CHAPTER ELEVEN

Criminal Behavior as Normal Learned Behavior

The criminological theory most sharply contradictory to biological and psychological views of individual deviation and inferiority is that which seeks to explain crime as ordinary learned behavior of normal human beings. Emphasis on poverty, unemployment, and other economic conditions implies this same general orientation but less directly. The purpose of the present chapter is to explore some of the ideas and implications of this approach to the causation of crime.

1. BASIC PSYCHOLOGICAL ASSUMPTIONS

The environmental theory that views criminality as ordinary learned behavior rests on the "rules" or "laws" of the psychology of learning. This is not the place to discuss learning theory[1] at length, but a few principles are presented here to orient the reader. All behavior beyond the simplest reflexes involves more or less complex and interrelated responses to a variety of stimuli. Hence, psychologists tend to speak of behavior patterns rather than of isolated acts or

1. Basic information about and a critical discussion of learning theory may be found in the following works: Robert M. Gagni, *The Conditions of Learning*, Holt, Rinehart and Winston, New York, 1970; Melvin H. Marx, ed., *Learning: Theories*, 1970, *Learning: Interactions*, 1970, and *Learning: Processes*, 1969, all published by Macmillan, New York; E. A. Lunzer and J. F. Morris, eds., *Development in Human Learning*, Elsevier, New York, 1968; James Deese and Stewart H. Hulse, *The Psychology of Learning*, 3rd ed., McGraw-Hill, New York, 1967; and John F. Hall, *The Psychology of Learning*, Lippincott, Philadelphia, 1966.

responses. Some of the patterns seem to be prearranged or determined by heredity and are therefore spoken of as unlearned behavior, or instinctive behavior. But there are also many behavior patterns, not originally present in the individual at birth, which are developed through learning. These are habits as opposed to instinctive responses or reflexes, and they develop more slowly as a result of the experiences of the individual in entering and adjusting to the environment.

Theorizing about the nature of learning goes far back in antiquity. One of the older observations and formulations is that we learn by association. Aristotle (384–322 B.C.) formulated four classical laws of association, as follows: (1) The law of similarity, (2) the law of contrast, (3) the law of succession in time, and (4) the law of co-existence in space.[2] As modified by later writers, they reduce to two major principles: (1) association through similarity and/or contrast and (2) association through contiguity in time and space. All that can be said about such a formulation is that it represents a kind of folk wisdom about learning, but lacks so much in precision and specificity that no one can either prove or disprove it.

Somewhat the same may be said of the famous three laws of learning propounded by the late, celebrated educational psychologist Edward L. Thorndike (1874–1949). He emphasized (1) the law of innate capacity—all learning is based on or is an extension of native capacity; (2) the law of exercise—use strengthens and disuse diminishes accomplishments; and (3) the law of effect—there will be continuing response to satisfying effects but avoidance and nonresponse to annoying effects.[3] These generalizations about learning (and many others) have been painstakingly documented as descriptions of the course or nature of the learning process from observation under strictly controlled laboratory conditions to the less certain conclusions about performance in the schoolroom.[4]

What it is that happens, exactly, when the individual learns (that is, modifies his responses as a result of previous responses) is itself a matter of considerable uncertainty and dispute, with various schools

2. E. B. Titchener, *A Beginner's Psychology*, Macmillan, New York, 1915, pp. 146–47.

3. Edward L. Thorndike, *Educational Psychology: Briefer Course*, Teacher's College, Columbia University, New York, 1914, pp. 69–73.

4. See the massive three-volume review of materials and theory in E. L. Thorndike, *Educational Psychology*, New York, vol. I, 1903; vol. II, 1910; vol. III, 1914. Reprinted by Greenwood Press, Westport, Ct.

of psychological thought offering different explanations. Nevertheless, ever since the time of the early work of the German scholar H. Ebbinghaus, a considerable mass of factual, experimental literature has been developed giving relatively precise information about how, or under what conditions, learning takes place. The curve of learning and the curve of forgetting are well-documented phenomena in the study of the psychology of learning. This is to say there is reasonably close agreement on the description of the learning process in operation, though there is no such agreement on *why*, or *why not*, learning takes place.[5]

Always there is a subjective problem of whether or not the individual "tries to learn," whether or not he is "interested." Mere repetitive behavior, without attention or interest, does not lead to learning. Therefore, it is considered that there must be some element back of behavior, some implicit or covert state of readiness or willingness to act that precedes the behavior itself and makes it meaningful and effective. This internal mental condition is often called attitude or set or functional state of readiness.[6] With the proper attitude, learning takes place rapidly, insofar as ability permits; without the appropriate attitude, repetition of behavior may go on endlessly without learning.

Again, as in the case of overt habit learning, it is true that there is no general agreement on the "why" of particular attitudes or sets necessary for learning, but the descriptive picture of attitude patterns or distributions is relatively clear. Both "attitude" and "overt behavior pattern" are acquired through learning or experience. Both, presumably, are extensions of, or built upon, the innate characteristics and capacities of the individual. As encountered in social relations, they take the form or the shape of the ongoing molding process as expressed in contacts with human beings.[7] Here intimacy groups (the "primary groups" of the sociologist) play an especially important role in defining for the developing child, and for the established adult as well, the basic patterns of attitude, as to what is or should be approved of or disapproved of in behavior generally.

5. For basic data and a critical review of contemporary theories of learning, see Leonard E. Ross, "Learning Theory," *International Encyclopedia of the Social Sciences*, Macmillan and the Free Press, New York, 1968, vol. 9, pp. 189–97.

6. See "The Nature of Attitudes," by Milton Rokeach, *International Encyclopedia of the Social Sciences*, op. cit., vol. 1, pp. 449–58.

7. Ibid. p. 450.

Contact with an intimacy group whose way of life is contrary to the law and offensive to conventional morality may thus condition the attitudes of the individual just as naturally as would contact with a more conventional group. In other words, the acquiring of attitudes favorable to crime—and the learning of criminal behavior patterns—is just as normal a psychological process (it is, in fact, the same psychological process) as that of learning the way of life approved of by law-abiding society. On this basis, therefore, this theory rejects the idea of abnormality or degeneracy of the individual as necessary or important preconditions for criminality. Crime is conceived of as a pattern of behavior (with supporting attitudes) learned in the course of time and in contact with 'definitions of behavior' favorable to criminality in the world of experience surrounding the individual. Thus crime is learned behavior, as is any other activity of man; it reflects something of the individual's personality and talents, but generally consists of routine action and attitudes, peculiar only in being non-law-abiding and in being in conflict with the generally prevailing morality of the established social and political order.

2. EXPLANATIONS IN TERMS OF ENVIRONMENTAL INFLUENCE

It is unnecessary to trace back through history the practice of accounting for crime and delinquency in terms of the influence of the immediate environment. Levin and Lindesmith focused attention on systematic studies made in Europe around 1830, in which the nature of the environment and its influence on the individuals involved *constituted the explanation* of the criminality described. Thus they quote an early English writer as saying[8]

> Among the numerous causes which appear inseparable from manufactories, producing crime and immorality, the following deserve particular notice. The crowding together of the working classes in narrow streets, filthy lanes, alleys and yards, is a serious evil and one which has hitherto increased in all manufacturing towns. The poor are not resident in these places from choice, but from necessity. Families are not huddled together

8. G. C. Holland, *Vital Statistics of Sheffield*, London, 1843, p. 138, quoted in Yale Levin and Alfred Lindesmith, 'English Ecology and Criminology of the Past Century,' *Journal of Criminal Law and Criminology*, 27:801–16 (Mar.–Apr., 1937), p. 802.

into dark, ill ventilated rooms, from any peculiar pleasure it affords. They may, indeed, have become insensible of the inconvenience and wretchedness of such situations, but slender and uncertain means do not enable them to command more comfortable abodes. They are fixed by circumstances.

Without describing any psychological mechanisms that could be assumed to be involved, this is nevertheless clearly an application of the idea or principle that "we learn by association" in criminality as in life otherwise. Later, the French writer Gabriel Tarde (1834–1904),[9] magistrate, statistician, sociologist, philospher, psychologist, contributed substantially to the analysis of social and environmental influence on human behavior; his *Laws of Imitation* (1890) and his *Penal Philosophy* (1890) are eloquent expositions of the association, or learning, theory of criminality, in contrast to and proposed as an alternative to the biological approach of Lombroso.[10]

The idea that crime is learned from environmental influences is also found in many areas of contemporary criminological research. The whole group of "ecological" studies of criminality strongly emphasizes the significance of the nature and quality of associations in the region or area considered.[11] The "delinquency areas" of the city are characteristically areas where, in normal, everyday living, the child encounters the example of adult crime and an ongoing "delinquency pattern" among his juvenile companions and associates. His delinquency consists at least partially of learning the existing patterns in the area.

The same explanation is offered as to why regions or culture areas are significant in understanding the distribution of crime within the nation, or between the nations of the world.[12] For example, the

9. Gabriel Tarde, *La Criminalité comparée*, Alcan, Paris, 1886; *Les Lois de l'imitation*, Alcan, Paris, 1890, 5th ed., 1907, Eng. tr. by E. C. Parsons, Holt, New York, 1903; *La Philosophie pénale*, Alcan, Paris, 1890, Eng. tr. by R. Howell, Little, Brown, Boston, 1912, reprinted by Patterson Smith, Montclair, 1968.

10. For a recent interpretation of the work of Tarde, see Margaret S. Wilson Vine, "Gabriel Tarde," *Journal of Criminal Law, Criminology and Police Science*, 45:3–11 (May–June, 1954), reprinted in Hermann Mannheim, *Pioneers in Criminology*, Patterson Smith, Montclair, 1972, pp. 292–304. See also Don Martindale, *The Nature and Types of Sociological Theory*, Houghton Mifflin, Boston, 1960, pp. 305–9; and Jack H. Curtis, "Gabriel Tarde," in *Social Theorists*, Clement S. Mihanovich, ed., Bruce, Milwaukee, 1953, pp. 142–57.

11. See Ch. 9 for a discussion of this subject.

12. See Keith D. Harries, *The Geography of Crime and Justice*, McGraw-Hill, New York, 1974, pp. 16–37.

murder rate in the southern United States is generally between three and four times higher than it is in the New England states.[13] The murder rate in the United States as a whole, however, is consistently higher than in most European countries, but lower than in most Latin American countries.[14] These differences are generally explained by arguing that violence is more socially acceptable in some cultures and subcultures than in others.[15] A similar point can be made concerning the thoroughly documented fact, which is apparently true worldwide, that there are differences in the amount and kind of crime characteristic of rural and urban areas.[16]

Studies of professional criminals indicate that they recruit and train new members and share information on new techniques and new rackets, as well as on current law enforcement activities in an area.[17] Finally, studies of the effect of prison on the life and habits of prisoners can be used to illustrate the further utilization in criminological research of the idea of crime as behavior learned in normal association with other criminals.[18] These are not the type of studies that yield satisfactory, quantitative conclusions that can be statis-

13. For example, in 1974, the murder rate for the South was 13.3/100,000, whereas the murder rate for the New England states was 3.8/100,000; Michael J. Hindelang et al., *Sourcebook of Criminal Justice Statistics—1976*, U.S. Government Printing Office, Washington, D.C., 1977, pp. 446–48.

14. Edwin H. Sutherland and Donald R. Cressey, *Criminology*, 10th ed. Lippincott, Philadelphia, 1978, p. 39.

15. See Marvin E. Wolfgang and Franco Ferracuti, *The Subculture of Violence*, Tavistock, London, 1967.

16. George B. Vold, "Crime in City and Country Areas," *Annals of the American Academy of Political and Social Science*, 217:38–45 (Sept. 1941); W. P. Lentz, "Rural-Urban Differentials and Juvenile Delinquency," *Journal of Criminal Law, Criminology and Police Science*, 47: 331–39 (1956); T. N. Ferdinand, "The Offense Patterns and Family Structures of Urban, Village, and Rural Delinquents," *Journal of Criminal Law, Criminology and Police Science*, 55:86–93 (1964); and J. F. Feldhusen and J. R. Thurston, "Delinquency Proneness of Urban and Rural Youth," *Journal of Research in Crime and Delinquency*, 2:32–44 (1965). See also the discussion of urban-rural differences in Sutherland and Cressey, op. cit. pp. 182–86.

17. James Inciardi, *Careers in Crime*, Rand McNally, Chicago, 1975; also his "Vocational Crime" in Daniel Glaser, ed., *Handbook of Criminology*, Rand McNally, Chicago, 1974, pp. 299–401; Walter C. Reckless, *The Crime Problem*, 5th ed. Goodyear, Pacific Palisades, Ca., 1973, pp. 249–85; Herbert A. Bloch and Gilbert Geis, *Man, Crime, and Society*, 2nd ed. Random House, New York, 1970, pp. 167–89; and Marshall B. Clinard and Richard Quinney, *Criminal Behavior Systems*, 2nd ed., Holt, Rinehart and Winston, 1973, pp. 187–205.

18. Cf. Hans Riemer, "Socialization in the Prison Community," *Proceedings of the American Prison Association*, 1937, pp. 151–55; Donald Clemmer, *The Prison Community*, Christopher, Boston, 1940, reprinted by Holt, Rinehart and Winston, New York, 1958; Stanton H. Wheeler, "Socialization in Correctional Communities," *American Sociological Review*, 26:697–712 (Oct., 1961); John Irwin and Donald R. Cressey, "Thieves, Convicts and the Inmate Culture," *Social Problems*, 10: 142–55 (Fall, 1962); Esther Heffernan, *Making it in Prison*, Wiley, New York, 1972; and Charles W. Thomas, "Prisonization or Resocialization? External Factors As-

tically analyzed, but the importance of the effect of prison as a community on the lives of its inmates is now generally recognized.[19] Whether we can prove how or why, it seems inescapable that we must accept the simple fact that prisoners learn much from their fellow prisoners. This is apparently a perfectly normal learning process.

Five areas of well-documented research have been briefly characterized—rural-urban differences; regional differences; delinquency areas in the city; professional criminals; and prisons as schools of crime; they seem to call for a theory of criminality that does not depend on assumptions of abnormality or individual deviance, but that rests rather on normal psychological and sociological processes of learning and of community influence.

3. SUTHERLAND'S DIFFERENTIAL ASSOCIATION THEORY

One of the most carefully formulated statements of the nature and effect of environmental group influence on the individual is that by Edwin H. Sutherland; it is usually referred to as the differential association theory of criminality.[20] It is not especially unique, in and of itself, but it is a logical, systematic formulation of the chain of interrelations that makes crime reasonable and understandable as normal learned behavior without resorting to assumptions of biological or psychological deviance. It is peculiarly a "sociological theory" in that it focuses attention on social relations—the frequency, intensity, and meaningfulness of association—rather than on the individual's qualities or traits or on the external world of concrete and visible events.

sociated with the Impact of Imprisonment," *Journal of Research in Crime and Delinquency*, 10:13–21 (Jan., 1973).

19. Cf. Gresham M. Sykes and Sheldon L. Messinger, "The Inmate Social System," in Richard A. Cloward et al., *Theoretical Studies in Social Organization of the Prison*, Social Science Research Council, New York, 1960; Donald R. Cressey, "Adult Felons in Prison" in Lloyd E. Ohlin, ed., *Prisoners in America*, Prentice-Hall, Englewood Cliffs, 1973; and John Irwin, *The Felon*, Prentice-Hall, Englewood Cliffs, 1970. For a review of the literature on the prison community, see Sutherland and Cressey, op. cit. pp. 593–625.

20. The basic formulation of the differential association theory, in its original form, is in Edwin H. Sutherland, *Principles of Criminology*, 3rd ed., 1939, pp. 4–9; wording slightly changed, 4th ed., 1947, pp. 6–7; unchanged in the 5th and later editions (with Donald R. Cressey). Many of the statements and ideas appear in the earlier second edition, 1934, pp. 51–52. At present, the theory appears in Sutherland and Cressey, op. cit., 10th ed., pp. 80–82.

The structural aspects of human association are usually called social organization, that is, the assembly of common purposes and common interests of the members of a group that gives their association significance and meaning.[21] The commonsense term "social disorganization" was used by the Chicago school of human ecology to indicate the breakdown of community cohesiveness in "interstitial areas," with resulting high crime rates. Cloward, however, in his extension of Merton's theory of anomie, argued that these same areas had extensive criminal organizations, including pawn shops that would fence stolen goods, junkyards that would process stolen cars, and numbers, drug, and prostitution rings. The term social disorganization is therefore less meaningful than the more precise and factual one differential social organization. In other words, social disorganization is not a state in which there is no organization, but rather a state in which there are numerous, divergent associations organized around different interests and for different purposes. In each such group or subgroup, the common bond of association is the sharing of interests and purposes that are freely communicated, one member to another, and constitutes the principal psychological reality of group organization. Under this condition of divergent, differential social organizations, it is inevitable that some of these groups will subscribe to and support criminal patterns of behavior; others will be essentially neutral with no criminal involvement; and still others will be definitely anti-criminal, or self-consciously law-abiding.

This basic fact of the existing condition of differential social organization in society is the principal point underlying the idea of differential association as important in bringing about the criminality of an individual. Differential association is a logical consequence of the principle of learning by association. It is really another way of saying that he who runs with thieves is very likely to become a thief. Or, to set the illustration on another plane, let us say that he who associates with Methodists rather than with Roman Catholics is more likely to become a Methodist, largely due to the differential organi-

21. For a general discussion of the concepts of social organization and disorganization, see Marvin E. Olsen, *The Process of Social Organization*, Holt, Rinehart and Winston, New York, 1968; Don Martindale, *Institutions, Organizations and Mass Society*, Houghton Mifflin, Boston, 1966; Paul E. Mott, *The Organization of Society*, Prentice-Hall, Englewood Cliffs, 1965; or any general introductory sociology textbook.

zation of society into Methodists and Catholics and the principle of differential association./ It should be noted that high or low IQ, phlegmatic or excitable temperament, or neurotic or well-balanced personality (as far as is now known) has little or nothing to do with the religious denomination of an individual. Similarly, the individual's personality traits are assumed not to affect his association with either criminals or noncriminals.)

Like his contemporaries Sutherland was eager to make his sociological approach as objective and scientific as possible by tying it in with the visible, external aspects of association that might be counted, or in some way quantified, relative to the individual's associates. His first full formulation of the theory, in the 1939 edition of *Principles of Criminology*,[22] made much of the *frequency* and *consistency* of the individual's association with criminal patterns that are the product of a society characterized by *cultural diversity* and *cultural conflicts*. Individual differences in personal characteristics, or in social situations, were said to be important only as they affected the frequency or consistency of association with criminal patterns.[23]

The 1939 formulation limited the theory to an explanation of "systematic criminal behavior" (meaning, presumably, criminality as an accepted way of life for the individual, for example that of the professional thief, the circus grifter, or the card shark), but in subsequent editions, this limitation is no longer included. In this later, more generalized form, the theory was presumably thought to apply to many if not all kinds of criminality. Sutherland specifically applied it in his *White Collar Crime* (1949),[24] and seems to have conceived of it as a generally explanatory principle applicable to all crime.

The present version has been unchanged since the 1947 edition, and consists of the following nine points[25]:

1. Criminal behavior is learned. . . .

2. Criminal behavior is learned in interaction with other persons in a process of communication. . . .

22. E. H. Sutherland, op. cit., 3rd ed., 1939, pp. 4–9.

23. Ibid. pp. 6–7.

24. E. H. Sutherland, *White Collar Crime*, Dryden Press, New York, 1949, Ch. 14, "A Theory of White Collar Crime," pp. 234–56.

25. Sutherland and Cressey, op. cit., 10th ed., pp. 80–82. Reprinted by permission.

3. The principal part of the learning of criminal behavior occurs within intimate personal groups. . . .

4. When criminal behavior is learned, the learning includes (a) techniques of committing the crime, which are sometimes very complicated, sometimes very simple; (b) the specific direction of the motives, drives, rationalizations, and attitudes. . . .

5. The specific direction of the motives and drives is learned from definitions of the legal codes as favorable or unfavorable. In some societies an individual is surrounded by persons who invariably define the legal codes as rules to be observed, while in others he is surrounded by persons whose definitions are favorable to the violation of the legal codes. . . .

6. A person becomes delinquent because of an excess of definitions favorable to violation of law over definitions unfavorable to violation of law. This is the principle of differential association. . . .

7. Differential associations may vary in frequency, duration, priority, and intensity. This means that associations with criminal behavior and also associations with anticriminal behavior vary in those respects. . . .

8. The process of learning criminal behavior by association with criminal and anticriminal patterns involves all of the mechanisms that are involved in any other learning. . . .

9. While criminal behavior is an expression of general needs and values, it is not explained by those general needs and values, since noncriminal behavior is an expression of the same needs and values. Thieves generally steal in order to secure money, but likewise honest laborers work in order to secure money. The attempts by many scholars to explain criminal behavior by general drives and values, such as the happiness principle, striving for social status, the money motive, or frustration, have been, and must continue to be, futile, since they explain lawful behavior as completely as they explain criminal behavior. They are similar to respiration, which is necessary for any behavior, but which does not differentiate criminal from noncriminal behavior.

4. THE PROBLEM OF "DIFFERENTIAL RESPONSE"

One of the problems that has always bedeviled the theory of differential association is the obvious fact that not everyone in contact with criminals adopts or follows the criminal pattern. What, therefore, is the difference in the nature or quality of the association that in one instance leads to acceptance of the attitude and behavior of a

group by one individual, but in another leads to only acquaintance with but not an acceptance of the behavior characteristic of the group? Sutherland tried to solve this problem in terms of *frequency* and *consistency* of contacts with the criminal pattern. This solution, however, was only an assertion, and not established in fact. He documented it with case histories[26] and self-appraisal statements by various individuals who followed a more or less criminal pattern. But Cressey,[27] in a study of criminals convicted of violation of financial trust, reports his inability to establish any support for the differential association theory. That is, he was unable to establish that frequency or consistency of contact with the criminal pattern had anything specifically to do with an individual's criminal behavior. Apparently the pattern of criminality, in this type of case, was not very important, and in a general way was known by everyone. What was important was the willingness to accept it, to practice dishonesty as a way of doing business. This was not related to either *frequency* or *consistency* of contact with the patterns of dishonesty. In fact, the reason remained rather obscure as to why one individual accepted a pattern of dishonesty, whereas another did not.[28]

Sutherland later revised his theory to its present form, which speaks of the "frequency, duration, priority, and intensity" of associations, although he offered no empirical support for this assertion. Short attempted to test Sutherland's theory by asking groups of delinquents whether they considered their friends to be delinquents.[29] Priority was operationalized as the first friends they could remember, frequency as the friends with whom they had associated most often, duration as the friends with whom they had associated for the longest time, and intensity as "best friends." In a later study, Short[30] focused on the quality of intensity, and hypothesized that

26. Sutherland, *White Collar Crime*, op. cit. pp. 222–56.

27. Donald R. Cressey, "Application and Verification of the Differential Association Theory," *Journal of Criminal Law and Criminology*, 43:51–52 (May–June, 1952). Also his *Other People's Money*, The Free Press, Glencoe, Ill., 1953, pp. 147–51. Cressey, of course, is Sutherland's co-author and is one of the principal defenders of Sutherland's theory.

