

Symposium on the 30th Anniversary of the President's Commission
on Law Enforcement and Administration of Justice

The Challenge of Crime in a Free Society: Looking Back Looking Forward

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Commissioned Paper

The Challenge of Crime in a Free Society: Looking Back . . . Looking Forward

Joseph Foote, Consultant

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Foreword

A little more than three decades ago, a landmark document was released that has helped substantially shape the world of criminal justice in this country over the intervening 30 years. “The Challenge of Crime in a Free Society,” the product of President Lyndon Johnson’s Crime Commission on Law Enforcement and the Administration of Justice, is in many ways as instructive and insightful a document addressing fundamental questions of crime and society as at the time of its 1967 issuance.

In June of 1997, components of the U.S. Department of Justice held a Symposium to celebrate and commemorate the 30th Anniversary of the 1967 President’s Crime Commission. Members and staff from the 1967 Commission were invited to provide their insights and share their experiences with criminal justice professionals in the field today. The Symposium provided a unique opportunity for those of us in criminal justice to step back and reflect on the past, and to contemplate the lessons we can apply from that to the future.

I am pleased to publish this summary of the Symposium. It includes the papers and speeches presented at the Symposium, summarizes the discussions of the participants, and provides commentaries from various perspectives. It documents the results of three substantively rich—and often poignant—days of conversation with representatives from the 1967 Commission, along with practitioners and thinkers in criminal justice spanning the last three decades. It was especially meaningful to have Attorney General Janet Reno join the discussion for a portion of the first day.

The Symposium served as a reminder of the substantial progress that has been made in the field of criminal justice and toward a “system” of criminal justice. In reality, criminal justice has become, over the last 30 years, a field, and has taken huge steps toward becoming the “system” we so often say it is. The prepared papers and discussion summaries published here reflect the fact, as well, that, while the debate over crime remains a heated, emotional, and frequently divided one, considerable movement has been made, and expertise developed, over the last three decades. We can be proud of that.

Today, however, despite the good news of falling crime rates in so many of our cities, we face some of the same challenges of crime and criminal justice that we did three decades ago—the growth of gangs and youth violence (including in rural and suburban areas), and the persistent problem of family violence in our culture, as well as such new challenges as transnational crime, threats of terrorism, and the growth of cybercrime. Those entrusted with the responsibility for dealing with crime—while preserving the rights of a free society—should be vigilantly introspective about the past in helping guide us toward the future.

The 1997 Symposium represented a collaborative effort by the Justice Department’s Office of Justice Programs—and its bureaus, including the National Institute of Justice, the Bureau of Justice Assistance, the Bureau of Justice Statistics, the Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime—as well as the Office of Community Oriented Policing Services. These components all made significant contributions toward the success of this event. In particular, I want to acknowledge the work of the Symposium Planning Committee. Betty Chemers and Arnold Hopkins took on a tremendous challenge as co-chairs of the Committee, and did a spectacular job; John Thomas deserves

special mention for his extensive coordination work, including on this proceedings document, as do Marlene Beckman and Virginia Baldau for their involvement, particularly in the early planning efforts. Thanks also to Committee members Benjamin Renshaw, Linda McKay, Ellen Scrivner, Ed Zedlewski, and Tim Johnson.

And, finally, I am deeply grateful to the members and staff of the Commission, both for taking the time to participate with us over these three days in Washington in the summer of 1997, and, most important, for their significant contributions to contemporary foundations of criminal justice laid some 30 years ago.

A handwritten signature in black ink, appearing to read "L. Robinson", with a long horizontal flourish extending to the right.

Laurie Robinson
Assistant Attorney General
Office of Justice Programs

February, 1998

Welcome and Opening Remarks

*The Honorable Laurie Robinson, Assistant Attorney General,
Office of Justice Programs, U.S. Department of Justice*

Good afternoon. I am delighted to see all of you here. Today is a day of commemoration and celebration. Today we remember and applaud the work of the President's Crime Commission and their—your—enormously ambitious report.

We meet today to highlight the progress that has been made in so many areas addressed by the report—professionalization in policing, identification of the key federal role in supporting innovation in criminal justice, the importance of criminal justice planning and an integrated criminal justice system, the critical federal role in research and statistics, the progress in technology on so many fronts, and the need to address juvenile crime and the role of the family.

And we also gather today—and over the next two days—not just to recollect and reminisce about the past, but to look ahead toward the additional work that needs to be done. Some have asked why we decided to convene this symposium. A few of you suggested it was lobbying by a former Commission staff member—Sheldon Krantz, my husband—who wanted to see his former colleagues of 30 years back! But, in fact, the idea for holding this gathering has other origins.

During the federal government shutdown 18 months ago—those snowy days when the hectic day-to-day pace of life at the Justice Department suddenly went into slow motion—I had the luxury of time to mull over the history of our program, of federal criminal justice assistance to state and locals, and the mission of our agency.

And since we're just across the street from the National Archives building, I thought about the inscription at the entrance: "What is Past is Prologue." So for me, the impetus behind wanting to hold this symposium was twofold. First, that as we move forward into the 21st century, we step back and reflect broadly on the 30-year history that brought us in criminal justice to where we are today. And while the path ahead is clearly never the same as the one just

traveled, reflecting on where we've been can indeed help us better see where we should be going.

And second, it was my hope, as well, that by looking at “our roots,” we could perhaps more effectively resist the current trend in this country toward “sound bite criminal justice” and instead think—collectively—about the challenge of forging crime policy based on facts, statistics, research, evaluation, and experience—here I'd add history, too—and not on emotion and rhetoric.

And so, today, we share the luxury of looking at crime and criminal justice through the lens of history, and of contemplating the lessons those experiences hold for the future.

Your Crime Commission left us a tremendous legacy. The wisdom and vision you expressed in the 1967 report—in so many instances—rings as true today as 30 years ago. It is easy to be cynical and say, so many of your recommendations “haven't happened.” I disagree. The reality is that many commissions and task forces on crime have come and gone in these 30 years, with names and recommendations that even we “Washington-philes” cannot remember. But somehow, this one passed the test of time—surely not each of its recommendations—but fundamental ways of thinking about the justice system and crime.

Your finding, for example, that addressing crime can't be the job of law enforcement and other formal criminal justice agencies alone. You said “crime cannot be controlled without the interest and participation of schools, businesses, social agencies, private groups, and individual citizens”—in other words, the community. And certainly that's the approach Attorney General Janet Reno has embraced—and those of us at the Office of Justice Programs today. But more importantly, it's the watchword—I see it as I travel this country—of frontline professionals in criminal justice, in communities across this land, who understand that they alone cannot get this job done.

And today—across America—we're seeing a broadly growing interest in something that I think grew from your work—“community justice.” It builds on the success of the problem-solving ethic of community policing, and it involves the components of the justice system linking with the communities they serve through community prosecution, community-based neighborhood courts, and a “reinvented” community corrections. The

Commission—you—recognized back then what we now know today—that we can only prevent crime before it happens by making sure that those who live in the community have a role and a stake in the outcome.

So this commemoration and celebration serves to honor and thank you—the men and women of the Commission. You’ve given us an enormous gift. In thanking you, I speak, as well, for my Justice Department colleagues who are co-hosts with me for this event and who I’d like to introduce now—

- Joe Brann, Director of the Office of Community Oriented Policing Services
- Jeremy Travis, Director of the National Institute of Justice
- Nancy Gist, Director of the Bureau of Justice Assistance
- Jan Chaiken, Director of the Bureau of Justice Statistics
- John Wilson, representing Shay Bilchik, Administrator of the Office of Juvenile Justice and Delinquency Prevention, and
- Aileen Adams, Director of our Office for Victims of Crime.

So I want to express our appreciation to all of you for coming—but most of all, I want to thank *you*—the Commissioners and staff—for the fundamental contributions you made to criminal justice, contributions that I know will, in fact, endure far beyond these 30 years.

Panel I

Roundtable on Historical Perspectives

To guide this discussion, moderator *Francis Hartmann* asked the panelists to consider (1) which of the Crime Commission's ideas were the most important or had the greatest impact, and (2) which ideas or recommendations had been most neglected.

Optimism, Accomplishments, and Disappointments

James Vorenberg first recalled some of the difficulties experienced by the Commission. Attorney General Nicholas Katzenbach wanted him to convince FBI Director J. Edgar Hoover of the study's importance, but Mr. Vorenberg was never able to arrange an appointment with Mr. Hoover. And after the study was completed, it "almost didn't see the light of day." Mr. Vorenberg was told President Johnson no longer wanted the report because he had heard it recommended wiretapping. Mr. Vorenberg "threatened to throw it over the White House back fence"; but in the end, the report was accepted and the President was quite pleased with it.

In Mr. Vorenberg's view, the Commission's most important contribution was its emphasis on education in the criminal justice professions. "The time was right for a high-level push for it," he said. Also important was the recognition that criminal justice was, in fact, a system. The flow diagram included in the report actually took a long time to prepare. With regard to what remains to be done, he said, "Improving crime control and criminal justice depends on making decent lives for young people. There is a point beyond which things cannot improve unless this happens."

Susan Schapiro said the Commission "was not a sedentary or secluded operation, but was pro-active," with the Commission and staff representing many points of view. Among the positive results of the Commission's work were increased funding and support for training, prevention, and innovations like community-based corrections. Ms. Schapiro agreed with Mr. Vorenberg that "young people must have a stake in society, with opportunities for job training and employment." The Commission's ideas about youth development have become part of the dialogue, "but never have these ideas risen to a place in policy."

Bruce Terris said he believed the criminal justice system over the past 30 years has been “a disastrous failure.” He said there has been more crime, except for the last few years; and many more people are in prison, especially African Americans. Mr. Terris commented that Jerusalem, where he now lives, is about the same size as Washington, D.C., but its murder rate is one-thirtieth or one-fortieth that of the nation’s capital. The criminal justice system cannot help unless there are real opportunities for education, employment, and economic growth. It seems the main functions of government today, he said, are to balance the budget and cut taxes. There is massive funding for law enforcement, but no money to meet other needs. “You cannot deal with crime by use of force,” he said. “Thirty years proves this won’t work.”

When asked to respond to Mr. Terris’s view, **David Burnham**, quoting the French historian Braudel, said, “there is much more continuity in life than change.” The Commission was very optimistic, he said; but there is much to be pessimistic about, and many of the Commission’s recommendations have been ignored. State and local criminal justice planning organizations are not doing much today. The National Victimization Survey (NVS) is still conducted, but UCR (Uniform Crime Report) data are allowed to dominate the media, resulting in a “scared, hysterical tone—every six months, crime is up—even when NVS data show crime is going down.” As a result, we have more police and more jails.

Sheldon Krantz recalled that James Vorenberg had a profound impact on the Commission staff, inspiring a belief that “we were on a mission,” and that you could solve any problem if you worked at it. The criminal justice field did not have much stature at that time, with most district attorneys in the 1960s working only part time. The Commission helped give the system stature and called public attention to it; and while a sustained focus and funding did not always follow, \$3 billion in federal funds are now devoted to crime and criminal justice issues. Quoting Assistant Attorney General Laurie Robinson, he said that, despite the political rhetoric over the years, the efforts of local communities today to “take back the streets” are encouraging. In the 1960s, the common view was that “the federal government should go only so far in a democratic society.” The Commission reminded us that we should never forget our democratic values, and we must not lose that message.

Elizabeth Bartholet agreed that the Commission staff was optimistic. “We felt you could have a war on a problem and solve it,” she said. The Commission placed great emphasis

on prevention, on “civilizing the police and correctional systems,” and on rehabilitation in corrections. But we are not doing the job on prevention, she said. Also, it seems that AIDS resulting from prison rapes is just accepted; and political leaders are not doing anything to solve problems in ghettos. The Commission also did not think enough about victims of crime. There are penal sanctions today for domestic violence, but overall, the efforts of the past 30 years have not begun to solve the problem.

