Rousseau and Marx; and (4) sociological conflict theorists who view contemporary society in conflictual terms and human actors as inherently self-serving and asocial, such as Machiavelli, Simmel and Dahrendorf. With this classification scheme, the major part of Bernard's text is a comparative analysis of the following pairs of theorists: Plato-Aristotle, Augustine-Aquinas, Machiavelli-Hobbes, Rousseau-Locke, Marx-Comte, Simmel-Durkheim, and Dahrendorf-Parsons, with the first theorist in each pair classified by Bernard as a conflict theorist and the second a consensus theorist.

The validity of Bernard's analysis depends ultimately on the degree to which his classification scheme enlightens, and on the insights he contributes to the "consensus-conflict debate." Unfortunately, he falls far short of this. Bernard has in the first instance completely misshaped the form of the consensus-conflict debate. Historically, the essence of the debate between consensus oriented theorists and conflict theorists centered on their differing solutions to the Hobbesian problem of social order.1 Desmond Ellis' framing of the Hobbesian problem of social order is representative of this.2 The Hobbesian question is "How can one establish a society in which force and fraud are not routinely used in satisfying wants?" Ellis presents three solutions: (1) the normative solution, identified with Talcott Parsons, premises that social order is based upon shared values and norms; (2) the coercive solution, identified with Hobbes and Dahrendorf, rests on the belief that force and fraud will be employed unless there is a legitimated sanctioning system (Leviathan) forbidding such use; and (3) an exchange solution, identified with Spencer, wherein fraud and force are abandoned because of the existence of non-moral, contractual norms which maintain "mutually profitable transactions."3 Ellis has cast the difference between consensus (normative) and conflict (coercive) theorists in terms of their respective solutions to the problem of maintaining social stability and organization. Theorists in the consensus tradi-

3 Id. at 694.
tion (Parsons, and one might add Comte and Durkheim) insist that shared values are the basis of social order while those in the conflict tradition (Hobbes, and one might add Marx and Dahrendorf) insist that coercion is the basis of social organization.

While we cannot fault Bernard for departing from historical tradition in the classification of his theorists as consensus or conflict oriented, we can ascertain whether his typology really “hammers square pegs into round holes” by forcing particular theorists into categories which (though perhaps consistent with his scheme) make little theoretical sense. For instance, according to Bernard’s categorization, both Hobbes and Parsons are classified (together with Durkheim) as sociological consensus theorists. That Parson’s sociology is compatible with a “shared values and norms” solution to the problem of social order is beyond doubt, but the inclusion of Hobbes as a consensus theorist, similar to Parsons and Durkheim but different from Marx and Dahrendorf is, at the very least, dubious. One must surely ask why Hobbes is categorized as a consensus thinker.

Bernard states that even though Hobbes called for the suppression of conflict by forceable means if necessary, such a society is consensual because “all the members of the society would ‘consent’ to it, if only to avoid losing their own lives” (p. 72). Bernard further notes that “Hobbes described Leviathan’s society as consensual because there was a consensus among rational people, but he described the need to use force and other means to suppress conflict with irrational groups” (p. 72). Bernard’s reason for classifying Hobbes as a consensus theorist surely strains scholastic license to the breaking point. Bernard’s typification of Hobbes as a consensus thinker is akin to describing South African society as based upon a consensual value system because the Afrikaners share a common belief system in apartheid. Although Bernard is probably correct in noting that Hobbes would find little moral fault with an oppressive central state, it is questionable if this provides a valid basis for referring to him as a consensus theorist. Bernard fails to see that there are powerful differences between Hobbes’ social theory of the state and the one’s of Durkheim and Parsons, although they are hammered into the same niche.

There are additional misfits in Bernard’s classification scheme. For instance, Simmel is characterized, like Marx, as a conflict theorist. While it is true that Simmel saw conflict as an inevitable element in both micro-level social interactions and in large scale social systems, he certainly did not, unlike Marx, believe that the existence of conflict was socially divisive. Conflict for Simmel had integrative
effects at both the interpersonal and social system level. The fact that Simmel perceived social conflict to be pervasive and therefore "legitimate" in no way suggests that his view of the origins of social solidarity or theory of the state are similar to other conflict theorists in Bernard's scheme, such as Marx or Machiavelli.

Another illustration of the lack of fit in Bernard's classification scheme is his depiction of Plato as a conflict theorist. Bernard's categorization is ultimately based on his belief that Plato attributed legitimacy to the coercive efforts of elite ruling groups in their suppression of the majority of Greek citizens:

In the last analysis, then, the difference between the theories of Plato and Aristotle with respect to their descriptions of contemporary societies is that they evaluated the "legitimacy" of the actions of the ruling groups of those societies or about the actual behaviors of the ruling groups. They disagreed on whether those behaviors were rational, virtuous, and in the common interest. Aristotle argued that they were, and therefore maintained that there was a consensus on those actions among rational and virtuous men and a need to suppress any conflict with that consensus by force or other means. Plato argued that they were not, so he described conflict between the ruling group and other groups in the society (p. 43).

Although it is true that Plato would not have looked with disfavor upon the use of force to maintain order, it is more characteristic of exceptional forms of the state rather than the "normal" condition of social order. Indeed, upon close inspection, Plato's political theory seems to fit more into the consensus camp with Comte and Parsons. For Plato, the problem of social disorder or disunity is clearly due to a lack of consensus. Gouldner has remarked:

Certainly it is unmistakable that in Plato's diagnosis of social disunity he takes one of its central characteristics to be dissensus, in the sense of a diversity of views among the city's population. Much of the trouble, that is, is seen as deriving from the fact that people have different rather than like views.4

Plato believed, then, that disorder was likely whenever men's values differ. But Plato never entertained the notion that all men's values are equally important in creating social order. In the Republic, Plato notes that the coherence of the state is determined most by a consensus within the ruling group not the society as a whole. Again, Gouldner makes this point clear: "As Plato remarks, even a small ruling elite can maintain a stable polity if it is united. Changes result from dissensus among those holding office... It is on the ruling element, both in the city and the soul—, that so much of the out-

4 A. Gouldner, Enter Plato 208 (1965).
come depends."

The major threat to social stability to Plato, then, is a lack of value consensus within the ruling elite rather than value dissimilarity within the general commonwealth. Herein lies another reason why the Guardians in the Republic would be free from the need to make a living; economic activity would not only encourage intemperance, as Bernard notes, but such role differentiation would also tend to produce a divergence of values. In addition to limitations on role diversification (by restricting the division of labor), Plato suggested other means, none having to do with the use of force, to encourage value consensus both within Greek society generally and the ruling elite in particular—ceremonies honoring those who subvert their own interests to those of the state, and most importantly through education and socialization (see particularly the Laws). Plato's depiction of value consensus as the basis of social order and the destabilizing effects of an increase in the division of labor is more similar to the ideas of Comte than it is to Machiavelli and Marx, yet Bernard places the thoughts of Plato into the latter category.

There are other difficulties with Bernard's text. Even if he were successful in creating a classification of theorists as consensus or conflict which provoked little disagreement, it is not certain that such a work would enlighten more than it obscures. One clear problem with placing theorists and their works into competing schools of thought is that it both exaggerates the differences across schools and minimizes the differences within schools. For example, although Parsons did not emphasize the role of system-generated conflict in revolutionary social change, he certainly was aware of conflict and change generated by tensions within social systems. In addition, although it may be true that Durkheim and Comte can be placed within a similar paradigm, such a placement obscures the very real differences between the two. As only one illustration, for Comte the division of labor in modern society brings a diversity of ideas and values and thereby undermines social solidarity. Comte's sociology, therefore, stressed the need for a strong moral consensus in creating and maintaining social order. (In this regard, Comte's position is very similar to Plato's.) Much of Durkheim's work (particularly in his early writings), however, was a polemic against this Comtean position. Durkheim maintained that an increasing division

5 Id. at 216.
6 See, e.g., A. Gouldner, supra note 1; T. Parsons, The Social System (1951); G. Rocher, Talcott Parsons and American Sociology 67-70 (1975); I. Zeitlin, supra note 1; Parsons, A Paradigm for the Analysis of Social Systems and Change, in System Change and Conflict (N.J. DeMerath & R.H. Peterson eds. 1967).
of labor normally produced social solidarity and that modern societies need less consensus in moral beliefs. Other examples could be given but the general point is that much critical insight is lost about the similarity and differences in theoretical positions when they are presented as either "consensus" or "conflict." Indeed, the demise of the great consensus-conflict debate in sociological theory came about because of such recognition.

A second and related problem in classifying a theorist as either consensus or conflict oriented is that it obscures within-theorist variation. Durkheim, for instance, presents subtly different emphases on the issue of social order from *The Division of Labor in Society*, to *Professional Ethics and Civic Morals*, and *Moral Education.*7 In reacting to Comte, Durkheim, in *The Division of Labor in Society*, minimized the importance of moral consensus in creating social order, but placed greater reliance on value similarity in *Moral Education*. In *Professional Ethics and Civic Morals*, however, Durkheim comes close to a conflict position in his discussion of the existence of coercion and exploitation in contracts made possible by power differentials in the contracting parties.8 In the course of their writings other theorists have adopted somewhat different positions regarding the nature of social order, and a rigid characterization obscures such important changes.

In sum, Bernard's prodigious but Procrustean efforts are for naught. The classification scheme of major social theorists appears arbitrary; it at times shows a ruthless disregard for the content of theory, and obscures and confuses as much as it enlightens. It would be better for one interested in the political/moral philosophical position of some of Bernard's chosen theorists to examine Huntington Cairn's, *Legal Philosophy From Plato to Hegel.*9 Those interested in a discussion of alternative solutions to the Hobbesian problem of social order should consult Desmond Ellis' essay "The Hobbesian Problem of Order: A Critical Appraisal of the Normative Solu-

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I feel a certain ambivalence about responding to Paternoster's review. On the one hand, I hope that my book is written well enough to speak for itself. On the other hand, I have "paternal" feelings about the book, having nurtured it from a mere question in the back of my mind. Most people rely on reviews for information about current literature, and without a response these people would be left with an erroneous impression. Thus, I will respond to the points that Paternoster raises by locating his general comments within the framework of the book's arguments and then by addressing his specific criticisms.

Paternoster, like many other people, has an opinion about the consensus-conflict debate. Relying on Ellis, he describes it as an argument about whether the sources of social order are primarily normative, coercive, or exchange relationships. I briefly review a number of such opinions in the first chapter of my book. Some of those opinions are similar to Paternoster's but others are quite different. In order to determine which (if any) of those opinions is correct, I examined in detail a set of social theories commonly said to be entangled in consensus-conflict debate.

People familiar with those theories know that the consensus-conflict debate is not an argument about the extent of agreement or coercion in particular societies. Parsons' theory, for example, is not a theory of "consensual" societies—rather, it is a general theory of society that uses "consensus" as its principal term. Parsons' theory can explain social order in the entire range of societies, from the U.S.S.R. to the U.S. and from South Africa to Switzerland. It can even explain social order in such non-consensual societies as Idi

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10 Ellis, supra note 2.
Amin's Uganda and the Khmer Rouge Republic. In contrast, the principal term in Dahrendorf's theory is "conflict," but Dahrendorf's is also a general theory that can explain social order in the entire range of societies. Comparable situations exist for each of the seven pairs of theories I analyzed, beginning with Plato's and Aristotle's. The question on which I focused, then, is how the different theories can explain the same empirical realities while using opposite terms.

I argue that each social theorist is free to choose either the term "consensus" or the term "conflict" as the principal term describing contemporary societies, i.e., real societies that actually exist at the time the theorist is writing, as opposed to past, future, hypothetical or ideal societies. These theorists make innumerable contrasting empirical assertions, but I demonstrate in each of the seven comparisons that the choice between the term "consensus" and the term "conflict" is not associated with any empirical assertion at all. I therefore conclude in each of the seven comparisons that the difference between the two theories on this issue cannot be resolved through empirical investigations.