28. Cressey, *Other People's Money*, op. cit. pp. 93–138.

29. James F. Short, Jr., "Differential Association and Delinquency," *Social Problems*, 4:233–39 (Jan., 1957); also his "Differential Association with Delinquent Friends and Delinquent Behavior," *Pacific Sociological Review*, 1:20–25 (Spring, 1958).

30. James F. Short, Jr., "Differential Association as a Hypothesis: Problems of Empirical Testing," *Social Problems*, 8:14–25 (Summer, 1960). (Italics in original.)

those boys and girls who are *most seriously involved in delinquent behavior* will indicate that their best friends are persons whom they characterize in terms hypothesized to be *delinquency producing;* boys and girls who are *least involved in delinquent behavior* will have characterized their best friends in terms hypothesized to be *delinquency inhibiting;* boys and girls in-between these extremes in delinquency involvement will also fall in-between them in terms of characterizations of best friends.

These studies supported the differential association theory, although Short acknowledged that they were "extremely limited application(s) of a very broadly conceived concept."[31]

Less support for the theory was found in a study by Reiss and Rhodes,[32] in which the "intensity" of criminal associations was also addressed. They investigated the actual delinquent behavior of 299 delinquent boys and each boy's two best friends, and did not rely on the boys' assessments of each other. The conclusion was as follows[33]:

The association of boys with the *same kind* of delinquent behavior in close friendship triads while somewhat greater than chance is well below what one would expect from the learning hypothesis in differential association theory and the results are not independent of social class. Close friendship choices are more closely correlated with delinquency *per se* than with participation in specific patterns of delinquency presumably learned from others.

Several comments can be made about these studies. First, demonstrating that delinquents tend to associate primarily with other delinquents would not demonstrate that delinquency is *caused* by those associations. It may be, as Sheldon and Eleanor Glueck have said, that "birds of a feather flock together"[34]—that is, that a delinquent boy tends to select as his friends those whose values and behaviors are similar to his own. Second, the way the terms were operationalized clearly leaves much to be desired. Short concluded his study by calling for "a restatement of the theory of differential asso-

31. Ibid. p. 24.

32. Albert J. Reiss, Jr., and A. Lewis Rhodes, "An Empirical Test of Differential Association Theory," *Journal of Research in Crime and Delinquency,* 1 (1): 5–18 (Jan., 1964).

33. Ibid. pp. 17–18. (Italics in original.)

34. Sheldon Glueck and Eleanor T. Glueck, *Unraveling Juvenile Delinquency,* Commonwealth Fund, New York, 1950, p. 164.

ciation into a series of 'verifiable' propositions from which verifiable predictions may be derived."[35] Such a restatement was undertaken by De Fleur and Quinney,[36] using symbolic logic. They found that the theory was logically consistent with the exception of point 6, which they found to be misleading. Their reformulation, intended to be logically consistent with the rest of the theory, is as follows[37]:

Overt criminal behavior has as its necessary and sufficient conditions a set of criminal motivations, attitudes, and techniques, the learning of which takes place when there is exposure to criminal norms in excess of exposure to corresponding anticriminal norms during symbolic interaction in primary groups.

They also found that the theory was "at such a high level of abstraction that it is not possible to test it directly with empirical data,"[38] but that logically it generated a large number of specific, testable hypotheses. They conclude that "differential association theory will be supported to the degree to which hypotheses generated from the supersets can be verified in the world of behavioral reality."[39] But, they did not attempt to provide operational definitions of the terms involved, stating only that "until fundamental problems of taxonomy concerning criminal behavior and the various factors associated with its etiology are clarified, empirical testing of the theory will remain a very difficult problem at best."[40]

Sheldon Glueck had originally raised the issue of whether differential association theory could be tested, asking "has anyone actually counted the number of definitions favourable to violation of law and definitions unfavourable to violation of law, and demonstrated that in the predelinquency experience of the vast majority of delinquents and criminals, the former exceed the latter?"[41] Glueck also

35. Short, "Differential Association as a Hypothesis," op. cit. p. 24.

36. Melvin L. De Fleur and Richard Quinney, "A Reformulation of Sutherland's Differential Association Theory and a Strategy of Empirical Verification," *Journal of Research in Crime and Delinquency*, 3 (1): 1–22 (Jan., 1966).

37. Ibid. p. 9.

38. Ibid. p. 22.

39. Ibid. p. 21.

40. Ibid. p. 22.

41. Sheldon Glueck, "Theory and Fact in Criminology: A Criticism of Differential Association," *British Journal of Delinquency*, 7:92–109 (Oct., 1956).

questioned the assertion that all criminal behavior is learned from others, and that none is invented by the individual.[42]

[Differential association theory] attributes all criminal conduct to indoctrination by other criminals or contagion by criminalistic "patterns" and utterly ignores such primitive impulses of aggression, sexual desire, acquisitiveness, and the like, which lead children to various forms of anti-social conduct before they have learned it from others. What is there to be learned about simple lying, taking things that belong to another, fighting and sex play? Do children have to be taught such natural acts? . . . It is rather *non*-delinquent behaviour that is learned. Unsocialized, untamed and uninstructed, the child resorts to lying, slyness, subterfuge, anger, hatred, theft, aggression, attack and other forms of asocial behaviour in its early attempts of self-expression and ego formation.

Finally, he argued that the theory failed to take into account significant individual differences, and maintained that, although criminality is not inherited, some people, "because of certain traits useful to the kind of activities involved in criminal behaviour, probably have a higher delinquency *potential* than others."[43]

Several attempts have been made to broaden Sutherland's theory to meet these and other criticisms.[44] In these attempts, it has generally been maintained that crime is normal learned behavior, but the conception of what is involved in the normal learning process has been broadened. For example, Glaser[45] suggested that criminal learning involved identification with criminal roles rather than association with criminals. Thus, a youth who identifies with Al Capone might imitate his behavior even though he had never met him. This reformulation was designed to bring role theory and other aspects of contemporary learning theory into differential association, and would account for the influence of the media on criminal behavior, which Sutherland's theory minimized. In a similar way, Burgess and Akers rewrote the principles of differential association in the lan-

42. Ibid. p. 94.

43. Ibid. p. 93. (Italics in original.)

44. For other criticisms, see Juan B. Cortés, *Delinquency and Crime*, Seminar, New York, 1972, pp. 166–78 and L. Reed Adams, "The Adequacy of Differential Association Theory," *Journal of Research in Crime and Delinquency*, 11:1–8 (Jan., 1974).

45. Daniel Glaser, "Criminality Theories and Behavioral Images," *American Journal of Sociology*, 61:433–44 (Mar., 1956).

guage of operant conditioning.[46] This reformulation held that "criminal behavior is learned both in nonsocial situations that are reinforcing or discriminative and through that social interaction in which the behavior of other persons is reinforcing or discriminative for criminal behavior."[47] The addition of "nonsocial situations" constitutes a recognition that the environment itself can reinforce criminality, aside from the person's "social interactions" with other individuals. But Burgess and Akers maintain, with Sutherland, that "the principal part of the learning of criminal behavior occurs in those groups which comprise the individual's major source of reinforcement."[48] Adams criticized this reformulation, saying that it contained "fundamental oversights," and argued: "If nonsocial variables can be shown to be of major importance in the acquisition or maintenance of deviance, differential association may be considered inadequate."[49]

Jeffery's reformulation of differential association, which he called the "theory of differential reinforcement," emphasized those nonsocial variables, maintaining that "criminal behavior is operant behavior; that is, it is maintained by the changes it produces on the environment."[50] Jeffery later expanded his theory of criminal learning to incorporate biological factors, a perspective called "biological behaviorism."[51] He then used his theory to make recommendations for crime prevention by changing the physical environment.

Sutherland himself had seemed to minimize the significance of individual characteristics by suggesting that they were important only as they affected differential association. He had, nevertheless, admitted their possible significance, and had illustrated concretely some of the vital ways in which differences in personality traits or in environmental circumstances might affect contact with criminals.[52]

46. Robert L. Burgess and Ronald L. Akers, "A Differential Association—Reinforcement Theory of Criminal Behavior," *Social Problems*, 14:128–47 (Fall, 1968).

47. Ibid. p. 146.

48. Ibid. p. 140.

49. Reed Adams, "Differential Association and Learning Principles Revisited," *Social Problems*, 20:458–70 (1973), especially p. 459.

50. C. R. Jeffery, "Criminal Behavior and Learning Theory," *Journal of Criminal Law, Criminology and Police Science*, 56:294–300 (Sept., 1965).

51. See C. Ray Jeffery, *Crime Prevention Through Environmental Design*, rev. ed., Sage, Beverly Hills, 1977, especially pp. 235–67, 311–18.

52. E. H. Sutherland, *Principles of Criminology*, 3rd ed., 1939, p. 7.

Later editions of his work, however, challenge those who take this position to list the specific personality characteristics that are significant for a theory of crime, and to state why those characteristics should not be regarded as a product of learning and differential association.[53] But in a paper published after his death, Sutherland agreed that crime could not be explained solely by criminal association and that it would be necessary to include individual differences in a complete theory.[54]

Thus, it would seem that many individuals are involved in criminality through a chain of circumstances or associations analogous to that of any other normal, vocational life adjustment. But it would also seem that much of criminal behavior is impulsive and irrational, with little resemblance to anything that could be called "systematic" behavior. It is emphasizing the obvious to point out that the differential association theory should not be stretched to include psychologically irrational and impulsive behavior simply because such behavior may happen to be defined as criminal. The theory may be adequate and applicable to many kinds of crime without necessarily having to be applied to every type of behavior called criminal.

The differential association theory provided an exciting episode in criminological thinking. Through a fortunate combination of words and illustrations in its first formulation, it seemed to offer much more than it was able to deliver. Its shortcomings appear not to be due to the fact that the association complex of the delinquent is any less important now than it seemed to be 50 years ago, but rather to the fact that the theory outran the capacity of either psychology or social psychology to give an adequate answer to the question of why there are such qualitative (selective) differences in human association.

5. SOME IMPLICATIONS AND LIMITATIONS

The theory of crime as normal, learned behavior stems from the general commonsense assumption that the population as a whole is, and must be, essentially normal, biologically and psychologically,

53. Sutherland and Cressey, op. cit., 10th ed., pp. 88–89.

54. E. H. Sutherland, "Critique of the Theory," in A. K. Cohen, A. R. Lindesmith, and K. Schuessler, eds., *The Sutherland Papers*, Indiana University Press, Bloomington, 1956, pp. 30–41.

and from the fact that apparently apprehended criminals are also, generally, quite normal. Thus, for example, Dunham[55] found that the criminally insane in Illinois were a very small proportion of the total male insane (about 1.7%); and that insane criminals constituted only about 1.3% of male criminals committed during the same period (1922–34). At approximately the same time, Bromberg and Thompson[56] found only 1.3% diagnosed as psychotic out of 10,000 consecutive cases examined in the psychiatric clinic of the New York Court of General Sessions, whereas they found approximately 82% to be "essentially normal in mental health." It is thus obvious that the criminality of a prison population, the overwhelming majority of which is essentially normal in mental health, cannot be accounted for in terms of abnormalities. Hence, the logical necessity for the theoretical proposition that crime itself is a condition acquired through normal experience by normal individuals.

It follows logically that it is not the particular combination of personality traits per se that makes a man a criminal, but rather some aspect of the way in which particular traits relate to the values and codes of particular groups. When a doctor or a lawyer or a preacher or a college professor is aggressive and shrewd enough to take advantage of situations to further his own career, we tend to express approval of laudable ambition and to pay tribute to a man of strong character. But when the very same traits are organized around social values of which we disapprove, we look for terms and epithets with which to castigate the undesirable. An aggressive, intelligent, loyal minister of the gospel is to be approved, but the same traits in a bank robber are abhorrent. It is not the traits themselves, therefore, but the group values they affect that give them significance in the association complex of experience.

There are obvious limitations to the adequacy of any theory so general and nonspecific in application as the differential association theory. It becomes unrealistic, if by its use an attempt is made to provide a theoretical explanation of crime in general,[57] since it is dif-

55. H. Warren Dunham, "The Schizophrene and Criminal Behavior," *American Sociological Review*, 4:352–61 (June, 1939).

56. Walter Bromberg and Charles B. Thompson, "The Relation of Psychosis, Mental Defect, and Personality Types to Crime," *Journal of Criminal Law and Criminology*, 28:70–89 (May–June, 1937.

57. E. H. Sutherland, *White Collar Crime*, op. cit. p. 266.

ficult to conceive of such an entity. Crime is rather obviously a mélange of nearly every kind of behavior, having only one thing in general (in common), namely, that it violates the criminal law. Otherwise, behavior as dissimilar as that involved in a sex offense with violence and that of failing to file an income tax return are poles apart. In terms of the problems that must be dealt with, many would say that it is useless to become concerned with a theory so general that it includes both types of behavior.

There are, however, other aspects of the crime problem in which the differences are not so great and the distinctions are less clear cut as to what is criminal and what is noncriminal. There is a relatively close parallel between the dishonesty of the ordinary, small-fry petty criminal and the equally petty dishonesty of many ordinary citizens in the course of their activity in earning their living. Thus, for example, there is the retail merchant who habitually fails to credit his customers with bottles returned; there is the serviceman who charges for repair work not performed; or the butcher who skillfully includes part of the weight of his hand in the weight of the meat order. Such practices are widespread, are harmful, are morally and ethically objectionable, and are probably almost universally condemned. Yet they persist from generation to generation and must be viewed as essentially normal behavior of normal human beings, whether or not the practice happens to have been identified and specified as criminal. This is an area of behavior in which some approach to the theory of crime as ordinary normal behavior is especially applicable, if not absolutely necessary.

There is also an astonishing amount of serious crime committed by those who are considered to be normal, law-abiding citizens. Wallerstein and Wyle mailed questionnaires to a representative sample of 1800 men and women in New York State, and found that 99% admitted to having committed one crime or more, and that on the average, men admitted to having committed 18 and women 11 offenses as adults for which they could have been sentenced to jail or prison.[58] Similar surveys among juveniles have found that delinquent behavior is widespread in all social classes.[59] Sutherland and

58. James S. Wallerstein and Clement J. Wyle, "Our Law-Abiding Lawbreakers," *Federal Probation*, 25:107–12 (Apr., 1947).

59. These studies are discussed in LaMar T. Empey, *American Delinquency*, Dorsey, Homewood, 1978, pp. 141–66; and Martin R. Haskell and Lewis Yablonsky, *Juvenile Delinquency*, 2nd ed., Rand McNally, Chicago, 1978, pp. 221–34.

Cressey have described a large number of situations in which "law-abiding" people commit crime.[60] For example, some people freely engage in serious crimes involving personal injuries and property destruction on such occasions as Halloween, New Year's Eve or during labor strikes or football games. Still others regularly steal from their place of employment or engage in bribery or corruption. Fraud is called "the most prevalent crime in America,"[61] involving advertising, real estate, stocks and bonds, commodity sales, income tax returns and personal property tax reports, misapplication of funds, and legal misrepresentations and concealments. Many people violate laws against sexual activities, such as those against adultery, sodomy, cohabitation without marriage, and homosexuality, and many others violate laws concerning drug or alcohol use.

The general implication of this entire discussion should be clear and inescapable. The theory of crime as consisting primarily of ordinary, everyday learned behavior of normal people has its principal reason for being, as well as its principal type of supporting data, in the overall frequency and distribution of facts known about those individuals who become involved in criminality. They include a considerable part of the total population: every economic and social class, every race and nationality, every political party, and every religious denomination. Just as it makes little sense in political discussion to try to convict an entire people of treason, so in criminology, it is meaningless to look for abnormality—biological, psychological, economic, or social—as the explanation of behavior that includes individuals in every segment and group, and of such a large and constantly changing part of the total population.

If criminal behavior, by and large, is the normal behavior of normally responding individuals in situations defined as undesirable, illegal, and therefore criminal, then the basic problem is one of social and political organization and the established values or definitions of what may, and what may not, be permitted. This point is most easily illustrated using the example of ethnic or cultural groups. Sellin describes the case of a Sicilian father in New Jersey who killed the 16-year-old seducer of his daughter.[62] He expressed surprise at his arrest, since he had merely defended his family honor

60. Sutherland and Cressey, op. cit., 10th ed., 42–51.

61. Ibid. p. 47.

62. Thorsten Sellin, *Culture Conflict and Crime*, Social Science Research Council, New York, 1938, p. 68.

according to the norms of his group. The action is easily seen as normal, learned behavior, and thus is easily explained by differential association theory. But that does not explain why the behavior is criminal in New Jersey and honorable in Sicily.

Crime, in this sense, is political behavior, and the criminal becomes in fact a member of a "minority group" without sufficient public support to dominate and control the police power of the state. This perspective is different from that of positivism, since it does not ask about the causes of crime. It asks, instead, why the normal, learned behaviors of some individuals are defined as crimes, whereas the normal, learned behaviors of others are not. This is the perspective of critical criminology, which will be the subject of Part Four.

RECOMMENDED READINGS

Margaret S. Wilson Vine, "Gabriel Tarde," in Hermann Mannheim, ed., *Pioneers in Criminology,* Patterson Smith, Montclair, 1972, pp. 292–304. A brief discussion of Tarde's life and his contributions to criminology.

Edwin H. Sutherland and Donald R. Cressey, *Criminology,* 10th ed., Lippincott, Philadelphia, 1978. The theory of differential association is presented, and information about crime and the control of crime is related to it.

Albert Cohen, Alfred Lindesmith, and Karl Schuessler, *The Sutherland Papers,* Indiana University Press, Bloomington, 1956. Contains a number of articles by Sutherland relative to differential association, especially "Development of the Theory," "Critique of the Theory," and "Susceptibility and Differential Association."

Donald R. Cressey, "Application and Verification of the Differential Association Theory," *Journal of Criminal Law and Criminology,* 43:43–52 (1952). Cressey found that the differential association theory could not be shown to apply to crimes of financial trust.

Donald R. Cressey, "The Differential Association Theory and Compulsive Crimes," *Journal of Criminal Law, Criminology and Police Science,* 45:49–64 (May–June, 1954). Differential association is used to explain compulsive crimes, such as kleptomania.

Melvin L. De Fleur and Richard Quinney, "A Reformulation of Sutherland's Differential Association Theory and a Strategy for Empirical Verifica-

tion," *Journal of Research in Crime and Delinquency* 3(1): 1–22 (Jan., 1966). Differential association theory is rewritten in the language of formal logic, and many implications are drawn.

Robert L. Burgess and Ronald L. Akers, "A Differential Association—Reinforcement Theory of Criminal Behavior," *Social Problems*, 14:128–47 (Fall, 1968). Differential association theory is rewritten in the language of operant conditioning.

C. R. Jeffery, "Criminal Behavior and Learning Theory," *Journal of Criminal Law, Criminology and Police Science*, 56:294–300 (Sept., 1965). Criminal behavior as the result of operant conditioning rather than criminal association.

Sheldon Glueck, "Theory and Fact in Criminology: A Criticism of Differential Association," *British Journal of Delinquency*, 7:92–98 (Oct., 1956). A wide-ranging criticism of Sutherland's theory.

A. E. Liske, "Interpreting the Causal Structure of Differential Association Theory," *Social Problems*, 16:485–92 (1969). Discusses Glueck's and Sutherland's positions on whether the association of delinquents with each other is a cause or a result of their delinquency.

Daniel Glaser, "Criminality Theories and Behavioral Images," *American Journal of Sociology*, 61:433–44 (Mar., 1956). Criminal behavior as a result of role identification.

PART FOUR

Critical Criminology: The Study of the Criminalization Process

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CHAPTER TWELVE

The Interactionist Perspective

Thomas Szasz has written that a person who studied slaves might find that "such persons are generally brutish, poor, and uneducated, and might conclude that slavery is their 'natural' or appropriate social status."[1] His point was that in order to genuinely understand slaves, it is necessary to study the whole institution of slavery, including the masters and the entire social and economic system of which slavery was a part. Similarly in the interactionist perspective, it is maintained that it is not possible to understand crime merely by studying criminals, but that crime must be seen in the context of the entire "criminalization process," that is, the process of defining specific people and actions as criminal.

The relationship between crime and the criminalization process, as described in the interactionist perspective, is generally expressed using the concepts of deviance and social reaction. Crime is seen as a part of "social deviance," with the term deviance implying only that the activity is *different* from activities that are considered normal or usual in the society. The term "deviant" may also be used to describe persons who are not criminals, but who are different in other ways. For example, the *Random House Dictionary* defines deviant as "one who or that which deviates markedly from the accepted

1. Thomas S. Szasz, "Involuntary Mental Hospitalization: A Crime Against Humanity," in Thomas S. Szasz, ed., *Ideology and Insanity*, Doubleday Anchor, Garden City, 1970, pp. 123–24.

norm: *an intellectual deviant; a mathematical deviant.*"[2] Of course, in the last analysis, everyone is different from everyone else, so that no one is completely "normal" in terms of any hypothetical "norm" that might be imagined. Therefore, in the interactionist perspective, the distinguishing characteristic of deviants is taken to be that there is some form of negative "social reaction"—that is, society in general treats these people as different and somehow "bad."

This means that exactly who is considered deviant in a given society depends very much on the society itself. A Nazi in the United States today is certainly considered deviant, but he would not have been considered deviant in Germany in the 1930s. A person who kills another person may or may not be considered deviant, depending on the relationship of that killing to the legal and cultural conditions of the society. Sometimes those conditions are not clearly specified, so that it is uncertain whether the person is a murderer or a hero, as in the case of Lt. William Calley.[3] Rape is usually thought of as forcing a woman to have intercourse without her consent. But whether a particular incident will be officially defined as a rape depends very much on the attitudes of prosecutors, judges, and juries about the amount of "persuasion" a man may legally use. In general, different people may have very different ideas about the specific behaviors that constitute rape. A radical feminist would probably define a great many more behaviors as rape than would a lecherous playboy.