Floyd Feeney noted that around the time of the war between China and Japan, the Chinese government chose to fund construction of the Emperor’s summer palace rather than build up the Chinese navy. In contrast, after Japan won the war it invested in universities, giving impetus to Japan’s 20th century development. The moral, he said, is that how a government invests its money can make a big difference in the lives of its citizens. Commission recommendations holding the greatest promise today are those for investments in education, training, research, and modern management techniques, and for seed money for innovation. Also, funds for community policing hold much more promise than investments in prison construction. Not only the Katzenbach Crime Commission, but also the Wickersham Commission of the 1930s, made possible rapid advances in the criminal justice system, but it is hard to measure the impact of those changes on crime itself.

Henry Ruth said he believed the Commission’s two greatest contributions were (1) recognizing that criminal justice agencies and processes should be viewed as a system, and (2) stimulating data collection and analysis. People in the criminal justice field “used to go to work in the morning feeling they had no choices.” But police began to appreciate the discretion they had, and they realized that data and analysis could inform their choices. As a result, they began to think more about what they were doing and why. One discouraging trend is a new field called “prison geriatric medicine.” We are sending young people to prison for life for distributing drugs on behalf of others who are not being punished. And we are losing our choices because we are funding enormous bureaucracies in corrections and in drug interdiction. If this continues, one out of every three Black males born today will go to prison.

“A drug prohibition policy will not work,” emphasized **Roland Chilton**. The Commission did not discuss drug policy, he said, and today we have an entrenched bureaucracy committed to the “drug war.” We are attempting to “enforce laws that are unenforceable; and

we have changed the complexion of our prisons.” But 30 years ago, the Commission “couldn’t bring itself to say this won’t work.” Almost every state is now investing more money into prisons than into education. Public officials need to find a better approach.

John McCausland was asked by the moderator to consider the connections between justice and morality. He recalled that one Commissioner wrote a dissent to the report because it did not discuss religion, and she felt strongly that religion could dissuade people from committing crimes. Mr. McCausland said that often, when people feel a profound hopelessness, lectures about religion cannot reach them. But morality plays a role in people’s ability to embrace a vision and feel a sense of purpose. Two significant outcomes of the Commission’s work were “systems thinking” and professionalization, but he asked, “Have we exhausted the usefulness of those two drives? Are we in a moral crisis?” He noted that many police officers are moral and even religious, but this does not get discussed in a positive, public way. We need to think about how to engage a society around questions of morality.

Systems thinking, and also optimism, were two positive attributes of the Commission’s work, said **Arthur Rosett**, but, “we have lost that sense of purpose and have replaced it with a mindless cruelty,” particularly in the way we treat offenders. Optimism is important, and President Lyndon B. Johnson sincerely believed you could fix things. But Goldwater’s 1964 “crime in the streets” Presidential campaign contributed to the “us versus them mentality that we are stuck in today.” Earl Warren was another optimist who had a sense of the system, connected crime issues with values, and inspired a revolution in the courts. The courts today must resist the tendency to de-humanize. We cannot fix everything by assigning counsel, holding hearings, and setting rules.

Attorney General Janet Reno joined the group, welcomed the Symposium participants, and commented on several issues. Based on 15 years experience as a practicing prosecutor, she said, the Crime Commission had a real impact on the structure of the criminal justice system and a wonderful effect on the development of information needed to make important decisions. Policing has also changed dramatically over the past 30 years. And the focus on domestic violence today is very significant. Even 20 years ago, intervention in this area was viewed as “crazy.” She also asked the Symposium participants not to be “too gloomy on the drug issue,” pointing out that people are beginning to believe treatment works. But there is much more to do,

she said. We need more focus on the community. Prevention is taking hold, especially at the local level. Looking at a pre-sentencing report—for a 17-year-old, for example—reveals several points along the way where someone could have intervened. There needs to be a focus on the family and a coordinated system for looking at the child—think about our crack babies—from birth to age three. We must continue to consider—and without partisan political rhetoric—how far we have come and determine what more we have to do.

Influencing Public Policy

Mr. Hartmann observed that participants had been delivering a mixed message of both discouragement and optimism and suggested they now focus on how to effectively get ideas into public policy. “Do we, like the Commission, threaten to put the report over the back fence?” he asked.

Mr. Ruth said crime is very much a political problem. While he was working on the New York City criminal justice plan under Mayor Lindsay, one man said to him, “ ‘You think great thoughts, but crime is a moral problem. Unless you emphasize the victim, leaders aren’t going to pay attention.’ ” Today’s leaders, said Mr. Ruth, “don’t have the moral courage to address the fact that crime is a social problem, or to promulgate the facts that should be promulgated.” When the Department of Justice releases NVS findings, and then conflicting UCR data comes out, no one comments on or interprets the differences in these data; and the number of federal death penalty crimes we have today is “ridiculous.”

Joe Vining remembered the White House calling to say, “We have to have a war on crime.” The Commission report said boys who were dropouts, lived in violent homes, and had other characteristics, had a 95 percent chance of involvement in crime. But he said White House Chief of Staff Califano told the Commission he was not interested in that, but in why the other five percent in that group *do not* commit crimes. “There is something more to the causes of crime,” Mr. Vining said, “than the social and political concerns that interested us.”

Lloyd Ohlin focused on the Commission’s research role, noting that there was some precedent for considering criminal justice as a system. For example, for an American Bar Foundation survey, interviewers had talked to police, prosecutors, court representatives, and others. The views of Herman Goldstein, Frank Remington, and other researchers are represented

in the Commission report; and its system diagram, which points to various decision points, appeared later in most criminal justice textbooks. Mr. Ohlin credited Mr. Vorenberg for his interest in research and Albert Reiss for his contributions to the Commission's data collection and analysis efforts. Although the time frame was too short to suit most researchers, the Commission launched the NVS and "got the ball rolling in research."

Charles Rogovin commented that there were no women at the rank of Assistant Director or higher associated with the Commission. Some progress has been made, he said, although not enough. Mr. Rogovin also agreed with Mr. Ohlin that the Commission "drove home the notion of the critical importance of research."

Organized Crime

Mr. Rogovin said Henry Ruth "acted as a conscience, was the morale officer, and was solely responsible for [establishing] the task force on organized crime," which, among other things, tackled controversial issues surrounding the use of wiretaps and listening devices. Nearly all significant Commission recommendations on organized crime were implemented. For example, the New York State Organized Crime Task Force, headed by Ronald Goldstock, operated successfully for 13 years, although it is now defunct. And the Pennsylvania Crime Commission showed "great moral courage" when it investigated corruption at the State Attorney General level, although that Commission was later abolished by the state legislature—an example that "no good deed goes unpunished." The Commission was also a "springboard for police to take significant strides forward." Unfortunately, although the Commission did not recommend federalizing crime, the country has moved in that direction.

The Police

Samuel Chapman gave highlights of a report he and Gene Muehleisen prepared that summarized the status of the Commission's 34 recommendations on policing. He noted that (1) all 50 states now have POST (Police Officer Standards and Training) Commissions, many of which also train correctional officers; (2) there is "finally a coherent firearms use policy" resulting from the 1985 U. S. Supreme Court decision in *Tennessee v. Garner*; (3) laboratory services are available for nearly all police departments; (4) more racial and ethnic minority group members and women have been recruited into law enforcement; and (5) police departments can now offer enhanced lateral entry because of pension portability (although there

is no national portability). On the down side, resource pooling “just hasn’t come about . . . [there is] no political will to do this.” Police communications and records functions still are seldom consolidated, although the necessary technology exists. Finally, there is not enough police training, with too many states requiring fewer than 400 training hours for recruits and only 20 non-federal police forces requiring a Bachelor’s degree.

Thomas Cahill, formerly Chief of Police in San Francisco and the only police chief on the Commission, told the group he was 87 years old and had been retired 27 years. He emphasized the need to take politics out of police work and said he “walked off the job” after one mayor told him not to release crime statistics to the press. “There is too much of that sort of interference,” he said, “and too many police wilt under it.” Many chiefs today “are afraid to go out on the street. If the chief is not strong, the department will not be strong.” Although he said he was not in favor of outside review boards, he stressed the importance of public support, recalling that he appeared on local television nearly every day to inform residents about what the police were doing.

Policy and Political Pressures

A discussion followed about political, business, and other pressures on criminal justice agencies and on the Commission itself. **Mr. Ruth** recalled that after the Crime Commission essentially created the 911 concept, seven AT&T representatives made a presentation on why this could not be done. The ability to overcome such obstacles is one example of how a national commission can be useful, he said. He also noted conflicts surrounding the disclosure of illegal wiretaps. **Ms. Bartholet** recalled being asked to select photos for the Commission report that presented police in a positive light, “with jackets on and all buttons closed.” The Commission staff was well aware of various political pressures, she said, a point that was also emphasized by **Kim Nelson** later in the discussion. Ms. Bartholet also noted that the Commission did not say all it could have said about the drug problem. **Mr. Krantz** agreed that there was and continues to be a “balance problem.” People are afraid of predatory crime, he said. We must admit this before we can communicate a broader message—that we must deal more humanely with drug and other offenders.

The panel discussion next turned to the “federalization” of crime. In **Mr. Krantz’s** view, the Commission staff “believed we had to federalize matters to deal with them fairly . . . the

states were seen as repressive.” But he noted that today, many communities are solving their problems at the local level and don’t want the federal government to impose solutions. Instead, a major role for the Office of Justice Programs (OJP) today is getting the message out about what works. *Mr. Ruth* said the Commission did not want to federalize crime, but rather to see state planning commissions take the lead in “getting the clutter out of the system.” He and *Mr. Chilton* agreed that great progress in this area has been made by implementing Commission recommendations to “get the drunks out of jail.” Mr. Chilton added that most jurisdictions now have fairer and more focused procedures for dealing with alcohol abusers; and that the next Crime Commission needs to make similar recommendations regarding users of other drugs. “Get tough” legislation is again clogging the system. Responding to an earlier remark that the Commission was perceived by some as too liberal, *Mr. Terris* said the Commission did not lean “too far on one side.” “There is no inconsistency in holding both the individual and society responsible,” he said, and society does indeed bear responsibility for the brutal conditions in which millions of children are growing up.

Accountability and Corrections

Mr. Hartmann next encouraged the panel to comment on accountability and corrections. *Mr. Nelson* emphasized that corrections professionals are trying to find alternatives to prison and at the same time, deal with brutality. We need to protect the community from violent offenders, but at the same time to implement a reintegration model. Reintegration goes beyond rehabilitation. It attempts to not only change the offender but also to change the community and enable it to provide opportunities and employment. This model has been influential in the probation, parole, prisons, and corrections arenas, but it “has not resonated in the public dialogue . . . and we are now in a mindless process of building more prisons.”

Keith Stubblefield said the Commission’s emphasis on criminal justice planning and coordination has made a significant difference in his work in corrections. Also important was the Commission’s influence on developing regional crime laboratories, police and other data analysis systems, and local and state crime prevention efforts. One disappointment is that often the focus on crime prevention comes too late. It must begin at birth or even before, by discouraging teen pregnancy.

Nick Pappas said Commission recommendations affected the development of tracking systems, standards, and correctional systems, particularly the management of correctional institutions. “Large prisons,” he said, “equal large management problems.” His other main concerns are a lack of strategies for communicating corrections issues to the community and the continuous impact of drugs on the criminal justice system. Talk of prevention comes too late for corrections, he said, except to the extent offenders can learn to “do no further harm.”

Mr. Vorenberg said he now believes “corrections is one area where the Crime Commission went wrong. The Commission put much higher faith in rehabilitation than the research justified.” **Mr. Nelson** said it was unfair to say that “nothing works” in corrections. Hard analysis is possible only to a point, and some things do work in certain circumstances and with certain offenders. **Reginald Wilkinson** pointed to a shift in corrections over the past 30 years from the community to the federal government, as well as a shift in attitudes. “The focus today is on retribution and even revenge. We have become a ‘penaholic’ society. Nearly 1.5 million people are incarcerated today—not even the best statistician could have predicted that.” He also cautioned against blaming corrections officials for this situation.