Each theorist is also free to assert that human beings are either naturally consensual or naturally conflictual. All social theories contain such assertions, although some of the more recent theories are not explicit about them. Unlike the description of contemporary societies, this is an empirical assertion. Empirical research, however, has not been conclusive, so that it is possible to marshal evidence in defense of both positions. In that sense, theorists are free to choose between the two assertions.

These two choices mean that social theorists can adopt one of four possible positions. While theorists are unconstrained in choosing among these four positions, their choices have far-reaching implications that constrain their overall theory, particularly with respect to the description of the nature and causes of conflict and the legitimacy of various responses to it. The consensus-conflict debate is ultimately rooted in these two choices.

The "Hobbesian problem," as stated by Ellis and restated by Paternoster, is associated with one of those four positions. It assumes that (1) human beings have a natural and inherent tendency to enter into conflicts with each other, and (2) contemporary societies in one way or another generate something resembling consensus out of this inherent conflict. This is the dominant framework in contemporary sociology, so that I refer to it as the sociological consensus position. These two assumptions determine at the broadest level the general characteristics of sociology theories. For example, those
theories focus on alternate methods of controlling the conflictual human nature. Paternoster discusses these alternatives as the normative, coercive and exchange solutions.

In contrast, radical conflict theories assume that (1) there is a sense in which human beings are naturally able to live in harmony with each other, and (2) contemporary societies in one way or another generate conflict out of this inherent consensus. The same empirical realities can be explained with radical assumptions as with sociological consensus (i.e., "Hobbesian") assumptions, and there is at present no way to empirically test which assumptions are correct. There are profoundly different implications for the overall social theory. Instead of seeking alternative methods to control conflictual human nature, radical theories focus on methods of reorganizing contemporary societies to allow the natural human consensus to (re)emerge.

Theories based on different assumptions imply and support differing value judgments about contemporary (i.e., real) societies. Those value judgments are channelled through conceptions of the ideal society which, in turn, are based on and derived from the two assumptions. It is the value judgments that create the passion in the consensus-conflict debate. For example, radical assumptions imply and support negative value judgments about most contemporary societies, while sociological consensus assumptions imply and support positive value judgments about the same societies. It seems likely that these value judgments precede and determine the two choices each theorist makes, so that each theorist ends up with a theory that implies and supports his own personal values.

While radical and sociological consensus positions are the most commonly held, there are two additional positions. Conservative consensus theories describe both human nature and contemporary societies as consensual, while sociological conflict theories describe both human nature and contemporary societies as conflictual. For reasons related to logic and internal consistency, conservative consensus theories attribute conflict to individuals who are not fully "human." While this was an acceptable view in the past, it presently violates widely-held egalitarian values and the position is no longer popular. For reasons also related to logic and internal consistency, sociological conflict theories do not imply or support any value judgments about contemporary societies. This makes sociological conflict theories unattractive to people who seek support for their personal values through adherence to social theories. In my opinion, this also makes sociological conflict theories superior since they are value neutral in a specific area in which the other types of theo-
ries are value laden. I also argue that there are a variety of reasons related to the current state of empirical research and to internal logic why the sociological conflict assumptions are more appropriate to hold at the present time.

Paternoster either misconstrues these arguments or fails to discuss them at all. This seems to result from a confusion about the classification system. A theorist is classified on the basis of the principal term used in the theory to describe contemporary societies, as illustrated by the discussion of Parsons' and Dahrendorf's theories above. This choice of terms has far-reaching implications for the overall theory, particularly with respect to arguments about the nature and causes of conflict and the legitimacy of various responses to it. Paternoster confuses the classification system itself with the implications the choice of terms has for the overall theory.

Paternoster seems particularly distressed by the classification of Hobbes as a consensus theorist. But Hobbes' theory provides a good illustration of my argument that this choice of terms is not associated with any empirical assertions about contemporary societies. Hobbes described a great many conflicts in societies that existed at the time he wrote, but he attributed those conflicts to human nature. He argued that the societies themselves were characterized by a minimal, but absolutely necessary consensus, without which no society could exist at all. The arguments that Paternoster finds so ridiculous are Hobbes' arguments, not mine. Does he claim that I misrepresent Hobbes' theory? He does not say. Paternoster appears to disagree with Hobbes rather than with me, since Hobbes would describe South African society in consensual terms while I would not. Thus, I would describe Hobbes as a consensus theorist. I go on to argue that the claim of this very minimal consensus has the same effect on Hobbes' overall theory as the claim of a broader consensus has on later sociological theories. Does Paternoster disagree with my argument? He does not say.

Paternoster's review conveys the impression that I did not discuss the numerous similarities among theories in different classifications, and the numerous differences among the theories in the same classification. This is not the case. In fact, I discussed every instance that he mentions, including the differences among Hobbes', Durkheim's, and Parsons' theories, the differences between Simmel's and Marx's theories, the differences between Comte's and Durkheim's theories, and the similarities between Comte's and Plato's theories. Numerous other similarities and differences are also discussed. Interested readers may check the index, where all theorists are cross-classified for their convenience.
At times, Paternoster seems careless. For example, I do not classify Comte as a conservative consensus theorist or Augustine as a radical conflict theorist, as reported by Paternoster. These are complicated cases in the context of my argument, but apparently Paternoster did not bother to figure them out. Paternoster implies that Simmel and Marx are placed in the same classification. Obviously, they are not. Paternoster attributes to me the argument that Simmel viewed conflict in contemporary societies as "legitimate." In contrast, I argue that Simmel’s theory implies nothing about the legitimacy of conflict. Paternoster also attributes to me the argument that Plato viewed the suppression of conflict by dominant groups in contemporary societies as "legitimate." In contrast, I argue that Plato’s description of contemporary societies implies that the suppression of conflict by ruling groups is illegitimate, as is evident in the quote he presents from my book. The concept of legitimacy is central to my major argument, and Paternoster’s errors here betray the most fundamental failure to grasp it.

Paternoster also confuses Plato’s description of contemporary (i.e., real) societies with his description of the ideal society (The Republic), a distinction that is crucial to my argument. I discuss this type of confusion in the chapter on Plato, where I also discuss the argument by Gouldner and others that Plato’s theory is similar to functionalism. Plato’s description of the Republic is comparable to Marx’s description of "communism"—both are highly consensual societies, but I do not think it appropriate to describe Plato and Marx as consensus theorists simply because they described ideal societies in consensual terms.

Finally, Paternoster argues that my classification system obscures between-theorist and within-theorist variations. As stated above, every case of between-theorist variation that Paternoster mentions is actually discussed in the book, along with a great many additional cases. But there is a more fundamental point. In the introductory chapter, I describe the book as an inquiry into whether it is meaningful to classify theorists in the consensus-conflict dichotomy. If "consensus theory" and "conflict theory" have any usefulness as classifications for social theories, then there should be consistent similarities among theories of the same type and consistent differences among theories of different types, independent of the many other similarities and differences that appear among these very diverse theories. *The Consensus-Conflict Debate* is an in-depth review of specific aspects of selected social theories, the purpose of which is to ascertain whether such consistent similarities and differences exist or not. In fact, I did find such consistent similarities and
differences once I had split the two categories into four. I therefore conclude that these four categories are meaningful classifications of social theories.

I also discuss in the introductory chapter the problem of within-theorist variation that Paternoster raises. I believe I adequately defend my position in terms of the topic of the book: an analysis of the consensus-conflict debate. This is not an introductory text on social theories. I have been highly selective in my review of theories because I am doing an in-depth analysis of a very specific and limited topic. Thus, the analysis focuses on those aspects of the theories that are relevant to the topic, and necessarily ignores many other aspects of the theories.

After reading Paternoster's review, I felt like a round peg pounded into a square hole. I could find little similarity between what I had written and what Paternoster was discussing. It seems to me that the many errors and inadequacies in this review are related to a general problem that makes productive discussion of the consensus-conflict debate extremely difficult. I would like to briefly discuss this general problem, using Paternoster's review as an illustration.

The consensus-conflict debate involves the most fundamental assumptions about people and societies. In order to discuss the debate itself, it is necessary to "rise above" one's assumptions in order to discuss their relationship to different assumptions. Otherwise, one merely argues for the correctness of one's own position. This is the difference between being a participant in a debate and being an observer who analyzes what the debate is about.

Paternoster describes the consensus-conflict debate as an argument occurring within the context of the "Hobbesian" assumptions that he holds. Thus, he views my book from within the context of his own assumptions. The book, however, describes the debate as an argument between those who hold Hobbesian assumptions and others who hold different assumptions. In order to understand the book, Paternoster must "rise above" his own assumptions and view them in relation to other assumptions. He fails to do this, so the book makes little sense to him.

This does not require that Paternoster reject his own assumptions and agree with mine. I explicitly state my assumptions in the book and present the reasons why I believe they are the most appropriate ones to make at the present time. But the book is not a defense of those assumptions, or an attack on assumptions with which I disagree. Rather, it is an analysis of what the assumptions are, of
the relationships among them, and of the effects that they have on overall social theories. That is, I act as an observer of the consensus-conflict debate, not as a participant in it.

Because I anticipated the problems that Paternoster had, I made many efforts to clearly express my argument. I briefly summarized the argument in the opening paragraph of the book, presented a more extensive summary in the first chapter, presented a detailed outline in a separate chapter analyzing the findings, and again briefly summarized the argument in the opening paragraph of the conclusion. While I believe the argument is clearly expressed, I did not expect that most people would agree with it. I anticipated that most reviewers would be critical because it is a complex and innovative argument on a controversial topic, one that does not fit into the "familiar mold" of past considerations. I did hope that the reviewers would understand my arguments even if they did not agree with them. Those hopes were not fulfilled in the case of the present review.

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A RESPONSE TO BERNARD

Raymond Paternoster

In his response to my review of his book, The Consensus-Conflict Debate, Thomas Bernard is highly critical of several of my assertions. Not all of these can be dealt with within the confines of an already unusual "reply to a response to a review format." I am, however, thankful for the opportunity to comment on some of the more troubling of Bernard’s criticisms and to provide additional substance to my earlier remarks about his book. Bernard makes at least three points concerning my review: (1) that I misunderstood the essence of the consensus-conflict debate as he has conceptualized it, and that I am incorrect in claiming that he had misclassified at least two of the theorists he examined, Plato and Hobbes; (2) that I was careless in my reading of his book by attributing to him statements he claims never to have made in the book; and (3) that his argument is so esoteric that it cannot be either understood or appreciated by an "outsider" possessing a somewhat different understanding of
specific features of the consensus-conflict debate. I will briefly deal with each of these points in turn.

Bernard is incorrect when he states that I misunderstand his conceptual scheme for categorizing theorists as being either consensus or conflict oriented. In my review I noted that Bernard's classification scheme is based upon the terminology employed by particular theorists, that "Consensus theorists are such, then, because they employ consensus terminology while conflict theorists use conflict terminology." This is virtually identical to Bernard's own description in his text: "[C]onsensus theorists are theorists who use consensus terminology to describe at least some (but not necessarily all) societies that actually existed at the time they were writing, while conflict theorists are theorists who use conflict terminology to describe all societies that actually existed at the time they were writing." I also discussed at some length Bernard's splitting the consensus and conflict positions into a four-fold classification scheme based upon each theorist's position on the nature of human character (social/good vs. evil). As the reader will notice, I spent several paragraphs of my review describing Bernard's conceptual scheme, often quoting passages directly from his book for reference. I fail to see how Bernard could in all good faith claim that I "either misconstrue these arguments or fail to discuss them at all."

Having first outlined Bernard's classification scheme, I then attempted to suggest that his depiction of the consensus-conflict debate is quite different from the way it has traditionally been understood. I used a brief but insightful essay by Desmond Ellis to show how the debate has been framed in traditional sociological thought. My reliance on Ellis is, however, only illustrative and I say that "Desmond Ellis' (1971) framing of the Hobbesian problem is _representative_ of this tradition." The "Hobbesian problem" that Ellis discusses is not, as Bernard states, one of the four categories of his classification scheme. It is simply a question as to the basis of social order in a society, and asks if social stability is based on shared norms, power and coercion, or some other premise. Johnathan Turner has noted in this regard that Hobbes can be given credit for touching upon the most fundamental question facing sociological theorizing: How and why is society possible? To phrase this question, or 'the problem of order' as it has become known, ... it is only necessary to display a curiosity about how patterns of social organization are created, maintained and changed.¹

In the forward to Bernard’s own text, Turner confirms this position regarding the “Hobbesian problem”:

"In the pages of this book, Thomas J. Bernard addresses what is probably the most central metaphysical issue in contemporary sociology: the consensus-conflict debate. Is society a smoldering set of tension-filled relations that periodically erupt into conflict; or is it an integrated and coordinated whole typified by consensus on values and beliefs?"