The point is that behaviors that are considered deviant by one group of people may be considered perfectly normal by another group of people. To that extent, deviance, like beauty, is in the eye of the beholder.[4] Thus, deviance and social reaction are reciprocal terms that can only be understood in conjunction with each other. Interactionists make the same point about criminal behavior and the social processes of defining those behaviors as criminal.

2. Jess Stein, Editor-in-Chief. *The Random House Dictionary of the English Language, the Unabridged Edition,* Random House, New York, 1971, p. 395.

3. Calley was involved in the killing of civilians at My Lai during the Viet Nam war. See Richard Hammer, *The Court Martial of Lt. Calley,* Coward, McCann, and Geoghegan, New York, 1971.

4. J. L. Simmons, *Deviants,* Glendessary Press, Berkeley, 1969, pp. 3–11.

1. SYMBOLIC INTERACTIONISM

A fairly diverse group of theorists presently take the interactionist perspective on the study of crime. Their views often have little in common except that they tend to rely heavily on a particular approach to the study of human nature that has come to be called "symbolic interactionism,"[5] which is founded in the thought of George Herbert Mead (1863–1931).[6] Mead emphasized not only the role of social conditions in the origins of human behavior, but also the role of the individual in responding to, interpreting, and interacting with those conditions. He saw man as simultaneously the creator of and the product of his environment, as both determining and determined. By describing both the rational and non-rational sources of human behavior, Mead was able to combine elements of both the positivist and the classical schools.

According to Herbert Blumer, who analyzed Mead's thought, symbolic interactionism can be summarized in three simple premises.[7] First, "human beings act toward things on the basis of the meanings that the things have for them." This statement might seem obvious enough, but Blumer contends that sociologists and psychologists have largely ignored "meaning" in their search for the determinants of human behavior. Both have viewed behavior as the product of antecedent conditions, with the psychologists focusing on such factors as "stimuli, attitudes, conscious or unconscious motives, various kinds of psychological inputs, perception and cognition, and various features of personal organization" and sociologists focusing on "social position, status demands, social roles, cultural prescriptions, norms and values, social pressures and group affiliation." The assumption has been that if all of the antecedent conditions were known, then the behavior could be predicted. This position ignores the meaning the various antecedent conditions have for the different

5. Edwin M. Schur, "Reactions to Deviance: A Critical Assessment," *American Journal of Sociology*, 75:309–22 (Nov., 1969), especially p. 318. See also Edwin M. Lemert, "Beyond Mead: The Societal Reaction to Deviance," *Social Problems*, 21:457–68 (Apr., 1974).

6. For information concerning Mead's career see Anselm Strauss, "Introduction," in George Herbert Mead, *On Social Psychology*, ed. by Anselm Strauss, University of Chicago Press, Chicago, 1964; and Maurice Natanson, *The Social Dynamics of George H. Mead*, Public Affairs Press, Washington, D.C., 1956, pp. 1–4.

7. Herbert Blumer, *Symbolic Interactionism: Perspective and Method*, Prentice-Hall, Englewood Cliffs, 1969, pp. 2–3.

individuals involved. Growing up in a slum, being physically abused by parents, or having a learning disability can mean very different things to different people. In symbolic interactionism, meaning is regarded as the central concept in the explanation of behavior, and the influence of the psychological or sociological conditions must be assessed in terms of the meaning those conditions have for the individual.

The second premise of symbolic interactionism is that "the meaning of such things is derived from, or arises out of, the social interaction one has with one's fellows." The import of this premise is that the meaning of things does not reside either within the thing itself, or within the individual. The meaning an object, such as a chair, has for an individual arises primarily from the fact that he has seen other people use it. If the individual has never had such an experience, then he may think that the chair is some form of strange weapon, particularly if his fellows have used bulky objects as weapons in the past. The meaning a criminal act, be it murder or shoplifting, marijuana smoking or income tax evasion, prostitution or embezzlement, has for an individual arises in much in the same way. It is neither inherent in the nature of the act itself, nor does it spring from the constituent elements of the person's psyche. It is derived primarily from the meaning given to these acts by the person's social and cultural context.

But the entire meaning is not derived from one's social interactions; the third premise states: "these meanings are handled in, and modified through, an interpretative process used by the person in dealing with the things he encounters." By interpreting the situation, people are not merely receivers of meaning, but creators of it, and therefore the actions of an individual are in part determined by the individual himself. This is the source of Mead's image of man as both determining and determined.

A particular human action, such as a crime or the reaction to a crime, must always be seen in the context of the ongoing interactional process in which the person is involved. The action has a past, in that its meaning has been derived from previous interactions, and the action has a future, in that it is oriented toward producing or eliciting certain actions from others.[8] Human action is particularly

8. Bernard N. Meltzer, John W. Petras, and Larry T. Reynolds, *Symbolic Interactionism: Genesis, Varieties and Criticisms*, Routledge & Kegan Paul, Boston, 1975, p. 34.

affected by three "definitions" the person constructs out of the meanings he has derived in his interpretation of past interactions. These include a definition of himself, a definition of the society in which he lives, and a definition of his situation within that society. The person may define himself as handsome or cowardly, as a kindly doctor or a faithful spouse or a worthless bum, or as all of these. The person will then act toward himself according to the meanings he has for himself. The image each person has of himself is constructed primarily through his interpretations of the way other people see or define him. That is what Mead called "the self as a social construct,"[9] and what Cooley called "the looking glass self."[10] Cohen describes the concept well[11]:

> The self is built up in the process of interacting with others. In doing business with them, we discover what we are—i.e., the categories to which we have been assigned—and to some extent we determine what we shall be. We may lay claims to being a certain sort of person, but this claim must make sense in terms of the culture of those we are dealing with, and we must make these claims stick. To lay a claim is to say, in effect: "I am such-and-such a sort of person; I invite you to deal with me on this basis; you may expect certain things of me." To make the claim stick, we must validate it by meeting the cultural criteria of the role. We know we have done this when others, by their responses, indicate acceptance of us as valid specimens of the role. In so doing, we also confirm our conception of ourselves. We cannot really tell whether we are "leaders," "glamour girls," "pool sharks," or "brains" without venturing into the icy waters of social interaction, trying our hand at the role, and seeing how others respond. Everyone is continually engaged in a lifelong process of building, maintaining, or refashioning a self.

A person's actions will also be greatly affected by his particular conception or definition of society, which he might characterize as filled with opportunity, as racist and oppressive, or as a chaotic pressure-cooker. This definition arises out of many interactions with

9. Mead, *Mind, Self and Society*, op. cit. For discussion of Mead's view, see Bernard N. Meltzer, "Mead Social Psychology" in Jerome G. Manis and Bernard N. Meltzer, eds., *Symbolic Interaction*, Allyn and Bacon, Boston, 1967, pp. 9–13.

10. Charles H. Cooley, *Human Nature and the Social Order*, Charles Scribner's Sons, New York, 1902, pp. 183–85, 196–99. Reprinted in Manis and Meltzer, op. cit. pp. 217–19.

11. Albert K. Cohen, *Deviance and Control*, Prentice-Hall, Englewood Cliffs, 1966, p. 98. Reprinted by permission of the publisher.

others, which are then generalized into one entity in the person's mind.[12] As with other "objects," the person will act toward society according to the meaning it has for him. Finally, as W. I. Thomas pointed out, what a person does depends largely on how he defines his situation.[13] Different persons respond to the same situation in very different ways. What is normally considered a bad environment may have a good influence, or a good environment may have a bad influence, depending on how the individual interprets his situation.[14]

Because activity is so immersed in the process of human interaction, and because it is affected by the interpretations the person makes about himself, his situation, and his society, the future will always be at least somewhat uncertain. The very nature of human activity makes life partially unpredictable and indeterminate.[15] In addition, social scientists must be careful not to impose their own interpretations on a person's actions, even if their interpretations appear to make a great deal of sense. The meaning an action has for a person may be quite different than what we might imagine. The only way to find out the true meaning of an action for the person is through a process that Cooley called "sympathetic introspection," in which the scientist goes beyond the mere observation of external behavior and attempts to see the act the way the person sees it.[16]

2. THE MEANING OF CRIME TO THE CRIMINAL

The technique of "sympathetic introspection" requires that the criminologist enter into the criminal's world in order to see the meaning of crime from the criminal's perspective. This approach entails understanding the criminal's definitions of himself, his situa-

12. Mead, *The Social Psychology of George Herbert Mead*, ed., by Anselm Strauss, The University of Chicago Press, Chicago, 1956, p. 231.

13. W. I. Thomas, *The Unadjusted Girl*, Little, Brown, Boston, 1923, pp. 41–53. Reprinted in Manis and Meltzer, op. cit. pp. 315–21.

14. Meltzer, Petras, and Reynolds, op. cit., pp. 9–10.

15. Strauss, "Introduction" in *The Social Psychology of George Herbert Mead*, op. cit. pp. xi, xii.

16. Cooley, op. cit. p. 84. In discussing this concept, Blumer criticizes social scientists who construct theories about aspects of the social life (such as crime) when they have little or no first-hand experience in those areas. He argued that, although these theories may be logical, appealing and conceptually elegant, they have no value if they do not describe the real world and the real people who are in it. See Blumer, op. cit. pp. 33–47.

tion, and his society. In order to fully appreciate these definitions, there is usually a strong reliance on the use of the criminal's own words. At the simplest level, criminologists can simply report verbatim the descriptions and rationalizations criminals give of their own actions.[17] Biographical or autobiographical accounts of the lives of criminals can fill much the same purpose.[18] Or the criminologist can use the words and ideas of the criminal in the attempt to construct a more systematic portrait of the meanings the actions have in the person's life.[19]

Interactionist explanations of crime generally have focused on the criminal's definition of himself. For example, Cohen uses the idea that each person "constructs" his self-image in the process of interacting with others.[20]

> A great deal of deviance that seems "irrational" and "senseless" makes some sense when we see it as an effort to proclaim or to test a certain kind of self. A great deal of illicit (as well as socially acceptable) sexual activity is motivated less by glandular secretions than by role anxiety. The use of marijuana and heroin, especially the early experimental stages; driving at dangerous speeds and "playing chicken" on the highway; illegal consumption of alcoholic beverages; participation in illegal forms of social protest and civil disobedience; taking part in "rumbles"—all of these are likely to be role-expressive behavior.

A classic example of role anxiety generating crime in the interactional process is found in Korn and McCorkle's description of three

17. For example, a large number of such descriptions are contained in Duane Denfeld, ed., *Streetwise Criminology*, Schenkman, Cambridge, 1974. For selections regarding various kinds of deviance, both criminal and noncriminal, see James K. Skipper and Mark Lefton, eds., *In Their Own Behalf—Voices from the Margin*, Appleton-Century-Crofts, New York, 1968.

18. See, for example, Truman Capote, *In Cold Blood*, Random House, New York 1966; Eldridge Cleaver, *Soul on Ice*, McGraw-Hill, New York, 1967; Claude Brown, *Manchild in the Promised Land*, Signet, New York, 1965; *Soledad Brother: The Prison Letters of George Jackson*, Coward McCann, New York, 1970; Vincent Bugliosi and Curt Gentry, *Helter Skelter*, Bantam, Des Plains, 1975; and Willie Sutton and Ed Linn, *Where the Money Was*, Viking, New York, 1976.

19. See, for example, Clifford Shaw, *The Jack-Roller*, University of Chicago Press, Chicago, 1930; Edwin H. Sutherland, *The Professional Thief*. University of Chicago Press, Chicago, 1937; Harold Finestone, "Cats, Kicks, and Color," in Howard S. Becker, ed., *The Other Side—Perspectives on Deviance*, The Free Press, New York, 1964; Carl B. Klockars, *The Professional Fence*, The Free Press, New York, 1974; Mary Owen Cameron, *The Booster and the Snitch*, The Free Press, New York, 1964; and Ned Polsky, *Hustlers, Beats and Others*, Aldine Publishing Co., Chicago, 1967.

20. Cohen, op. cit. p. 99.

college students who decided to rob a post office one night.[21] The conversation began with the boys joking about how easy it would be to pull off, and they very naturally progressed into making a detailed strategy. At some point, the discussion took on the quality of an actual plan, and none of the boys was willing to appear "chicken." Thus, the robbery occurred even though none of the boys wanted to do it, and none was even interested in the money.

Matza argues that most criminal activity by juveniles has this same quality in that it arises out of the particular interactional situation and that most delinquents do not have an overt commitment to criminal values. Rather, he maintains that, in general, juveniles "drift" into delinquency (and often drift back out of it) as they respond to a continuing interactional process in which no particular event or circumstance has overriding importance.[22] Matza has argued elsewhere that most delinquents are in fact committed to the conventional values of the society, and that they do not conceive of themselves as criminals.[23] Their own delinquent behavior contradicts their self-image, and therefore they often justify the behavior by arguing that it is "not really criminal." Five "techniques of neutralization" may be used in this way: denial of responsibility ("It wasn't my fault"); denial of injury ("They can afford it"); denial of victims ("They had it coming"); condemn the condemners ("Everyone is crooked anyway"); and appeal to higher loyalties ("I did it for the gang").

These examples illustrate a point that has been of particular importance to interactionist explanations of crime: that criminal behavior frequently is committed by persons who do not define themselves as criminals. In order to maintain a noncriminal self-image, these persons "define the situation" so that they can maintain that their actions were not really crimes. This tendency has been noted in many different types of criminals. Yochelson and Samenow found that even the most hardened, consistent offenders were unwilling to admit that they were "criminals," although they could eas-

21. Richard R. Korn and Lloyd W. McCorkle, "The Reluctant Robbers," in Earl Rubington and Martin S. Weinberg, eds., *Deviance—The Interactionist Perspective*, The Macmillan Co., New York, 1968, pp. 330–33.

22. David Matza, *Delinquency and Drift*, Wiley, New York, 1964, p. 29.

23. Gresham M. Sykes and David Matza, "Techniques of Neutralization: A Theory of Delinquency," *American Sociological Review*, 22:667–70 (Dec., 1957).

ily recognize criminality in others.[24] Cameron pointed out that nonprofessional shoplifters often deny that their actions constitute theft, and tend to rationalize their behavior as "merely naughty or bad" or as "reprehensible but not really criminal."[25] Cressey's analysis of embezzlement is quite similar.[26] An embezzler is someone who holds a position of trust, and normally conceives of himself as an upstanding citizen. Therefore, he must define his actions as "only borrowing the money" before he can proceed. Police who use illegal violence justify it in terms of the need to accomplish their jobs.[27] Illegal activities by government agencies may be justified in terms of "national security." Antiwar activists who committed illegal acts stated that the "real criminals" were the ones who were running the war. And in general, Chambliss and Seidman state that "It is a truism that every person arrested for crime perceives himself as innocent, for there are always circumstances which to him seem to place his action outside the appropriate definition of the crime."[28] In each of these cases, individuals were defining their situations so that criminal activities become consistent with noncriminal self-images.

The maintenance of a noncriminal self-image is extremely important to most people, since criminals of any sort are normally considered lower on the social scale than noncriminals. Pressure to accept a criminal self-image depends in part on the number of others who define the person as a criminal, and the process of informing others is frequently used as a technique of social control. For example, consider the case of a housewife who is caught shoplifting and is brought to the store office. Store officials essentially communicate to the housewife that "you *are* a shoplifter," imposing on her a new identity (shoplifter: thief, criminal, etc.), which is substantially lower than her previous identity (housewife: guardian of children, manager of home and budget, etc.). This process is extremely threatening to

24. Samuel Yochelson and Stanton E. Samenow, *The Criminal Personality*, Jason Aronson, New York, vol. I, 1976, p. 19.

25. Cameron, op. cit. pp. 159, 161, 168.

26. Donald R. Cressey, *Other People's Money: A Study of the Social Psychology of Embezzlement*, The Free Press, Glencoe, 1953.

27. William A. Westley, "Violence and the Police," *American Journal of Sociology*, 59:34–41 (July, 1953).

28. William J. Chambliss and Robert B. Seidman, *Law, Order and Power*, Addison-Wesley, Reading, Mass., 1971, p. 71.

her self concept precisely because the self is constructed in the process of interacting with others, including these store officials. The officials can increase the potency of the threat by increasing the number of persons who know about the new identity, particularly if the persons who are told about it are important to her. The ultimate threat to the identity, however, involves the process of arrest and conviction in which the person is officially declared to be a shoplifter in the view of the society at large. From this point of view, a criminal trial can be seen as a ritualistic "status degradation ceremony" in which the public identity of the person is lowered on the social scale. Garfinkel maintains that literally every society has such ceremonies as a method of social control and that the structure of these ceremonies is essentially the same, although the societies differ dramatically.[29]

Crime that occurs in the context of a noncriminal self-image can originate in any number of social, psychological, cultural, or physiological factors in the person's life.[30] But crime, as a form of deviance, will normally generate a negative reaction in other people (whether or not this includes the official agents of social control) and often will generate a negative reaction in the person himself (whether or not he admits it). The easiest defense against the negative reaction is the one described above: to redefine the behavior so that it is "not really a crime." That allows the person to maintain a non-deviant self-image while continuing the deviant behavior.[31]. But the social reaction can escalate, such as when the person is "caught," and the defense can become ineffective if others refuse to define the person's actions in the same way he does. At that point, he may be forced to shift to a different defense. For example, he could admit that he did engage in the behavior, and promise to change.[32] The effect of that defense is to maintain the non-deviant self concept in the future, even if it was lost in the past or present.

29. Harold Garfinkel, "Conditions of Successful Degradation Ceremonies," *American Journal of Sociology*, 61(5): 420–24 (Mar., 1965).

30. Edwin M. Lemert, *Human Deviance, Social Problems, and Social Control*, Prentice-Hall, Englewood Cliffs, 1967, pp. 17, 40.

31. Sykes and Matza (op. cit. p. 667) make the same point about techniques of neutralization when they state: "In this sense, the delinquent both has his cake and eats it too, for he remains committed to the dominant normative system and yet so qualifies its imperatives that violations are 'acceptable' if not 'right.' "

32. This response has been regarded as a problem for the labeling approach. See Edward Sagarin, *Deviants and Deviance*, Praeger, New York, 1975, pp. 131–32.

It is a much less desirable defense both because the person loses a part of his non-deviant self-image and because he is required to discontinue the deviant behavior.

But if the person is unwilling or unable to stop the deviant behavior, then at some point he must organize a defense that incorporates the behavior into his self-image in such a way that it negates the condemnation of the social reaction. This entails adopting some form of a deviant self-image, in which the deviant behavior is considered a normal, natural part of the person's role. If the person already thinks of himself as a drug addict, a homosexual, a prostitute, a criminal, or a juvenile delinquent, then the negative reaction to his behavior holds much less force. A person who reorganizes his self-image around his deviant behavior as a defense against the attacks of the social reaction is what Lemert calls a "secondary deviant."[33]

Secondary deviation involves commitment to the deviant behavior per se, so that the deviance no longer arises out of the situations and circumstances of the person's life (what Lemert calls "primary deviation"), but is generated by the person's definition of himself. The redefinition of self opens the door to the full participation in deviant life, and a commitment to a deviant career.

Criminal justice agencies, as the institutionalized means of social reaction, may play a substantial role in the process by which a person comes to accept a criminal self-image. These agencies "label" people as criminals in formal "status degradation ceremonies," as well as in informal interactions. It is certainly possible (and frequently happens) that a person who has been labeled a criminal by these agencies does not form a criminal self-image. On the other hand, retaining a noncriminal self-image can be difficult due to a number of characteristics of the criminal label. Becker has argued that the "criminal" status overrides all other statuses a person might have, so that no matter what else the person may have done in his life, he is identified primarily as a criminal once he has been convicted of a crime.[34] At the same time, the criminal status can be considered irreversible.[35] The elaborate "status degradation ceremo-

33. Lemert, op. cit. pp. 40–64; also Lemert, *Social Pathology*, McGraw-Hill, New York 1951, pp. 75–76.

34. Howard S. Becker, *Outsiders—Studies in the Sociology of Deviance*, Free Press of Glencoe, New York, 1963, pp. 32–33.

35. Kai T. Erikson, "Notes on the Sociology of Deviance," *Social Problems*, 9:311 (Spring, 1962). An example would be Ray's argument that a cured heroin addict relapses in part

nies" in which the person acquires criminal status are seldom matched by any "status elevation ceremonies" in which the person regains full status as a citizen. When the person acquires criminal status, he also can acquire in the public mind a number of other characteristics popularly assumed to be associated with that status. There are public stereotypes of murderers and rapists, of burglars and armed robbers, of homosexuals and prostitutes and juvenile delinquents. The stereotype may become a self-fulfilling prophesy, since each person constructs his own identity on the basis of how other people define him. In addition, the person may be forced into the deviant role because the public stereotype limits his legitimate options.[36] For example, upon release from prison a person may be unable to obtain employment because he is a "criminal," and thus may return to crime in order to survive. Finally, those who have been labeled deviant may be forced into deviant groups, so that they associate primarily with other persons who have been similarly labeled.[37] This can occur informally, through social isolation, or formally, when the deviants are institutionalized. Membership in an exclusively deviant group increases the probability that they will resort to a deviant self-image rather than attempt to retain a non-deviant one.

This discussion represents the basic tenet of the so-called "labeling" approach to crime: that the official process of social control can have the effect of amplifying deviant behavior because the labeling process increases the likelihood that the person will develop a deviant self-image. Labeling theory has sometimes been portrayed as inconsistent with or a refutation of the more traditional positivist theories of crime. But labeling can also be seen as complementing those theories, since it does not attempt to explain "primary deviations," that is, those that occur in the context of a non-deviant self-image. These deviations are said to emerge from a variety of social, cultural, psychological, and physiological factors for which there is no single explanation. Positivist criminology has studied these factors in the attempt to explain crime. In labeling theory, it is argued that at some point in the deviant career, the explanation for the

because other people continue to treat him as an addict. See Marsh B. Ray, "The Cycle of Abstinence and Relapse among Heroin Addicts," *Social Problems*, 9:132–40 (Fall, 1961).

36. Becker, *Outsiders*, op. cit. pp. 34–35.

37. Ibid. pp. 37–39.

deviance shifts from these factors to the deviant identity itself. The relative value of the labeling approach, as opposed to the more traditional positivist approaches, depends on the proportion of crime that is "secondary deviance" rather than "primary deviance." That proportion is not readily apparent.

Several criticisms of the labeling approach should be mentioned. First, labeling theorists sometimes have overemphasized the importance the official labeling process can have. As Akers has remarked,[38]

> One sometimes gets the impression from reading this literature that people go about minding their own business, and then—"wham"—bad society comes along and slaps them with a stigmatized label. Forced into the role of deviant the individual has little choice but to be deviant.