Mr. Ruth said the Commission, lacking corrections data, was “expressing as much hope as fact, because we rejected the alternative. And now we are *in* the alternative. How can we look at homeless prison releasees and say [we have] a great policy?” **Mr. Pappas** said the Commission looked to the community because “looking to [correctional] institutions was seen as a dead end.” **Mr. Vorenberg** said the real question still had not been answered: “What business does a group of people have making recommendations on the basis of hope—and then making it sound like science?” He added he would think much more carefully today before making the same recommendations for corrections. **Mr. Feeney** noted that many recommendations “were picked up and tried, but we ran through them rather quickly.” They seemed pragmatic, but corrections may be an area where pragmatism does not go far, he said. He also recommended comparing the situation in the United States to European systems that have been on a steadier course and have not escalated sentences.

Observing a consensus that current corrections policy seemed wrong, **Mr. Krantz** asked whether “another courageous commission” were needed, and if so, how such a commission might take a politically unpopular stand. **Pete Velde** reminded participants of the broad context,

saying that there was another commission affecting corrections and the criminal code in the early 1970s—the national Commission on Criminal Justice Standards and Goals—and at that time, \$2 billion in discretionary grants were awarded to try out that commission’s ideas. Also, in 1984, the Congress adopted recommendations for abolishing parole, flat time, sentencing guidelines, and other elements. He said he would defend the Commission recommendations and that they had a significant impact on correctional training and standards. *Mr. English* also said what has happened over the past 30 years validates the Commission’s recommendations to some extent, asking, “Where else can you go but to the community?”

Mr. Rogovin said, “We seem to be committed to mythology in criminal justice—things are true because we believe them to be true.” No one has had the political will or committed the resources to do effective evaluations in corrections. We must spend the money to find out what works and why there are failures.

Discussion with the Audience

The discussion was opened to include the Symposium audience. Speaking as a police chief, *Jerry Sanders* said that as a result of the Commission’s work, a tremendous body of knowledge has been built up—for example, on why juveniles commit crimes, on effective police strategies, and on how police can engage communities. But \$600 million in block grants are now being distributed for prisons, with nothing for prevention. People must stand up against that.

Jeremy Travis said it had been “exhilarating to connect to the [optimistic] spirit of the 1960s”—no problem is too big—but the sense that some things have gone dreadfully wrong is sobering. The panel has defined a problem—the influence of the political process on public policy—and it would be interesting to know how [Commission members and staff] would deal with that problem now. *Mr. McCausland* suggested making a distinction between optimism based on data, and hope, which is “based on the conviction that if you look at things honestly, you can find a way to go forward.” There are times we must have the courage to say, “This is the limit of what we can say. We really do not have the data.” *Allen Breed* said he did not believe the Commission’s recommendations on corrections were inappropriate, reminding participants that 15 years ago, many people were in agreement with those recommendations,

although most of them were not tried because leadership was lacking. *Mr. Krantz* characterized most news coverage of crime as irresponsible and wondered why the news media did not ask harder questions of public officials.

Jan Chaiken commented about the Commission's influence on improvements in data collection and analysis. He noted that the Bureau of Justice Statistics' staff had recently updated the criminal justice system diagram presented in the Commission report. He also said he considered Attorney General Reno to be a "fact-based decisionmaker." Finally, *Nancy Gist* characterized the Symposium as both a reunion and a think tank. She encouraged attendees to interpret the Crime Commission report in the context of the times, and she reminded participants of the National Advisory Commission on Civil Disorders, which was appointed approximately two months after the Crime Commission report was published. Our challenge now, she said, is to assure that those who have the biggest stake in the community and in resolving crime problems are included in the discussion. Policymakers must be engaged with those who are affected by policy.

Summary of the Historical Perspectives Roundtable

Mr. Hartmann offered a brief summary of the discussion. Among the remaining challenges, he said, are (1) a youth population that has not been fully attended to, (2) insufficient attention to prevention, (3) decreased attention to planning and analysis, (4) political influence on policy, and (5) emphasis on prison construction over efforts like prevention.

Accomplishments that can be credited to the Commission, either directly or indirectly, include (1) increased professionalism in various criminal justice occupations; (2) data and research results that were previously unavailable; (3) a "systems point of view" as a basic frame of reference, and a better understanding of the "hydraulic" nature of that system; and (4) significant progress in policing, including an increased emphasis on police working with communities. We can also take heart, he said, in the continued passion, courage, and moral commitment of the Commission members 30 years later.

Continuity and Change in American Crime: Lessons from Three Decades

Jeffrey Fagan, Columbia University

Crime and Its Impact Revisited

Thirty years ago, in the midst of one of the sharpest increases in crime in the U.S. in the twentieth century, the President's Commission on Law Enforcement and the Administration of Justice (the Commission) issued a landmark report on American crime and the legal institutions that respond to it.¹ The Commission's report marked the beginning of a modern era where crime problems have been central themes in political thought and social policies in the U.S. In the decades since the Commission report, crime has shaped both local and national elections including, arguably, the presidential election just one year later. Basic thinking about the range of solutions to crime problems also changed since that time; and the focused optimism, determination and balance that informed the Commission's report has changed radically in the last three decades.

The Commission was hardly the last to tackle problems of crime in the years since its publication. Commissions on violence² and the urban riots of the 1960s³ followed closely on the 1967 Commission. Changes in the conception and definition of crime also led to identification of new crime problems beginning in the 1970s, and subsequent commissions revisited specific dimensions of recurring crime problems. While the 1967 Commission focused primarily on "street crimes" and youth crime, subsequent commissions were concerned with crimes in the home among family members,⁴ and the impact of violent crime on victims.⁵ In this decade, the National Research Council has twice focused its attention on violence, including a four-volume report on interpersonal violence⁶ and a recent panel report on violence against women.⁷

The Commission report is timeless in three important ways. First, the Commission focused on many of the same crime problems that a contemporary commission might focus on today: the spatial concentration of crime in poor areas, youth violence, drugs, gangs, family problems, racial disparity in both crime rates and the administration of justice, and the

infrastructure of knowledge about crime and its causes. There is an astonishing stability in the scope and definition of crime problems over the 30 years since the Commission issued its report.

Second, the Commission noted that they were in the midst of a long-term upward trend in crime, just as we have been in the decades following the Commission's report. The crime problems then and now are remarkably consistent, not only in the types of crimes they tackled and the domains of explanation, but also on temporal and historical trends. Figure 1 shows that robbery and aggravated assault rates began to climb steadily beginning in the early 1940s, and property crimes rose sharply beginning in the 1950s.⁸ The later sections of this essay show that today's commissions were motivated by a 30-year upward trend in violence, especially lethal violence, increasingly concentrated among young persons. While the recent commissions and task forces reflect short-term concerns, the crime problems of both the 1967 Commission and its successors are part of a much longer social and historical trend that reflects foundational changes in American society.

Third, understanding and prediction of crime present a continuing challenge. The 1967 Commission identified several "causes" of crime, including the moral failings of offenders, provocative actions by victims, disparities in material conditions for persons of different races and social classes, population shift and change, social conditions, and weak legal institutions. The Commission concluded that ". . . the causes of crime are numerous and mysterious and intertwined" (p. 2).⁹ A contemporary commission would address many of the same factors, include a range of biological factors, and then note in conclusion the complexity and interdependence of these causal factors.

This stability suggests that a review of the Commission's work on the 30th anniversary of its report to the nation is in fact an update and interim report on crime trends and thought that have continued for over 50 years. While there has been change, the changes pale in magnitude to the stability of definitions, trends, and explanations of crime over this time. Thus, the Commission noted in 1967 that:

There has always been too much crime. Virtually every generation since the founding of the Nation and before has felt itself threatened by the specter of rising crime and violence [19].¹⁰

We feel much the same way today.

Four parts comprise this review. The first summarizes trends in crime and violence in the three decades following the Commission's report. The second section focuses on the changing nature of offenders, victims, and crime problems in this era. The third section examines changing explanations of crime and criminality in this era. The final part of the paper looks to the future, and while avoiding the trap of prediction, suggests an improved infrastructure of knowledge for future commissions.

Trends in Crime and Violence Since the 1960s: Stability and Change

Homicide: A Bellwether of Violent Crime

There are many reasons to begin a discussion of trends in crime with an analysis of homicide patterns. First, homicide is a crime index with less measurement error and greater reliability than many other crime measures. Second, homicide often is a bellwether of other crime problems and trends. Third, it is the most serious of violent crimes, and violence is the crime phenomenon that has always had disproportionate and indelible influences on political and institutional responses to crime.

Homicide trends, in the period since the Commission's report was published, suggest both an unprecedented rise in homicide rates in the U.S. and a cyclical pattern of three distinct periods of increase and decline. Figure 2 shows the 60-year trend, from the Prohibition era of the 1930s through the modern low in 1960, to the beginning of the recent decline in the mid-1990s. From 1963 to 1980, homicide rates more than doubled, from 4.6 per 100,000 to 9.8 in 1974, and again to 10.2 in 1980.¹¹ The rates declined in the 1980s and rose again to the most recent peak of 9.8 per 100,000 population in 1991.

Despite the surprising stability of homicide cycles, there have been fundamental differences in homicides with each cycle. First, homicides increasingly have been committed with guns. The percent of gun homicides rose sharply in this period, especially among young offenders. Data from the FBI's Supplemental Homicide Reports¹² show that the percent of gun homicide victims over 25 years of age remained stable at about 60 percent from 1976 to 1992. However, the percentage of gun homicide victims among adolescents (ages 10-17) and young

adults (18-24) has grown sharply, from approximately 63 percent between 1976 and 1984 to over 85 percent in 1993.¹³

Second, homicide victims and offenders have been getting younger. Since 1965, the median age of homicide victims and offenders has been decreasing. Much of this change has occurred only since 1985, as gun homicides began to increase. Among offenders, the median age in 1985 was 21 years of age; by 1992, the median age had declined to 18 years of age. Figures 3 and 4 show the convergence of these two trends: declining homicides by age, and increasing homicides committed with guns, especially among adolescents. Zimring and Hawkins conclude that almost all the variance, during the 1985-1992 period when homicides were increasing, was in gun cases, as was the decline during the preceding five-year period.¹⁴ Put another way, only gun assaults increased after 1985, while only gun assaults declined in the preceding period.

Third, homicides today more often involve strangers and non-intimates. Until the most recent cycle, homicide still was concentrated among family members and “close acquaintances.”¹⁵ By 1992, homicides by strangers and unclassified perpetrators became the modal category of victim-offender relationship. As “domesticity” declines in American society, coupled with changing laws and practices on intimate partner violence, the homicide risks from intimate partners have declined.¹⁶

Assaults and Robbery

The Commission’s concerns focused extensively on what had become labeled in that era as “street crimes,” involving the violent victimization of strangers. Robbery-homicides were among the most feared crimes. Indeed, “crime in the streets” was among the most visible, poignant, and politically salient themes in national crime debates during the time of the Commission’s deliberations.

Uniform Crime Report (UCR) data show that among “street” crimes known to the police, both assault and robbery rose steadily in the decades following the Commission’s report. Figure 5 shows that by 1985, robbery reached a plateau nationally and has varied cyclically in approximately 10-year eras that approximate homicide trends. UCR indices of felony assault have grown steadily since the Commission’s report, also evidenced in Figure 5.

At least some percentage of the increase in assaults may be due to changes in police willingness to classify simple assaults as the more serious category. Two data points suggest stability in assault rates. Surveys of crime victims show that the total number of assaults has remained relatively stable since the advent of the National Crime Victimization Survey in 1973. Figure 6 contrasts UCR and Victimization Survey reports of assault. However, arrest and some self-report data suggest that while the total pool of assault offenders has remained stable, the percentage of incidents involving serious injury has grown. This trend is especially noteworthy among younger victims and offenders.