The consensus-conflict debate has, then, traditionally been understood to entail a debate between two solutions to the problem of social order. As I clearly stated in my review, my complaint with Bernard is not so much that he does not follow this tradition, for I think he attempts to, but that his conceptualization of the issue and solution to the problem are not particularly insightful, and at times egregiously misleading.

I think that this latter observation is the most disturbing to Bernard. Where he and I most decidedly part company is in his categorization of particular theorists as either consensus or conflict theorists. In my review I specifically addressed my criticism to Bernard’s classification of Plato as a conflict theorist and Hobbes as a consensus theorist. The classification of these two theorists was the most problematic, but more importantly, they served to illustrate and highlight our more general differences.

According to Bernard, Plato’s work puts him into the conflict tradition “based on his descriptions of contemporary societies, i.e., societies that existed in Plato’s own time...” He claims that I distort his analysis because I base my classification on Plato’s description of the ideal state rather than on one which existed during his lifetime. Bernard’s own source, interestingly, in locating Plato in the conflict tradition is one of Plato’s most utopian works, The Republic. My own reasons for disputing Bernard’s classification of Plato as a conflict theorist were spelled out only briefly in my review. There I claimed that Plato fits more comfortably in the consensus category because the source of social order for him is a similarity of values and beliefs. How then do I reconcile my position with Bernard’s own and the extracted passages he supplies from The Republic?

I have both a very general and very specific reservation with the treatment given Plato in Bernard’s book. Generally, I found his attempt to fit Plato into the consensus-conflict debate somewhat forced and strained. Bernard claims that The Republic contains

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4 T. Bernard, supra note 1, at 32.
Plato’s description of Greek society at the time he was writing the Dialogs: “Plato has been identified with the conflict tradition. That identification is based on his description of contemporary societies, i.e., societies that existed in Plato’s own time—as found in The Republic and other works. . . .”5 As I mentioned earlier, however, The Republic is regarded as the most utopian of Plato’s works, its themes are those of universal concepts—justice, the requirements for attaining the good life, moral behavior—and has less to do with an analysis of specific features of Greek political life. Gouldner makes this clear in Chapter 7 of Enter Plato when he notes: “Plato’s basic strategy for diagnosing human problems, then, is concerned not with the historically contingent and limited, but with the historically invariant and universal sources of pathology. Plato is concerned with the way in which men and groups, anywhere and at any time, can come to grief.”6 How is it then that Bernard uses Plato’s discussion of an ideal society in The Republic to ascertain the position that Plato would take regarding Greek political life at the time he lived? Quite simply, Bernard makes assumptions about what Plato’s position would be given some of the comments of Socrates in The Republic. He states that “Plato’s arguments in The Republic imply a conflict view of societies that actually existed at the time he was writing.”7 I can capture the expanse of Bernard’s license with Plato by quoting the following passage from his text:

Socrates made no comment on those who hold power but do not act as true Rulers of the society, but it can be inferred that they would act as Thrasymachus described. In addition, because all of the rulers of societies that existed in Plato’s time owned property, it can be inferred that, in Plato’s view, they all did act as Thrasymachus described. Thus, although Plato described human nature in consensual terms and described the ideal society (the Republic) as a consensual society, he is classified here as a conflict theorist because his views imply that in all contemporary societies (i.e., wherever rulers own property), the rulers act as enemies and masters of their fellow citizens. . . .8

I will restate here my view that The Republic can be of only limited use in ascertaining Plato’s specific position on Hellenic political life. Nevertheless, what can be gleaned from The Republic generally, and the specific selections Bernard has extracted?

In explaining his classification of Plato as a conflict theorist, Bernard relies on two particular sections of The Republic. One of

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5 Id.
6 A. Gouldner, Enter Plato 255 (1965).
7 T. Bernard, supra note 1, at 33 (emphasis added).
8 Id. at 35 (emphasis added).
them is an exchange between Socrates and Adeimantus (Glaucon’s brother). In quoting directly from Socrates, Bernard claims that

Plato stated about existing societies that ‘each of them, as the saying runs, is no city, but cities upon cities; two at the least, each other’s enemies, the city of the poor and the city of the rich; and in either of these is a vast number of cities which you will be entirely wrong to treat as one.’

Bernard took this statement as indicative of Plato’s position on the character of Greek politics existing at the time that Plato was writing the dialog—that Hellenic society was permeated by political conflict and that social order was based upon the coercion of the poor by the rich (the classic if vulgar Marxist position). In locating Socrates’ (and therefore Plato’s) comments within the context of The Republic, however, I do not think that he was “stating” that Greek society was held together by forced compliance.

The quoted exchange between Socrates and Adeimantus takes place in Book IV of The Republic. In this section of the dialog Adeimantus, a member of the Athenian ruling class and therefore one of the wealthy, has just been told by Socrates that the ideal society will be an austere one. Adeimantus, in making a last plea for the necessity of a wealthy state asks Socrates how will a state which possesses little wealth of its own be able to effectively wage war against other wealthy, poaching city-states. Socrates’ response is that the ideal city-state will be too poor to attract interest, that its soldiers will be as tough as “lean wiry dogs” and will be effective combatants, that diplomacy will be employed to convince other city-states that their best interest lies in joining an alliance with the ideal state, and finally, that Adeimantus overstates the unity of these other states. In the passage Bernard extracts, Socrates states that all but the just city state (because its rulers will possess knowledge) will be internally divided because of the greed of its own rulers and citizens, and that the dispossessed of these states could become allied with the Republic. In the proper context of this dialog, then, Plato (through Socrates) is not commenting on the political structure of Hellenic society but the absence of justice, where justice is defined as each individual working for the benefit of all citizens.

Plato is claiming that these hypothetical city-states, potential rivals to the Republic, will be populated by intemperate, self-interested rulers and citizens. As I will try to show in a moment, Plato is commenting on the central problem of the Greek city-states of his time, that they are ruled by self-interested rather than knowledgea-

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9 Id. at 34 (emphasis added).
ble, just citizens. This is not at all to say, however, in Turner’s words that society is “a smoldering set of tension-filled relations that periodically erupt into conflict” or that social stability is established on the basis of coercion rather than consensus. The problem to which Plato refers to in this section and in other parts of The Republic is not the problem of conflict and coercion but the wise and just exercise of power, i.e., Justice. Gouldner makes this point clear:

It is thus not only that Plato, knowing the ways of power, feels free to neglect it. There is the further consideration that he does not like what he knows about power. Plato has lost confidence in the ability of the established loci of power to use it wisely. From this standpoint, the major conventional power centers are morally bankrupt. Neither oligarchs nor democrats, neither aristocrats nor the demos, neither the poor nor the rich, are expected to use power for the moral purposes he sought.10

Gouldner also remarks that Greek culture in general was highly critical of the use of coercion to secure compliance. “From the citizens’ standpoint, obedience to the visible, directly given orders of another person was suitable for slaves, but it was discrepant with their salient image of themselves as free and equal men.”11 Although Greek society (indeed, any) contained conflict, it is quite doubtful if Plato saw force as the basis of social order, nor does he express such a position in the conversation between Socrates and Adeimantus cited by Bernard.

A second reference in The Republic that Bernard relies on to classify Plato as a conflict theorist is the exchange between Socrates and Thrasymachus in Book I. Here, Thrasymachus argued that justice consists in the use of government by those in advantageous (propertied) positions to maintain their privileged status against the weak. Plato (through Socrates’ reply) does not disagree with the fact that rulers traditionally use their position to their own advantage. He suggests, however, that a ruler who acts in his own interest does not act as a True Ruler. From this Bernard notes that

because all of the rulers of societies that existed in Plato’s own time owned property, it can be inferred that, in Plato’s view, they all did act as Thrasymachus described. Thus, . . . (Plato) is classified here as a conflict theorist because his views imply that . . . the rulers act as enemies and masters of their fellow citizens. . . .12

Again, Bernard is suggesting that the Greeks relied on coercion to ensure compliance, even among free citizens, and that the central issue in understanding Plato’s views on social order is power.

10 A. Gouldner, supra note 6, at 291.
11 Id. at 299.
12 T. Bernard, supra note 1, at 35 (emphasis added).
I would like to suggest, however, that the exchange between Thrasymachus and Plato does not concern the existence of political/class conflict and the employment of coercion in Greek life. Rather, it further reveals to us Plato’s insistence that the central fault of unjust government is individual intemperance and selfishness. For this reason, Plato’s remarks are directed against the Sophist position on justice (spoken through Thrasymachus) wherein the state is an institution working for the interests of individual self-satisfaction. The flaw in Athenian democracy and oligarchy for Plato, then, is not conflict and coercion but self-interest:

Nothing impressed Plato more in contemporary politics, and nothing more surely drove him along the path of Radical reform, than that violent spirit of individualism, which engaged in the eager pursuit of its own satisfaction, captured the offices of the State for the better fulfilling of its own selfish purposes, and divided every city into two hostile camps of rich and poor, oppressors and oppressed.13

Socrates’ position reveals to us Plato’s polemic against the Sophists through his comments on the evils of self-interest, selfishness and the unjust exercise of power. Bernard somewhat overstates the case but is correct in noting that a central theme in The Republic is the divisive effect of private property. This effect is due, however, to individual greed and self aggrandizement, and the unjust use of power by the unknowledgeable, rather than the dynamics of class antagonisms. In addition, as I noted in my initial review, the danger of self interest and greed is not that it leads to disorder by fostering economic struggles or a despotic state, but because it inevitably leads to a disunity of shared values, i.e., dissensus. Having made this analysis early in Book I, much of the remainder of The Republic is a treatise on justice in the state and how this can only be achieved through knowledge.

My second specific objection to Bernard’s classification scheme was his placement of Thomas Hobbes as a consensus theorist. In my review I stated that since Hobbes predicated social order on coercion and forced compliance he should more properly be classified as a conflict theorist. I thought that I was most emphatic about my disagreement. Apparently not, for Bernard asks about my review, “Does he claim that I misrepresent Hobbes’ theory? He does not say. Paternoster appears to disagree with Hobbes rather than me.” I must now somewhat sheepishly accuse Bernard of being careless in his analysis of my views since anyone who read my initial review would unambiguously realize that I indeed claimed that he misrepresented Hobbes’ position on the origin of social order. I clearly

stated in my review that Hobbes should be considered a conflict theorist because in Leviathan order can be achieved only through forced compliance. Perhaps I did not make clear my reasons, which I will now briefly do, but I surely made clear my objection to Bernard’s analysis.

Rather than relying on my own inferences about Hobbes’ understanding of the state, let me refer the reader to Bernard’s chief source for Hobbes’ position, *Leviathan*. In his major treatise of political philosophy, Hobbes is quite clear in explaining the mechanism that keeps people from violating the terms of the implicit social contract:

Therefore before the names of just, and unjust can have place, there must be some coercive power, to compel men equally to the performance of their covenants by the terror of some punishment, greater than the benefit they expect by the breach of their covenant; and to make good that propriety, while by mutual contract men acquire, in recompense of the universal right they abandon: and such power there is none before the erection of a commonwealth.\(^{14}\)

According to Hobbes, then, compliance with the covenant is based upon the employment of force and coercion. In discussing both Hobbes’ legal philosophy and his position on the origin of social order, Cairns makes an identical point:

Thus in a state of nature there can be no injustice. This follows because in a state of nature it is each man’s rational right to disregard his promises if to his advantage. Promises are assured only if a coercive power exists to enforce them, and as there is no such power in a state of nature, covenants in that state are meaningless. Justice, which by definition is the performance of covenants, therefore has existence only in the presence of coercive power.\(^{15}\)

“(Hobbes) admitted the validity of ethical rules and conceded that they were anterior to the establishment of the state. But he insisted that if they were to be obeyed generally they had to be commanded by a properly established authority possessing adequate force to compel obedience.”\(^{16}\) I now reiterate my assertion that Bernard misrepresents Hobbes’ legal philosophy in classifying him as a consensus theorist together with Durkheim and Parsons.