Second, labeling theory generally portrays the deviant as resisting the deviant label, and accepting it only when it can no longer be avoided. Although this may be true in some cases, in others it would appear that the deviant identity is actively sought and that the person may form a deviant identity without ever having been officially or unofficially labeled. For example, youths who join a delinquent gang may form a deviant identity centered on their gang activities. Although official labeling may make it harder to change that identity in the future, it would not have pushed the youth into the identity in the first place, and there is no particular reason to believe that failure to label the youth would lead him to seek a law-abiding identity instead.

Third, it is generally recognized that for the typical, law-abiding member of society who has a noncriminal self concept, the labeling or "stigmatizing" function of the criminal court is the primary technique of social control, and is much more important than the actual imposition of punishments.[39] The average citizen is deterred from committing most crimes because he fears the conviction itself rather than the punishment associated with it. This is why courts are frequently able to suspend sentence or impose such minor punishments as small fines or unsupervised probation with no loss of effec-

38. Ronald L. Akers, "Problems in the Sociology of Deviance: Social Definitions and Behavior," *Social Forces*, 46:455–65 (1967).

39. Franklin E. Zimring and Gordon J. Hawkins, *Deterrence*, University of Chicago Press, Chicago, 1973, pp. 190–94.

tiveness. Only in cases in which conviction does not hold a stigma, for example, traffic offense cases, do the courts rely heavily on the actual imposition of punishments in the social control of the average citizen. Reducing the stigmatizing or labeling effects of the criminal court could possibly lead to an increase in the incidence of criminal behaviors and to an increase in the imposition of other, harsher punishments for those behaviors. Thus, the basic question is not whether the labeling function creates crime, but whether it creates more crime than it eliminates. Although this is a very complicated question to analyze, it seems probable that labeling does not create more crime than it eliminates.[40] This means that the policy implications of labeling theory are not at all clear.

3. THE MEANING OF CRIME TO CRIMINAL JUSTICE PERSONNEL

A particular action is officially a crime only if it is defined as such by the agents of the criminal justice system. That is, the agent must "define the situation" as criminal, and then must act according to that definition. A variety of factors can influence the way the agent constructs his "definition of the situation," including the following: his interaction with the offender, his interaction with the complainant, the organizational structure and policy of his agency, and the demands of his particular job.

The *interaction with the offender* can strongly influence whether the police officer officially defines the situation as a crime. For example, Piliavin and Briar studied one metropolitian police department in which officers could choose from five possible responses to delinquent behavior, ranging from outright release to arrest and confinement in juvenile hall.[41] The authors found that in all cases involving minor offenses, and in some cases involving serious offenses, the decision on how to handle the case was made on the basis of the officer's assessment of the personal character of the youth rather than on the basis of the offense itself. The officer, for example, might define the youth as a "serious delinquent" or as a "misguided

40. Charles R. Tittle, "Labelling and Crime: An Empirical Evaluation," in Walter R. Gove, ed., *The Labelling of Deviance—Evaluating a Perspective*, Wiley, New York, 1975, pp. 181–203.

41. Irving Piliavin and Scott Briar, "Police Encounters with Juveniles" *American Journal of Sociology*, 69:206–14 (Sept., 1964).

youth" or as a "good boy who happened to be in the wrong place at the wrong time." This definition was based less on factual data (which were usually not available at the time) than it was on a variety of "cues" that arose in the interaction between the officer and the youth and from which the officer inferred the youth's character. These cues included the youth's group affiliation, age, race, grooming, dress, and demeanor.

The most important of these "cues" was clearly the demeanor of the youth, which the officers themselves estimated was a major factor in 50 to 60% of their decisions.[42]

Juveniles who were contrite about their infractions, respectful to officers, and fearful of the sanctions that might be employed against them tended to be viewed by patrolmen as basically law-abiding or at least "salvageable." For these youths, it was usually assumed that informal or formal reprimand would suffice to guarantee their future conformity. In contrast, youthful offenders who were fractious, obdurate or who appeared nonchalant in their encounters with patrolmen were likely to be viewed as "would-be tough guys" or "punks" who fully deserved the most severe sanction: arrest.

For the juvenile, however, the hostile attitude may not represent a commitment to delinquent values, but may be a response to having been repeatedly interrogated by police precisely because of his physical appearance[43]:

Negro gang members are constantly singled out for interrogation by the police, and the boys develop their own techniques of retaliation. They taunt the police with jibes and threaten their authority with gestures of insolence, as if daring the police to become bigots and bullies in order to defend their honor. Moreover, these techniques of retaliation often do succeed in provoking this response. When suspect after suspect becomes hostile and surly, the police begin to see themselves as representing the law among a people that lack proper respect for it. They, too, begin to feel maligned and they soon become defensively cynical and aggressively moralistic.

42. Ibid. pp. 210–11. For additional information on the role of demeanor in police encounters with juveniles, see Donald J. Black and Albert J. Reiss, Jr., "Police Control of Juveniles," *American Sociological Review*, 35:63–77 (Feb., 1970).

43. Carl Werthman and Irving Piliavin, "Gang Members and the Police," in David J. Bordua, ed., *The Police*, Wiley, New York, 1967, p. 46. See also Westley, op. cit., in which police were asked to name situations in which the use of violence would be justified. The most frequent response was when the offender showed "disrespect for police."

The opposite situation seems to occur with Japanese youths, whose culture places a strong emphasis on respect for authority. Chambliss and Nagasawa took a self-report survey among white, black, and Japanese high school students in a lower-class, high delinquency area, and compared the responses to official arrest rates for the different races.[44] Although 36% of the Japanese students reported high delinquency involvement, their official delinquency arrest rate was only 2%; 53% of the white students and 52% of the black students also reported high delinquency involvement, but their arrest rates were 11% and 36%, respectively. In symbolic interactionism, this situation would be interpreted in the following way. Each of the two parties—the police officers and the juveniles—are acting toward the other on the basis of the meanings the other has for them. These meanings are not inherent in the other, but are constructed by each party by interpreting the present situation on the basis of previous interactions. This includes interactions within their own groups (police with police, juveniles with juveniles) in which a common interpretation of the other's actions is developed and transmitted. The effect of these interpretations is to create in the other party what was defined as there in the first place, so that this represents a demonstration of the principles of labeling theory.

The police officer's definition of the situation can also emerge when he *interacts with a complaining citizen* on the scene of an alleged crime. The definition he constructs determines whether he writes an official report. That, in turn, determines whether the event is recorded as a crime in the official statistics and whether further action is taken to arrest and prosecute the offender. Black studied this process by having trained observers accompany police officers in three major cities.[45] He found that police wrote reports in only 72% of the felony situations and 53% of the misdemeanor situations, with the following factors appearing to influence their decisions.

1. The complainant's preference: there were no cases in which an official report was written when the complainant expressed a preference for unof-

44. William J. Chambliss and Richard H. Nagasawa, "On the Validity of Official Statistics—A Comparative Study of White, Black and Japanese High School Boys," *Journal of Research in Crime and Delinquency*, 6:71–75 (Jan., 1969).

45. Donald J. Black, "The Production of Crime Rates," *American Sociological Review*, 35:733–48 (Aug., 1970).

ficial action. In cases where the complainant preferred official action, the officer complied with the preference in 84% of the felony situations and 64% of the misdemeanor situations.

2. Relation to the offender: police wrote reports in 84% of the cases where the offender was presumed to be a stranger (including 91% of the felony situations). However, they wrote reports in only 51% of the cases involving friends, neighbors, or acquaintances, and in only 41% of the cases involving family. The police were more likely to report misdemeanors involving strangers (74%) than they were to report felonies involving friends, neighbors, or acquaintances (62%).

3. Attitude of the complainant: official reports were written in 91% of the situations in which the complainant was very deferential and respectful to the police (including 100% of the felony situations). Seventy-three percent of the cases were reported where the complainants were "civil," but only 30% where they were "antagonistic."

4. There was little evidence of discrimination on the basis of the complainant's race, since reports were written in 72% of the cases where the complainant was black, and in 76% of the cases where they were white. However, police reported 100% of the felonies involving white-collar complainants (both black and white), but only 77% of the felonies involving blue-collar complainants.

Black concludes by stating that "the life chances of the criminal violator may depend on who his victim is and how his victim presents his claim to the police."

Differences in *organizational structure* of the criminal justice agency can produce substantial differences in the set of people defined as criminal. These differences are most apparent in cases where the criminal behavior is not defined precisely. For example, Currie demonstrates that the witchhunt on the continent in Renaissance Europe produced a large number of witches, many of whom were wealthy, whereas in England it produced a much smaller number who were almost exclusively poor and powerless.[46] Because the specific behaviors that constituted "witchcraft" were not actually defined, these differences reflected differences in the social control systems. Specifically, the criminal procedures on the continent presumed the guilt of the accused, whereas the system in England was

46. Elliott P. Currie, "Crimes Without Criminals: Witchcraft and Its Control in Renaissance Europe," *Law and Society Review*, 3 (1): 7–32 (Aug., 1968).

based on a presumption of innocence. In addition, the court officials on the continent normally confiscated the property of convicted witches, which gave them a powerful economic incentive to expand the hunt and focus it on the wealthy.

The selection of juvenile delinquents is also strongly affected by differences in organizational structure, since the definition of "juvenile status" offenses often does not consist of specific, precisely defined behaviors. The California law is an example[47]:

> Any person under the age of 21 years who persistently or habitually refuses to obey the reasonable and proper orders or directions of his parents, guardian, custodian, or school authorities, or who is beyond the control of such person, or any person who is a habitual truant from school within the meaning of any law of this State, or who from any cause is in danger of leading an idle, dissolute, lewd or immoral life, is within the jurisdiction of the juvenile court, which may adjudge such person to be a ward of the court.

This statute is so broadly drawn that it potentially includes nearly all youths. The underlying presumption is that the juvenile control mechanism will be used only in cases where it is "necessary for the protection of society" or "in the best interest of the child." Organizational structure can affect how this presumption is implemented. For example, Cicourel analyzed the differences in rates of delinquency in two cities of similar size and found that they did not reflect differences in juvenile behavior, but were generated by differences in the organizational structures of the juvenile control agencies.[48] City A had higher general rates of delinquency, as well as higher rates of recidivism. This was attributed to the fact that the juvenile division in this city was larger, better organized, more professional, and maintained better records. Because of these factors, juveniles who were heavily engaged in delinquent activities were more likely to be identified and aggressively pursued. On the other hand, City B had higher rates of Mexican-American and black delinquency, and this was attributed to the fact that the police department in that city was heavily oriented toward viewing minorities as

47. Section 601 of the Welfare and Institutions Code of California, quoted in Martin R. Haskell and Lewis Yablonsky, *Juvenile Delinquency*, Rand McNally, Chicago 1974, p. 43.

48. Aaron V. Cicourel, *The Social Organization of Juvenile Justice*, Wiley, New York, 1968, pp. 58–110.

"troublemakers," and thus the police more aggressively monitored those groups.

Changes in *departmental policy* can also affect the way police define situations, and this sometimes results in dramatic changes in the crime rates.[49]

In Chicago, the number of known robberies increased from 1,263 to 14,544 in a three-year period, and burglaries increased from 879 to 18,689 in the same period. This change was due almost completely to a change in the recording practices of the police following an investigation by the Chicago Crime Commission. Similarly, in the 1952 annual report of the New York City Police Department, a revised system of recording crimes was a major factor in the 254 percent rise in the city's crime rate between 1950 and 1951. A community apparently cut its delinquency rate in half by establishing a youth bureau attached to the police department, but investigation indicated that the rate actually increased and that the reported drop was the result of a change in the reporting system.

Political pressures can generate unofficial departmental policies that have the same effects. For example, in 1969 the Nixon administration instituted an extensive crime control program in Washington, D.C., and a great deal of pressure was brought on the police department to reduce crime.[50] The reduction was achieved, but after analyzing the statistics, Seidman and Couzens concluded that at least part of it was due to increased downgrading of offenses. For example, larcenies of $50 or more were recorded as larcenies of under $50, and burglaries were recorded as larcenies if the entry was not forced.

Sometimes it is the way the officer *defines his job* that determines the way he defines a particular situation. Bittner describes patrol work on Skid Row as primarily "playing it by ear," in which the ob-

49. Edwin H. Sutherland and Donald R. Cressey, *Criminology*, 8th ed., Lippincott, Philadelphia, 1970, p. 28.

50. David Seidman and Michael Couzens, "Getting the Crime Rate Down: Political Pressure and Crime Reporting," *Law and Society Review*, 8 (3): 457–94 (Spring, 1974). See also Kurt Weis and Michael E. Milakovich, "Political Misuses of Crime Rates," *Society*, 11 (5): 27–33 (July–Aug., 1974). This pressure is evidenced by Police Chief Jerry Wilson's later statement at a press conference that "I never had any doubt that my function in this city was to reduce crime and that if crime was not reduced I would probably be replaced as chief of police." (Quoted in Seidman and Couzens, op. cit. p. 488.) The Washington Star had reported that Wilson told his commanders that if they were unable to reduce crime in their jurisdictions they would be replaced by men who could (ibid. p. 469).

jective of the patrol is "reducing the aggregate total of troubles in the area" rather than "evaluating individual cases according to merit."[51] Different officers develop very different styles of operation on Skid Row, and these styles originate in the officer's definition of the Skid Row situation and the people in it. These different styles result in very different sets of people being defined as criminals. Again, if the department itself advocated a different policy, a still different set of people would end up defined as criminals.

Individuals may deliberately attempt to define their situations in such a way that their jobs are more easily accomplished. Sudnow studied the functioning of an adult criminal court.[52] He found that both the district attorney and the public defender had developed conceptions of "normal crimes," which they regarded as "the typical manner in which offenses of given classes are committed, the social characteristics of the persons who regularly commit them, the features of the settings in which they occur, the types of victims often involved, and the like."[53] Whereas private defense attorneys usually attempt to discover as many differences between their client's situation and the "normal crime" in the attempt to construct an adequate defense, the public defender in this court typically attempted to find as many similarities as possible in the interest of processing the case as routinely as possible. For example, the defendant would be asked only a very few questions about the crime itself, and these questions would be designed to confirm in short order that the crime could be defined as a "normal crime." The routine handling of a "normal crime" consisted of a predetermined plea bargain in which the new charge was chosen because it produced a reasonable reduction in the sentence; at times it had no relationship to the original charge or even to the event that actually occurred. Even if the defendant insisted he was innocent the public defender presumed his guilt, although he did not reveal this presumption. He argued instead that the defendant would probably be convicted anyway and would receive a much more severe sentence. If the defendant insisted on

51. Egon Bittner, "The Police on Skid Row: A Study in Peace Keeping," *American Sociological Review*, 32 (5): 699–715 (Oct., 1967).

52. David Sudnow, "Normal Crimes: Sociological Features of the Penal Code in a Public Defender Office," *Social Problems*, 12 (3): 255–76 (Winter, 1965). See also Abraham S. Blumberg, "The Practice of Law as a Confidence Game: Organizational Cooptation of a Profession," *Law and Society Review*, 1:15–39 (June, 1967).

53. Sudnow, op. cit. p. 259.

pleading innocent, the public defender typically prepared the case in such a way that he could not be faulted in his defense of the client, but the defense would not seriously interfere with the routine court conviction process.

Job demands also affect the way juvenile court workers define situations and people with whom they deal. The role of the juvenile court is not to determine innocence or guilt, but to diagnose the conditions that caused the delinquent behavior and to act in the best interest of the child to alleviate those conditions. Cicourel demonstrated that the agents of the juvenile court routinely act to define situations so that they are readily understandable within the philosophy of the juvenile court, and so that the courses of action that are indicated as necessary by the situation are among those actually available to the court.[54] Official records do not reflect actual events so much as they reflect a recasting of those events to imply certain causes and cures. In this process, police, probation officers, and school officials use such subtle techniques as "leveling, . . . the tendency of accounts to become shorter, more concise, and more easily grasped; sharpening, the tendency toward selective perception, retention, and reporting of a limited number of details; and assimilation, the tendency of reports to become more coherent and more consistent with the presuppositions and interests of the subjects."[55] The result of this process is that the factors that are generally thought to be causes of delinquency (bad home environment, poverty, poor school performance, disorganized neighborhood, racial minority, etc.) become the criteria used by court workers to select juveniles for official action.

All these examples demonstrate that the official definition of individuals as criminals, as well as the official portrayal of criminal actions, is strongly affected by the organizational structures and policies of the criminal justice agencies, as well as by the personal characteristics of the criminal justice personnel. It is only by further study of the processes of social control that the relationship of officially defined crimes and criminals to the actual incidence of criminal behavior in society can be better understood.

54. Cicourel, op. cit. Chs. 4–7. See also Robert M. Emerson, *Judging Delinquents*, Aldine, Chicago, 1969.

55. Tamotsu Shibutani, *Improvised News: A Sociological Study of Rumor*, Bobbs-Merrill, Indianapolis, 1966, pp. 5, 9, quoted in Cicourel, ibid. p. 333.

4. THE MEANING OF CRIME TO SOCIETY AND TO PARTICULAR GROUPS WITHIN SOCIETY

In symbolic interactionism, the meaning of things is said to be derived from their social context rather than from their inherent nature. If this statement is applied to deviant behavior, it follows that the deviant quality of the behavior is not inherent in the act itself, but is a function of the meaning given that act by individuals in the society. Interactionists maintain that no act is inherently deviant, and that deviant acts are defined solely by the social reaction to them.[56] Although this position is considered by some to be "relativistic in the extreme,"[57] others argue that no specific behavior has been considered deviant in all societies at all times, and that literally every type of behavior has been considered deviant in some societies at some times.[58] The relativity of deviance is particularly apparent when the question of crime is considered, since a crime is literally anything the legal authority says it is. Legally speaking, society "creates" crime by passing laws.[59] For example, if a new law is passed concerning political contributions or truth in advertising or pollution control, then a whole new class of crimes exists where none existed before. If marijuana smoking or homosexuality or public drunkenness is decriminalized, then a whole class of crimes simply disappears. In every society there are people who will kill their spouses if they find them having an affair. Some societies will declare this to be murder, others will find it regrettable, but understandable, and still others will consider it honorable behavior.[60]

56. For example, John I. Kitsuse, "Societal Reaction to Deviant Behavior; Problems of Theory and Method," *Social Problems*, 9:247–66 (Winter, 1962), p. 253; Kai T. Erikson, "Notes on the Sociology of Deviance," *Social Problems*, 9:307–14 (Spring, 1962), especially p. 308; and Howard S. Becker, *Outsiders*, Free Press of Glencoe, New York, 1963, p. 9. Deviant does not mean the same thing as "evil" or "morally wrong." It implies only that the act is different from that which is considered normal in the society. For example, one can say that headhunting and cannibalism are not considered deviant in some societies without morally approving of these activities. Failure to distinguish between "deviance" and "evil" has led some persons to criticize this perspective. See Sagarin, op. cit. p. 135, for a discussion of this problem.

57. Jack P. Gibbs, "Conceptions of Deviant Behavior: The Old and the New," *Pacific Sociological Review*, 9:9–14 (Spring, 1966), especially p. 11.

58. Edwin M. Schur, *Labeling Deviant Behavior*, Harper & Row, New York, 1971, p. 14.

59. This point was originally made by Jerome Michael and Mortimer J. Adler, *Crime, Law, and Social Science*, Harcourt, Brace, New York, 1933, pp. 5, 20.

60. See Clayton A. Hartjen, *Crime and Criminalization*, Praeger, New York, 1974, pp. 1–39, for a discussion of this view.

The definition of certain actions as crimes is part of a more general process in society of creating and suppressing deviance. Society normally creates deviance by declaring (either formally or informally) certain human behaviors to be "bad," and then by attempting to minimize or eliminate such behaviors. Because the specific behaviors chosen for this process vary widely from time to time and from place to place, deviance theorists have argued that the process of creating and suppressing deviance is itself vital to the social solidarity, independent of the particular behaviors involved.[61] The process works by simplifying the problems of good and evil for the average member of society.[62] Defining the deviants as evil and inferior implies that the remaining members of society are good and superior, thus strengthening their commitment to each other. Combatting the evil of deviance consolidates individuals into a tight-knit fighting group and makes it possible for them to use the most ignoble methods to control deviance without questioning them. Thus, the average member of society is not faced with difficult moral choices, which might undermine a commitment to the path society has taken.

The behavior of the individual is the normal criterion used to select those who will be defined as deviants in a society, but the process works in exactly the same way when other criteria are used. "Heretical" beliefs have been used as a criterion for selecting deviants in a number of societies, including the early Puritan colonies on Massachusetts Bay.[63] Hitler defined deviance on the basis of race and attempted a "final solution" by exterminating the Jews. Sometimes deviant behaviors are imagined and attributed to particular individuals. For example, in Renaissance Europe approximately one-half million persons were executed as witches,[64] and in the great purge under Stalin, millions of loyal Soviet citizens were declared

61. This point was originally made by Durkheim in his discussion of "crime as normal." See Ch. 10, this volume. Kai T. Erikson made a similar point when he described deviance as forming the "boundaries" of society. See Erikson op. cit.; also Erikson, "On the Sociology of Deviance," in *Wayward Puritans*, Wiley, New York, 1966, pp. 3–19.

62. This description is taken from the description of the benefits of anti-semitism in J.-P. Sartre, *Anti-Semite and Jew*, Schocken, New York, 1965, as described by Thomas S. Szasz, *The Manufacture of Madness*, Harper & Row, New York, 1970, p. 270–72.

63. Erikson, *Wayward Puritans* op. cit.

64. Currie, op. cit. p. 10.

traitors or saboteurs and were executed or shipped to Siberia.[65] Szasz argues that these all represent various manifestations of a deep-seated need of men to ritually expel evil from their communities and that in primitive communities this took the form of the ritual destruction of a scapegoat.[66]

Campaigns to define and to suppress deviants increase the social solidarity regardless of whether the deviants are actually harmful to the society or whether deviant behavior even exists. Sometimes these campaigns define so many people as deviants that they eventually have to be called off. For example, the witchhunt in Europe became a self-perpetuating bureaucracy.[67] The property of the witches was normally confiscated and turned over to the witchhunters, who became very wealthy. Conviction required the testimony of two witnesses or more, or the testimony of one witness and a confession, so the witchhunters used torture to extract a confession, along with the names of one or two "accomplices." This provided a steady supply of accused witches who could then be convicted on the basis of their own confessions, since a "witness" had already identified them. Confessions were read at the public trials, which legitimized the witchhunt in the eyes of the populace. As more and more witches were discovered in this way, the people became frightened and demanded even more severe measures of control. Those who were insufficiently zealous in prosecuting witches were liable to be executed as witches themselves. The witchhunt came to an end only when its harmful effects were so obvious that high officials who were reasonably well insulated from charges of witchcraft restricted the use of torture and the confiscation of property. The great Soviet purge took on a similar life of its own, and ended only when Stalin himself (who was perhaps the only person in the country not vulnerable to charges of subversion) instituted selective prosecutions of regional NKVD heads for "abuse of authority" or similar charges.[68] The excessive nature of these campaigns derived from the fact that literally all persons in the society were vulnerable to being defined as deviants, and because the operators of the campaign were receiving direct personal benefits from it.