Table 1 also shows the divergence in evidence of a temporal increase in assault. Self-reports by youths suggest a growth in the incidence of serious and potentially lethal violence, but perhaps not its prevalence. The “Monitoring the Future” survey of high school seniors shows that nearly one in five seniors has been in a “serious fight” in the past year, and that 3 percent have used a weapon, a 50 percent increase from the rate of a decade earlier.¹⁷ Overall, rates of property crime among high school seniors have remained stable since the early 1980s. However, the incidence of weapon use (average number of incidents for youths engaging in at least one) has grown sharply from about 2 per year to nearly 3.5 per year. Here, another data source indicates that while violence overall has remained stable over time, it is the thin layer of lethal violence that has increased sharply and captured the public’s attention and fear.

The Victimization of Women

The victimization of women was not a primary concern of the Commission. There is little mention of rape or domestic violence in the Commission report. In the decades since, however, these crimes have become a central focus of crime policy and a motivating factor in the social and political discourse about crime. The increasing emphasis on women victims can be traced from the 1970s, with the advent of rape crisis centers and domestic violence intervention programs, to the Attorney General’s Task Force on Family Violence in the 1980s and the Violence Against Women Act, two years ago.¹⁸ The National Academy of Sciences convened two panels since 1995 to address women crime victims: the 1996 panel on Violence Against Women and the recently concluded panel on the Assessment of Family Violence Interventions.

Sexual Assault

Knowledge of sexual assault was quite limited prior to the 1970s. Few women reported rapes and other sexual assaults to the police. With the advent of rape crisis centers and specialized police and prosecution units in the 1970s, largely the result of efforts by victim advocacy groups and feminist organizations, data on rape victimization and offending began to accumulate. Reporting rates increased steadily beginning around the time of the Commission report, and continued to increase through the current decade, a reflection of institutional and societal changes that encouraged reporting and action in rape cases.

Figure 7 shows an astonishing increase in forcible rape reports to the police from 9.6 per 100,000 population in 1960 to 42.8 per 100,000 in 1992. Reporting rates doubled from 1970 to 1980 alone. However, self-report surveys in the 1970s provided an alternative source of knowledge about rape trends and showed a far lower incidence. The National Crime Victimization Survey (NCVS) also established a reporting opportunity for women that avoided the stigmatization and complexity of reporting to official agencies. Yet Figure 8, based on NCVS trends over 20 years, shows not only far lower rape victimization rates, but also declines from 1.8 rapes per 100,000 in 1973 to less than 0.7 in 1992.

The causes of this disparity in rape victimization rates is difficult to disentangle. Certainly, reforms in police and prosecutorial handling of rape cases have made reporting to the police more comfortable for victims. But the methodological stability of the NCVS makes it a reliable data source, less vulnerable to changes in thresholds for reporting or the influence of organizational changes seen in the compilation of official records. As in assault data, the discrepancy between official records and other data sources is cause for caution and restraint in correlating real and measured crimes.

Intimate Partner Violence

Similar to rape, knowledge of intimate partner violence or domestic violence has emerged only since the early 1970s. Several forces converged to highlight the prevalence and severity of violence in the home between adult partners: recognition and attention to the problems of physical and sexual child abuse a decade earlier, the creation of grassroots rape crisis programs by feminist activists which provided an outlet for women to report violence by

male partners and seek help, and efforts of victim advocates working within legal institutions to create incentives and special programs responding to victims of domestic violence. Successful litigation motivated police departments to change policies to favor arrest and formal intervention in domestic violence calls. Women's groups, especially, lobbied intensively for improved police and court responses, leading to the creation of battered women's shelters and crisis intervention programs.¹⁹

Despite the recognition and improved responses to violence in the home, primarily toward women, official statistics were unreliable indicators of domestic violence. Confounded by reporting practices and the limitations imposed by the UCR crime categories, accurate measurement of domestic violence was all but impossible for many years. Only recently, with the modification of the UCR procedures and the implementation of the National Incident-Based Reporting System (NIBRS) protocols, has a data infrastructure been created to systematically register incidents of domestic violence.

Domestic homicides have declined sharply, good news that reflects in part the growth of services and increasingly tough legislation on intimate partner violence. However, these trends may also reflect a decline in domesticity or coupling in American society. In lieu of accurate official records, numerous local studies were initiated to estimate the prevalence and severity of domestic violence. Estimates from survey data range from 108 per 100,000 women to 340 per 100,000 women who are victims of at least one assault by a husband or male partner in the year prior to the survey.²⁰ The two most comprehensive national surveys reported stable rates of intimate partner violence from 1975 to 1985, with approximately 12 percent of both women and men reporting victimization at least once in the past year by a spouse, ex-spouse or partner.²¹ However, serious (injury) violence was committed against women partners far more often than against male partners.

Marital Rape

The conception of rape also underwent significant change that accompanied increased attention to intimate partner violence. The National Family Violence Surveys estimated that 1.3 percent of all women were victims of "forced sex" in the year of the survey. A series of self-report studies reported high rates of marital rape by women. For example, Russell's 1982 survey found that 14 percent of women in a random sample of households in San Francisco reported

that they were raped by their spouses or cohabitating boyfriends in the previous year. Other surveys reported rates that varied quite widely, from conservative estimates of 10 percent in a Boston survey of married and cohabitating women, to over 50 percent in a sample of women in battered women's shelters.²²

Property Crimes

While property crime was a central concern of the Commission, the rates of property crime victimization have fallen in recent years. Figure 9 shows that property crimes grew rapidly in the decade following the Commission's report, reaching a peak in 1980. They have declined overall since then, with a slight upsurge in the late 1980s. Most of the growth in property crimes has been in larceny-theft. Cyclical patterns of larceny, burglary, and auto theft similarly characterize trends in property crimes. Burglary, in particular, has declined steadily since the 1970s and is no longer a priority enforcement topic in many urban areas.

Drug Crimes

The Commission's report was published in the midst of the first of three drug "epidemics" that had profound consequences for American society. These epidemics were closely spaced with homicide cycles in each decade. Drug involvement in violence and property crime varied in each drug era and has been the focus of extensive research. Although many criminal offenders are drug-involved, the precise causal relationship still is ambiguous.

The extent of drug crimes, apart from other crimes where drugs are a distal or proximal cause of the crime, is known primarily through drug arrests. Figure 10 shows that the drug arrest rate rose in two distinct periods. First, from 1965 to 1974, drug arrest rates for non-whites rose sharply, from 100 per 100,000 persons to nearly 600. Rates for whites rose, but at a far slower pace. Rates rose again, beginning in 1980 and continuing through 1989. This time, however, nearly all the increase in drug arrest rates was in arrests of non-whites. Each period of increase reflected increased attention to drug crimes and extensive investment in drug enforcement at the local level. Figure 11 shows that virtually all of the increase was due to an increase in the rate of drug arrests among juveniles. However, arrests for drug sales tend to reflect patterns of drug enforcement as much as they do actual behaviors and accordingly are an unreliable index of drug use or drug selling. For example, survey data show that drug use rates among both whites and

non-whites were higher in 1980 than in the 1990s, despite the differences in drug arrests.²³ Other data show that while African-Americans represent 19 percent of those reporting drug sales in household surveys in 1989, they account for nearly two-thirds of those arrested.²⁴

Self-reports of drug use for adolescents are obtained in a range of local surveys, and nationally through the annual survey of high school seniors, the “Monitoring the Future” survey, which provides a proxy for the prevalence and epidemiology of drug use among teenagers. Rates vary extensively by type of drug and year. Cocaine use among adolescents peaked in the late 1980s; marijuana use in the 1970s. Alcohol is consistently the most widely used adolescent intoxicant.

The Thin Layer of Lethal Violence

The story of American crime since the Commission’s report is a story of violence. Moreover, it is in fact three stories. One story is the constant base of everyday violence that afflicts a relatively wide segment of Americans, especially youths. Fighting, assaults, and domestic violence affect over 10 percent of the American population. For many of these, such events may happen several times each year. Among teenagers, violence affects nearly one in five in a given year, a stable rate for over 10 years. The second story is the steady growth in violence since the Commission’s report in 1967. From 1960 to 1980, violent crime rates in the U.S. rose from 2 crimes per 100 citizens to more than 5 crimes per 100 citizens. These increases were led by aggravated assault rates, which rose more than 400 percent in 30 years.

The third story is about the thin layer of lethal violence—homicides, gun and knife assaults, and gun robberies—which has grown steadily over the three decades since the Commission’s report. This thin layer of lethal violence has dominated popular and political discourse about crime. It has shaped the outcomes of presidential and statewide elections. It has become part of the developmental landscape of childhood for many children and adolescents, with profound consequences for socialization and subsequent involvement in violent behavior. This thin layer of violence also has had far reaching consequences for policy and legislation, providing the political basis for a massive surge in imprisonment since 1980 and the redirection of resources from higher education and other human services to the construction and maintenance of institutions to house criminals.²⁵

Victims and Offenders

Our understanding of the risks of being a victim or an offender also reflects stability and change. With the advent of improved data infrastructures in criminal justice and emergency health care, together with ongoing panel studies, estimates of the risks of crime have improved and become more precise. We have developed crime-specific risk, location-specific risk, and also age-specific risk. We have developed risks of injury that differ in significant ways from the risks of criminal victimization. We can now compare risks of victimization with risks of offending, disaggregated by type of crime. Also, changes in our conceptions of crime have altered the patterns of risk. As we became sensitive to crimes against women and crimes in the home, our understanding of the risks of victimization and offending have also changed.

Stability

There is marked stability in many of the risks of victimization and offending. Overall, the age, gender, social class and racial composition of offenders and victims have remained stable for three decades. Poor people in poor places still face the greatest risk of homicide, non-lethal stranger violence, and property crime. Persons with social and human capital deficits—poor education, poor work skills, limited employment histories, and family instability—also continue to be at highest risk for both violent and property crimes. Males face greater risks than females. Younger people face greater risks than older people.

Change

The most significant shifts in victim and offender characteristics have occurred in homicide. The age of homicide victimization and offending has steadily declined, although the mean age of offenders has declined more than the age of victimization. Most of these risks are for gun homicides; the risks by age, gender, social class, and race of non-gun homicides have remained remarkably stable over three decades. While the risks of homicide offending and victimization have remained stable in one sense, the degree of risk has intensified for young, poor, non-white, inner city males. With the shift in populations from the Northeast to the “sunbelt” states of the south and southwest, crime victimization risks have grown in those areas. This fact was noted also by the Commission as an emerging trend in the 1960s.

Emerging Trends

The recognition of new domains and types of crime has led to profiles of crime that differ from many other forms of crime. Three trends in particular characterize this new knowledge. First, research on white collar crime revealed the involvement of persons with few risks and deficits who were engaged in property crimes, often with significant monetary returns. Also, new research on environmental crimes, municipal and corporate corruption, and other crimes with diffused victimization contributed to an expanded conception of offender and victim characteristics. Unlike those involved in street crime, these offenders were neither poor, minority, young, nor inner city residents.

Second, research on crimes in the family has identified risk patterns that differ from crimes that occur outside the home, including stranger violence. Initially, research on battered women suggested that violent partners came from all races, social classes, and geographical areas. Recent trends suggest that the risks of domestic violence victimization are higher for younger non-white women from poor neighborhoods in inner cities, and also for both white and non-white women from blue collar families. In general, these recent trends suggest that the correlates of stranger and non-stranger (or intimate partner) victimization in the home have begun to converge.

Third, victims and offenders no longer are thought of as separate groups. From the initial research on “victim precipitation” in homicides to current research on the victimization experiences of offenders, the risk of victimization from involvement in criminal offending is well established.

Explaining Crime

The causes of crime were not a central concern of the Commission. Its focus was on understanding the variety and extent of crimes and fashioning crime control solutions. The report, *Crime and Its Impact*, addresses causation only in its introductory chapter; and even there the discussion is brief. The Commission report, *The Challenge of Crime in a Free Society*, devotes more attention to explaining the causes of crime, but only in the context of juvenile delinquency and youth crime. Recent trends in crime and violence would lead a contemporary commission to devote its efforts in much the same areas.