Bernard’s response to my initial criticism on this point is most confusing. After first pulling the rabbit out of a hat by classifying Hobbes as a consensus theorist, Bernard now tries to smuggle him back in by claiming that my own disagreement is with Hobbes not him. Nothing could be further from the truth, my disagreement is

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\(^{15}\) H. Cairns, *Legal Philosophy From Hegel to Plato* 257 (1967).

\(^{16}\) *Id.* at 271.
with Bernard's placement of Hobbes in the consensus tradition. In his book and in the response that followed my review, Bernard claims that because Hobbes argued that the societies of his time were characterized by "a minimal but absolutely necessary consensus, without which no society could exist at all", he is best thought of as a consensus theorist. Surely Bernard does not mean to follow the logical conclusion of his argument and insist that any social theorist who posits a "minimal consensus" in the societies that existed at their time should therefore be considered a consensus theorist. Marx, for instance, certainly attributed a minimal consensus to the capitalist class of his day without which capitalist rule would certainly be more problematic. Should we now consider Marx a consensus theorist? If Bernard's position is that Hobbes would consider minimal consensus the essential requirement of social order, then I think he has failed to document that fully in his book.

Bernard airs at least two other complaints about my review of his book. These two disturb me more because they do not concern an honest difference of opinion over substantive issues. First of all, Bernard accuses me of being both careless and intellectually lazy:

At times, Paternoster seems careless. For example, I do not classify Comte as a conservative consensus theorist nor Augustine as a radical conflict theorist, as reported by Paternoster. These are complicated cases in the context of my argument, but apparently Paternoster did not bother to figure them out. Paternoster implies that Simmel and Marx are placed in the same classification. Obviously, they are not.

I must first object and plead innocent to the charge of being careless in my review while at the same time pleading guilty to being genuinely confused. Bernard does in fact classify Comte as a conservative consensus theorist and Augustine as a radical conflict theorist. In relation to Comte, Bernard states "[t]o the extent that Comte assumed that humans were naturally consensual, his theory took the form of a conservative consensus theory."\(^{17}\) He notes later in his book that "'Solutions' to the 'Hobbesian problem of order' in the sociological consensus theories includes Hobbes' 'Leviathan', Comte's 'Positive society', Durkheim's 'normal' society, and Parson's 'fully integrated' society."\(^{18}\) In relation to Augustine's radical conflict position, Bernard stated that "[t]o the extent that Augustine assumed that human nature was consensual, his theory falls into the form of a radical theory" and later that "'Solutions' to the radical problem include Plato's 'Republic', Augustine's 'City of God', Rousseau's 'so-

\(^{17}\) T. BERNARD, supra note 1, at 99 (emphasis added).

\(^{18}\) Id. at 193 (emphasis added).
sial contract,’ and Marx’s ‘communism.’” Bernard does, however, also classify Comte as a sociological consensus theorist and Augustine as a sociological conflict theorist, noting that these two theorists really fall somewhere between the conservative-sociological and radical-sociological positions of his classification scheme. Since Bernard does classify these two theorists as I had reported in my initial review, I can hardly be guilty of carelessness. I admit to being confused as to Bernard’s vacillation in placing these two theorists in his classification scheme. It is not that I “did not bother to figure them out,” I tried but was simply unable. In any event, this certainly was not central to my critique of Bernard’s book.

Bernard and I also disagree as to his placement of Simmel and Marx. I noted in my review that he places them in a similar category. In his response he emphatically denies this. The reader of Bernard’s text can see, however, that both are classified in his scheme as conflict theorists: “Thus, Comte, Durkheim, and Parsons were selected because there would be little controversy in describing them as ‘consensus theorists.’ Similarly, Marx, Simmel, and Dahrendorf were selected as representative of conflict theorists.” Bernard can respond to this by noting that they are different kinds of conflict theorists in his scheme; Marx is a radical conflict and Simmel a sociological conflict theorist. Bernard makes this distinction on the basis of Marx and Simmel’s differing assumptions concerning the nature of the human character. In my review, however, my comments were directed to the fact that both were classified as conflict theorists even though they had completely contrary positions on the effect of conflict on social order. In terms of Simmel and Marx’s understanding of the processes of social order and disorder, the latter distinction seemed particularly important though concealed by Bernard’s placement of them in a common conflict tradition.

The third criticism Bernard has of my review is the most troubling of all. At the end of his response he claims that because his is a “complex and innovative argument on a controversial topic, one that does not fit into the ‘familiar mold’ of past considerations,” it cannot be fully understood by “outsiders,” those with a different conception of the consensus-conflict debate. Bernard accuses me of being unable to “rise above my own assumptions” and decipher his “complex and innovative argument.” As Bernard views my position, any criticism I have is attributed to my own misunderstanding of the issues. In fact, Bernard and I are actually in closer agreement

19 Id. at 53-54, 193 (emphasis added).
20 Id. at 11.
than he might think (or be willing to admit). Our analyses share one critical assumption—that the consensus-conflict debate centers around different solutions to the “Hobbesian problem of order.” Turner makes reference to this common ground in his forward to Bernard’s book and Bernard himself suggests such a framing of the issue on page 193 of his book. Where we separate and unfortunately begin speaking past and through one another, is with what a necessary answer to this question entails. In determining an answer to the question of social order, I ask of a social theorist, what keeps society together—shared values or coercion and forced compliance? In determining his answer Bernard inquires, how does the theorist describe the societies of his time—with terminology that implies a similarity of interests or dissension and conflict? I suggested that Bernard’s conceptual scheme should be evaluated on its own merits; does it enlighten or obscure the essentials of the debate? After reviewing his book, I found his argument unconvincing for several reasons. After reacting to his responses I remain skeptical. Perhaps my own assumptions made me more demanding of Bernard’s argument, but I must hope that they did not become fetters to my openness. The readers of our correspondence can determine this.

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A FINAL COMMENT

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Having read his response carefully, I stand by all of my statements that Paternoster’s review misrepresents the contents of my book in a number of specific areas. I still think the basic problem is that Paternoster views the consensus-conflict debate as an argument among people who hold similar assumptions, while I view it as an argument among people who hold different assumptions. Paternoster says: “I ask of a social theorist, what keeps society together....” That question makes the assumptions to which I refer; it assumes that there are conflictual tendencies in individuals and it inquires about the nature of the supra-individual forces that overcome these conflictual tendencies to “keep society together.” Some theories
are essentially responses to this question, but other theories are not. Marx's theory, for example, is more accurately described as a response to the question "What drives people apart?" To a considerable extent, Marx believed that societies would naturally stay together if the social forces driving people apart were eliminated. Thus, the question "What keeps society together" was not the focus of Marx's theory.

I object to Paternoster's statement that he and I "share one critical assumption—that the consensus-conflict debate centers around different solutions to the 'Hobbesian problem of order,'" which he supports by reference to page 193 of my book. The relevant quotation from that page is as follows:

II. Problems and Solutions in Social Theories
   A. The sociological consensus theorists and the radical theorists are confronted with a problem, because they describe human nature and society in opposite terms. Because the conservative theorists and the sociological conflict theorists describe human nature and society in the same terms, they do not confront a similar problem.
   1. Sociological consensus theorists must explain why societies are or how they can be consensual when human nature is conflictual (the "Hobbesian problem of order").
   2. Radical theorists must explain why societies are conflictual when human nature is consensual, and how societies can become consensual (the radical problem).
   3. The social consensus is not a problem for conservative theorists, because they argue that human beings are naturally consensual.
   4. Social conflict is not a problem for sociological conflict theorists, because they maintain that human beings are naturally conflictual.

The Hobbesian problem here is associated with only one of the four positions in the debate, not with the debate itself. Note also that the quotation is part of a broader outline that generalizes and summarizes the book's arguments. The total outline is seven pages long, and contains many arguments about similarities and differences among theories in the same and in different categories. The above quotation, for example, is taken from Section II of the outline. Additional arguments in that section are that the "solutions" to the Hobbesian and radical problems will be expressed in terms of ideal societies that are hypothetical, that Hobbesian hypothetical ideals share certain characteristics while radical hypothetical ideals share other characteristics, and that ideal societies in conservative and sociological conflict theories are the "best" of existing societies.
and are not hypothetical. Paternoster nowhere refers to these or other arguments made in the book. He restricts his focus to the classification system itself, as summarized in Section I of the outline. That is the basis for my statement that his review ignores and misconstrues the major arguments of my book.

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Within recent years growth in the genetic and biological sciences has greatly increased knowledge about the complexities of human development and diversity. The contributions of these sciences, however, are not reflected in most studies of criminal behavior which emphasize predominantly the role of environmental factors.

Lawrence Taylor's Born to Crime: The Genetic Causes of Criminal Behavior is an effort to review research on genetic and biological correlates of crime as well as to address the ethical implications of research findings on the underlying foundations of the criminal justice system. The book presents chapters on seven different types of genetic or biological influences: brain defect, chemical malfunction, XYY chromosome deviation, premenstrual syndrome, testosterone level, alcohol and schizophrenia. An additional chapter on twin studies introduces the book's major theme that much of violent, recidivistic crime and the biological factors which influence it are heritable. In Taylor's view, attempts to reduce recidivism have not been successful because the basic assumptions of the criminal justice system may be incorrect, i.e., all behavior may not be a consequence of free will and environmental forces.

Taylor's recognition of the burgeoning influences of genetic research on behavior is important and timely. His book, however, neither supports adequately his premise that recidivistic crime is "genetically caused" nor does it deal comprehensively with the legal and philosophical implications of research findings. Indeed, Taylor's uncritical, one-sided stance in reviewing genetic studies and his definitive casual conclusions perhaps explain why social scientists
and criminologists may be justified so far in ignoring biological arguments.

*Born to Crime* presents difficulties on several different levels. First, a considerable portion of the reviewed literature pertains not to the genetics of recidivism or violence but to other types of behavioral problems (e.g., suicide, depression, psychiatric illness, disciplinary disturbance). For example, Chapter Three's review of twin studies mostly cites early research on personality or habits while making only indirect references to crime. Taylor does not even mention Mednick's adoption studies which, by all accounts, have demonstrated the strongest evidence yet available on the genetic transmission of criminality. Likewise, Chapter Four discusses the genetic universality of behaviors noted in Wilson's work on sociobiology, while providing only brief mention of the possible genetics of aggression and no recognition of contradicting arguments or conclusions. Based on reports that John Hinkley, President Reagan's potential assassin, was diagnosed schizophrenic, Taylor devotes all of Chapter Five to reviewing research on the possible heritability of schizophrenia. No evidence is provided, however, to link schizophrenia with crime. Are we to believe, as the chapter's title suggests, that all schizophrenics are "programmed assassins?"

A second difficulty lies in the book's reliance on the results of methodologically flawed studies which examine crime more directly. Many of the studies reviewed on aggression are based on research with animals in experimental settings and thus have limited generalizability to humans or to other environments. Of those studies conducted with humans, the great majority examine prisoners only, lack control groups and double-blind procedures, or are based on anecdotal, retrospective data using small samples, selected referrals or isolated cases. A number of the more recognizable cases Taylor cites (e.g., the discovery that Charles Whitman's Texas tower shooting was due to brain cancer) typify a small group of unusual, one-time offenders with rare disorders resulting in uncharacteristically bizarre behavior.

Some problems also exist with Taylor's interpretations of research. For example, an entire chapter is devoted to studies of the

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1 See e.g., Hutchings & Mednick, *Criminality in Adoptees and Their Adoptive and Biological Parents: A Pilot Study*, in *BIOSOCIAL BASES OF CRIMINAL BEHAVIOR* (S.A. Mednick & K.O. Christiansen eds. 1977); see also Mednick, Gabrielli, Jr., & Hutchings, *Genetic Influences in Criminal Convictions: Evidence from an Adoption Cohort*, 224 *Science* 891 (1984).