65. Walter D. Connor, "The Manufacture of Deviance: The Case of the Soviet Purge, 1936–1938," *American Sociological Review*, 37:403–13 (Aug., 1972).

66. Szasz, op. cit. pp. 260–75.

67. Currie op. cit. pp. 11–16.

68. Connor, op. cit. p. 249–50.

Benefit to the operators of the campaign can be a significant factor, even when the deviance involves a specific behavior. An example can be found in the campaign to define narcotics users as criminals.[69] In the nineteenth century, narcotics were widely available in the form of patent medicines, and addiction was viewed more or less as alcoholism is today—addicts were tolerated and pitied, but not considered criminals. In an attempt to control narcotics distribution, Congress passed the Harrison Narcotics Act in 1914, which required that official records be kept on all sale and distribution of narcotics, and that a nominal tax of one cent per ounce be paid. There is no indication in the law of any legislative intent to restrict or deny addicts access to legal drugs, and the law was passed with little publicity. A narcotics bureau was set up in the Internal Revenue Division of the Treasury Department to enforce the registration procedures and collect the tax. From this tiny beginning, the narcotics control bureaucracy promoted its own growth and expansion by launching an extensive public relations campaign against narcotics use, and by sponsoring a series of court cases that resulted in the reinterpretation of the Harrison Act so that all narcotics use was declared illegal. As a result of these efforts, "(t)he Narcotics Division succeeded in creating a very large criminal class for itself to police . . . instead of the very small one Congress has intended."[70]

Campaigns to define and suppress deviants always result in some redistribution of benefits in society, since whatever is taken from the deviants will accrue to someone else. Bringing law and order to the Wild West was good for most folks, but bad for Billy the Kid. And although deviance campaigns are always launched in the name of benefiting the whole society, they are often promoted and supported primarily by those who will benefit directly.[71] These benefits might include personal safety (as in the Wild West), or they might include the acquisition of power (as in the Soviet purge) or property (as in the witchhunt) or other direct economic benefits. For example, Chambliss's analysis of the law of vagrancy indicates that it

69. Donald T. Dickson, "Bureaucracy and Morality: An Organizational Perspective on a Moral Crusade," *Social Problems*, 16 (2): 143–56 (Fall, 1968). For other examples, see Isadore Silver, ed., *The Crime Control Establishment*, Prentice-Hall, Englewood Cliffs, 1974.

70. Rufus King, "The Narcotics Bureau and the Harrison Act: Jailing the Healers and the Sick," *Yale Law Journal*, 62:736–49 (1953), p. 738 quoted in Dickson, op. cit. p. 151.

71. Some campaigns, like those against child abuse, are disinterested in the sense that the beneficiaries of the campaign (abused children) are a different group than the promoters and supporters.

was originally created in England shortly after the Black Death had wiped out approximately 50% of the population.[72] The result was a serious labor shortage and a great increase in wages. The vagrancy statute made it a crime to give alms to any person who was unemployed while being of sound mind and body, and required that any such person serve any landowner who needed him at the wage level paid before the Black Death. Up to this time, beggars had been common and tolerated in England, and there is little doubt that they were defined as criminals to provide a source of cheap labor for landowners.

Sometimes the benefits of a deviance campaign are not so much economic as symbolic. Gusfield has analyzed the Temperance movement and the resulting enactment of Prohibition as a "symbolic crusade" to reassert the traditional values of rural, middle-class Protestants over the increasing influence of urban, lower-class Catholics in national life.[73] This law created a huge class of criminals by forbidding the manufacture, sale, or transportation of alcoholic beverages, and resulted in the establishment of organized crime syndicates to meet the demand for illegal alcohol. The volume of crime created by this act was so great that it ultimately had to be repealed. Campaigns for and against homosexual rights also can be viewed as "symbolic crusades."[74] Opponents of "gay rights" are asserting traditional moral and religious values regarding sexual behavior. They want homosexuals to be officially recognized as deviants, and want the right to discriminate against them in specific situations, such as when hiring teachers for high schools. Proponents of gay rights are asserting such values as tolerance, liberality, and respect for the rights of minority groups, and are fighting to have discrimination against homosexuals declared illegal. Thus, they want official recognition that those who practice such discrimination are deviants, and that homosexuals are not. For homosexuals, the success of their campaign would also lead to practical economic benefits in such areas as housing and employment.

Since deviance campaigns usually result in the redistribution of benefits from some groups (the deviants) to others (the promoters

72. William J. Chambliss, "A Sociological Analysis of the Law of Vagrancy," *Social Problems*, 12 (1): 66–77 (Fall, 1964).

73. Joseph Gusfield, *Symbolic Crusade*, University of Illinois Press, Urbana, 1963.

74. See "Battle Over Gay Rights," *Newsweek Magazine*, June 6, 1977.

and supporters of the campaigns), it seems likely that the social solidarity produced depends at least partially on the solidification of power relationships between groups in the society.[75] This is most apparent when two competing groups are attempting to define each other as deviants, as is the case with the "battle for gay rights." One group will succeed in defining the other as deviant only if it is able to generate sufficient power to overcome the support the other group has. This group then obtains the support of the official social control agencies, which normally has the effect of solidifying their power base and institutionalizing their dominance over the other group. In most deviance campaigns, the role of power is not as apparent because deviants are normally isolated, disorganized, and almost powerless. For example, merchants have traditionally been a powerful group in society, and laws have reflected the maxim: "Let the buyer beware." If consumers had been a powerful group instead (and they are now becoming one), the saying might have been "Let the seller beware." Neither approach is inherently more just than the other. The effect of laws has traditionally been to define those who steal from the merchant as dishonest, and to define those from whom the merchant steals as stupid. There is a negative "social reaction" to both behaviors, but whether this reaction becomes translated into law depends on the relative power of the opposing groups.

In this chapter, "deviance" has been defined as any behavior that generates a "social reaction" and there has been an implication that this "reaction" somehow is situated in the society itself. But the above discussion indicates that the concept of "social reaction" actually combines and confuses two separate phenomena: the official reaction of the social control agencies and the personal reaction of particular individuals and groups in society. These individuals and groups construct behavioral norms based on their own moral values and personal self-interest, and react to specific behaviors as deviant when those behaviors violate their norms. They then compete among themselves in an attempt to have their norms enforced by the official social control agencies. Their success in this competition depends directly on the degree of power they possess and are will-

75. This would be similar to the establishment of "pecking order" among chickens, where each chicken pecks those below him in the pecking order, but is pecked by those above him. See R. H. Masure and W. C. Allee, "The Social Order in Flocks in the Common Chicken and Pigeon," *Auk*, 51:306–27 (1934).

ing to use. Official policies are the result of the conflict and compromise process between these groups. To the extent that the group is successful in having its norms enforced by the social control agencies, it arrogates to itself the right to speak in the name of the entire society. But the mere fact that this group has sufficient power to define another group as deviant does not imply that there is any broad consensus on the matter (there may or may not be) and does not preclude the possibility that the other group may be able to reverse the power distribution in the future.

Liazos points out that deviance theorists frequently state that those who define others as deviants must be more powerful than the deviants themselves.[76]

> But this insight is not developed. In none of the 16 [textbooks in the field of deviance] is there an extensive discussion of how power operates in the designation of deviance. Instead of a study of power, of its concrete uses in modern, corporate America, we are offered rather fascinating explorations into the identities and subcultures of "deviants," and misplaced emphasis on the middle-level agents of social control.

The role of power in the definition of crime is the central focus of conflict theory, which will be the subject of the next two chapters.

RECOMMENDED READINGS

Howard S. Becker, *Outsiders—Studies in the Sociology of Deviance,* The Free Press, New York, 1963. Basic deviance theory simply explained with discussions of specific types of deviance as illustrations.

Edwin M. Schur, *Labeling Deviant Behavior: Its Sociological Implications,* Random House, New York, 1971. A brief, readable, and thorough defense of the principles of labeling theory.

Earl Rubington and Martin S. Weinberg, eds., *Deviance—The Interactionist Perspective,* Macmillan, New York, 1968. A book of readings on deviance containing many interesting and important selections.

Michael Phillipson, *Understanding Crime and Delinquency,* Aldine, Chicago, 1974. Crime and delinquency presented from the interactionist perspective.

76. Alexander Liazos, "The Poverty of the Sociology of Deviance: Nuts, Sluts and 'Preverts,' " *Social Problems,* 20(1): 103–20 (Summer, 1972), especially p. 115.

Edward Sagarin, *Deviants and Deviance,* Praeger, New York, 1975. Presentation of the general principles and perspectives of a large number of deviance theories.

David Matza, *Becoming Deviant,* Prentice-Hall, Englewood Cliffs, 1969. The development of the "naturalistic" perspective on deviance, and an analysis of the process of becoming deviant and the ways in which this process has been conceived.

Aaron V. Cicourel, *The Social Organization of Juvenile Justice,* Crane, Russak, New York, 1976. Study of the everyday workings of juvenile justice agencies and how they generate delinquency in their routine encounters with juveniles.

Kai T. Erikson, *Wayward Puritans,* Wiley, New York, 1966. Study of heretics and witchcraft in early New England, with many important theoretical implications.

Walter R. Gove, ed., *The Labelling of Deviance—Evaluating a Perspective,* Wiley, New York, 1975. A book of original articles focusing on the evaluation of empirical evidence related to the labeling perspective, with the general conclusion that it lacks support.

CHAPTER THIRTEEN

Group Conflict Theory as an Explanation of Crime

The original edition of George B. Vold's *Theoretical Criminology* was the first criminology text to use the general conditions and principles of a sociology of conflict[1] as the basis for an explanation of crime. Vold focused on the role of the normal antagonisms and conflicts of human groups to one another as the setting for or condition generally explanatory of large areas of criminal activity. He also illustrated the manner in which this orientation is applicable to many kinds of crime situations.

Vold's work has been highly influential in the later development of conflict theory within the field of criminology, where it now holds an important place. The following chapter, which presents Vold's theory of group conflict, is therefore printed in its entirety, as it appeared in the original edition; the footnotes, however, have been

1. The term "sociology of conflict" relates most directly to the writings of Georg Simmel and other sociologists of the formal school. Conflict is one of the forms of interaction, as distinguished from the content of interaction; that is, the individual episodes of particular encounters that are always different and unique as to time and place, but that tend to be alike in having a common form. Hence, social conflict is said to be a universal form of interaction, whereas the specific episodes of particular wars or battles have all the peculiarities of definite time and place. Cf. *The Sociology of Georg Simmel*, translated by and with an Introduction by Kurt H. Wolf, Free Press, Glencoe, Ill., 1950; also Simmel's *Conflict* (translated by Kurt H. Wolff) and *The Web of Group Affiliations* (trans. by Reinhard Bendix), The Free Press, Glencoe, 1955. Simmel's work is analyzed in Lewis A. Coser, *The Functions of Social Conflict*, The Free Press, Glencoe, 1956. See also the series of articles under "Groups" in *International Encyclopedia of the Social Sciences*, Macmillan and the Free Press, New York, 1968, vol. 6, pp. 259–93.

updated and minor grammatical changes have been made for the convenience of the reader. Contemporary developments in conflict theory will be discussed in Chapter 14.

1. BASIC CONSIDERATIONS IN CONFLICT THEORY

The social-psychological orientation for conflict theory rests on social interaction theories of personality formation and the "social process" conception of collective behavior.[2] Implicit to this view is the assumption that man always is a group-involved being whose life is both a part of and a product of his group associations.[3] Implicit also is the view of society as a congerie of groups held together in a shifting, but dynamic equilibrium of opposing group interests and efforts.[4]

This continuity of group interaction, the endless series of moves and countermoves, of checks and cross-checks, is the essential element in the concept of social process. It is this continuous ongoing of interchanging influence, in an immediate and dynamically maintained equilibrium, that gives special significance to the designation "collective behavior," as opposed to the idea of simultaneously behaving individuals.[5] It is this fluid flow of collective action that provides opportunity for a continuous possibility of shifting positions, of gaining or losing status, with the consequent need to maintain an alert defense of one's position, and also always with the ever-present and appealing chance of improving on one's status relationship. The end result is a more or less continuous struggle to maintain, or to

2. Cf. Robert E. Park and Ernest W. Burgess, *Introduction to Science of Sociology*, University of Chicago Press, Chicago, 1924, "Competition," pp. 504–10; "Conflict," pp. 574–79; "Collective Behavior," pp. 865–74. See Anthony Oberschall, *Social Conflict and Social Movements*, Prentice-Hall, Englewood Cliffs, 1973, pp. 1–29 for the history and development of theories of collective behavior as they relate to conflict theory and James F. Short, Jr., "Collective Behavior, Crime, and Delinquency," in Daniel Glaser, *Handbook of Criminology*, Rand McNally, Chicago, 1974, pp. 403–49 for current uses of this concept in the explanation of crime.

3. Cf. Simmel, *The Web of Group Affiliations*, op. cit.; also Kenneth E. Boulding, *Conflict and Defense: A General Theory*, Harper & Row, New York, 1962, pp. 105–22.

4. Cf. Bertram M. Gross, "Political Process," *International Encyclopedia of the Social Sciences*, Macmillan and the Free Press, New York, 1968, vol. 12, pp. 265–73.

5. R. E. Park and E. W. Burgess, op. cit. p. 865; also Muzafer Sherif, *An Outline of Social Psychology*, Harper, New York, 1948, Ch. 5, "Properties of Group Situations," pp. 98–121. See Kurt Lang and Gladys Engel Lang, "Collective Behavior," *International Encyclopedia of the Social Sciences* op. cit., vol. 2, pp. 556–65, for a discussion of the current uses of this term.

defend, the place of one's own group in the interaction of groups, always with due attention to the possibility of improving its relative status position. Conflict is viewed, therefore, as one of the principal and essential social processes upon which the continuing ongoing of society depends.[6]

As social interaction processes grind their way through varying kinds of uneasy adjustment to a more or less stable equilibrium of balanced forces in opposition, the resulting condition of relative stability is what is usually called social order or social organization. But it is the adjustment, one to another, of the many groups of varying strengths and of different interests that is the essence of society as a functioning reality.

The normal principle of social organization is that groups are formed out of situations in which members have common interests and common needs that can be best furthered through collective action.[7] In other words, groups arise out of important needs of group members, and groups must serve the needs of the members or they soon wither away and disappear. New groups are therefore continuously being formed as new interests arise, and existing groups weaken and disappear when they no longer have a purpose to serve.[8]

Groups come into conflict with one another as the interests and purposes they serve tend to overlap, encroach on one another, and become competitive. In other words, conflicts between groups occur principally when the groups become competitive by attempting to operate in the same general field of interaction. There is never any serious conflict between groups whose operations can be channeled

6. For a discussion of the relation between the principal social processes and the resulting social order, see Park and Burgess, op. cit. pp. 506–10. The importance of conflict in the maintenance of the social order is discussed in Simmel, *Conflict*, op. cit. pp. 16–20, and in Coser, op. cit. pp. 33–85. See also Lewis Coser, "Social Conflict and the Theory of Social Change," *British Journal of Sociology*, 8:197–207 (Sept., 1957); reprinted in Coser, *Continuities in the Study of Social Conflict*, The Free Press, New York, 1967, 37–51.

7. Cf. Simmel, *The Web of Group Affiliations*, op. cit. pp. 128–30. See also Morton Deutsch, *The Resolution of Conflict*, Yale University Press, New Haven, 1973, "Group Formation," pp. 48–66; and Muzafer Sherif and Carolyn W. Sherif, "Group Formation," *International Encyclopedia of the Social Sciences*, op. cit. vol. 6, pp. 276–83.

8. Cf. Charles H. Cooley, *Social Organization*, Scribner, New York, 1924, "Primary Aspects of Organization," pp. 3–57. See also Coser, *The Functions of Social Conflict*, op. cit. pp. 104–10 for a discussion of the search for new group purposes to avoid dissolution of the group, and Kenneth Boulding, op. cit. pp. 123–44, for a model of changes in group membership.

so that they perform satisfactorily without moving in on one another's territory of common interests and common purposes.[9]

The danger that any existing group must protect itself against, when in contact with any other group in the same area of interests and needs, is the ever-present one of being taken over, of being replaced. A group must always be in a position to defend itself in order to maintain its place and position in the world of constantly changing adjustments. The principal goal, therefore, of one group in contact with another, is to keep from being replaced. Where there is no problem of competition and replacement, there is little likelihood of serious inter-group conflict, be it between nations, races, religions, economic systems, labor unions, or any other type of group organization.

Groups become effective action units through the direction and coordination of the activities of their members. For the members, the experience of participation in group activity and the sharing of troubles and satisfactions operate to make the individual a group-conscious person. It is out of this experiential background that group identification and group loyalty become psychological realities. The loyalty of the group member to his group is one of the most profoundly significant facts of social psychology, though there is no generally accepted explanation of *why* loyalty and identification develop. Both loyalty and identification tend to be emotionally toned attachments not closely related to any rational understanding the individual may have of the place or significance of a particular group in the general scheme of things.[10]

It has long been realized that conflict between groups tends to develop and intensify the loyalty of group members to their respective groups.[11] This is clearly one of the important elements in developing *esprit de corps* and "group-mindedness" attitudes on the part of individual members. The individual is most loyal to the group for

9. Charles H. Cooley, op. cit. "Hostile Feelings between Classes," pp. 301–9; Simmel, *The Web of Group Affiliations*, op. cit.

10. Muzafer Sherif, op. cit. Ch. 13, "Adolescent Attitudes and Identification," pp. 314–38. See also John H. Schaar, "Loyalty," *International Encyclopedia of the Social Sciences*, op. cit. vol. 9, pp. 484–87.

11. Simmel, *Conflict*, op. cit. pp. 87–107; Coser, *The Functions of Social Conflict*, op. cit. pp. 87–110. See also Anatol Rapoport, *Conflict in Man-Made Environment*, Penguin, Baltimore, 1974, pp. 200–201.

which he has had to fight the hardest, and to which he has had to give the greatest measure of self for the common end of group achievement.[12]

Nothing promotes harmony and self-sacrifice within the group quite as effectively as a serious struggle with another group for survival. Hence, patriotic feeling runs high in wartime, and the more desperate the situation (short of collapse and the chaos of defeat and despair) in battle, the higher runs the feeling that nothing is too great a sacrifice for the national good. A group crisis, in which the member must stand up and be counted, is an age-old device for separating the men from the boys. It should be remembered that groups have always paid tribute to "service beyond the call of duty." Thus it is that some of our finest ideals of character and manhood are the offshoots of group conflict in which the individual has had opportunity to serve the common purpose and not merely to serve his own selfish ends.[13]

The logical outcome of group conflict is either, on the one hand, conquest and victory for one side with the utter defeat and destruction or subjugation for the other side; or, on the other hand, something less conclusive and decisive, a stalemate of compromise and withdrawal to terminate the conflict with no final settlement of the issues involved. It should be noted that, generally speaking, there is never any compromise with a position of weakness—the weak, as a rule, are quickly overwhelmed, subjugated to, and integrated with the victors in some subordinate and inferior capacity. The group that will survive and avoid having to go down in defeat is the one strong enough to force some compromise settlement of the issues in conflict. This general pattern has been a commonplace occurrence in the conflicts between national groups and also between political factions within the nation.[14]

12. Muzafer Sherif, op. cit. Ch. 7, "The Formation of Group Standards or Norms," pp. 156–82. See also L. Festinger, "The Psychological Effects of Insufficient Reward," *American Psychologist*, 16:1–11 (1961), in which it is argued that "rats and people come to love the things for which they have suffered."

13. Coser, *Functions of Social Conflict*, op. cit. Ch. 6, "Ideology and Conflict," pp. 111–19. See also Muzafer Sherif, op. cit. Ch. 12, "Ego-Involvement in Personal and Group Relationships," 282–313, and Ch. 16, "Men in Critical Situations," pp. 401–24.

14. Simmel, *Conflict*, op. cit. pp. 109–23. See also Coser, *Continuities in the Study of Social Conflict*, pp. 37–51, and Park and Burgess, op. cit. p. 575.

2. CRIME AND THE CONFLICT PROCESS

The foregoing brief sketch of some of the elements involved in the conflicts of groups should be sufficient to alert the thoughtful reader to further applications of these general group relationships to more specific situations. For example, politics, as it flourishes in a democracy, is primarily a matter of finding practical compromises between antagonistic groups in the community at large.[15] The prohibitionist wishes to outlaw the manufacture and sale of alcoholic beverages; the distillers and brewers wish unrestricted opportunity to make and sell a product for which there is a genuine economic demand (i.e., "demand" in the sense of not only having a desire for the product but also having the ability to pay for it). The complicated collection of regulations that American communities know so well, including special taxes, special licensing fees and regulations, special inspections, and special rules for closing hours, are all part of the compromise settlement in the clash of these incompatible interests in the political organization of society.

As one political group lines up against another, both seek the assistance of the organized state to help them defend their rights and protect their interests. Thus the familiar cry, "there ought to be a law" (to suppress the undesirable) is understandable as the natural recourse of one side or the other in a conflict situation. Yet for exactly the same reason, such action has a necessary logical opposition that resists the proposed legislation. Whichever group interest can marshal the greatest number of votes will determine whether or not there is to be a new law to hamper and curb the interests of some opposition group.[16]

Suppose, for purposes of illustration, that a new law has been enacted by a normal, legal, legislative majority. Those who opposed

15. Harold D. Lasswell, *Politics: Who Gets What, When, How*, McGraw-Hill, New York, 1936; Harold D. Lasswell and Abraham Kaplan, *Power and Society*, Yale University Press, New Haven, 1950; V. O. Key, Jr., *Politics, Parties, and Pressure Groups*, Crowell, New York, 1959; Earl Latham, *The Group Basis of Politics*, Cornell University Press, Ithaca, 1952; David B. Truman, *The Governmental Process*, Knopf, New York, 1953; David Easton, *The Political System*, Knopf, New York, 1971.