Like many of today's panels, the Commission devoted its attention to five areas: neighborhoods and ghettos, the family, community supervision of youths, schools, and employment. Research since the Commission report has shown the surprising stability of these correlates and causes of crime. Other factors have been identified in recent years as important contributors to adolescent crime as well as certain forms of adult crime. However, new paradigms illustrate the reciprocity and synergy of causal factors.

The Surprising Stability in the Explanations of Crime

Ecological Correlates of Crime Have Been Stable for Nearly a Century

The "Chicago school" studies still have powerful explanatory power today. Then as today, there are elevated risks of crime in socially isolated and economically deprived areas.²⁶ These areas gave rise, in the early 20th century, to the concentration of street gangs and other criminal organizations in socially disorganized areas, as well as to higher rates of delinquency and homicide.

Today, these social ecological factors are still implicated in higher crime and violence rates. Research by Kenneth Land and colleagues shows that the community correlates of homicide have been stable for three decades (since 1960) across cities, counties and metropolitan areas.²⁷ Accordingly, higher crime rates may reflect changes not in the causal mechanisms that contribute to crime, but a growing concentration and prevalence of these risk factors as a result of basic social structural change in cities. For example, the composition of Chicago neighborhoods has changed dramatically in a relatively short (20-year) period. Table 2 shows the classifications of Chicago's 825 neighborhoods from 1970 to 1990, based on census data. The percent of "underclass" neighborhoods rose from 2.6 percent in 1970 to 22.7 percent in 1980 and 31.0 percent in the 1990s.²⁸ Moreover, the processes of change, both within neighborhoods and in contiguous areas, may also set off tensions leading to elevated crime and violence rates.²⁹

Situational Contexts

Gangs, drinking, and other situational contexts often trigger violent events and other crimes. Gangs and gang members have always had elevated crime rates, a stable finding from the early gang research in Chicago by Frederick Thrasher to the recent longitudinal studies.³⁰

Today, however, there are more gangs and gang members nationally than in previous eras, and these create opportunities for gang conflict and other gang crimes.³¹

The use and sale of illegal substances also creates contexts where social controls are compromised and where crimes are likely to occur.³² Prior to the Commission's report, there was scant evidence of drug use and crime. Studies during prohibition showed elevated homicide rates as illegal organizations competed for territory. The expansion of drug markets in the 1980s and the crack epidemic during this period gave rise to severely elevated homicide rates and assaultive violence.³³ Much of this violence was the result of drug market dynamics and territorial disputes among dealers.³⁴

Similarly, drinking and some forms of drug use also are stable correlates of violence and crime over time.³⁵ There is some evidence that alcohol and drug use contribute to marital violence and other forms of family violence, but these relationships are heavily mediated by other factors, including social class and generalized violence histories.³⁶

Once again, the remarkable consistency of these correlates over time and space stands in stark contrast to the rising homicide rates among adolescents since the mid-1980s. Virtually all of this increase was attributable to guns and to gun use among teenagers. The "thin layer of lethal violence" argument suggests that forecasts of a new breed of "superpredators" may be overstated and may ignore the very important contributions of technology—that is, guns—to rising homicide rates.³⁷ But the prevalence of firearms among youths may independently shift the trajectories of adolescent development and identity formation, reinforcing the central role of violence as a strategy to ward off what is perceived to be a dangerous climate, or an ecology of danger, where everyday social interactions may turn lethal.³⁸ With the recognition today of developmental trajectory and context as influential on individual criminality over the life course, I am confident that the problem of firearms would occupy a central role in a contemporary Commission.

A second new development since the Commission's report is the growing emphasis on media violence and popular culture as direct contributors to violence. While several studies report significant effects of repeated childhood exposure to media violence on later violence,³⁹ others have taken a more cautious view. For example, Felson reviews the literature on mass media effects and concludes that the media competes with other sources of messages supporting

violence, and its direct effects are difficult to separate out.⁴⁰ In fact, what may appear to be the effects of the message itself may be conflated with “sponsor” effects, that is, the tacit approval and permissive atmosphere that accompany the showing of violent material. Accordingly, while violence in the media may not directly reinforce violent behavior, it may contribute to the affective styles that are designed to convey threat and hardness. Thus, the milieu of fear and danger is reinforced and perhaps amplified by popular media, as well as the poses and styles that express ways to manage threat and convey toughness and control.⁴¹

Individual Factors

A contemporary Commission would address new developments in the search for explanations of crime that focus on individual factors, such as personality, temperament, IQ, impulsivity, psychopathology, and endocrinological and neurological sources of criminal behavior. Some of these are old developments that have been advanced through longitudinal research and improvements in measurement, as in the areas of personality and intelligence.⁴² Others, however, are new and reflect either emerging syntheses across disciplines or analytic advances that permit better understanding of within- and between-individual variation. The field is simply too large and complex for adequate attention in this essay. I can briefly mention two recent developments. First, research on developmental trajectories and life course perspectives suggests that there is stability in aggression and criminality over the life course, beginning in childhood.⁴³ Second, recent research attention to neuropsychology suggests that there are indeed important lessons from brain and endocrinological research that lead to an improved understanding of the onset and persistence of violence and other antisocial behavior.⁴⁴

Lessons and Questions

Cycles of Crime

Although it may not have been evident at the time, the Commission issued its report in the midst of a 50-year climb in crime rates. Historians have noted the cyclical nature of crime trends, often spanning decades and generations.⁴⁵ The cyclical nature of crime, especially violent crime, challenges us to rethink the locus of effects when crime rates rise or fall. To what extent can we reasonably expect crimes to rise or fall in relation to small scale shifts in social structure, culture, or other trends? To what extent can policies directed at individuals reasonably

alter these larger scale trends? The trends over this century reflect several trends that have now crested, such as the movement of populations from agricultural rural areas to cities, a process begun well over a century ago. However, new changes are on the horizon which will surely introduce perturbations into the long- and short-term trends in crime rates. Social dislocation today from de-industrialization and a shift to a service sector economy with globally determined wage and price structures may also launch processes that would shift crime rates. So, too, are demographic and cultural shifts.

Today, we are in the midst of a period of decline. For the past five years, homicide rates have been declining in the U.S., and at unprecedented rates in many of the largest cities. The reasons are not well understood, and unfortunately, data do not exist to test explanations for the changes. Nevertheless, the reductions of this decade are real and are a great relief to people who grew up during an era of diminished feelings of personal safety. It was in part the erosion of public confidence in legal institutions, however misplaced or justified, that motivated the Commission's work; and it was their task to find answers and solutions to strengthen legal and community responses to crime. One of the lessons of this era of decline, in the face of several large scale social experiments to deter crime or remedy its root causes, is that the returns from those efforts are likely to be modest. We cannot reasonably expect legal institutions to control crime—the forces that motivate its rise and fall seem to operate at a scale far beyond the returns we can reasonably expect from increasing punishment rates. What we can expect is that legal institutions will provide justice, in terms of punishment, equal access, and fairness. Whether this will produce a more secure society, with greater participation in legal activities, remains to be seen.

We also have learned the power of technology to drive crime rates and take lives. The epidemic of adolescent gun homicide in the 1980s should alert policymakers and citizens to the dangers from such technological advances. The decline in homicides in this decade is as much a phenomenon of guns as was the increase ten years earlier. Careful analysis of the unprecedented rise in homicides and violence prior to the current decline suggests not that a new wave of cold-blooded offenders is upon us, but that increases in gun assaults and gun homicides have driven up crime rates and driven them down again. This epidemic was the progeny of the epidemic of gun homicides from 1977 to 1980, part of a long-term trend in rising gun violence that began

around the time of the Commission's report. The lessons are straightforward, and the solutions remain to be developed. A contemporary Commission could not help but focus on the underlying source of the rise and fall of crime.

The Science of Crime and the Infrastructure to Sustain It

Research in the past decade has shown the importance of a dynamic model for the explanation of crime, one that considers simultaneously persons, places and their interactions. Sources of crime act interdependently, often synergistically, with reciprocal effects over time, space, and across levels of influence. We know now, for example, that communities exert a dynamic influence on crime, independent of their social position or the social position of the people living in them.⁴⁶ We know now that crime is preventable by focusing on places and situations, instead of persons.⁴⁷ We know now that offenders' responses to sanctions often depend on the social and economic contexts where the costs of punishment are perceptually shaped.⁴⁸ Other lessons have accumulated slowly since the publication of the Commission's report.

As in all sciences, these lessons have come neither easily nor cheaply. However, unlike other sciences, these advances in knowledge come in the context of emotional and difficult debates on crime control policies, driven extensively by the pain of those victimized and also those in prisons. Because of the emotional and ideological dimensions to this debate, we are far less patient and our expectations are far too high in the search for effective policies. But we also are far too cheap to pay for the good science necessary to develop them.

One of the lessons for the future is the need for a scientific grounding that will provide a stronger scientific knowledge base to respond to future crime cycles. Future commissions would benefit from the knowledge generated by a stable infrastructure of research support. Significant advances have been made in the design of data collection systems to monitor crime trends and manage the efforts of criminal justice agencies. Further work is needed to strengthen these efforts. This data infrastructure for criminological research should be matched by a human infrastructure of researchers and institutions committed to improving societal understanding of crime, its causes, and its consequences.

Figure 1, Reported Trends for Four Index Crimes by Size of City, 1933-1965

Figure 2, Homicide Rates, 1933-1991

Figure 3, Age-Specific Murder Rate, 1965-1992

**Figure 4, Gun, Nongun, and Total Homicides by Offenders Ages 10-17,
1976-1992**

Figure 5, Violent Crimes, 1960-1995

Figure 6, Trends in Assault, 1980-1993

Figure 7, Forcible Rape Rates, 1960-1993

Figure 8, Female Rape Rates, 1973-1992

Figure 9, Property Crimes, 1960-1995

Figure 10, Drug Arrest Rate

Table 1, Self-Reported Delinquency, High School Classes of 1982 and 1992

Table 2, Neighborhood Mobility Through Ecological Categories

1. President's Commission on Law Enforcement and Administration of Justice. 1967. *The Challenge of Crime in a Free Society*. Washington, DC: U.S. Government Printing Office.
2. *The National Commission on the Causes and Prevention of Violence* was appointed in 1968, a few days after the assassination of Robert F. Kennedy. Its Chair was Milton S. Eisenhower. In its final report in 1969, the Violence Commission, otherwise known as the Eisenhower Commission, issued a warning that was repeated in a different and more widely recognized form by the Kerner Commission that was formed a year earlier. See n. 3 below.
3. The National Advisory Commission on Civil Disorders, chaired by Governor Otto Kerner and more popularly known as the Kerner Commission, was formed in 1967 to assess the causes of the urban riots in the U.S. in the 1960s. It issued the now famous warning of "two societies" that commented about economic and social divisions between black and white Americans.
4. The Attorney General's Task Force on Family Violence was convened in 1984 and issued its report the same year.
5. White House Conference on Violent Crime, n.d.
6. National Research Council. 1993. A.J. Reiss, Jr., and J. A. Roth, eds. *Understanding and Preventing Violence*. Washington, DC: National Research Council, National Academy of Sciences Press.
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8. The 1967 Commission also was concerned with increases in less visible and politically salient crimes, including white collar crimes such as securities exchange and tax fraud. Problems such as environmental crimes were not on the political or empirical horizon at that time. However, "drunkenness" and "narcotics and drugs" were both topics of Commission Task Force Reports, and a contemporary commission would no doubt address these problems in great detail. See, for example, the recent Institute of Medicine report, *Opportunities in Drug Abuse Research* (1996).
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20. Fagan and Browne, *ibid.*, at 136.
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Panel II

Overview of Crime: Changing Nature of Crime, Criminals, and Crime Problems

Jeffrey Fagan began this session with highlights from the paper he had prepared for the Symposium. The Crime Commission report, and especially the Task Force Report, *Crime and Its Impact*, is a “timeless contribution,” he said, and many of the truths it contains still hold today. Here are three examples. First, the report focused on many of the same crime problems that a contemporary commission would also address: drugs, gangs, racial disparities in crime rates, and the administration of justice. Today there is also a greater recognition of violence against women as an important crime problem. Second, like the Commission, we find ourselves in the midst of a crime trend that has moved steadily upward, especially with regard to violent crime. It is always difficult to predict crime since it is affected by so many factors, but we can generally agree there is too much crime. Third, the problem of understanding and predicting crime presents a continuing challenge. A crime commission today would recognize many of the same causes of crime that the Commission discussed: moral failings of offenders, disparities in the material conditions affecting different races and social classes, family problems, drug and alcohol use, population shifts, and others. We must recognize, as the Commission did, the complexity and interdependence of these factors.