XYY chromosome deviation and crime, an association which has generally been deemed inconclusive if not dismissed altogether for over a decade. Taylor, however, emphasizes the possibility of a "genetic 'type' that is inherently disposed toward criminal conduct" based upon early and much criticized XYY studies (p. 81). In turn, some of the evidence he presents is selective, not representative, of a study's overall results. Thus, Taylor highlights one large project's finding\(^4\) of a significantly disproportionate number of XYY individuals with a conviction record; no mention, however, is made of the project's major conclusion that the XYY crime rate is not related to aggression, and may be related to low intelligence.

Based upon such inconclusive findings, Born to Crime offers frequent, causal statements about the "key role" of genetics in determining the "origins of criminal behavior" (p. ix). Likewise, the book parries growing evidence of the interaction between both biological and sociological correlates of crime. For example, the strong associations Taylor notes between alcohol consumption and violence have been shown in other research to be heavily dependent upon the emotional context of the drinking environment. Thus, individuals who behave violently after drinking at home or at a bar may demonstrate no signs of aggression when given the same amount of alcohol in a laboratory setting. Such contextual associations have been found as well for hypoglycemia in man and electrical stimulation of limbic structures in monkeys.\(^5\)

In his attempt to convince us of the importance of genetic effects, Taylor appears also to ignore potentially societal, demographic, or environmental influences on behavior. Thus, Taylor views the past surge in juvenile crime as a result of an ineffective criminal justice system, not as a demographic consequence of the baby boom. Organic brain damage and epilepsy are described only as inherited defects, not as possible outcomes of head injury, birth trauma or child abuse. In turn, Taylor does not address the evidence of culturally influenced disparities in rates of crime and violence among different countries\(^6\) despite, as he points out, their similar rates of psychotic disorders such as schizophrenia (pp. 125-28).

Overall, the effort in Born to Crime to identify those factors which


\(^6\) *Aggression in Global Perspective* (A.P. Goldstein & M.H. Segall eds. 1983).
may perpetuate the recidivistic behaviors of, for instance, Wolfgang, Figlio and Sellin's7 chronic six percent is of value. What is disturbing, however, is the book's use of methodologically weak and limited research to promote its thesis, as well as its assumption of a predictive accuracy in the genetic sciences which simply does not exist.

The enormous surge in genetic research requires careful consideration of the role genetics really does play in criminal behavior, despite the implications or unpopularity of the topic. Whether now or at a later time, social scientists and criminologists will have to confront the significance of the evidence, weigh its importance, its strengths and weaknesses, and recommend the next step to take. The direction of that step will depend on our ability to determine more precisely the interplay between our biology, our behavior, our environment, our humanness. Much work, in other words, remains to be done.

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Patterns in Crime is indeed a very unusual textbook. The authors should consider a new title for their work such as Selected Patterns in Crime or Selected Dimensions of Crime or The Spatial and Temporal Dimensions of Crime. Because of the very limited coverage of the racial, cultural, demographic, political and economic patterns of crime, the present title seems to be in error. Yet, the criminological literature abounds with works on the latter topics, so the Brantinghams may want to rename their work: Neglected Patterns in Crime.

Initially, one feels that the first eight chapters or 210 pages of the work are only things to put in front of the last four chapters which pertain to the authors' favorite subject: their interpretation of the spatial analysis of crime. Yet, when one backs off and synthesizes the information presented in the whole book, the authors' real message emerges: crime is not and never has been a unitary and

static phenomenon. Rather, crime varies in its definition and mix and exhibits very pronounced temporal and spatial patterns. It is the authors’ methodology for delivering this message that deserves both praise and criticism.

Naturally, considerable text is devoted to the proforma discussion of the assets and liabilities of crime statistics and the different methods for measuring crime. The authors deserve great praise for a very sober, objective and professional presentation of this material. It is refreshing to read a piece about measurement problems that is not overshadowed by some immature author’s persistent whining about data quality and reliability and the resulting gloom and doom for any attempts to understand crime and criminal justice.

Another matter for praise is that before a major discussion of a pattern, the authors present a very brief and concise description of the major concepts associated with a particular type of pattern as well as the major methods and techniques used for analyzing such a pattern. For example, preceding their discussion of temporal analysis, the authors provide a short course on graphical analysis as well as numerical analysis which includes an introduction to basic statistics, time series and regression analysis of time series. This effort is very instructive for any reader, for the authors assume the reader is a research and/or statistical novice. In other words, in the parlance of the microcomputer software salesperson, the tenor of the text is “user friendly.”

The criticisms of this work are few but major. In the temporal patterns of crime the predominant unit of analysis is the year. There are numerous annual comparisons of different crimes as well as comparisons of crimes through the centuries in England, America and Canada. Yet, the authors pay some, but all too little attention to the seasonal, daily and diurnal patterns of crime. This seems odd to restrict a majority of the discussion to units of time at the longer end of the temporal scale. On the whole, the discussion of temporal patterns seems very incomplete.

The concentration of the discussion on the spatial patterns to one portion of the geographic scale is not evident. The authors talk about small scale spatial patterns (which means small amounts of detail as in comparing nations) to very large scale spatial patterns (which covers small areas such as patterns emitted by point locations or city blocks). In the spatial pattern chapters, the authors borrow many concepts, techniques and methodologies endemic to the discipline of geography.
In their quest to acquaint the reader with spatial analysis and patterns, the authors have annoyingly oversimplified many fundamental concepts and techniques pertaining to geography in general and spatial analysis in particular. First, in the discussion of mapping, the authors have ignored or glossed over so many fundamental issues in cartography that their writing is amusing. While the authors cannot be expected to be expert cartographers or computer mappers they could at least cite some of the authorities in the fields — but they do not. Second, their discussions of the statistical techniques for determining and analyzing spatial patterns are very incomplete and simplistic. For example, their discussion of the “Center of Mass” (p. 221) would lead one to believe that all one can retrieve from the technique is a notion of the average location of a crime or crimes. This is true, but the authors have glossed over a set of techniques known as centrographic measures where one cannot only ascertain the average location of a distribution of points in space, but can calculate a standard deviational ellipse where it is possible to ascertain the area of a distribution as well as measure the shape of a distribution.¹ There are many more applications for centrographic measures than the mere center of mass. Likewise, the Brantinghams discuss nearest-neighbor analysis for describing the pattern of a distribution as random, clustered or regular (uniform) (p. 222), but do not include a short description of the calculation of the coefficients that designate the dispersion of a pattern as being uniform, clustered or random.² Third, the authors draw on works using such techniques as factor analysis and canonical correlation, but they do not try to explain these techniques as well as they do for those used for analyzing temporal patterns. And fourth, the authors attempt to relate many spatial theories for explaining the patterns of crime. In one instance, however, the reader is not referred to the original theory. For example, the Brantinghams discuss the hierarchy of cities and the fact that cities are connected in a system where one city may dominate many other cities that are of a lower rank or order in the hierarchy (p. 246). This is central place theory,³ very prominent and fundamental in economic and urban geography. Unfortunately, the authors do not refer the reader to the original source of or major works pertaining to the theory.

Finally, the authors give the distinct impression that spatial analysis is a rather simple thing to do—it is not. First, there is a

¹ M. Yeates, An Introduction to Quantitative Analysis in Human Geography 30 (1974).
² Id. at 33.
major problem with acquiring data that are spatially based; second, many of the statistical techniques for geographical and/or spatial analysis are not in the popular statistical packages like SPSSX or SAS; third, when one has discerned a spatial pattern the next problem is to determine if one is explaining behavior in space or spatial behavior.

I do not fault the Brantinghams for the deficiencies I have listed. They have a reputation for producing quality work. The problem lies in attempting to write for an audience that has little or no exposure to spatial analysis and perhaps a publisher who does not have the foresight to have a manuscript reviewed by a geographer or someone familiar with spatial analysis.

I would recommend *Patterns in Crime* for anyone interested in reading about the flaws and fallacies of the methodologies and data bases for measuring crime. I would recommend *Patterns in Crime* for anyone with limited interest in temporal patterns. I would recommend *Patterns in Crime* for the bibliography assembled by its authors. If someone asked for a work on the spatial patterns of crime, however, I would recommend *Patterns in Crime* only after recommending Keith D. Harries’ *Crime and the Environment* and Gerald F. Pyle’s *The Spatial Dynamics of Crime.*

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John Monahan and Henry Steadman’s new book on the mentally disordered offender (MDO) covers this important topic thoroughly and systematically from both a legal and social science point of view, and is therefore a significant addition to the literature. With this book, Monahan, a psychologist, and Steadman, a sociologist, further consolidate their status as the two foremost experts in social science and the law.

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This tightly organized volume devotes two chapters to each of the four categories of mentally disordered offenders: incompetent to stand trial, not guilty by reason of insanity, mentally disordered sex offenders, and inmates transferred from prisons to mental hospitals. The first of the two chapters on each MDO status is authored by a legal scholar, and follows a standard format covering the rationale and history of the status, criteria for determining the status, legal procedures to invoke the status, the rights of the offender, legal procedures to terminate the status, legal consequences of placement in that status, and major legal issues needing resolution in the future. The legal chapters are authored by Bruce J. Winick, Grant H. Morris, George E. Dix and Michael J. Churgin.

The second chapter of each pair is authored by social scientists and also follows a standard format. Each chapter provides an overview of social science approaches, the results of the editors' national survey on incidence, a critical review of existing research literature, and priority areas for future research. Social scientist contributors are Monahan, Steadman, Eliot Hartstone, Jeraldine Braff and Sharon Kantorowski Davis. The final chapter, by Robert J. Favole, is a survey of state and federal law for each category of MDO, presented in tabular form and preceded by introductory comments.

The legal chapters cover, of necessity, such a broad range of concerns that they are, without exception, lengthier than the social science chapters. The descriptions of legal developments as well as the current variations among jurisdictions are highly complex and have been well summarized. Perhaps the most interesting aspects of the legal chapters are the final sections on legal issues requiring resolution and trends in both statutory and case law anticipated in the coming decade. Each legal scholar discusses fascinating and controversial issues that this society will inevitably confront. For example, the chapter on acquittal by reason of insanity by Grant Morris examines the legal dilemma inherent in placing special legal burdens on one who has been excused for his act by acquittal and argues effectively that commitment, release, and treatment distinctions between insanity acquittees and other non-convicted citizens, though widely practiced, cannot be legally justified. On the other hand, the author recognizes the problems of applying civil commitment procedures to these persons. The presentations of issues are balanced and thoughtful. In addition, the reviews of legal developments provide an interesting view of the complexities and contradictions inherent in the legal process. These chapters will provide the legal background information needed by scientists planning or conducting work involving MDOs.
A theme which emerges from all four social science chapters is the paucity of relevant data regarding MDOs. Monahan and Steadman have contributed findings from their survey of all forensic directors in the country concerning the number of persons admitted to facilities with an MDO status and residing there on a given day in 1978. On one hand, these numbers provide an essential minimal base of information on how many persons are affected by MDO status (approximately 20,000). On the other hand, the presentation of these numbers seems to highlight the serious lack of basic demographic data concerning MDOs. In fact, in the social science chapters on persons found incompetent to stand trial and those not guilty by reason of insanity, collection of such fundamental information is listed among the priority research topics.

The social science chapters are well reasoned and thoughtful. In their critical reviews of the research the authors show clearly the deficiencies in existing information and how these deficiencies must be remedied if we are to further informed policy making. The authors' lists of research priorities concentrate on basic needs in understanding the processes of the legal and mental health systems and the effects of changes in the law on these processes. The priorities chosen are well justified and clearly linked to application and implications for decision making. These chapters may indeed achieve their intended effect of stimulating the research that they show is needed.

The organizational framework of the book, i.e., the juxtaposition of a chapter on the law and a chapter on the social science relevant to each category of MDO, presented in order of penetration into the system, as well as the choice of a standard format for each legal and each social science chapter, is an excellent means of presentation. This structure provides a clarity and coherence to complex topics and issues which could otherwise be confusing.