16. Richard Quinney, *The Social Reality of Crime*, Little, Brown, Boston, 1970, pp. 29–97; William J. Chambliss and Robert B. Seidman, *Law, Order, and Power*, Addison-Wesley, Reading, 1971, pp. 56–74; Clayton A. Hartjen, *Crime and Criminalization*, Praeger, New York, 1974, pp. 16–39.

it and fought it before adoption are understandably not in sympathy with its provisions, and do not take kindly to efforts at law enforcement. In other words, the whole political process of law making, law breaking, and law enforcement directly reflects deep-seated and fundamental conflicts between interest groups and their more general struggles for the control of the police power of the state. Those who produce legislative majorities win control over the police power and dominate the policies that decide who is likely to be involved in violation of the law.[17]

The struggle between those who support the law and those who violate it existed in the community before there was legislative action; it was the basis for the battle in the legislature; it is then continued through the judicial proceedings of prosecution and trial; and it culminates eventually in the prison treatment of the violators by those who wish to have the law enforced. The principle of compromise from positions of strength operates at every stage of this conflict process. Hence, there is bargaining between members of the legislature to get the law passed, between prosecution and defense in connection with the trial; between prison officials and inmates, and between parole officer and parolee. This is the background for Sutherland's famous "sociological definition" of crime as a social situation, as a set of relationships rather than as an act of behavior under specific legal definition.[18]

3. CRIME AS MINORITY GROUP BEHAVIOR

Crime and delinquency as group behavior is a familiar topic in criminology that has long been observed and discussed. Shaw and

17. E. H. Sutherland, "Crime and the Conflict Process," *Journal of Juvenile Research*, 13:38–48 (1929); Quinney, op. cit. pp. 101–204; Chambliss and Seidman, op. cit. pp. 261–472; Hartjen, op. cit. pp. 74–157.

18. Edwin H. Sutherland and Donald R. Cressey, *Criminology*, 10th ed., Lippincott, Philadelphia, 1978, p. 12: "crime can be seen to involve four elements: (1) a value which is appreciated by a group or a part of a group which is politically powerful; (2) isolation of or normative conflict in another part of this group so that its members do not appreciate the value or appreciate it less highly and consequently tend to endanger it; (3) political declaration that behavior endangering the value is henceforth to be a crime; and (4) pugnacious resort to coercion decently applied by those who appreciate the value to those who disregard the value. When a crime is committed, all these relationships are involved. Crime *is* this set of relationships when viewed from the point of view of a social system rather than of the individual."

McKay[19] reported that from 80 to 90% (depending on the offense) of 5,480 juvenile offenders before the Cook County Juvenile Court in 1928 had committed their offenses with one or more associates. The Gluecks reported that about 70% of their 1,000 juvenile offenders[20] had had companions in crime; for their reformatory group of 500 older offenders[21] the proportion was nearly 60%. From their more recent and more carefully controlled study[22] the Gluecks reported that nearly all delinquents, in contrast to only a very few non-delinquents, preferred to chum or pal around with other delinquents, whereas more than 50% of the delinquents, as compared with less than 1% of the non-delinquents, were members of gangs.

Such statistics, however, report only the formal aspects of the extent to which prosecution has become aware of shared experience and group participation in situations that the criminal law ordinarily prefers to view as individual wrongdoing and a matter for which the individual should be held responsible. From a more general point of view, however, this prevalence of collective action in crime may reasonably be interpreted as an indication of the banding together for protection and strength of those who are in some way at odds with organized society and with the police forces maintained by that society. The delinquent boys' gang is clearly a minority group in the sense that it cannot achieve its objectives through regular channels, making use of, and relying for protection on, the police powers of the state.

The gang, therefore, resorts to direct action with the typical social-psychological reaction of a conflict group (e.g., loyalty to group and leaders, subordination of individual wishes to group ends, adherence to an approved code of values and behavior), which has purposes to achieve that are at variance with those set up for it by the elements in control of the official police powers of the state.[23] The

19. C. R. Shaw and H. D. McKay, "Social Factors in Juvenile Delinquency," *Report on the Causes of Crime*, vol. II, No. 13, of the Report of the National Commission on Law Observance and Law Enforcement, Washington, D.C., June 26, 1931, pp. 192–98.

20. Sheldon and Eleanor Glueck, *One Thousand Juvenile Delinquents*, Harvard University Press, Cambridge, 1934, pp. 100–101.

21. S. and E. Glueck, *Five Hundred Criminal Careers*, Knopf, New York, 1930, p. 152.

22. S. and E. Glueck, *Unraveling Juvenile Delinquency*, Commonwealth Fund, New York, 1950, p. 278.

23. Cf. William F. Whyte, *Street Corner Society*, University of Chicago Press, Chicago, 1943; also Solomon Kobrin, "The Conflict of Values in Delinquency Areas," *American Sociological Review*, 16:653–62 (Oct., 1951).

juvenile gang, in this sense, is nearly always a minority group, out of sympathy with and in more or less direct opposition to the rules and regulations of the dominant majority, that is, the established world of adult values and power. The police ordinarily represent the power and values of the adult world, whereas the gang seeks to operate to get benefits and advantages not permitted under the adult code. When, in the course of time, members of a gang become adults, many of the gang activities are sometimes continued under the color of a political party name (e.g., as a "Young Republican Club" or a "Fourth Ward Democratic Club") with political influence now giving it police protection and support, since it now is part of the majority group in control of power.[24]

What happens to members of a minority group with a strong ideological orientation out of sympathy with the established majority pattern is well illustrated by the experiences of conscientious objectors in time of war.[25] Although not a very large proportion of those in prison, the actual numbers nevertheless added up to a considerable total for the United States in World War II. In the war years, 1940–45, there were over 5,000 persons who served prison sentences in federal institutions for the crime of having convictions that led them to refuse to participate in any way in war activity. This was in addition to the much larger number (over 9,000) who registered under the draft as conscientious objectors but accepted assignment to non-military service of some kind.[26]

The full import of the social-psychological fact of minority group orientation, which remains utterly oblivious to and unmoved by continuous contact with an "out-group" majority officially dedicated to changing it, is made abundantly clear in an interesting account of

24. These are well-documented facts in the celebrated studies of big city gangs, such as Frederick Thrasher, *The Gang*, 2nd ed. rev., University of Chicago Press, Chicago, 1936; Herbert Asbury, *The Gangs of New York*, Knopf, New York, 1928; and his study of Chicago—*Gem of the Prairie*, Knopf, New York, 1940. An account is given of the development of the Hamburg Social and Athletic Club from a street gang into a powerful political organization in Mike Royko, *Boss: Richard J. Daley of Chicago*, E. P. Dutton New York, 1971, pp. 30–32.

25. A well-documented and reasonably objective account of the prison aspects of this problem for the United States for World War II may be found in Mulford Q. Sibley and Ada Wardlaw, *Conscientious Objectors in Prison, 1940–1945*, The Pacifist Research Bureau, Ithaca, New York, 1945. A more recent account is found in Willard Gaylin, *War Resisters in Prison*, Viking, New York, 1970.

26. See Mabel Elliott, *Crime in Modern Society*, Harper, New York, 1952, pp. 179–97, for a good brief account of the main facts relating to the political criminal and the conscientious objector in the United States during and after World War II.

prison experiences by one of the conscientious objectors who served a sentence in the federal institution at Lewisburg, Pennsylvania. *The Diary of a Self-Made Convict* by Alfred Hassler[27] is the story of prison life by a skilled professional writer who, both before and after imprisonment, devoted himself to the task of writing and editorial work for the Fellowship of Reconciliation. His book is intended as an account of the realities of prison life, as lived in a "good" modern prison in which all the "gimmicks" of contemporary penology are practiced. Its intention is not in any way to deal with the problem of the conscientious objector or with his ideas. Yet the book is completely revealing in its portrayal of the psychological orientation of the author. It is obvious throughout his account of the day-to-day happenings of prison life that he never had any question in his mind, but that his own particular role in becoming a convict was wholly and completely honorable. His title is equally revealing—a self-made convict; that is, a convict by his own free choice, a choice he obviously was proud of.

This is another demonstration of the simple, stubborn fact that minority group members, whose criminal behavior has been consistent with minority group views, are not changed easily by coercive measures applied by the majority group. Every prisoner-of-war stockade in the world testifies to this same general ineffectiveness of majority group pressure on the attitudes and loyalties of minority group members whose crimes consist of the fact that they have been overwhelmed in the battle of power. The failure of court conviction, sentence, and prison experience to change Hassler's general self-satisfaction with the rightness of his own course of action is by no means unique with conscientious objectors. It is not only the convinced pacifist who rejects the moral justification for his conviction or who constructs a rationale of his own course of action such that he can remain loyal and faithful to his minority group ideology. Criminals of all kinds who have significant group identification to bolster their morale react in very much the same manner. Well-intentioned efforts at rehabilitation, in these cases, are usually no more effective.

This kind of reaction is one of the logical consequences of the for-

27. Alfred Hassler, *The Diary of a Self-Made Convict*, Regnery, Chicago, 1954, Foreword by Harry Elmer Barnes. The Fellowship of Reconciliation is a Christian pacifist group organized in 1914 in Cambridge, England. See also Timothy W. L. Zimmer, *Letters of a C.O. From Prison*, Judson Press, Valley Forge, 1969.

mal organization of political society. This basic relationship between the individual and his group, however, is of genuine significance for criminological theory, and must be given due consideration. Those who reject the majority view and refuse to follow required behavior patterns are inevitably defined as, and treated as, criminals, be they conscientious religious persons, like Hassler, or be they only conscientious devotees of the economic principle of private profit who refuse to accept or follow required practices under a system of government control of consumer prices.[28] Members of such a minority group do not accept the definition of themselves, or of their behavior, as criminal. Looking at their own group of like-thinking associates, they readily persuade themselves that their course of action is acceptable and, from their point of view, entirely honorable. The more basic problem, therefore, is the conflict of group interests and the struggle for the control of power that is always present in the political organization of any society.

4. THE POLITICAL NATURE OF MUCH CRIMINAL BEHAVIOR

Many kinds of criminal acts must be recognized as representing primarily behavior on the front-line fringes of direct contact between groups struggling for the control of power in the political and cultural organization of society. On the surface, the offenses may seem to be the ordinary common-law ones involving persons and property, but on closer examination they often are revealed as the acts of good soldiers fighting for a cause and against the threat of enemy encroachment. The age-old psychological principle of all group centered conflict activity comes to the fore, namely, the end justifies the means, and the end object is the maintenance of the group position.

The fact that the means used may be less than honorable, that they may involve outright criminal behavior is viewed as unfortunate, but not therefore to be shirked, if necessary to the accomplishment of group ends. Hence at the point of contact between groups in conflict, all manner of blustering violence, deceit, treachery, and

28. Cf. Marshall Clinard, *The Black Market*, Rinehart, New York, 1952. This is a study of and report on the attempt to control consumer prices during war rationing of food and other scarce commodities in the United States during World War II. Another excellent example is the case of Watergate conspirator, G. Gordon Liddy, who has never repudiated his actions. See his "A Patriot Speaks: A Letter to His Wife," *Harper*, 249:45–51 (Oct., 1974).

pious disingenuousness becomes a relatively commonplace part of the struggle. Closer examination of a few type-situations will help make clear some of the ramifications of this aspect of criminal behavior.

1. Numerous crimes result from the direct political reform type of protest movement. In such reform activity, there often is recourse to violence, the ultimate form of which is rebellion or revolution. A successful revolution makes criminals out of the government officials previously in power, and an unsuccessful revolution makes its leaders into traitors subject to immediate execution. Murder, sabotage, seizure of private property, and many other offenses against the ordinary criminal code are commonplace accompaniments of political rebellion.[29]

But revolutions are by no means the only occasions under which political activity sets the stage for or calls forth a certain amount of criminal activity. Many an election, in many a democratic country, has brought about the direct, physical collision of opposing groups with resulting personal violence and many kinds of personal dishonesty, bribery, perjury, and sometimes outright burglary and theft, all for the sake of winning the election and gaining (or keeping) control of political power.[30] Such conduct will always be deprecated publicly, but its persistence in one form or another in every country in the world where popular elections have significance in the contest for the control of power is further testimony to the important relation between some kinds of crime and the group struggle for the control of power.[31]

2. Many crimes result directly from the clash of interests of company management and labor unions in that form of industrial conflict that we call strikes or lockouts. If management tries to bring in nonstriking employees (strikebreakers), they must cross picket lines and

29. Cf. Carl Leiden and Karl M. Schmitt, eds., *The Politics of Violence*, Prentice-Hall, Englewood Cliffs, 1968; Robert Moss, *The War for the Cities*, Coward, McCann and Geoghegan, New York, 1972; or Richard Clutterbuck, *Protest and the Urban Guerrilla*, Abelard-Schuman, New York, 1974.

30. Cf. Lincoln Steffens, *The Shame of the Cities*, McClure, Phillips, New York, 1904; Ovid Demaris, *Captive City*, Lyle Stuart, New York, 1969; or any of the many books dealing with the criminal events associated with the U.S. Presidential election of 1972, such as Theodore H. White, *Breach of Faith*, Atheneum, New York, 1975, or Anthony Lukas, *Nightmare*, Viking, New York, 1976.

31. Cf. Fred R. Von der Mehden, *Comparative Political Violence*, Prentice-Hall, Englewood Cliffs, 1973.

are often forcefully kept out of company property. Each side may use force, and in the resulting fights heads may be broken and property may be destroyed.[32] The company's legal ownership of property usually brings in the police to protect it and prevent its usurpation by non-owners. This has often in the past led to direct physical clashes between police and strikers. In such battles there often have been casualties on both sides, including the killing or maiming of individuals and the destruction of both private and public property.[33]

Obviously such episodes involve many actual crimes by any ordinary rule of law. Yet there are relatively few instances of successful prosecution of such lawlessness, presumably for the good and sufficient reason that the criminal acts are recognized to be incidental to what is more basically a battle between politically powerful groups whose full power is much more extensive than that exerted on any particular instance of clashing force. The public interest is often ignored, or even brazenly outraged, in these clashes. Public streets and highways, always of direct interest to government and to public convenience, may be closed, or their use made dependent upon an appropriate "permit" from some "strike committee."[34] The general object of any strike or lockout is to bring enough pressure to bear on the other side, through the reaction of an outraged public, so that satisfactory settlement will be reached.

The point of these illustrations is simply that the participants on either side of a labor dispute condone whatever criminal behavior is deemed necessary for the maintenance of their side of the struggle. The end justifies the means, and the individual in the struggle does his duty as a good soldier, even if what he has to do is contrary to law and something he would not otherwise do. Thus, as a picket, a labor union member may carry a piece of pipe as a club, swing it on a strikebreaker's head, and be guilty technically of murder or man-

32. Philip Taft and Philip Ross, "American Labor Violence: Its Causes, Character, and Outcome," in Hugh Davis Graham and Ted Robert Gurr, *The History of Violence in America*, Praeger, New York, 1969, pp. 281–395.

33. See Mary Heaton Vorse, *Labor's New Millions*, Modern Age Books, New York, 1938, pp. 118–27, for a short account of the "Chicago Massacre," i.e. the violent encounters between police and workers at the Republic Steel Plant, May 26–30, 1937, that resulted in 17 killed and many more seriously wounded.

34. Cf. Charles Rumford Walker, *American City: A Rank and File History*, New York, Farrar and Rinehart, 1937. Detailed account of the Minneapolis truck strike of 1934 in which a strike committee completely usurped the power of government over streets and highway, so that passage into the city was "on permit" from the committee.

slaughter, though in reality he has only carried out his duty assignment as a faithful member of his group.

3. Similar in nature but with a different focus for the conflict, numerous crimes result as incidental episodes in the jurisdictional disputes between different labor unions. Such disputes often involve intimidation and personal violence, and sometimes they become entangled with the "rackets" and gang warfare of the criminal underworld. The point to be emphasized is that the violence and criminal behavior of some members of labor unions, in these instances, are part of the general conflict behavior of the group. Any particular individual involved has the psychological advantage of feeling assured of group support. He operates as a soldier in a war—sorry that he has to be nasty and unpleasant, always hoping for an early peace settlement that will be favorable to his union.

4. Numerous kinds of crimes result from the clashes incidental to attempts to change, or to upset the caste system of racial segregation in various parts of the world, notably in the United States and in the Union of South Africa. To the dominant white, the Negro is acceptable and desirable only "in his place," a place of obvious social inferiority. In the economic sphere, he is regarded as a cheap laborer and not as a skilled professional or as a technician. Regardless of personal qualities or qualifications, to the white majority his place must be one recognizably subordinate to that of the white majority.[35] Again, no one subscribes publicly to violence or to open intimidation as the desirable method of maintaining the status quo, but in practice such lawless action is often supported as "necessary."

The type-situation illustrations above have been elaborated in order to emphasize an important kind of criminal behavior, one whereby, technically under the law, individuals are charged with ordinary common-law crimes, yet the specific criminal behavior involved represented for the individual loyal service to a social-political group struggling to maintain, or to improve its position in the struggle for the control of power. Criminological theories based on notions of individual choice and responsibility are not germane to

35. For an account of the racial situation in South Africa, see "Defiant White Tribe," *Time Magazine*, Nov. 21, 1977, pp. 50–51ff. Although substantial progress has been made in the United States since Vold wrote this paragraph in 1958, crime and violence connected with racial struggle still occurs. See, for example, the illustrated accounts of the Boston school busing riots in the October 21, 1974 issues of *Time*, *Newsweek*, and *U.S. News and World Report*.

the underlying problem of group conflict involved in this type of situation. Such an individualistic theory, applied to this kind of crime, is like holding the individual soldier in an army at war responsible for the violence he may have inflicted on an enemy in the course of battle. Victorious nations in war sometimes react in this manner in dealing with the top leaders of defeated enemy forces—witness the war crimes trials that have dotted the pages of history—but usually the ordinary soldier is guilty primarily of doing his duty as ordered. In the conflict of groups within a society, the analogy with crime and the criminal has genuine psychological significance.

5. IMPLICATIONS AND LIMITATIONS

The criminal behavior that involves the kind of situations discussed in this chapter obviously has far-reaching implications for any kind of general criminological theory. It points to one of the fundamental conditions of life in organized political society. It suggests the probability that there are many situations in which criminality is the normal, natural response of normal, natural human beings struggling in understandably normal and natural situations for the maintenance of the way of life to which they stand committed.

Defectiveness and abnormality hypotheses are clearly inapplicable to the type of situation here discussed. Yet the criminal behavior involved is readily understood and easily explained as the kind of behavior necessary to protect and defend the interests of the individual's group in conflict with other groups. Criminological theory, in this type of situation, becomes a specialized application of the more general theory of a sociology of conflict. The behavior of the individual is viewed as incidental to the course of action required for the group to maintain its place in the struggle with other groups.

On the other hand, it is also clear that group conflict theory is strictly limited to those kinds of situations in which the individual criminal acts flow from the collision of groups whose members are loyally upholding the in-group position. Such theory does not serve to explain many kinds of impulsive, irrational acts of a criminal nature that are quite unrelated to any battle between different interest groups in organized society. Other theories, with different emphases on other factors, need to be considered for such situations.

Like the defectiveness hypothesis, or the hypothesis of individual

differences, the group conflict hypothesis should not be stretched too far. Yet there seems to be little doubt but that a considerable amount of crime is intimately related to the course of group conflict situations, and that for these situations the principles of a sociology of conflict become also the solid bases for understanding and explaining this kind of criminal behavior.

RECOMMENDED READINGS

Georg Simmel, *Conflict* (tr., Kurt H. Wolff) and *The Web of Group Affiliations* (tr., Reinhard Bendix), The Free Press, Glencoe, 1955. Simmel's basic works on the conflicts between groups in society.

Lewis A. Coser, *The Functions of Social Conflict,* Free Press, Glencoe, 1956. An analysis of those consequences of social conflict that increase rather than decrease social relationships; organized as a discussion of Simmel's principles.

Lewis A. Coser, *Continuities in the Study of Social Conflict,* Free Press, New York, 1967. A collection of papers developing ideas originally expressed in Coser's earlier work.

Kenneth E. Boulding, *Conflict and Defense: A General Theory,* Harper & Row, New York, 1962. Development of a general theory of conflict and its application in a number of specific areas.

Anthony Oberschall, *Social Conflict and Social Movements,* Prentice-Hall, Englewood Cliffs, 1973. A political sociology perspective on the conflict of social movements.

Morton Deutsch, *The Resolution of Conflict,* Yale University Press, New Haven, 1973. Analyzes and explains conditions that lead to the resolution of conflict situations.

CHAPTER FOURTEEN

Contemporary Conflict Theory

Since the publication of the preceding chapter, conflict theory as an explanation of crime has achieved a wide following within the field of criminology. In the present chapter, the history and development of this perspective in contemporary criminological thought will be examined.

1. CONFLICT VERSUS CONSENSUS

Conflict theory is based on a view of society that is strikingly different from that of classical or positivist criminology. Classical criminology was an outgrowth of social contract theory, which held that men freely came together to form societies in which all would benefit.[1] Within that view, the ideal role of the law and the state can be characterized as follows[2]:

The law represents the value consensus of the society.
The law represents those values and perspectives which are fundamental to the social order.
The law represents those values and perspectives which it is in the public interest to protect.

1. See the discussion of classical criminology and the underlying social contract theory in Ch. 2.

2. William J. Chambliss, "Functional and Conflict Theories of Crime," in William J. Chambliss and Milton Mankoff, eds., *Whose Law, What Order?*, Wiley, New York, 1976, p. 4.

The state as represented in the legal system is value-neutral.
In pluralistic societies the law represents the interests of the society at large by mediating between competing interest groups.

Positivist criminology implicitly accepted this view of society, since by studying the causes of criminal behavior, it sought to discover why some people were not part of that consensus.

The idea that society is based on the consensus of its members is old and widely accepted. But the view that society is characterized primarily by conflict rather than consensus also goes back many years. For example, Marx argued that conflict between social classes was the basis of society and that law represented the interests of the ruling classes rather than a consensus of all the members of society. In 1938, Thorsten Sellin presented a theory of crime based on the conflicts between different cultural groups in society.[3] He argued that different cultures have different "conduct norms," that is, rules that require certain types of people to act in specific ways in certain circumstances.[4] Within a simple, homogeneous society, many of these conduct norms are enacted into law, and actually represent a consensus in the society. But as the society becomes more complex, it becomes increasingly likely that there will be overlap and contradiction between the conduct norms of different groups. Sellin defined "primary cultural conflicts" as those occurring between two different cultures.[5] These conflicts could occur at border areas between two divergent cultures, or in the case of colonization, when the laws of one culture are extended into the territory of another, or in the case of migration, when members of one cultural group move into the territory of another.[6] "Secondary cultural conflicts" are said to occur when a single culture evolves into several different subcultures, each having its own "conduct norms."[7] In each of these cases, law would not represent a consensus of the various members of the society, but would reflect the conduct norms of the dominant culture.