There has been much more continuity than change over the past 30 years. But in recent times, public debate and public policy have been driven by perceptions of the “thin layer of lethal violence” described by Frank Zimring. In fact, the changes we have seen are fairly specific: a rise in lethal violence, especially in weapons assaults and homicides involving guns; younger offenders; a greater recognition of violence against women and children; increasing racial and spatial concentration in violent crimes; more drug use and drug-related crimes; and growth in the number of gangs. In contrast, the property crime rate has been stable if not in decline. But the correlates of crime have been stable over time and space, although the Chicago Neighborhood Project, for example, shows expansion in the number of high crime neighborhoods.

There is more emphasis today on family *structure* compared to the concern with family *process* 30 years ago. And we have a better understanding of the structure of poverty and of geographic concentrations of poverty. In these two areas, and perhaps only in these two areas, is there greater clarity in the crime debate than there was at the time of the Commission report. Our information about victimization remains much the same, although we understand a little more about “victim/offender overlap.” Finally, the Crime Commission report offered a focused optimism, determination, balance, and clarity that is absent from today’s crime debate. Today, emotion and ideology have obscured that clarity. A return to it is badly needed and can be achieved only when the infrastructure of scientific knowledge is strong enough to support a rational debate.

Overview of the Panel Discussion

The panel moderator, *Candice Kane*, encouraged panelists and the audience to offer reactions to Mr. Fagan’s paper; to comment on the data and information available now that were not available 30 years ago; and to explore issues related to juvenile crime. Many participants commented on the use and misuse of data about crime and the need for research to more strongly influence policy. Panelists and audience members offered specific comments about change and lack of change with regard to gangs and guns, drug crime and drug policy, victims of crime, prosecutors and courts, corrections, policing, organized crime, and the impact on the criminal justice system of persons released from mental institutions. Throughout the panel discussion, many panelists called for a major shift from the “mean spiritedness,” “sound bite criminal justice,” and insensitivity to issues of race that characterize much of today’s public debate about crime.

Use and Misuse of Data

In the earlier panel on “historical perspectives,” several participants discussed the lack of data available to the Commission to support its recommendations. The second panel expanded on the topics of data, data analysis, and policy. Many panelists and audience members engaged in the discussion, noting a vast increase in the amount and often the quality of data available

today, but also expressing deep concern about how these data are interpreted and misinterpreted, used and misused. Many different participants contributed the comments presented below.

- Although the 1989 Hate Crimes Statistics Act was passed in 1989, by 1993, only six states were keeping data as mandated by the Act. In many instances, the data that were maintained showed an unrealistically high percentage of *offenders* to be African Americans.
- Although the Commission's access to reliable data was limited, the data it had were presented much more clearly—and in a way that was useful to the public—than in many reports today.
- A few high-profile researchers have been allowed to focus our national policy debates. The media relies repeatedly on their interpretations, resulting in many public misconceptions about crime, particularly juvenile crime.
- Researchers and the public should exercise caution about police data and police reports related to crime prevalence. For example, several years ago police and the media portrayed cult crime as a much more widespread occurrence than it actually was.
- There is an absence of reliable data available to the courts.
- Available data clearly show that minority youth are over-represented in the criminal justice system, but we are not paying enough attention to this and are not studying the problem enough.
- Data about crime locations is largely ignored by legislators. While the vast majority of crime occurs in the country's largest urban centers, we continue to "put our money all over."
- Gang problems in suburbs and rural areas are overstated. The data show that the country's most serious gang problems are centered in Los Angeles and Chicago, with all other jurisdictions coming in a distant third. Some small jurisdictions report having 50 gang members in the community, but at the same time report those individuals have committed no crimes.
- Violent crime in the 1990s has increased in some states' suburban and rural communities, while at the same time decreasing, at least somewhat, in the states' urban centers.
- Many of the recent changes in policing (for example, aggressive measures to reduce "quality of life" crimes) are not research based.

One researcher who assisted the Crime Commission said his sense was that juvenile crime has not changed that much over the past 30 years. What has changed, he said, is the way we detect crime, process the information, and deal with it. We need better definitions (what we actually mean by "youth violence," for example). And we need models for understanding change; for deciding what we want to talk about; for determining what, in fact, is changing; and

for interpreting the statistics we have. What has changed, he said, is the way academicians and researchers define the problem, and the way the money is given out.

Gangs and Guns

One panelist noted that gangs, which had “gone away” by the early 1980s, are now being addressed through major projects—for example, implementation of the Spergel model in Chicago; and the OJJDP Safe Futures program, which links the Spergel model to the risk-focused delinquency prevention model developed by Hawkins and others. These are examples where the program elements and management structure are driven by research. We could not be taking these approaches today, he said, if the foundation for them had not been established by the Crime Commission.

Other panelists expressed different concerns about gangs, including the following:

- The police are “over-labeling” juveniles as gang members. Rather than providing programs that offer youth a way out of gangs, “we make them criminals and expel them from school.”
- The gang issue has become a racial issue as well, with black and brown youth stopped by police in situations where white youth would not be.
- The National Victimization Survey (NVS) does not help communities decide what should be done about gangs, since gang members are not represented in the sample. Similarly, the NVS is not likely to uncover hate crimes, in part because people are reluctant to identify themselves as victims. New methodologies are needed.

One panelist pointed out that the use of semi-automatic pistols by juveniles is relatively new. There have also been changes in the impact of violence—especially gunshot wounds—on juvenile health. “Juvenile violence has almost become a routine part of the social landscape,” he said. “There has been a routine acceptance of these events by the public.” But we can bring many perspectives to this problem, he said, and we can offer preventive, proactive recommendations. For example, linkages between hospitals and police have resulted in better

information about gun violence; and we have learned that [gun violence] victims are often suspects in other crimes. Finally, we must remember that while juveniles with guns have had a devastating impact, “adults are driving this problem.” We must look at how and why juveniles acquire and carry guns, and we must hold adults responsible for their role in this.

Drug Crime and Drug Policy

Several participants explored the topics of drug abuse, drug crime, and drug policy that had been raised in the first panel on historical perspectives. One panelist suggested that in the 1960s, “we were very early in the so-called drug epidemic.” Drugs were not seen as central to the crime problem, and only 20 percent of federal inmates were incarcerated for drug offenses at that time. There was no international focus on drugs, and there was little discussion of racial disparity in drug arrests. The Commission was concerned about judicial discretion in drug cases, particularly marijuana cases; and it was concerned about a lack of data in this area. The addict maintenance issue was taken seriously, and much of the Commission’s emphasis was on treatment. In fact, the Commission treated the drug problem as a public health issue, although it did not label it as such. Overall, the Commission report should be viewed as an historical document. There has been more change than continuity with regard to drugs and drug policy. Another panelist offered a similar assessment, pointing out that his state did not experience a serious cocaine problem until some years after the Commission report was released. But by the 1980s, cocaine had “laid waste” to the city where he was a police officer.

Victims of Crime

Several participants noted that there was little about crime victims in the Commission report, which seemed to portray the typical crime victim as “an elderly white woman accosted by strangers.” There was also some victim blaming, one panelist said—for example, the phrase “participating in a rape.” We know now that the most likely crime victim is an adolescent male of color, she said. We know more about females who are victimized in their own homes; and we know more about patterns of abused children becoming abusers themselves. Another panelist commented on two trends she observed: youth feeling they must be either a victim or a victimizer; and poor victims identifying more closely with offenders than with professionals who are attempting to assist them. This implies a need to listen more carefully to victims, and to

reach them through the support systems they already have, she said. To help women end abusive relationships we must be sensitive to victims' own sense of timing and their individual needs. Often they want the batterer to receive treatment. We cannot handle all batterers in the same way. Another panelist recommended putting more resources into domestic violence research, with the aims of learning how to reduce recidivism and gaining a better understanding of how domestic violence affects children.

Prosecutors and Courts

Several panel participants noted that judicial discretion is much more limited now. As a result, charging decisions are increasing in importance. One panelist emphasized the need for better data on the implications of charging decisions and plea bargaining, and on the deterrent effects of determinant sentencing. For example, we need to know more about the deterrent effects of punishing gun crime recidivists more harshly.

Another panelist said prosecutors need help in making connections between research results and policy. Prosecutors are suspicious of research, he said, and are under considerable public pressure to do something about crime problems. Prosecutors today are much more aware than 30 years ago of the need for partnerships, he added.

Another participant commented on the “radical changes” over the past 30 years in the court system, in most states' criminal codes, and in courts' abilities to process cases. There are several hundred drug courts now, he said, but with more than 200,000 cases in misdemeanor courts each year, we need more community courts. Also, the adversarial system is different now, and the “three-legged stool [prosecution, defense, and the judiciary] is tipping rapidly in the direction of prosecution.”

Corrections

Summarizing the concerns of many other participants, one panelist reminded the group that “the prison system is not the end of the line.” Because the vast majority of prison inmates return to the community, “the problem is not linear but cyclical.” Many of the Commission's 22 recommendations on corrections had merit, he said, but we have pursued a more punitive course—4.5 million persons are now under correctional supervision—even though much of the research does not reflect a public wish for revenge. But the country's extraordinary investment

in prison construction won't change, he said, "until it breaks the backs of the taxpayers . . . I think there will be a backlash." Other comments and trends noted in the corrections area included the following:

- The public dialogue is often characterized by a "mean-spiritedness" with regard to punishment.
- There is a prevalent view that punishment only means prison. We need to recognize there are other forms of punishment that serve justice. The restorative justice and similar movements send important messages about effective alternatives to jail and prison.
- Drug treatment in a prison setting "makes no sense without drug testing."
- Re-offending in the prison setting can be reduced by providing good supervision, implementing gang renunciation programs, and separating the most dangerous offenders from the general prison population.

Policing

Several participants commented on community policing and other policing approaches that are capturing public attention today. Some emphasized that efforts undertaken in the name of community policing vary greatly. One noted that current efforts to deal with quality of life crimes in New York City are actually much more complex than what has been portrayed. Another said that in the 1980s, police in one city "tried to arrest their way out" of a serious cocaine problem, but the situation worsened every year. The department finally developed new strategies grounded in community policing, which began to turn things around. Another panelist cautioned that considerable time is needed for a department to fully implement community policing and demonstrate results.

Several participants said the Commission's view of team policing helped pave the way for today's community policing efforts. One said police today are in an excellent position to encourage probation, court, and corrections officials to "come out of their offices" and engage the community.

Organized Crime

One panelist noted that the Organized Crime Task Force was the last Commission task force to be set up; and that it took a long time after the report was published for its organized crime recommendations to be acted upon. Although research and data available to the

Commission were limited, some studies had been conducted—for example, on why various industries were susceptible to organized crime, and on procedural issues regarding wiretapping and RICO (Racketeer Influenced Criminal Organizations) statutes. The Commission’s biggest shortcoming in this area, he said, was a failure to look at criminal groups other than the Italian Mafia (e.g., Asian organized crime, Colombian cartels). These are “not so much ‘emerging’ as they are previously ignored crime groups,” he said, with international crime organizations representing the most significant organized crime issue of our time.

Another panelist said organized crime depends heavily on local corruption, noting that local corruption was no longer systemic in this country. The Commission saw local government as having failed its citizens, a situation they believe justified federal involvement. “While there are communities where crime goes on in another language and the police can’t penetrate them,” he said, other forms of organized crime have a greater impact on the community as a whole. But another panelist pointed out that some of these ethnically organized crime groups specialize in crimes like credit card fraud and money laundering—crimes that affect financial institutions as well as individuals. Finally, one panelist said it was possible to effectively combat some gangs using federal and state RICO statutes together with other criminal and civil sanctions.