In summary, the book is an excellent overview of the legal and research findings and issues gathered in one volume. A large amount of detailed information is contained in a mere 300 pages. There is no similar book treating the area from both perspectives. As such it is a singular work. Given the thorough coverage of its topic and its well organized systematic structure, this volume will be valuable as an up-to-date reference guide to its subject matter. Though it has become a cliche to describe a book as "must reading," the phrase is appropriate for this book. It will be relevant to social scientists and attorneys working in this and related areas. It
also seems critical that this book reach policy makers and administrators in the criminal justice and mental health systems.

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Notwithstanding the unwarranted assumption that "mentally disordered" persons as a class are substantially less capable of adjusting to their life circumstances in noncriminal fashion,1 Anglo-American law has increasingly relied on psychiatric motifs for assumptions about criminal responsibility.2 One prong is the relinquishment to the psychiatric industry of power for dealing with troublesome issues (and people) in the criminal justice system.3 Murder is a unique crime in that it causes forfeiture of life, but it is not an homogeneous act. A killing may be felony murder concomitant to another crime, or mens rea may arise from such disparate sources as contract by a criminal syndicate to the compassion which results in mercy killing. Consequently, automatic penalty on conviction without flexibility in the disposition of persons convicted grates harshly against a humanistic sense of justice.4 Although the issues often are far removed from consideration of whether the felon knew the consequence of his/her act(s), and focus on characterological factors which do not have a known medical etiology, the psychiatrization of behavior has been accompanied by a menagerie of fictions which permit law and institutionalized medicine to symbiotically intermesh in the criminal justice system in normatively

3 Ranging from the disposition of persons with whom neither police nor families can comfortably deal to the utilization of psychiatric rationales for diminishing culpability. The metastasic medicalization of social problems has not been without warning of the potential for social control inherent in mental health authoritarianism. See, e.g., Morse, Crazy Behavior, Morals, and Science: An Analysis of Mental Health Law, 51 S. Cal. L. Rev. 527-626 (1978); Szasz, Psychiatric Expert Testimony: Its Covert Meaning and Social Function, 20 Psychiatry 313-14 (1957).
4 For a discussion of the tension between expiation and individualized justice in the law of homicide, see A. Ehrenzweig, Psychoanalytic Jurisprudence 233-35 (1971); G. Fletcher, supra note 2, at 235-346.
acceptable fashion.\(^5\)

Section 2(1) of the English Homicide Act of 1957 reduced the conviction of killing another person from murder to manslaughter if the felon should be acceptably labelled as being of such "abnormality of mind" as to substantially impair mental responsibility. Since abolition of the death penalty (1969), the defense has functioned as a means of avoiding mandatory life imprisonment by providing an alternative sentence of a "hospital order" as per the National Health Act of 1969.\(^6\)

The proportion of males whose homicide was reduced to manslaughter by reason of diminished capacity (RDC) remained steady in 1964-1969 at circa 20% of the homicide convictions. The proportion of RDC manslaughter felons given "hospital orders," however, decreased from 70% in the late 1960's to 24% in the late 1970's. Dell's research objective was to discover the reason for this change in sentencing practice. Her method was to examine a sample of 253 men convicted of RDC manslaughter in 1966-1967. The research data consisted of pertinent court records from the Department of Public Prosecution (DPP) plus supplemental information obtained from examining physicians and from "hospital" records.

One of the more intriguing aspects of the research was the pre-research feasibility exercise finding wherein the records of twenty felons were given to four physicians who were asked to give a severity rating and diagnosis. In Dell's diction, "[i]t soon became clear that the data available was insufficient to enable the cases to be reliably rediagnosed" (p. 9) because in only seven cases did the physicians agree on the severity ratings. An interesting contrast is that in only 8% of the 253 cases studied was there disagreement on diagnosis among prosecution, defense and consulting physicians. While it may be that opportunity to view the felon accounts for the discrepancy, one suspects that it may well reflect an inconsistency inherent in psychiatric classification, which has minimal standards of reliability apart from collegial agreement and mutual reinforcement of consensual diagnosis, which is explanatory.\(^7\)

\(^5\) One syndetic functional consequence is the sweeping away of certain behaviors to an arena of supposed scientific expertise and thereby avoid having to deal with them in moral and legal terms. See, e.g., N. Morris, Madness and the Criminal Law (1982).

\(^6\) Morse has pointed out that while the logic of diminished responsibility based on subjective mental state is applicable to all crimes, the English have not shown an inclination to expand the practical consequence of diminished responsibility to all crimes. Morse, Undiminished Confusion in Diminished Capacity, 75 J. Crim. L. & Criminology 1-22 (1984).

\(^7\) The writings of Prof. Thomas Szasz, himself a physician specializing in psychiatry, are particularly instructive. E.g., Law, Liberty, and Psychiatry (1963); The Myth of
Decreased utilization of hospital disposition in sentencing was not explainable in terms of demographic, psychiatric or prior conviction data on the nature and circumstance of the offense. The changed sentencing pattern resulted from a tightened admissions policy for Special Hospitals, which are maximum security holding pens operated by DHSS and not by the National Health Service. The DHSS began to refuse acceptance of felons they did not feel required maximum security for "treatment." The result was that a larger percentage of RDC manslaughter felons were sent to prison. Some of this change apparently appears to have been the result of public hue and cry of treating criminal behavior as if it were an illness, and the releasing of recidivist felons for further criminal activity. The accomodative adjustment strategies, including the decreased likelihood of disposing of "psychopaths" by hospital nurture, and increased likehood of describing persons labelled as "depressed" as having recovered and no longer needing treatment, would seem to suggest that the "need" for hospital treatment by diminished capacity felons was to some notable extent a function of the degree to which those making such orders could get away with (expect to be successful in) making them.

It is because of the mandatory life sentence for murder that manslaughter by RDC has been held applicable notwithstanding the absence of evidence of organic disease or impairment. Indeed, there are instances wherein the "evidence" of so-called "mental illness" appears to have been little more than the killing itself. In others, the "medical" evidence consists either of (a) a social history of behavioral mechanisms and characterological features which are dealt with as if they were the product of an illness or (b) an intensified surge of emotion which made the killing attractive or satisfying to the perpetuator at the time. Immaturity, lack of confidence, inability to assert self, marital frustration, irritation at unwelcomed responsibilities imposed by an invalid spouse and Irish socialization

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*Mental Illness* (1961); *Psychiatric Justice* (1965). One might argue that shamanistic concurrence or a unisoning phenomena is a more important ingredient in diagnosis than are traits perceived in the subject to whom psychiatric diagnostic voodoo is being applied.

8 Dell notes

the case of Graham Young, a patient [felon] who was released from Broadmoor [a Special Hospital, i.e., maximum security holding pen] in 1971 after nine years' detention as a psychopath. He was said to have responded well to treatment there, but within a year of his release had committed murder and other serious crimes. When tried for these, the medical evidence was that his condition was not susceptible to psychiatric treatment, and he was sentenced to life. . . .

are among the “abnormalities of mind” triggering successful diminished responsibility defense in the cases Dell reports (pp. 33-43).

It would appear that apart from those rare cases in which abnormality of mind is readily apparent, in reality, a kind of “rational dissatisfactions” test is being applied, that is, was the presence and/or status of the person killed or the context of circumstantial stressors such as to make the outcome immediately satisfying from the perspective of the perpetuator? Apparently, if the environment is judged to be sufficiently disorienting, dissatisfying, or inconveniencing that the killing would not have occurred otherwise, such condition appears to be regarded as evidence of such “abnormality of mind” as to make diminished capacity defense successful.9

Dell reported no cases in which greed was regarded as the factor resulting in diminished capacity. The reason no such cases appeared in Dell’s nomenclature is probably not so much due to an absence of economically motivated killings as it is likely due to the value judgments whereby such crimes are regarded as more aptly handled by sanctions other than RDC. Why disposition to achieve pecuniary gain by killing is not regarded as exculpable “abnormality of mind” and the testimony of physicians thereon thus thought pertinent is not within the scope of this review. One suspects, however, that inquiry within the sociology of knowledge would be triggered. After all, when what is or what is not a disease is a matter determined by ballot, some considerable leeway exists for arbitrary distinction according to the way social values and public opinion have been mobilized.10 And, as Fletcher has pointed out, the standard of adequate provocation and the measure of self-control required are normative matters of social convention.11

Dell’s study supports several propositional statements on the relationship between “medical evidence” and the sentencing disposition of RDC manslaughter felons, including: (1) The “need” for hospital treatment varies positively to (a) the availability of facilities and (b) the extent of official tolerance and/or recruitment of hospital recommendations; and (2) The proportion of diminished responsibility felons who (a) will recover from their “illness” while

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9 Theoretically and initially the issue of diminished capacity was for jury determination. Halsbury’s Laws of England 622-23 (Vol. 11) (1976). As Dell points out, in practice, however, “it is the judges, by accepting pleas of guilty, who . . . decide whether the offender’s mental responsibility was impaired and on this they will . . . have no information [other] than . . . the inexpert opinions of two psychiatrists” (p. 69).


11 G. Fletcher, supra note 2, at 243-50.
awaiting trial or (b) whose condition will improve prior to trial or (c) who will be regarded as suitably handled by psychiatric surveillance in a prison setting, varies inversely with the extent of official tolerance for and/or recruitment of hospital recommendations.

While the stretchings and maneuvers inherent in the medicalization of social problems would not be eliminated from the criminal justice system, "if the mandatory sentence for murder was abolished, there would be an end to the stretchings and manoeuvres which have now to be undertaken in order to give homicides suitable . . . sentences" (p. 60). Whether the interests of lawmakers, judges, medical tradespersons and lawyers are such that sufficient force will be mobilized to demedicalize the system while simultaneously providing sentencing flexibility remains to be seen.

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An expose of current criminological thinking! A picture of the criminal mind! A new solution to the crime problem! These are the promises of Inside the Criminal Mind. They remain unfulfilled, however, and the critical reader is left with a sense of disorientation. The non-critical reader, depending upon which way the political twig is bent, may find the book almost of biblical stature.

Samenow's proposal of a new method of curing the criminal is prefaced by an argument which attempts to dismiss all psychological and sociological theories of the causation of crime as "dead wrong" (p.5). The basis of this argument is the notion that criminals are intrinsically different from non-criminals. The essential difference is that "all criminals are alike in one way: how they think" (p.20). Nothing else matters; not peers, role models, school performance, economic deprivation, the family or rearing practices, mental illness, or I.Q. "Crime resides within the minds of human beings. . . ." (p.6).

The social causes of crime, for the author, are not a matter of degree and certainly not probabilistic. It is a matter of absolute causation. All impoverished people are not criminals, some rich people
are; therefore, economic adversity plays no role in structuring the likelihood of committing a crime. Not all children with delinquent or criminal significant others become criminals; thus, the influence of role models is nil. Some living in broken homes fail to become youthful crime waves. So, family construction matters naught. These are examples of the logic employed to devastate current sociological thinking on crime.

Psychological theory is destroyed by demonstrating through hypothetical as well as real examples (David Berkowitz, Freddie, and Stuart) of how criminals deviously, but rationally and logically, duped unknowledgeable psychiatrists, counselors and therapists into believing that they were insane or irrational, mere victims propelled through a life of crime. There is no such thing as mental illness among criminals. They scheme, plan and think instrumentally. There is nothing mentally aberrant here. Histories of violent behavior indicate that they think violently; they do not indicate mental unsoundness. For Samenow, “getting over the shrinks” is a prerequisite to curing the criminal.

The portrait of the criminal mind includes a bewildering collage of contradictions. Some criminals like babies, some do not, some like animals, some do not. Some work, some do not—and if they do, it is only as a cover-up for their criminal activities. As children, many fail or drop out of school. Some get A’s and B’s—as a cover-up for their criminal activities. Teenaged delinquents are distinguishable by their concern with their height, weight and general attractiveness. Some criminals thirst for violence; others would not harm a living thing. The adolescent criminal suffers inordinately from penis anxiety, but as an adult “brandishes his penis as a weapon before which others will succumb” (p.102). Compared to the general population, it is only a matter of degree.