3. Thorsten Sellin, *Culture Conflict and Crime*, Social Science Research Council, New York, 1938.
4. Ibid. pp. 32–33.
5. Ibid. p. 104.
6. Ibid. p. 63.
7. Ibid. p. 105.

In 1958, Dahrendorf attacked the consensus model of society as unrealistic and suggested that sociologists turn to the conflict model as a way of addressing certain critical problems.[8] He argued that the consensus model was "utopian" in that it portrayed all normal social change as a process of organic growth. Dahrendorf noted that societies also experience fundamental social changes that can only be explained by assuming that there are individuals in the society who do not agree with the existing consensus and who are ultimately able to modify or replace it. In consensus theory this type of fundamental change is seen as abnormal, and is explained by referring to extraordinary circumstances. But Dahrendorf argued that fundamental change was in fact the normal state of society and that it occurred constantly at all levels of society, from the seats of governments to the local trade unions and parish houses. Sociologists, he said, should look for the factors that interfere with the normal processes of change rather than for the factors that cause it.

Dahrendorf presented a similar argument with the idea of conflict[9]:

> As with change, we have grown accustomed to look for special causes or circumstances whenever we encounter conflict; but, again, a complete turn is necessary in our thinking. Not the presence but the absence of conflict is surprising and abnormal, and we have good reason to be suspicious if we find a society or social organization that displays no evidence of conflict. To be sure, we do not have to assume that conflict is always violent and uncontrolled. There is probably a continuum from civil war to parliamentary debate, from strikes and lockouts to joint consultation. Our problems and their explanations will undoubtedly teach us a great deal about the range of variation in forms of conflict. In formulating such explanations, however, we must never lose sight of the underlying assumption that conflict can be temporarily suppressed, regulated, channeled, and controlled but that neither a philosopher-king nor a modern dictator can abolish it once and for all.

Dahrendorf concluded: "From the point of view of this model, societies and social organizations are held together not by consensus but by constraint, not by universal agreement but by coercion of

8. Ralf Dahrendorf, "Out of Utopia: Toward a Reorientation of Sociological Analysis," *American Journal of Sociology*, 64(2): 115–27 (Sept., 1958).

9. Ibid. pp. 126–27.

some by others."[10] He did not suggest that the conflict model replace the consensus model, but rather that it supplement it in order to address problems relating to fundamental change in society.

2. CONFLICT THEORY AS THE EXPLANATION OF CRIME

In the same year that Dahrendorf's article appeared, George B. Vold published the original edition of *Theoretical Criminology*, containing the preceding chapter on group conflict theory. Like Dahrendorf, Vold argued that conflict theory could supplement rather than replace existing theories of crime causation. In his theory, he emphasized that men naturally organized themselves into groups, both because of their psychological makeup and as a practical method of furthering their own interests. The enactment and the enforcement of law were seen as the result of the conflict and compromise process as each group struggled to enhance its own position. When the interests of different groups conflicted, it was generally those groups with less political power whose actions would be criminalized.

Many contemporary conflict criminologists have acknowledged their indebtedness to Vold's formulation. Among these is Richard Quinney, whose theory of "the social reality of crime" is expressed in the following six propositions[11]:

Proposition 1 (Definition of Crime): Crime is a definition of human conduct that is created by authorized agents in a politically organized society.

Proposition 2 (Formulation of Criminal Definitions): Criminal definitions describe behaviors that conflict with the interests of the segments of society that have the power to shape public policy.

Proposition 3 (Application of Criminal Definitions): Criminal definitions are applied by the segments of society that have the power to shape the enforcement and administration of criminal law.

Proposition 4 (Development of Behavior Patterns in Relation to Criminal Definitions): Behavior patterns are structured in segmentally organized society in relation to criminal definitions, and within this context persons engage in actions that have relative probabilities of being defined as criminal.

10. Ibid. p. 127.

11. Richard Quinney, *The Social Reality of Crime*, Little, Brown, Boston, 1970, pp. 15–23.

Proposition 5 (Construction of Criminal Conceptions): Conceptions of crime are constructed and diffused in the segments of society by various means of communication.

Proposition 6 (The Social Reality of Crime): The social reality of crime is constructed by the formulation and application of criminal definitions, the development of behavior patterns related to criminal definitions, and the construction of criminal conceptions.

Each of Quinney's propositions is derived from earlier work in criminology or sociology. The first proposition is based on the interactionist view that deviance is defined by the social reaction to it.[12] Quinney argues that crime is a "definition" of behavior that is "created" by the authorities. Thus, crime is not a matter of individual pathology, "but is a judgment made by some about the actions and characteristics of others."[13]

The second and third propositions are drawn from Vold's earlier conflict theory.[14] For example, the second proposition is quite comparable to Vold's statement that "Whichever group interest can marshall the greatest number of votes will determine whether or not there is to be a new law to hamper and curb the interests of some opposition group,"[15] and the third proposition is comparable to "Those who produce legislative majorities win control over the police power and dominate the policies that decide who is likely to be involved in violation of the law."[16] There is, however, a major difference between the two theories. Vold discussed conflict between organized interest groups, whereas Quinney discussed conflict between "segments" of society. Segments are said to share the same values, norms, and ideological orientations, but they may or may not be organized in defense of those commonalities.[17] Some segments, such as business and labor, have been organized into interest groups for many years, but other segments, such as women, poor people,

12. See Chapter 12, this volume, for a review of this perspective.

13. Quinney, op. cit. p. 16.

14. Quinney (ibid. p. 17, n. 42 and p. 18, n. 44) cites Vold for these two propositions, stating in the footnote: "I am obviously indebted to the conflict formulation of George B. Vold, *Theoretical Criminology*. . . ."

15. George B. Vold, *Theoretical Criminology*, Oxford University Press, New York, 1958, p. 208; this volume, p. 287.

16. Ibid. p. 209; this volume, p. 288.

17. Quinney, op. cit. p. 38.

and homosexuals, have organized themselves only recently. There are also segments of society that have only minimal organization, such as young and old people, and segments that have no organization at all, such as prisoners and the mentally ill.

Because of this difference, Quinney uses conflict theory to explain all crime instead of merely some of it. Vold had specifically excluded "impulsive, irrational acts of a criminal nature that are quite unrelated to any battle between different interest groups in organized society."[18] He also implied that at least some "ordinary common-law offenses involving persons and property" are not related to any political struggle, and must be explained by other theories.[19] Quinney, on the other hand, would hold that even irrational and impulsive people represent a segment of society who have common values, norms, and ideological orientations, although this segment is not organized into any interest group.[20] Their behavior is defined as criminal by those who have more power and who are protecting their own interests. The absence of overt political struggle does not mean that there is no conflict between the segments. It indicates rather that the one segment has complete superiority of power over the other, to the point where the struggle takes the form of individual acts of resistance by the disorganized segment.

Quinney's fourth proposition relies on Sutherland's differential association theory. Different segments of society are said to have different behavior patterns and normative systems, each of which is learned in its own social and cultural setting. The probability that any individual will violate the criminal law depends, to a large extent, on how many of his normal behavior patterns are defined by the law as criminal. This, in turn, depends to a large extent on how much power and influence his segment has in enacting and enforcing laws. Those with little or no power will find many of their normal behavior patterns criminalized, whereas those with great power will find few of their normal behavior patterns criminalized.

18. Vold, op. cit. p. 219; this volume, p. 296.

19. Ibid. p. 214; this volume, p. 293.

20. For example, see Quinney's discussion of violent crime in *The Social Reality*, op. cit. pp. 249–52. Austin Turk made a similar point about Vold's theory by stating that "[t]his residual category [of impulsive, irrational acts] seems to be unnecessary if one avoids equating social conflict with quasi-military encounters between organized groups deliberately engaged in a struggle to assert their respective interests." [Austin T. Turk, "Conflict and Criminality," *American Sociological Review* 31:342, n. 21 (June, 1966).]

Quinney's two final propositions rely on contemporary sociology of knowledge, which holds that the world in which man lives is primarily subjective and socially constructed.[21] He argued that the term crime can be taken to refer to concrete happenings that individuals personally experience, or it can refer to conceptions of reality that are created and communicated to individuals through various forms of social interaction, including the media. Different conceptions of crime can be created and communicated as part of the political process of promoting a particular set of values and interests. For example, during the Vietnam war, antiwar groups argued that the real criminals were those running the war. Consumer and ecology groups have argued that the real criminals are in big business. Community organizers in inner-city neighborhoods argue that the real criminals are the absentee landlords and the greedy store owners. But these conceptions of crime are generally disregarded by most people because their proponents do not have very much power. Conceptions of crime that are created and communicated by people in powerful segments of society, however, are widely accepted by other people in the society as their own view. This legitimizes the authority of power segments and allows them to carry out policies in the name of the common good that really promote their own interests. For example, Richard Nixon promoted a certain conception of crime in his campaign for the presidency in 1968. When Nixon said that "we're going to have a new Attorney General of the United States of America" in order to restore law and order,[22] it was clear that he was talking about lower-class urban "street" crime, not the upper-class corporate and political crime that would drive him from office and send his new attorney general (John Mitchell) to jail.

Quinney concludes[23]:

> Conceptions of crime . . . are constructed with intentions, not merely to satisfy the imagination. We end up with some realities rather than others for good reason—because some one has something to protect. That protection can be achieved by the perpetuation of a certain view of reality. Reali-

21. See particularly Peter L. Berger and Thomas Luckmann, *The Social Construction of Reality*, Doubleday, Garden City, 1966.

22. Quoted in Quinney, op. cit. p. 312.

23. Ibid. p. 304. For an application of the concept of social reality in the area of marijuana and narcotics use, see Jerome Skolnick, "Coercion to Virtue," *Southern California Law Review* 41:588–641 (1968), especially pp. 594–606.

ties are, then, the most subtle and insidious of our forms of social control. . . . The reality of crime that is constructed for all of us by those in a position of power is the reality we tend to accept as our own. By doing so, we grant those in power the authority to carry out the actions that best promote their interests. This is the *politics of reality*. The social reality of crime in politically organized society is constructed as a political act.

Austin Turk also proposed a conflict analysis of how power groups achieve authority and legitimacy in society.[24] Although consensus theorists maintained that social order arose from the internalization of the norms embodied in the law, Turk argued that social order is based in a consensus-coercion balance maintained by the authorities. Authorities must prevent this balance from shifting to either "an excessively coercive, power relationship or an excessively consensual, egalitarian relationship."[25] To the extent that they are able to prevent this, people in the society will become conditioned to live with the social roles of authorities and subjects in such a way that no one will question these roles. It is this conditioning that underlies the social order in all societies[26]:

> The stability of an authority relationship appears to depend far less upon subjects' conscious or unconscious belief in the rightness or legitimacy of the rank order than upon their having been conditioned to accept as a fact of life that authorities must be reckoned with as such. As long as people accept the inevitability of their social order, and operate within it with little or no questioning of why it should be at all, authority is secure.

Within this view of society, Turk presented a "theory of criminalization" that specified "the conditions under which cultural and social differences between authorities and subjects will probably result in conflict, the conditions under which criminalization will probably occur in the course of conflict, and the conditions under which the degree of deprivation associated with becoming a criminal will probably be greater or lesser."[27] Turk first distinguished between cultural norms and social norms. Cultural norms are associated with verbal formulations of values, and social norms with actual behavior

24. Austin T. Turk, *Criminality and Legal Order*, Rand McNally, Chicago, 1969.
25. Ibid. p. 42.
26. Ibid. p. 44.
27. Ibid. p. 53.

patterns.[28] From the point of view of the authorities, cultural norms are associated with the law as it is written, and social norms with the law as it is enforced. Conflict will be most likely when there is "close agreement between the cultural norm announced by authorities and their actual behavior patterns, and similarly high congruence between the way in which subjects who possess the attribute or commit the act evaluate it and their social norms."[29] In this case, "[n]either side is likely to give in without a contest, as in each case they not only 'talk that way' but come close to acting in accord with the way they talk."[30] In this formulation, there is the presupposition that no norm will be announced or enforced unless there is a cultural or social difference between authorities and subjects to begin with. The probability of conflict will be greatest when the subjects have a full-blown language and philosophy with which to defend their behaviors.[31]

The likelihood of conflict is also affected by the degree of organization and the level of sophistication of both authorities and subjects.[32] Authorities are presumed to be organized, since organization is a prerequisite for achieving and retaining power. Subjects may or may not be organized. Conflict will be more likely when subjects are organized, since "an individual who has group support for his behavior is going to be more stubborn in the face of efforts to make him change than is someone who has only himself as an ally." The term sophistication is used by Turk to mean "knowledge of patterns in the behavior of others which is used in attempts to manipulate them." Conflict is more likely when either subjects or authorities are less sophisticated, since the more sophisticated subjects will be able to achieve their goals without precipitating a conflict with the superior powers of the state, and the less sophisticated authorities will have to rely more strongly on overt coercion to achieve their goals rather than more subtle, alternative tactics.

Given these conditions that affect the likelihood of conflict between authorities and subjects, Turk goes on to discuss the conditions under which it will be more likely that this conflict will result

28. Ibid. pp. 36–38.
29. Ibid. p. 55.
30. Ibid. pp. 55–56.
31. Ibid. p. 57.
32. Ibid. pp. 58–61.

in the criminalization of the subjects. The primary factor, Turk argues, will be the meaning the prohibited act or attribute has for the first-line enforcers (i.e., the police), and the extent to which the higher-level enforcers (i.e., the prosecutors and judges) agree with the evaluation of the police.[33] If all levels of enforcers find the prohibited act or attribute very offensive, then it is likely that there will be high arrest rates, high conviction rates, and severe sentences. If, due to class and status differences between police and the higher-level enforcers, police find the behavior offensive, but the higher-level enforcers do not, there will likely be more severe deprivation associated with arrests, but low conviction rates and less severe sentences. If police find the behavior inoffensive, but higher-level enforcers find it offensive, then there will be low arrest rates, but high conviction rates and severe sentences.

The second factor affecting criminalization will be the relative power of the enforcers and resisters.[34] In general, criminalization will be greatest when the enforcers have great power and the resisters are virtually powerless. In situations in which the power of the resisters and the power of the enforcers is approximately equal, the criminalization process is tempered by the potential costs involved. Here, the enforcers become cautious, which is likely to keep the criminality rate low. If the resisters achieve greater power than the enforcers, then the law will usually be changed.

The third factor affecting criminalization rates is what Turk calls the "realism of the conflict moves"; here the "degree of realism" is defined as "its consequences for increasing or decreasing one's chances of success. In the case of the enforcers this means the maintenance of an authority relationship necessitating relatively little investment of resources in enforcement, and in the case of resisters means forcing norm enforcers either to retract the announced norm, to stop trying to enforce it, or at least to compromise in some fashion (e.g., by making only token gestures at enforcement)."[35] He states that unrealistic conflict moves by either party will tend to increase criminalization, which is a measure of the overt conflict between the two groups.

33. Ibid. pp. 65–67.
34. Ibid. pp. 67–70.
35. Ibid. p. 70.

3. CONFLICT THEORY AND THE CRIMINAL JUSTICE SYSTEM

In recent years, a number of criminologists have analyzed the functioning of the criminal justice system from the perspective of conflict theory.[36] Perhaps the most thorough analysis is Chambliss and Seidman's *Law, Order, and Power.*[37] These authors note that the consensus perspective and the conflict perspective provide radically different versions of how the criminal justice system actually functions. Therefore, they examined the day-to-day functioning of that system in order to determine which (if either) of the two models could be considered correct. Specifically, they sought to discover whether the power of the State (as embodied in the criminal justice system) is "a value-neutral framework within which conflict can be peacefully resolved," as described by consensus theory, or whether, as conflict theory would have it, "the power of the State is itself the principal prize in the perpetual conflict that is society."[38]

The criminal justice process begins with the legislative activity of law-making. Consensus theory would describe this process as "a deliberative assembly of one nation, with one interest, that of the whole, where, not local purposes, nor local prejudices, ought to guide, but the general good, resulting from the general reason of the whole."[39] The authors argue, however, that "every detailed study of the emergence of legal norms has consistently shown the immense importance of interest-group activity, *not 'the public interest,'* as the critical variable in determining the content of legislation."[40] In addition, when the law expresses moral values rather than economic interests, they will be the values of some groups rather than others. Chambliss and Seidman state[41]:

36. See, for example, Stuart L. Hills, *Crime, Power, and Morality: The Criminal Law Process in the United States*, Chandler, New York, 1971; Richard Quinney, *Critique of Legal Order*, Little, Brown, Boston, 1973; Erik Olin Wright, *The Politics of Punishment*, Harper & Row, New York, 1973; Clayton A. Hartjen, *Crime and Criminalization*, Praeger, New York, 1974; Barry Krisberg, *Crime and Privilege*, Prentice-Hall, Englewood Cliffs, 1975; and Harold E. Pepinsky, *Crime and Conflict*, Academic Press, New York, 1976.

37. William J. Chambliss and Robert B. Seidman, *Law, Order, and Power*, Addison-Wesley, Reading, 1971.

38. Ibid. p. 4

39. Edmund Burke, *Works*, H. J. Bohn, London, 1893. p. 447; quoted in Chambliss and Seidman, op. cit. p. 63.

40. Ibid. p. 73.

41. Ibid. pp. 473–74.

1. One's "web of life" or the conditions of one's life affect one's values and (internalized) norms.

2. Complex societies are composed of groups with widely different life conditions.

3. Therefore, complex societies are also composed of highly disparate and conflicting sets of norms.

4. The probability of a group's having *its* particular normative system embodied in the law is *not* distributed equally among the social groups but, rather, is closely related to the group's political and economic position.

5. The higher a group's political or economic position, the greater is the probability that its views will be reflected in the laws.

Rule-making in the criminal justice system also occurs in the appellate courts, where decisions establishing precedents have the effect of creating law. These decisions concern "trouble cases" where no law clearly applies to the case or where more than one law can be seen to apply. Appellate courts are examined closely because it is said that they "are the institution *par excellence* for which society most carefully cherishes the idea of value-neutrality."[42]

These rule-making decisions have always been justified in written opinions by referring to factors beyond the personal values of the judge. Originally, judges referred to "natural law" to support their decisions, but it later became apparent that the 'natural law" as described by the judges really embodied their personal values.[43] Later justifications have usually been phrased in terms of preexisting laws and the principles embodied in those laws.[44] Dissenting opinions, however, can just as well be justified on legalistic grounds as can majority opinions, indicating that the decision is actually being based on other factors. There is now a move to justify these decisions on the basis of what is best for society.[45] But judgments about what is "best" depend on a set of values. Roscoe Pound, the originator of this school of thought, attempted to state the common values that would underlie these judicial decisions, but his formulation did not meet with widespread acceptance, and it has been criticized as

42. Ibid. p. 75.

43. Ibid. pp. 125–28.

44. Ibid. pp. 128–31.

45. Ibid. pp. 131–45.

reflecting primarily his own personal values.[46] Therefore, the authors conclude that, in the last analysis, judges must rely on their personal values when they create rules in deciding "trouble cases."[47]

Chambliss and Seidman give a number of reasons why the values of appellate judges will be primarily oriented to the wealthy rather than the poor.[48] Appellate judges are largely from the more privileged segments of society. They are usually lawyers who have been trained in law schools by the "case-book" method. This method confines the issues studied to those raised in earlier litigation, which are predominantly issues related to the wealthy. As lawyers, future judges tend to focus on cases involving the wealthy, since these are the clients who are able to pay high legal fees. The successful lawyer who becomes a trial judge will have achieved a socially prominent position and can be expected to socialize with the more privileged classes; he thus becomes more attuned to their needs. Promotion of a trial judge to the appellate level is inevitably tied in one way or another to the political process, so that those trial judges who do not deal appropriately with the politically powerful will often not be promoted.

Thus, there are many subtle pressures encouraging judges to consider, carefully and thoroughly, issues related to persons of power and wealth. But there are also organizational pressures to restrict the total amount of litigation before the court to prevent overloading the docket. These pressures, together with the fact that appeals to higher court depend in part on the ability of the defendant to pay for the cost of the litigation, have the result that the majority of case law concerns issues relating only to the wealthy and powerful.

Chambliss and Seidman generalize their arguments into a set of propositions[49]:

1. Every decision-making structure necessarily limits the range of potential inputs with respect to the problems to be considered, the potential hypothesis for their solution, and the data to be examined.

46. Ibid. pp. 141–42.
47. Ibid. p. 151.
48. Ibid. pp. 95–115.
49. Ibid. p. 113.

2. By these limitations, decision-making structures necessarily predetermine the range of potential outputs.

3. Every decision-making structure is therefore necessarily biased against a particular set of potential outputs, and in favor of another set of potential outputs.

4. Therefore, every decision-making structure is necessarily value-loaded; it cannot be value-neutral.

The examination of the functioning of law enforcement agencies focuses on the bureaucratic nature of those organizations and their connections to the political structure. The authors summarize their theory in the following points[50]:

1. The agencies of law-enforcement are bureaucratic organizations.

2. An organization and its members tend to substitute for the official goals and norms of the organization ongoing policies and activities which will maximize rewards and minimize the strains on the organization.

3. This goal-substitution is made possible by:

   a) the absence of motivation on the part of the role-occupants to resist pressures towards goal-substitution;

   b) the pervasiveness of discretionary choice permitted by the substantive criminal law, and the norms defining the roles of the members of the enforcement agencies; and

   c) the absence of effective sanctions for the norms defining the roles in those agencies.

4. Law enforcement agencies depend for resource allocation on political organizations.

5. It will maximize rewards and minimize strains for the organization to process those who are politically weak and powerless, and to refrain from processing those who are politically powerful.

6. Therefore it may be expected that the law-enforcement agencies will process a disproportionately high number of the politically weak and powerless, while ignoring the violations of those with power.

Chambliss and Seidman conclude that both in structure and in function the law operates in the interests of existing power groups.