Mental Illness

One panelist said the Commission did not deal with the potential impact that the closing of mental institutions could have on the criminal justice system. Extensive community mental health care and case management turned out to be false promises, he said. This is not a small problem—one in every five or six families has a member with a serious mental illness—and we must come to grips with it, especially in our policing strategies. Other panelists also expressed concern that mentally ill people are still being “dragged into the criminal justice system,” another example that criminal justice is part of a much larger system.

Attitudes, Rhetoric, Race, and the Media

Throughout the discussion, many participants contrasted the Crime Commission’s optimism with what they felt was a pervasive cynicism driving public policy today. Some were particularly concerned about the rhetoric that characterized many discussions of youth and crime. Verbal portraits of juveniles as “super predators,” said one panelist, were just one

example of the way we often “demonize and vilify” youth. Similarly, day treatment programs are called “day care for burglars,” and there are many other examples of today’s “sound bite criminal justice,” “mean world syndrome,” and “us versus them mentality.” In addition, one panelist said because we are investing so much money in prisons, youth receive an implicit message that we consider them hopeless. Some children grow up believing they will go to prison, and often they do.

Another panelist added two related “depressing observations:” (1) research rarely results in strong positive findings, and (2) our ability to replicate successful programs is highly questionable. Several panelists observed an attitude of “ignorance is bliss” on the part of many elected officials—“if we don’t have inconvenient facts, we don’t have to deal with certain issues.” Others, however, felt the problem was not inconclusive research or implementation failure but a need to be much more aggressive in communicating research results to policymakers, legislators, and the general public. One participant said that, like the Symposium participants today, the Crime Commission members and staff were predominately white and male. In the future, “Other populations must be included at the table,” he said. “Unless we do this, resulting reports will not be meaningful.”

Many panelists stressed the need to ensure more responsible media coverage of criminal justice issues. Several said that probation and corrections, in particular, must make more concerted public relations efforts. One pointed out that “treatment works” is not a politically popular message and said we need to “show systematically how little we have gained from the war on drugs.” And several shared the view that, in part because of irresponsible or careless media coverage, politicians “continue to perpetuate myths. They have the means, but not the will to dispel them.”

Although discouraging observations dominated this discussion, several panelists expressed hopeful views. One noted the optimistic tone of Mrs. Hillary Rodham Clinton’s book, which states in essence that every problem children face today has been solved before. Another reminded the group that it simply takes time before a new approach—community policing, for example—can demonstrate measurable changes. Still others believed progress could be made through public education efforts, and particularly by cultivating a broader audience for research than just the academic and criminal justice communities.

Closing Remarks

Jeffrey Fagan summarized several of the important points that emerged from the discussion. Crime is an independent variable; there is a vast related ecology, and it is not enough to consider crime alone. Issues of race must be faced head-on. Guns and the “thin layer of lethal violence” are important, but they should not be the only areas in which we strive to find solutions. Finally, we must face the fact that some of our attempted solutions have not paid off. We need to have honest conversations about what does and does not work, and about what is and is not cost effective.

Changing Nature of Criminal Justice System Responses and Its Professions

Charles F. Wellford, University of Maryland

Two of the most lasting legacies of the work of the President's Commission on Law Enforcement and Administration of Justice (hereafter the Commission) are the title of their summary report, "The Challenge of Crime in a Free Society,"—which then and now operates as a reminder of the necessary tensions that exist in controlling crime in a democratic society—and the *flow chart* (President's Commission, 1967). The flow chart, which appeared within the first ten pages of the summary report was entitled, "A General View of the Criminal Justice System." This graphic (see Figure 1) has been reproduced in criminal justice textbooks more than any other crime graphic that I can think of, except perhaps the Uniform Crime Report's time clocks. This graphic conveyed in two pages the scope of the crime problem at various stages in crime processing and by implication (directly in some instances) the interrelationship of police, prosecution, courts, and corrections. The flow chart embodied one of the central themes of the Commission's analysis of justice in our society: the need to create a better understanding of the criminal justice system *qua* system, and in so doing, a better understanding of the ways in which actions taken at any point in the system can affect other elements of the system. The Commission created a new idea that has informed our thinking about crime and justice for the last 30 years, the concept of a criminal justice system.

While the Commission demonstrated the need for systemic thinking, their elevation of this concept in our thinking was influenced by earlier assessments of justice in America. Samuel Walker, who has written insightfully on the origins of criminal justice, identifies two critical points in the history of this concept (Walker, 1992). Walker gives credit for the first recognition "of the systemic nature of the administration of justice" to Alfred Bettman, the author of the Wickersham Commission's Report on Prosecution (1931). In this report, Bettman observed the need to understand the "organic unity of administration" and noted numerous instances where this unity was critical to the understanding of criminal justice processes. Later in the development of this concept was the work of the American Bar Foundation (ABF), and,

according to Walker, most particularly the contributions of Frank Remington, to that massive empirical analysis of criminal justice.

For a variety of reasons, the ABF survey of criminal justice has not had the impact on our understanding of the history of this field that it should have had. But it is clear from any analysis of the Foundation's work that the transformation of the survey from a description of the way the system is supposed to work, to a painstakingly detailed analysis of how the elements of the system actually work, was in fact informed by Remington's understanding of the need to consider the interrelationships between the components of the system. Working closely in this effort, of course, was Lloyd Ohlin, whose contributions to the creation of the concept of a criminal justice system are also clear in his direction of the field research efforts of the ABF survey.

It is interesting to note that these efforts, the Wickersham Commission and the ABF surveys (one done in the 1930s and the other in the 1950s), represent the only comprehensive analyses of our justice system that actually emphasized its systemic nature. For example, a boolean scan of Beccaria's classic *Essays on Crime and Punishment* (1963) uncovers no instance where the words "system" and "justice" are used on the same page. Similarly, an analysis of other classical considerations of the administration of justice in our society fails to find this concept until the 1950s. While one can speculate on the reason for the emergence of this notion in the ABF survey and its elaboration by the Commission, it is important to note that this was also occurring in analyses of other types of organizations. Organizational systems theory was a predominant mode of thinking in the 1950s and 1960s, and was widely applied to private sector and government activities during those times. The fact that the primary motivator of the application of this concept to criminal justice in the work of the President's Commission was Alfred Blumstein (an industrial engineer then working for a Department of Defense think tank) also reflects this migration of the systems notion from industrial and defense applications to the field of criminal justice.

The concept of criminal justice, while recent in our history, has its foundations in other major efforts to understand how police, courts, and corrections operate. It was related to a wider range of applications of systems analysis in the time period in which the Commission operated; was greatly facilitated by the decision of the Attorney General and Secretary of Defense to allow

the Institute for Defense Analysis, and in particular Alfred Blumstein, to be a part of the President's Commission; and undoubtedly was influenced by the fact that James Vorenberg was the Executive Director of the Commission. With Lloyd Ohlin playing a critical role in the direction of the Commission's research and Al Blumstein leading the Science and Technology Task Force, it would have been highly unlikely, and perhaps nearly impossible, if the systemic notion of justice had not emerged as a central theme in the work of the Commission.

The President's Commission's concept of the criminal justice system is best captured in the following quotation:

The criminal justice system is an enormous complex of operations. Subjecting such a system to scientific investigation normally involves making changes in its operations in order to observe the effects directly. Whenever practical, this kind of controlled experimentation is clearly the best kind. But experimentation inside a system is often impractical and even undesirable, not only because the cost could be prohibitive, but because normal operations are frequently too critical to be disrupted. Instead, the scientist may be able to formulate a mathematical description or model of the system in order to illuminate the relationship among its parts. System analyses involve construction and manipulation of such mathematical models in order to find out how better to organize and operate the real life systems they represent. (Task Force Report, 1967: 53-54.)

While the conceptual implications of considering criminal justice administration as a system was an important contribution of the report, the primary motivation for the application of a systemic approach was to facilitate the testing of modifications to the system. A model of the system allowed testing to be done while minimizing the constraints of time, ethics, and money.

Given the goal of the Commission of improving criminal justice, the issue of how to determine what should be changed quickly emerged. Vorenberg, Ohlin, Blumstein, and others emphasized the role of research. While it is obvious the Commission used research to reach conclusions and develop recommendations, more importantly, it consistently emphasized the need for research to evaluate the effectiveness of the implementation of any of the recommendations and to identify ideas for additional improvements. However, the Commission noted that because criminal justice is such an important function with important ramifications for those that are included in it, experimentation is frequently impossible. So the creation of a model of the system, one that could be manipulated to determine effects, would be a critical first step in understanding how improvements could be achieved. The flow chart was a first step in

identifying the components of the system which could be manipulated to determine their effect on the remainder of the system. From this goal of improvement, and in recognition of the difficulty of the experimentation, the Commission moved to introduce not only a concept of criminal justice, but a methodology of system analysis including mathematical modeling as a way to identify and evaluate effective changes. This idea, simple as it may seem to us today, was radical at the time. Today it is fundamental to our understanding of criminal justice and how it should be studied and reformed.

As important as this contribution is, it is also the case that the Commission's analysis of the criminal justice system contained characteristics that have created continuing problems for our understanding of the system. Chief among these are the following: (1) the description of a system in which case flow is unidirectional; (2) a focus on system processes and subsystem outcomes without equal attention to system outcomes; and (3) the use of closed system theory (i.e., the failure to address external influences). Each of these characteristics are clearly embedded in the model of the system developed by the Commission, and each is problematic.

While the flow chart and the Commission's discussion of the criminal justice system strongly emphasized unidirectional flow, subsequently we have come to understand the importance of anticipated consequences in individual and organizational behavior. Changes at any point in the system can influence not only those activities that occur later in the system, but also the activities prior to that point of change. While this makes the system reciprocal and infinitely more complex (and therefore in a preliminary model may understandably be ignored), the Commission's model created a painfully misleading image of a simple criminal justice system.

The focus on process is constant in the Commission's analysis of the system, where the concern is understanding the flow of cases and the parameters of various decision points in the system. This focus does not provide appropriate attention to the outcomes of the variations in these parameters and, more importantly, to the outcomes of the system. While the research agenda identified for the Commission was clearly aimed at addressing these flow outcomes, the Commission's work prompted many to focus on describing the system without assessing it.

Finally, the criminal justice model developed by the Commission did not include an appropriate emphasis on the importance of external influences (in the analysis of juvenile crime

and justice, there was considerably more emphasis on external systems). Few real systems are insulated from the influence of other systems, especially systems that are driven so forcefully by social and political considerations. The failure to recognize the importance of external systems and the interrelationship of criminal justice to these other systems may have contributed to the slowness with which we approached intersystem coordination in criminal justice. Still, even with these problems, the Commission's (1) recognition of the systemic nature of justice, (2) careful description of the system, (3) detailed attempts to derive the best estimates of system flows and subunit outcomes and costs, and (4) recognition that system assessment and evaluation could best occur through the development of mathematical models of the system has greatly influenced and benefited our field for 30 years.

Impact of the Concept of Criminal Justice

The impact of the concept of criminal justice developed by the Commission can be seen in a number of areas, most notably in the field of higher education, criminal statistics, intra-system coordination and cooperation, and intersystem coordination and cooperation. In each of these areas, the Commission's work has had lasting and important impacts.

Education

Prior to the Commission's work, higher education in the field of criminology and criminal justice could at best be characterized as disorganized and narrow. The field existed mostly as an adjunct to other social sciences, most notably sociology and political science, and had as its primary area of interest the analysis of the causes of crime. The field was narrow in its discipline base and was, in the judgment of many, characterized by its commitment to a liberal political ideology. The Commission changed this by encouraging the development of higher education and suggesting criminal justice as a framework for this new field of study. After the Commission's report, almost all of the current Ph.D. programs in this field emerged. Those that had been in existence fundamentally changed, and the scope of the field was greatly enlarged.