All of this is the result of two major flaws in the work: (1) lack of adequate definitions; and (2) a lack of conceptual clarity. The only definition of “the criminal” provided is: “the individual who makes crime a way of life” (p.xviii). This definition allows the author to dismiss any possibility of deterrence, rehabilitation or maturation effects. Individuals who cease criminal activity for any of these reasons simply are not criminals. They are some other unspecified thing. This definition also permits the unceasing use of “what some or many criminals would, should or might do or think if one were to investigate” as a device for presenting evidence against other theoretical perspectives. At best, the literary style is irritating.

The distinction between the concepts, crime and criminality, is lacking throughout Inside the Criminal Mind. The author refers to the
fact that some children are predisposed to criminality, but quickly loses the concept. Criminality, a characteristic of individuals that may lead to a preference for types of activity which include crime, is never separated from crime, an act which results from a choice between criminal and non-criminal alternatives. The separation of crime and criminality allows the perception that while people may be thrill-seeking, some will become armed robbers and rapists, others will take to sky-diving and mountain-climbing. The author’s confusion of concepts forces the muddled description of the criminal mind and the necessity of obliterating the notion of social and psychological influence. It also mandates the simplistic causal scheme which insists upon a “bad seed” theory of crime as the sole factor to be considered.

The proposed cure for the criminal is “habilitation,” a process wherein the criminal, after “hitting bottom,” agrees to enter a program comprised of fellow criminals who correct each other’s thinking—with the aid of group leaders. The program requires the capacity to be honest, a desire to stop committing crimes, and a willingness to go to any length to obtain recovery. Daily meetings are a must at first. Any dishonest, violent or criminal thought is but a preliminary to relapse. All that is needed is a willingness to trudge the road to a happy, non-criminogenic destiny.

With a few omissions—and the addition of supervisors who scrutinize the criminals' activities at home and at work—this sounds suspiciously like Alcoholics Anonymous. The author says it does. It may well work, but it is difficult to see it as a breakthrough towards eliminating the crime problem. The author offers a sample of thirty “hard-core criminals” who were treated according to the proposed program (p.251). They had a non-recidivism rate of 43.3% (stated as over 33% in the book) as of 1976. These men were treated by the author’s predecessor at St. Elizabeth’s Hospital in Washington, D.C. A larger, more recent sample with an evaluation stated in terms of recidivism rates over specified follow-up periods would have instilled more confidence.

At times, Samenow’s logic is considerably less than amusing. “Savage beatings by a maniacal father” are presented as possibly being quite logical. Upon investigation, one “might” find that the child drove his father to it (p.17). One might as well suggest that the elimination of children would solve the problem of child abuse. Throughout the book, criminals are denied any humanity. Their positive characteristics are mere pretense. Criminals, although per-
haps frightening, dangerous and threatening, are human, not atavistic, neurologically neo-human forms.

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When the Supreme Court in Furman v. Georgia\(^1\) invalidated the death sentences of over 600 persons, some commentators believed that opponents of the death penalty, abolitionists, had achieved an enduring triumph, de facto abolition of capital punishment.\(^2\) In 1985, with over 1,000 inmates on death rows,\(^3\) many of whom may be executed upon the exhaustion of lengthy appeals, abolitionists must see their cause as still heroic but facing far more defeats than successes. One abolitionist, Roger Schwed, speaks against the death penalty in Abolition and Capital Punishment. Regrettably, his book adds nothing new to the debate regarding the alleged utilitarian and retributive merits of capital punishment. While this book will be informative to those unfamiliar with the controversies surrounding capital punishment, the already knowledgeable student of the subject will find considerably more scholarly grist elsewhere.\(^4\)

Abolition and Capital Punishment attempts to cover numerous topics. Schwed briefly reviews the evolution of capital punishment statutes and abolitionist efforts prior to 1960. He then presents the frequently reiterated case against capital punishment: (1) the death penalty fails to deter murder more effectively than incarceration; (2) capital punishment cannot be justified by appeals to retribution as just deserts because this is an illegitimate penal aim; (3) the administration of capital punishment is arbitrary and capricious; (4) capital punishment

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1 408 U.S. 238 (1972) (per curiam). In Furman the Supreme Court held unconstitutional state statutes providing unlimited discretion to sentencing bodies in capital punishment cases.


4 See infra note 7.
punishment does little to protect society from future crimes by murders because paroled murders have the lowest recidivism rate of any class of offender; (5) the irrevocable nature of capital punishment creates a paralyzing fear within the criminal justice system that an innocent person may be executed; and (6) capital punishment has a brutalizing effect on society. The remainder of Abolition and Capital Punishment addresses key events in the history of capital punishment from 1960 to 1982. In the execution of Caryl Chessman, the reputed "red light bandit" who long argued his innocence, Schwed finds a catalyst for the most recent and successful abolitionist surge. Whereas legislative abolition dominated earlier struggles against the death penalty, opposition would take a new form: legal challenge to the constitutionality of the condemned's trial or sentencing and later the constitutionality of the death penalty itself. If the success of abolitionists is measured by the number of executions, from 1968 to 1976 abolitionism had triumphed; no persons were executed in those years. But in 1976 the Supreme Court's decision in Gregg v. Georgia cleared a constitutional path to electric chairs, gas chambers, and in the case of Gary Gilmore, to the firing squad.

While earnestly written and adequately researched and referenced, Abolition and Capital Punishment pales when compared to major works in the field, especially Legal Homicide by William Bowers. Both books have similar objectives, reviewing abolitionist efforts and examining the utilitarian and retributive arguments made by supporters of capital punishments. Individuals reading these books

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5 Chessman's 1948 conviction on three counts of kidnapping led to his death sentence. Nearly 12 years would pass before Chessman's execution in 1960. His autobiographical Cell 2455, Death Row (1954), in which he asserted his innocence, made the Chessman case a cause célèbre. See W. Kunstler, Beyond a Reasonable Doubt (1961).


also reach the same conclusions—the death penalty in the post-
Furman era should be abolished because its administration remains
arbitrary and discriminatory, while producing little utilitarian ben-
efit. But only Legal-Homicide is an important work, one that presents a
detailed, illuminating portrait of capital punishment issues and pro-
viding the reader with previously unpublished information. For the
reader with a general knowledge of the controversies surrounding
the death penalty, there is much to learn in Legal Homicide and little
to learn in Abolition and Capital Punishment.

Even without the benefit of comparison, Abolition and Capital
Punishment is significantly flawed. While its subtitle, “The United
States’ Judicial, Political and Moral Barometer,” suggests that im-
portant sociolegal questions will be addressed, two central ques-
tions are not discussed at all. First, what do the events of the past
quarter century tell one of the relationship between capital punish-
ment and social evolution in the United States? Schwed assumes,
with little documentation, that capital punishment runs counter to
the achievement of advanced levels of civilized life. But is there, as
Jan Gorecki asks, “a law of declining harshness” or merely “a ten-
dency?”9 Emile Durkheim would respond that social differentiation
invariably leads to declining penal severity, with repressive law giv-
ing way to restitutive law.10 The validity of Durkheim’s theory of
penal evolution has been challenged,11 and the restoral of the death
penalty in the United States is incongruous with this nation’s high
degree of social differentiation. A second question asks what the
restoration of the death penalty tells one about capital punishment
as legal ideology. Robert Weisberg correctly observes that “[t]he
death penalty is thus a very tempting subject for those inclined to
offer theories about the social role of doctrine.”12 Weisberg sug-

10 Durkheim contended that in a homogeneous, undifferentiated society crimes of-
fend the collective conscience and thus require the punishment of the wrong-doer as a
means of preserving social solidarity. But in an advanced, undifferentiated society,
crimes are perceived as offenses against individuals rather than the collective con-
science. Consequently, argued Durkheim, punishments in advanced, differentiated soci-
eties are less severe than those in homogeneous, undifferentiated societies. E.
11 See Spitzer, Punishment and Social Organization: A Study of Durkheim’s Theory of Penal
13 Id. at 385.
"Judges may manipulate legal doctrine with an eye toward the populace, not to mystify them with images of legitimate authority, but simply to achieve the number of executions which they think the populace wants and demands."

In conclusion, the deficiencies of Abolition and Capital Punishment primarily arise from omission. What Schwed does address is presented in a clear manner and will inform the person who has yet to be introduced to the abolitionist position and the labors of moral entrepreneurs to end capital punishment. While this review ultimately gives a highly qualified endorsement of Abolition and Capital Punishment, there remains one caveat. As an abolitionist, I challenge Schwed's contention that retribution and the abolitionist position are incompatible; there is a retributive case against capital punishment:

I hold that the execution of the most contemptible murderer conflicts with the true functions of retributive justice—the repudiation of evil done and the prospective reconciliation of the criminal with the community he has wronged. When punishment lapses into mere retaliation, the criminal's total criminality is affirmed; there can be no reason to expect reconciliation.

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Diane Vaughn, an assistant professor of sociology (at the time

14 Weisberg is alluding to Douglas Hay's thesis that the administration of capital punishment can serve a legitimating function. Hay addressed three seemingly contradictory aspects of the administration of capital punishment in eighteenth-century England: (1) the large number of capital crimes; (2) the intricacies of pleading and proof that frequently saved the accused from conviction of a capital crime; and (3) the many but unpredictable pardons. Hay reconciled these phenomena, arguing that the criminal law terrified the lower classes by the many capital crimes, while legitimating itself by appearing to be an expression of natural justice. Id. at 383-84.

15 Id. at 386.

of the book’s publication), at Boston College, has written an interesting and important case study of organizational deviance. The book will be of use to students in upper and graduate level courses in white-collar (elite, organizational) crime, organizational behavior, as well as students interested in the methodology of case studies. As a contribution to the growing literature on organizational deviance, the volume raises provocative issues, tests a number of important theoretical propositions, and points to a number of directions for further research. In short, the work is must reading for students of white-collar criminality and deviance.

Summarizing briefly, the book deals with the Revco drug chain's falsification of $521,521.12 worth of reimbursable Medicaid prescriptions in the state of Ohio from 1973 to 1975. Oddly enough, the case began to come to light in May, 1976, when one of Revco's own pharmacists noticed that a local podiatrist had been prescribing large quantities of tranquilizers and narcotics. Because of this unusual occurrence, the local Revco pharmacist notified the Ohio Board of Pharmacy of his discovery.

This event touched off a year long investigation that involved an unusual social control network. This network was ultimately composed of the Ohio Department of Public Welfare (because of Medicaid claims), the Bureau of Surveillance and Review (SUR), the Economic Crime Unit of the Franklin County Prosecutor’s Office, the Ohio Highway Patrol and local police. The Economic Crime Unit and the SUR pieced together the evidence against Revco, who had created false Medicaid claims by transposing numbers on claims that had already been approved and paid by the welfare department. The highway patrol and local police aided in serving warrants on Revco drug stores. For its part, Revco headquarters pledged its full cooperation with the investigation early on. In fact, it was at Revco’s request that the welfare department became involved in the investigation.

Revco's position from the beginning was that it was the victim in the case. The falsified claims had been submitted because other (legal) claims had been rejected by the welfare department, and the cost of correcting the errors in the rejected claims exceeded the expected value for which Revco would have been reimbursed. In the end, Revco was allowed to plea bargain. In exchange for a misdemeanor plea, and reimbursement of the one-half million dollars in false claims, the two Revco executives who had masterminded the false claim scheme were charged with a first degree misdemeanor. Ultimately, the Revco vice-president responsible for overseeing the scheme resigned, and the program manager, who aided in carrying
out the scheme, was transferred to another unit within the company. No jail terms were imposed, but the executives were fined $2,000 each. Revco was allowed a no contest plea in return, and did revamp its computerized billing system to comply with welfare department regulations.

The remainder of Vaughn's analysis is devoted to some fascinating sociological issues, especially those concerning the way in which society is organized to control and prevent unlawful organizational behavior, and the ways in which the social structure of society might actually encourage organizational deviance. These issues are analyzed using a variety of "mainstream" theories of deviance and organizational behavior, including Merton's theory of anomie, social control network analysis, market signaling, system interfacing, opportunity theory, and interdependence theory. While her findings in utilizing these theories are useful, one wonders if other notions would not have better served her purpose.