50. Ibid. p. 269.

The public interest is represented only to the extent that it coincides with the interests of those power groups.[51]

4. "MARXIST" CRIMINOLOGY

Two versions of "Marxist"[52] criminology have emerged in the 1970s, one in the United States, which developed from conflict theory and is exemplified in the more recent works of Richard Quinney,[53] and the other in Great Britain, which developed from the interactionist perspective and is exemplified in the works of Taylor, Walton, and Young.[54] The British version comes from the notion that deviant behavior should be considered fully authentic human action rather than the product of some form of individual or social pathology; that is, deviance is seen as a manifestation of human diversity. The criminalization of deviance is considered to be a societal need unrelated to the quality of the behavior.[55] Taylor, Walton, and Young maintain that this need to criminalize deviance is a function of the social, economic, and political structures of existing societies and that, therefore, "it is possible to envisage societies free of any material necessity to criminalize deviance."[56] It is to envisage those new societies that these authors turn to Marxism.

The conflict theory path to Marxism is somewhat different. In general, non-Marxist conflict theory exposes the inequalities of the power relationships underlying the criminalization of some behaviors rather than others and can lead very naturally to a desire to

51. Ibid. p. 503.

52. Both types of Marxist criminology have been attacked as seriously misinterpreting Marx's thought. Paul Q. Hirst maintains that "[t]here is no 'Marxist theory of deviance,' either in existence, or which can be developed within orthodox Marxism" in "Marx and Engels on Law, Crime and Morality," in Ian Taylor, Paul Walton, and Jock Young, *Critical Criminology*, Routledge & Kegan Paul, London, 1975, pp. 203–32. R. Serge Denisoff and Donald McQuarie argue that Marx himself addressed two entire books to criticizing a philosophical position identical to Quinney's. ["Crime Control in Capitalist Society: A Reply to Quinney," *Issues in Criminology*, 10 (1): 109–19 (Spring, 1975).]

53. See Quinney's *Critique of Legal Order*, op. cit.; his *Criminal Justice in America: A Critical Understanding*, Little, Brown, Boston, 1974; with John Wildeman, *The Problem of Crime*, 2nd ed., Harper & Row, New York, 1977; and his *Class, State and Crime: On the Theory and Practice of Criminal Justice*, McKay, New York, 1977.

54. Ian Taylor, Paul Walton, and Jock Young, *The New Criminology*, Harper & Row, New York, 1973; and *Critical Criminology*, op. cit.

55. The interactionist perspective is discussed in Ch. 12.

56. Taylor, Walton, and Young, "Critical Criminology in Britain: Review and Prospects," in *Critical Criminology*, op. cit. p. 20. See also the concluding statement of *The New Criminology*, op. cit. p. 282: "The task is to create a society in which the facts of human diversity, whether personal, organic or social, are not subject to the power to criminalize."

change those relationships. That is, it can lead from an "objective" analysis of the criminalization process to a "political" effort to aid powerless groups in their struggle against the powerful. The development of Marxism also seems to be related to Quinney's earlier conception of "social reality." The creation of a particular social reality of crime is seen as a political act reinforcing the status quo and the existing power relationships. Quinney concluded that "objective" criminology is invariably used by the system to reinforce the existing social reality or, if it cannot be so used, it is ignored.[57] This conclusion led him to take a radically oppositional, negativistic stance toward the existing system and to concentrate on the construction of new social realities based on more equitable power relationships.[58] It is for these new power relationships that Quinney turned to Marxism.

One basic difference between Marxist criminology and the earlier conflict and interactionist theories from which it evolved concerns whether crime is considered to be pathological. In the non-Marxist conflict perspective, crime is considered to be the normal actions of normal people who have insufficient power to control the criminalization process, and in the deviance perspective, crime is seen as a manifestation of the societal need to criminalize diversity. Proponents of both perspectives, therefore, reject the idea that crime is inherently pathological, arguing that both the behaviors and the criminalization of the behaviors are normal.

In Marxist criminology, however, there is a return to the positivist idea that crime is pathological, based generally on Marx's concept that people become "demoralized" and subject to all forms of crime and vices if they are denied a productive role in society.[59] These pathological behaviors are given "natural definitions" as being "socially harmful acts" or "actions that violate basic human rights,"[60] and may include both lower-class crimes, in which poor people prey

57. Quinney, *Critique*, op. cit. pp. 26–32.

58. Quinney, "From Repression to Liberation," in Robert A. Scott and Jack D. Douglas, *Theoretical Perspectives on Deviance*, Basic Books, New York, 1972, pp. 317–41.

59. Robert F. Meier, "The New Criminology: Continuity in Criminological Theory," *Journal of Criminal Law and Criminology*, 67 (4): 461–69 (Dec., 1976). For a discussion of Marx's idea of demoralization, see Hirst, op. cit.

60. Quinney and Wildeman, op. cit. p. 11; Tony Platt, "Prospects for a Radical Criminology in the USA," in *Critical Criminology*, op. cit. p. 103; and Herman and Julia Schwendinger, "Defenders of Order or Guardians of Human Rights," in *Critical Criminology*, op. cit. pp. 113–46.

on themselves and others, as well as upper-class "crimes," such as pollution, war, and the exploitation of the working classes. The causes of these behaviors are analyzed and found to be inherent in the capitalistic economic system; the cure for these behaviors is seen as the establishment of a socialist society. Thus, the structure of the argument (natural definition of crime, search for causes and cures) is identical to positivism, but is quite different from the critical perspective (analysis of the criminalization process) of non-Marxist conflict theory and interactionist theory. The "socially harmful acts" that "violate basic human rights" are not seen as authentic or normal in Marxist criminology—they are the pathological products of a pathological economic system.

The approach appears to be self-contradictory for the British theorists, who began their analysis by insisting on the full authenticity of deviance. The "socially harmful acts," however, are not seen as fully authentic, since they are a product of the pathological state of society known as capitalism. In addition, although they begin by calling for the creation of a society in which it will not be necessary to criminalize the facts of human diversity, they also state that "[o]ther controls on 'anti-social' behaviour (and other definitions of what that might constitute) can be imagined, and, from the point of view of a socialist diversity, would be essential. . . ."[61] This suggests that these radical criminologists are not actually calling for a society that does not criminalize, but instead, are setting up new categories of crime based on their own values, and classifying people who disagree with their values as pathological. Jock Young makes this quite explicit when he says[62]:

> The task is not to romanticize illegality: it is, as Lukács suggests, to judge deviant action in terms of its relationship to the struggle, ignoring the classifications of legality and illegality created by the powerful in *their* struggle against the powerless. . . . The ultimate goal in such a struggle must be a socialist culture which is diverse and expressive—that is, a culture which takes up the progressive components in pluralism, whilst rejecting those activities which are directly the product of the brutalizations of existing society (however diverse, expressive or idiosyncratic their manifestation).

61. Taylor, Walton, and Young, "Critical Criminology in Britain," op. cit. p. 20.
62. Jock Young, "Working Class Criminology," in *Critical Criminology*, op. cit. pp. 89–90.

This contradiction is not so apparent in Quinney's version of Marxism for two reasons. First, Quinney explicitly criticizes his earlier work (*The Social Reality of Crime*) as a product of an inadequate mode of thought.[63] Since it was in this work that the pathological nature of crime was totally rejected, the reintroduction of pathology in the later works[64] is not in itself a contradiction. Second, Quinney rejects authoritarianism of any kind in his vision of the future society,[65] and he thus implies that there will be no power (or need) to criminalize behaviors. But it is obvious that the establishment of such a society would be strongly opposed by many people who have much more to gain from the existing capitalistic social system. Quinney never specifies what would be done to prevent these people from overthrowing the new order. One suspects that they would ultimately be criminalized as the new legal order moved to defend and preserve itself, this being the same action that Quinney criticizes in the present legal order.

5. IMPLICATIONS AND CONCLUSIONS

Criticisms of conflict theory frequently confuse it with Marxist criminology and portray it as a simplistic model of domination by a wealthy, ruling class elite. A number of instances of this confusion will be discussed in this section, with the hope of clarifying non-Marxist conflict theory by contrasting it to Marxist criminology in the context of these criticisms.

A good example of the confusion between non-Marxist conflict theory and Marxist criminology can be found in Reid, who evaluates "conflict theory" on the basis of three points: that the differential enforcement of the laws reflects the interests of the ruling class, that criminal acts are caused by society's mode of production, and that criminal laws are passed to maintain the economic interests of the ruling class.[66] She states that each of these three points has little or no empirical support or is contradicted by the facts.

63. Quinney, *Critique*, op. cit. pp. 5–8.

64. For example, Quinney and Wildeman, op. cit. p. 12.

65. Quinney, "From Repression to Liberation," op. cit. p. 329. See also his description of decentralized law in "The Ideology of Law: Notes for a Radical Alternative to Legal Oppression," *Issues in Criminology* 7 (1): 1–33 (Winter, 1972).

66. Sue Titus Reid, *Crime and Criminology*, The Dryden Press, Hinsdale, Ill., 1976, pp. 203–5.

These points are associated primarily with Marxist criminology, not with non-Marxist conflict theory. The concept of a "ruling class" does not appear in any of the major non-Marxist conflict theorists, including Sellin, Vold, Turk, or the early Quinney. Rather, these theorists argue only that different parts of society have different values and interests, and that the ability to translate those values and interests into law depends on the degree of political power these parts possess. Political power is not seen as residing entirely within one particular group and being totally absent from all other groups. Turk makes this point quite clearly[67]:

> There are those in a society who constitute the dominant, decision-making category—the *authorities*—and those who make up the subordinate category—the *subjects*. This is not to say that any specific population can be readily dichotomized into a ruling elite and a powerless mass. Power is rarely, if ever, so neatly distributed. . . . The point is, rather that in reference to specific legal norms and patterns of norm-enforcement some part of a population can in principle be shown to belong to the category of "those who make a difference" and another part to that of "those who are affected but affect relatively little."

The differential enforcement of the law is taken to reflect the differential distribution of power in society, but that does not mean that only powerless people are criminalized. In most societies, no group or segment has total power, so no one is completely free from the possibility of criminalization. But in general, it is argued that the more power a group or segment has, the less likely it is that they will be criminalized.

Contrary to Reid's second point, non-Marxist conflict theory does not maintain (although Marxist criminology does) that criminal acts are caused by the mode of production. Rather, it sees crime as the normal behavior of groups or segments of society who have insufficient political power to control the criminalization process. Reid's third point concerns the argument that criminal laws are passed to maintain the economic interests of the ruling class, but that argument is also related to Marxist criminology. Non-Marxist conflict theory would argue that power groups are motivated not only by economic interests, but also by moral values and by other interests such as the acquisition or retention of power or social status. Reid

67. Turk, *Criminality and Legal Order*, op. cit. p. 33.

cites appellate court decisions expanding the rights of defendants in order to make the justice system operate more fairly and justly, and asks "what interests of the 'ruling class' are being served by these court decisions?"[68] A non-Marxist conflict approach would explain these decisions in terms of the *values* of the group or segment of society known as judges, who certainly have a substantial degree of power, although they do not constitute a "ruling class." These decisions could also be explained in terms of the *interests* of various power groups in that they may be seen as necessary compromises in order to maintain the long-term smooth functioning of the existing social order.[69]

Another instance of the confusion between Marxist criminology and non-Marxist conflict theory can be found in Allen's criticisms of Quinney's theory of the social reality of crime. Quinney's work was written before his conversion to Marxism, and is an example of a non-Marxist conflict theory. Allen states that the theory is in many ways tautological, since "The criminal law is formulated and applied by public agencies; in the long run and for the most part, therefore, it may be expected to reflect, or at least not seriously offend, the views and interests of those capable of influencing public policy."[70] On the other hand, he states that the theory "fails to encompass many important factors,"[71] specifically that the criminal justice system is only one of many tools that may be used to achieve political objectives, and that when used in such a way, it has frequently resulted in the moderation of oppression rather than its exacerbation; that the wealthy and powerful are frequently unable to achieve adequate protection for their interests due to inertia and hostility in the legislature; and that the police must be seen as a power group themselves. He concludes: "Thus, the ultimate resolution (of an issue) involves an intricate vectoring of a great variety of forces, a complexity hardly hinted at by the assertion that the criminal law is the tool of the politically dominant."[72]

68. Reid, op. cit. p. 205.

69. Turk discusses the necessity for the authorities to "put themselves out" at certain points in order to reestablish the acceptable deference norms in the subjects. See Turk, *Criminality and Legal Order*, op. cit. pp. 46–47.

70. Francis A. Allen, *The Crimes of Politics*, Harvard University Press, Cambridge, 1974, p. 17.

71. Ibid. p. 19.

72. Ibid. p. 21.

This "intricate vectoring of a great variety of forces" is precisely what non-Marxist conflict theory describes. The vectoring takes place among groups or segments of society who have varying degrees of political power. The police would clearly be considered one of these groups or segments, as would the legislature itself, which may have as a part of its values and interests hostility to the privileged classes and a desire to avoid making decisions. Finally, non-Marxist conflict theorists would agree entirely with Allen's first point, that power is effected in society in a great many ways, and would only insist that the criminal justice system is one of those ways.

Lemert comes to a conclusion similar to Allen's in a discussion of future directions for interactionist theory.[73] He states that "existing theories of deviance are ill suited to account for the complexities of the social reaction in modern society,"[74] but in discussing alternatives, he considers conflict theory only as radical Marxism[75]:

> Radical critics and those who write on the politicization of deviance properly have noted the superficiality of the moral crusader formulation, as well as faulting labeling theory generally for its neglect of conflict and power. But the alternative theory of the so-called radical sociology I find very generalized, as well as doctrinaire.

He argues[76] instead that the evolution of laws and morality

> are the products of the interaction of groups. The workings of legislatures reveal the multifaceted interaction they have with such groups as well as the complexities of their own internal interaction through committees, majorities, and minorities. Judges, court workers, administrators and police further interact to qualify the effective reach of new substantive law by jurisdictional and procedural adaptations. To understand the interplay of many groups out of which materialize new categories of moral and legal control requires a model of interaction quite different than those fathered by the psychologically oriented thought of Mead or from those of the class conflict theorists.

73. Edwin M. Lemert, "Beyond Mead: The Societal Reaction to Deviance," *Social Problems* 21 (4): 457–68 (Apr., 1974).

74. Ibid. p. 466.

75. Ibid. p. 462

76. Ibid. pp. 462–63.

The theory of group interaction he proposes bears a striking resemblance to Vold's theory of group conflict. Lemert writes[77]:

Group interaction is best understood as a process resting on evaluation in which individuals sort out their purposes or values in terms of their dependence on groups necessary for their satisfaction. In so doing they give up some values in order to satisfy others, at the least possible sacrifice. The pattern of group action which results will reflect the claims and power of all those involved in the interaction; and the priorities it follows often are at considerable variance from the value hierarchies of individual participants.

The order in which interests, claims, or values get satisfied reflects not only group allegiance but also the availability of means for their satisfaction and the costs of such means, measurable by time, energy, and other values expended. Laws and rules made by this kind of process often express the values and norms of no group or person but rather their dilemmas, compromises, expeditious adherence to procedures, and strictures of time and budgets.

A similar confusion of Marxist and non-Marxist conflict theory occurs in a recent analysis of the changes in the California penal code from 1955 to 1971.[78] The authors state that they will empirically test whether the conflict or the consensus model better explains these changes, but the conflict model is phrased in terms of the legislature being an "arm of the ruling class."[79] They conclude that the consensus model has little to offer in terms of explaining specific changes that were passed, since the "consensus" that supposedly underlies the law evaporates as soon as an attempt is made to specify exactly how that consensus will be implemented.[80] They found some support for the idea that law is affected by "ruling class interests," but they also found that there were a great variety of other forces operating simultaneously with those interests.[81] These forces included a large number of interest groups (including the criminal justice agencies directly affected by the legislation), the political structure of the legislature itself (where the two parties contin-

77. Ibid. p. 463.

78. Richard A. Berk, Harold Brackman, and Selma Lesser, A *Measure of Justice*, Academic Press, New York, 1977.

79. Ibid. p. 5.

80. Ibid. pp. 275–79.

81. Ibid. pp. 279–301.

uously attempted to outmaneuver each other), and the editorials of the *Los Angeles Times*.

This finding can be explained most readily by Vold's theory of group conflict, since all the forces described in the study were organized groups fighting for their own values and interests. Two comments made by the authors are particularly revealing, however, in terms of the shift from Vold's theory to the broader conflict theories of Turk and the early Quinney. The authors state that "at one time or another virtually everyone gained through the making of laws"[82] and that "virtually all coalitions surfacing in our study were in general terms committed to current American institutions."[83] It is obvious that groups not committed to current American institutions would not surface in this study, since they would not participate in the legislative activity. It is also obvious that those most affected by the changes in the penal law (i.e., persons who are arrested, convicted, and/or imprisoned) are not in themselves an organized group, although they constitute disorganized segments of society with their own values and interests. They gained from the creation of these laws only to the extent that their values and interests coincided with those of the organized power groups who participated in the legislative process. Thus, these segments have a very different perspective on the law, as Turk states[84]:

> For the groupings powerful enough to have some impact on the legal process, laws will be rather satisfactory regulative compromises. For those groupings who have lost out, or never really competed, in the struggle to control legal mechanisms, laws will be edicts. For them, to live in a legal order is to be dominated.

While most criticisms of conflict theory confuse it with Marxist criminology, two concerns have been raised which do not result from this confusion. The first is that conflict theory would define all criminals as political criminals, since they are criminalized as a result of their lack of political power.[85] Allen raises this issue, stating that there are two types of political criminals; cases where the mo-

82. Ibid. p. 282.

83. Ibid. p. 300.

84. Turk, *Criminality and Legal Order*, op. cit. p. 32.

85. This point is made most strongly in Wright, op. cit. pp. 22–41.

tive of the illegal action was political, and cases where the motive of the prosecution was political.[86] He excludes, however, illegal actions that are purely for personal gain as being political crimes in any sense.[87] But using the same criteria, Schafer concludes that all crimes are political in that the motive for prosecution is always political, aimed at shoring up a particular legal order.[88] In addition, he states that crime is always an attack upon the existing system of values and interests. The only difference between what is traditionally called a "political" crime and an "ordinary" crime is that the political crime attacks the entire system of values and interests, whereas the ordinary crime attacks only one specific part of it. Thus, he calls ordinary crimes "relative political crimes," as opposed to the "absolute political crimes" in which the entire value system is attacked.

Schafer goes on to make a perceptive comment on contemporary criminology[89]:

> One of the decisive factors in the impasse on the general crime problem is our contemporary sociological criminologists' hesitancy to relate their etiological research to the speculations and findings of the philosophy of law and the norm system. Of course, much more is involved in the idea of law than sheer obedience and blind acceptance of the power-conceived justice, and usually a rich and complex interplay among individuals, groups, and conflicting values takes place before a law is created. Yet, in the ultimate analysis, the definition and interpretation of justice, and lawmaking accordingly, are always monopolies in the exclusive possession and under the exclusive control of the social-political power.
>
> The greatest obstacle to understanding this tenet is our reluctance to accept that what we think of as right and just does not necessarily represent the only correct view. We tend to think in terms of a single immutable truth and conclude that therefore there is only one possible system of justice. The claim that the social system and its law are just and fair rests upon the dubious hypothesis that there is only one just and fair code of values.

This same dubious hypothesis can be seen to underlie not only contemporary sociological criminology, but also Marxist criminology. That also holds that there is only one just and fair code of

86. Allen, op. cit. pp. 43–45.
87. Ibid. p. 44.
88. Stephen Schafer, *The Political Criminal*, The Free Press, New York, 1974, pp. 19–29.
89. Ibid. pp. 36–37.

values—those of a socialist state. The value of non-Marxist conflict theory is that it holds that, in any society—whether Marxist or capitalist or fascist—there will be conflicting values and interests among the various segments of society, and that the resolution of those conflicts will depend on the power of the conflicting groups.

The other concern raised about conflict theory is, as Allen states,[90]

> whether commitment to the view of the criminal law as a device to achieve particular interests of the socially powerful is likely to produce significant advances toward new knowledge and valid insights. There is room for initial doubt. Legislators giving consideration to what the law ought to be are not noticeably assisted by being told that the law is what the legislators say it is. Lawyers performing legislative functions, such as code revision, are likely to be surprised and bemused by assertions that, whatever their conscious purposes, they are in fact the instrumentalities of powerful special interests.

Two responses can be made to this point. First, the search for truth is not necessarily dependent on the utility of truth. At times, truth may seem to be uncomfortable or even dysfunctional, and yet there is a scientific obligation to pursue it anyway. Second, it would seem that there are several benefits that can be derived from the conflict perspective. At minimum, it could be seen as a "sensitizing perspective" that could be beneficially kept in mind by lawyers performing legislative functions, as well as by those who enforce the law. In addition, conflict theory could result in specific recommendations for social reform, in order to establish a fairer and more just society. This would not necessarily entail the overthrow of the existing social order, any more than did the recommendations derived from the theories of human ecology or of anomie. The question of how conflicts between segments of society can be fairly and equitably resolved is not limited to one type of society, and will not be resolved by the overthrow of a particular social order.

90. Allen, op. cit. p. 17.

RECOMMENDED READINGS

Thorsten Sellin, *Culture Conflict and Crime,* Social Science Research Council, New York, 1938. Crime as the conflict of conduct norms of different cultures.

Ralf Dahrendorf, "Out of Utopia: Toward a Reorientation of Sociological Analysis," *American Journal of Sociology,* 64(2): 115–27 (Sept., 1958). An argument to move away from consensus theory in sociology and toward conflict theory.

Austin T. Turk, *Criminality and Legal Order,* Rand McNally, Chicago, 1969. A conflict analysis of the criminalization process.

Richard Quinney, *The Social Reality of Crime,* Little, Brown, Boston, 1970. A conflict theory of crime using contemporary sociology of knowledge.

Richard Quinney, *Critique of Legal Order,* Little, Brown, Boston, 1973. A neo-Marxist perspective on the criminal justice system.

William J. Chambliss and Robert B. Seidman, *Law, Order, and Power,* Addison-Wesley, Reading, 1971. A powerful and detailed analysis of the criminal justice system from the conflict perspective.

Clayton A. Hartjen, *Crime and Criminalization,* Praeger, New York, 1974. A highly readable conflict analysis of crime and the criminal justice system.

Ian Taylor, Paul Walton, and Jock Young, *The New Criminology,* Harper & Row, New York, 1973. Sociological criminology from a radical deviance perspective.

Stephen Schafer, *The Political Criminal,* The Free Press, New York, 1974. Discussion of the view that all crime is ultimately political, and the implications of this view.

James T. Duke, *Conflict and Power in Social Life,* Brigham Young University Press, Provo, 1975. Nondogmatic overview of sociological conflict theory, emphasizing its distinction from Marxism.