For example, Vaughn makes no mention of neo-Marxist ideas concerning the role of the state in capitalist societies, or of C. Wright Mills' contentions concerning alienation as a central feature of organizational role players in mass society. More recent discussion concerning alienation in the forms of powerlessness and distrust among organizational role players and organizational deviance might also have fit this case. Thus, the analysis presented will sit well with the more Weberian students of the subject, but will leave "leftist" oriented theorists yearning in some respects.

It does seem to this reviewer, however, that Vaughn's analysis does nevertheless support these more radical views of organizational deviance. The interrelationships between Revco and the social control network that investigated and charged the drug chain do explicate some important aspects of the role of the state in capitalist society. Revco's status as a Medicaid claimant was never threatened in the case, implying the state's function is to see to the overall function of the political economy. Moreover, Revco's belief that they had been victimized by a governmental agency does imply that the construction of so-called neutralization techniques (vocabularies of motive) were present, yet Vaughn has precious little to say about the matter.

One also can think of additional matters of importance. For example, the publicity that resulted in the case did have a negative effect on the morale of Revco's employees. One wonders if corporate wrongdoing might not provide some sort of role model for company employees to engage in deviance against the company, the complicating of rather oversimplified dichotomy of deviance for the
purpose of personal enrichment versus deviance on behalf of an organization.

This is not to say that Professor Vaughn should have (or even could have) discussed all or any of these concerns. Her analysis is of value in and of itself precisely because it, by her own admission, raises many more issues than it resolves. This is most reasonable, considering that organizational deviance is an area of social science just emerging from the description and classification stage of theory building. Moreover, there is still a great deal to be learned about the idea of how best to research organizations that engage in unlawful behavior, as Vaughn's interesting appendix points out. My own feeling about these matters, however, is that in the future we would do well to take C. Wright Mills' concerns regarding the sociological imagination much more seriously when it comes to studying all manner of crime related social problems.

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Many introductory criminology textbooks exist. Few if any will match Michalowski's. In terms of scope, level of inquiry, clarity, readability and provocative insights, this treatise is unsurpassable.

In the last ten years, critical criminology has provided much sophisticated analysis of key issues in criminology. Little in the area of an introductory text from a critical criminological perspective, however, has surfaced. Those that do are usually too abstract for introductory purposes. Many students (feeling uncomfortable with the limited, and limiting, analysis found in traditional "law and order" texts) searching for a replacement to conventional analysis, are turned off too quickly by critical approaches that make use of difficult, often obtuse language (clearly, however, for advanced analysis a different story exists). Red flags arise immediately. Further groping into a viable alternative paradigm is terminated.

Raymond Michalowski's critical examination of order, law, and
crime (the ordering is not without importance) rests on the assumption that "the underlying elements of social organization—particularly the production and distribution of economic, political, and cultural resources—largely shape the perception of what constitutes unacceptable social injury" (p. vii). He points out that most sociologically oriented books in criminology focus on second order questions (How to deal with the behavior of criminals as individuals? How to better construct behavioral theories of criminality?). For him, however, the first order question must focus on the nature of a social order and its relationship to state power, law and social constructions of harm. Hence, this treatise presents much historical, socio-political/economic and anthropological material to bear on the first order question. Consequently, the book has no chapter listed as "theories of crime"; rather, crime, and socially injurious behavior generally (which he later dichotomizes as "crimes of the powerless" and "crimes of capital") "emerge as individuals attempt to fit their lives within the social experiences created by that order" (p. 17). With this in mind, three chapters are devoted to an examination of the relationship between a social order (stateless vs. state societies), and conceptions of trouble and the appropriate control mechanism. The next four chapters examine components of the legal order within the context of the U.S. political economy. The last five chapters focus on the "crimes of the powerless" and the "crimes of capital."

Preceding these substantive chapters is an introductory section entitled "A Sociological Basis for the Study of Crime," which spells out the theoretical paradigm that is to be employed. Here, he discusses three existing paradigms (or models) in criminology—the positivist, the interactionist and the critical perspective. Michalowski states his commitment to the third. Four postulates of this perspective are offered as underlying assumptions about the relationship between social order and the nature of crime; (1) "Social order precedes and shapes the nature of law and the definition of crime;" (2) "Economic organization shapes and interacts with other elements of social life in fundamental ways;" (3) "The study of crime should not be limited solely to those acts defined as crime by law but should incorporate an analysis and comparison of officially designated crimes with other forms of socially harmful behavior not designated as crime;" and (4) "Criminal and other socially harmful behavior emerge for the most part as individuals attempt to create meaningful lives as defined by their view of the world and the real and perceived alternatives for action that exist in a given economic, political, and social context" (pp. 14-17). Michalowski's general
model for the study of crime focuses on the interrelationship between the mode of production (egalitarian, slave, feudal, capitalist, socialist) and elements of state law, the behavior of individuals ("deviance" characterized as acts of accommodation, rebellion, and personal maladaptation) and the characteristics of individuals.

One immediately recognizes the importance of stating guiding assumptions, especially since the impact of Richard Quinney’s influential work, *The Social Reality of Crime* (1970). Michalowski has gone beyond this work. In fact, those from the critical perspective may conclude that the four guiding postulates, in many ways, give further specification of not only Quinney’s “early” work but also to the inspirational work of Taylor, Walton and Young, *The New Criminology* (1973), particularly in the last section where seven necessary elements of a formal social theory of crime were offered. Michalowski, however, integrates much inter-disciplinary data to give form and substance to his guiding model. The language is clear; the analysis comprehensive; the provocative insights plentiful.

Michalowski’s typology of crime is an important addition to the literature. The first category, “crimes of the powerless” ("common crimes") includes offenses against the persons, property and the public order. The criteria is clear: “Common crimes are acts punishable under criminal law that can be committed by almost anyone regardless of social position” (p. 276). These crimes reflect a certain developed consciousness of what constitutes socially injurious behavior and selective criminalization—both being a product of the internal political and economic dynamics of a society: more specifically, they are the result of a particular mode of production and the internal imperatives of a liberal state.

The second category of crime, the “crimes of capital,” is defined as “socially injurious acts that arise from the ownership or management of capital or from occupancy of positions of trust in institutions designed to facilitate the accumulation of capital” (p. 314). Included are corporate, occupational, organized and political crimes. As to political crime, his typology ranges (1) the beneficiary (individuals, private organizations or government) by (2) either “people outside of government” or “people holding political office or positions of delegated political power” (each further broken down in terms of whether it is for economic or political gain).

Michalowski’s analysis leads him to conclude that criminologists, for over a century, have asked the wrong questions. Rather than asking: “How do people become deviant?” the more appropriate question (that is, one that leads to more fruitful inquiry) should be: “What kinds of social structures produce the least amount of
crime and social injury?" A good case study in this direction is the recent book by Julia and Herman Schwendinger entitled *Rape and Inequality* (1984). On the other hand, for sharp debate, Michalowski's book can be used in conjunction with a more conventional text.

In sum, Raymond Michalowski's book, *Order, Law, and Crime*, should, and without doubt, will be widely read. It is a giant step forward at a time where a conservative climate is stymieing much critical thought. Students of criminology will surely not walk away from a reading of this treatise without profound revelations.

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In his most recent book, *Sense and Nonsense about Crime: A Policy Guide*, Samuel Walker unleashes a two-fisted indictment of criminal justice policy. He argues that "our crime policy is intellectually bankrupt. At present we have no credible set of policies to reduce our persistently high levels of crime" (p. 3). He adds that "we have lost the ability to think rationally about crime control" (p. 3) and that "crime control policy is largely wishful thinking" (p. 5). According to Walker, a basic problem with most crime control thinking is the "triumph of faith over facts." He maintains that "most crime control proposals rest on faith rather than facts" and, thus, most crime control policy is nothing more than "crime control theology" (p. 7).

For heuristic purposes, Walker distinguishes between conservative and liberal crime control policies. On the one hand, conservative policies are directed at strengthening the machinery of justice and emphasize deterrence and incapacitation as principal methods of crime control. Liberal policies, on the other hand, are primarily ameliorative; they attempt to rehabilitate offenders and to reform the criminal justice system and society. Although a disproportionate amount of space is devoted to conservative crime control policies, because, as Walker notes, conservative policies currently command greater political and public support, liberal crime control policies do not escape unscathed. Walker's critique spares neither.
Referring to both, he writes that “virtually all of them won’t work and many are positively dangerous” (p. 3).

Walker focuses primarily, but not exclusively, on the crimes of robbery and burglary, and crimes committed by adults. He also recognizes that certain draconian measures may be effective in controlling crime, but makes the proviso that his evaluation is guided by the tenet that “a valid crime control proposal must not violate fundamental standards of justice, fairness, and decency” (p. 5).

Make no mistake, Walker’s analysis is not an exercise in demagoguery. It is an important and well thought out evaluation of crime control policy. Walker marshalls considerable evidence to make each of his points. The result is twenty-eight plus propositions such as “preventive detention will not reduce crime,” or “more executions will not reduce crime.”

In his search for practical ways to reduce serious crimes, Walker comes up empty. None of the conservative or liberal policies that he reviews will significantly reduce serious crimes. While this reviewer expected Walker to end his book with the nihilistic conclusion that the best we can do is “keep the lid on” or contain crime within certain bounds, this was not the case. Curiously, Walker approvingly cites James Q. Wilson who has concluded from his own thinking on the subject that “making a big difference in crime rates requires a fundamental change in society” (p. 220). Although it is disappointing that Walker elects not to address the issue of fundamental social change in this volume, he does promise to confront the issue in another book on “the economic reconstruction of the United States.” This reviewer will anxiously await Walker’s new book, since it is believed that significant reductions in serious crimes must await fundamental social change. Perhaps we are witnessing, in the unfolding of Walker’s thought, a true radical in the making.

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This 400 page collection of articles covers a broad area in a very readable fashion. The role of the social worker in almost all areas of the criminal justice field is addressed by the twenty-three authors. The sentence which best describes the book has already been written by one of our more highly esteemed academic leaders, and the author of the forward, Vernon Fox. Fox is correct in labeling this as “the first book of major importance that covers professional social work in the field of corrections.” When social work became a recognized academic and professional discipline in the early days of this century, the field of corrections was not one of its concerns. At one time, social workers did not want to be associated with assisting the deviants who had to be motivated, forced or coerced into treatment. The social work profession now accepts its legitimate duty to practice in correctional settings. The development of both social work and corrections and the moving closer and closer together of the two disciplines is outlined at the start of this book. One quickly becomes excited by the many new roles the social worker can and increasingly does play in corrections.

The book has one focus, but many well developed and diverse depictions of the social work profession enriching the corrections field. The authors outline how social workers now run victim assistance and restitution programs. Mediation or counseling services between spouses, victims and offenders, and others in conflict situations are outlined. Some of these programs even lead to true reconciliation and go a step beyond the traditional restitution program. The employment of mediation sometimes can restore relationships, in addition to keeping people out of courtrooms. Volunteerism is addressed in sufficient detail. Volunteerism, relatively new to many correctional settings, has a long history in the philanthropic and private social work agencies. One author challenges the correctional systems professional to be become ready and able to assist in the communications with the hearing impaired client and the deaf victim. The conflict and philosophies of treatment and protection of society are clearly addressed. For such philosophic articles the reader can better realize the compatibility of the two professions.

The volume covers most areas of concern after arrest and entry into the system. Probation and parole settings, institutional settings, and administrative concerns are all addressed in a fashion palatable to the practitioner and the social work student. The book
is especially strong in its presentation on the assessment and management of the potentially dangerous offender and in the ethics of probation work. A future volume could elaborate on the police-social worker teamwork and on the treatment duties of the social worker in the special areas of drug abuse, alcoholism, and sex offender treatment. The editor used good judgment in reprinting a 1980 article from Federal Probation on the “real treatment” offered by probation counselors.¹ This article comes close to being a realistic job description. Institutions, special programs, and probation and parole agencies can benefit from using the book to guide their thinking on the use of social work student interns and their subsequent employment of individuals with a social work background. The book gives insights on how we can better serve our clients.

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