In addition to consideration of crime causation, this emerging field in higher education became multi-, and in some instances, interdisciplinary; provided a clear focus on the concept of criminal justice, emphasizing the interrelationships in the system; and increased the

sophistication of its research, particularly its quantitative aspects, in response to the call for mathematical modeling and multivariate analysis in the Commission's analysis of criminal justice. The work of the Commission, and particularly its emphasis on criminal justice, fundamentally changed our notion of education in this field. Rather than being an adjunct to other disciplines, criminal justice emerged as a separate field. Rather than being narrow, it became a field based on law, social science, history, and policy analysis. Rather than being a field characterized by weak scholarship, it accepted the challenge of the Commission and sought to improve the level of its scholarship. Today, individuals educated in these programs show considerable analytical and conceptual strength as compared to the past.

On a personal level, I can simply note that when I entered the field of criminology and criminal justice in the late 1960s, working with practitioners was relatively simple. While it was difficult to gain access, once one gained access, there was an instant recognition of the fact that we knew things and could do things that they could not. Today it is quite different. Enter any major criminal justice agency in this country, and you find individuals who are well trained, analytically sophisticated, conceptually strong, and able to assess the current literature in the field. Obviously, this is not universal. It is, however, an indication of the growing success and importance of criminal justice education—a field whose very existence was determined by the Commission and its ability to formulate a new model of justice which established a new paradigm for an emerging academic field.¹

Intra-system Coordination and Cooperation

In 1967, the President's Commission painted a very dismal picture of the degree to which the units within the criminal justice system cooperated and were coordinated. Ten years later, Patrick Murphy, one of the pioneers in the emergence of federal involvement in local law enforcement and in the application of systems analysis to police operations, concluded that:

The most readily observed characteristic of the American criminal justice process is its disarray. What is supposed to be a system of criminal justice is really a poorly coordinated collection of independent fiefdoms, some ridiculously small, which are labeled police, courts, corrections, and the like. This diagnosis was true in

¹ This is not to conclude that all is well in academe. There continues to be unevenness in program quality, and we have failed to develop professional graduate degrees. The development of rigorous professional degrees (i.e., our equivalent of the MBA degree) represents the next major step in achieving academic excellence.

1967 when the President's Commission on Law Enforcement and Administration of Justice discerned the outline of what should be a workable productive system of criminal justice. That diagnosis, equally true today, is easy to make; the challenge is to discover and chart useful routes toward coordination of criminal justice, whose hallmarks are harmony, effectiveness, and indeed justice. (Skoler, 1977:xvii)

Since 1977, I think and I hope Mr. Murphy would agree, things have changed. The past 20 years have, in my judgment, been characterized by increased coordination, harmony, effectiveness, and cooperation. Numerous examples of this improvement are found in programs in which units within the criminal justice system work closely together for a common purpose. For example: (1) Operation Spotlight, in which police agencies and probation personnel work together to identify and control at-risk offenders in the community; (2) drug and community courts, where police, prosecutors, defense attorneys, judges, and treatment/supervision personnel work together to structure responses to the offenders and not only their crimes; (3) career criminal programs, where police and prosecutors coordinate their efforts to seek maximum rates of conviction and terms of incarceration for offenders meeting agreed upon criminal history and instant offense profiles; and (4) alternatives to incarceration, where judges, correctional personnel, victims, and attorneys seek the least restrictive disposition for offenders that reduces recidivism, minimizes costs, and maintains acceptable risks to the public. These examples and many others demonstrate the kind of coordination and cooperation in the criminal justice system called for by the President's Commission. The concept of criminal justice made clear to us by the Commission is now widely accepted and is increasingly used to structure more effective responses to crime.

Inter-system Coordination and Cooperation

In addition to multi-unit programs that operate within the criminal justice system, elements within the system have begun to build strong working relationships with other systems external to it, such as school, mental health, health, and homeless organizations. These have been particularly evident in the area of alternatives to incarceration and in our response to juvenile crime, but also operate within prosecutors' offices, police departments, and other criminal justice segments. Most notable amongst these are the efforts to respond appropriately to mentally ill offenders by coordinating the resources of the criminal justice system and the mental health system. In addition, programs that provide dispositions to offenders in

nontraditional, noncriminal justice settings have grown in recent years. Drug courts and community courts represent efforts in the prosecution and court areas to find alternatives to the criminal justice processing for those with certain problems that can best be treated outside of that system. Community policing, with its emphasis on working with other agencies to address the underlying problems in a community which are reflected in crime patterns and concentrations, is perhaps the most widely adopted criminal justice reform of this past 20 years. Finally, the increased involvement between public and private systems, as reflected in the privatization of policing and corrections, signals increased coordination and cooperation with systems external to criminal justice. In sum, we find a growing recognition that the boundaries implied by the closed model of the criminal justice system are arbitrary and, in many instances, counterproductive. Criminal justice operates within a larger social and political context, and it must frequently find ways to provide for cooperation and coordination with these extended systems in order to accomplish its goals.

Crime Statistics

Many years ago, Thorsten Sellin established the principle that, in measuring crime, the best measure was one closest to the actual occurrence of the crime. Hence, prosecutor data would be better than correctional data, police data better than prosecutor, and citizen reports better than police data. While this principle is understood and clearly reflected in the Commission's notions, it is also the case that the Commission helped us to understand, through its notion of a criminal justice system, the importance of collecting data at all of these points, recognizing the value of those data for different estimates and for understanding global indicators of the effectiveness of the system. Consider for example Figure 2. This version of the flowchart, newly updated by the Bureau of Justice Statistics, reflects our best estimate of the relative number of cases/offenders at each point in the system. The BJS update demonstrates the value of having data at all points in the system rather than emphasizing how one data point (e.g., crimes known to police) is the best. This approach to crime data was not considered, and perhaps was not "considerable," before the concept of criminal justice was popularized. However, since then, it has become a standard part of our thinking about crime and our understanding of the relative effectiveness of units within the criminal justice system.

Let me just indicate three ways in which data like those summarized in Figure 2 are routinely used today: first, to demonstrate the fact that most crime in our society is not dealt with by the criminal justice system and that fluctuations in criminal justice estimates may well reflect changes in crime *or* changes in the operation of elements within the system; second, to demonstrate the relative inefficiency of our system, where for example fewer than 10 percent of what are generally considered serious crimes result in an arrest; and finally, to demonstrate the degree to which we rely upon incarceration for convicted offenders, in that approximately 60 percent of all guilty verdicts for serious offenses result in incarceration. Thinking about these data systemically allows us to answer questions like: What is the likelihood of incarceration for those committing a serious offense? (For serious crimes, approximately four in 100.) We would not routinely ask these kinds of questions before the Commission made the concept of criminal justice a part of our thinking. These approaches to crime data were demonstrated by the Commission, encouraged by it, and required by its concept of a criminal justice system. They have fundamentally altered our approach to crime and justice data.

Barriers to the Commission's Vision of a Criminal Justice System

While we have noted many ways in which the Commission's notion of a criminal justice system has improved our understanding and analysis of criminal justice in our society, I believe we must conclude that we have not yet reached the goal that the Commission set for us. While we have moved beyond Pat Murphy's assessment of 1977, there is still a long road to travel. Many recently enacted policies and programs reflect a focus on one part of the system. For example: (1) zero tolerance policing which seldom considers and plans for impacts on courts and jails, (2) adding more police officers without considering their impact on the rest of the system, (3) sentencing guidelines that explicitly fail to consider their impact on prison population, and (4) prison release policies that are not accompanied by changes in community supervision and treatment capabilities. These and many other examples demonstrate the continuing need to think and act systemically. One can ask the question, "Why do we have these problems? Why have we not achieved more?" The answer involves one or more of the following categories of explanation: (1) bureaucratic barriers, (2) philosophical barriers, and (3) performance measure barriers.

Bureaucratic Barriers

Anyone who has tried to bring different elements within the criminal justice system together or to build cooperative efforts between parts of the criminal justice system and other parts of government or the private sector understands how difficult it is to deal with bureaucratic barriers (different funding cycles, legal requirements, forms, approval processes, regulatory agencies, etc.). However, I think these barriers are given more credit than they deserve for understanding the failure to cooperate and coordinate. Bureaucracies are notable for their ability to respond to clear definitions of the direction in which leadership wants them to move. Each of the examples of improved intra- or inter-system coordination noted above happened within a bureaucracy. They happened when the leadership of the bureaucracy was able to explain why the coordination was important and to enlist the support of agency personnel to step out of their boxes and build new ones. Therefore, although I think bureaucratic factors are important and have been rightly emphasized in analyses of problems within criminal justice, our experience demonstrates they are surmountable with good ideas, good leadership, and good communications. This is especially true as more and more criminal justice practitioners have been educated in and accept the need for system approaches.

Philosophical Differences

Philosophical differences are more problematic. In assessing for the Commission what the barriers to systemic thinking and analysis were, Blumstein made the following observation:

Police, courts, and corrections officials all share the objective of reducing crime, but each uses different sometimes conflicting methods and so focuses on frequently inconsistent sub-objectives. The police role, for example, is focused on deterrence. Most modern correctional thinking on the other hand focuses on rehabilitation and argues that placing the offender back into society under a supervised community treatment program provides the best chance for his rehabilitation as a law abiding citizen. But community treatment may involve some loss of deterrent effect and the ready arrest of marginal offenders intended to heighten deterrence may, by affixing a criminal label, complicate rehabilitation. The latent conflicts between the parts may not be apparent from the viewpoint of either subsystem, but there is an obvious need to balance and rationalize them so as to achieve optimum overall effectiveness. (Institute for Defense Analysis, 1967:53).

Blumstein cited differences in criminal justice philosophies as a major barrier to the development of system responses. Similarly, the doctrines of separation of powers and local

control of law enforcement embedded in our Constitution, laws and practices represent philosophies that can limit cooperation between branches and levels of government.

Criminal justice has long been understood to operate to achieve one of the following objectives: deterrence, rehabilitation, retribution, and incapacitation. However, the fact that different parts of the system may emphasize different goals can lead to the kinds of conflicts and failures to cooperate identified by Blumstein. In addition, the separation of government in our system into executive, judicial, and legislative establishes conditions where cooperation is thought to be philosophically impossible—for example, that judges cannot "cooperate" with prosecutors, police, or correctional officials in system reform. What we see in current successes in bridging the gap between units of the criminal justice system and across the criminal justice system to other units of government is a growing recognition of the importance of the goals of these philosophical perspectives as opposed to the means associated with those philosophical positions. When agencies come together to solve a problem rather than implement a philosophy, coordination and cooperation occur. In this sense, while we should continue to understand the differences between these philosophies, and recognize the value the means associated with these perspectives may hold for achieving different objectives, achieving a systems approach to crime and justice will occur only when we minimize our commitment to means and focus on outcomes. The flow chart and the Commission's emphasis on downstream caseload effects reinforced a focus on process measures while reducing the perceived importance of system outcomes.

Performance Measures

This brings me to the area of *performance measures*. For too long, units within the criminal justice system have had their own performance measures: arrest rates for police, conviction levels for prosecutors, appeals for courts, and numbers of escapes, infractions and riots for correctional agencies. Only recently have units within the criminal justice system begun to accept that performance should be measured in terms of achieving the objectives of the criminal justice system. While it is consistent with the Commission's focus on the process of criminal justice to emphasize process measures, such as arrest rates; the intent of the Commission's analysis of the criminal justice system was to improve the effectiveness of that system; and to do that, we must find ways to improve our understanding of the measurement of

the subunits and the entire system in achieving the objectives of a criminal justice system. Hence, it seems to me that the fundamental barriers to improving coordination and cooperation (that is to achieving effective criminal justice systems) are changing our understanding of our goals and our performance measures. This, of course, requires that we identify the goals of our justice systems, describe in detail the processes used in those systems, and develop measures of both. When (for example) we decide to solve a drug problem in a community and abandon our commitment to a particular model of a court or a particular model of treatment or a particular model of police intervention, then we can find ways to work together to do this. When we focus on process, interim goals, and poorly articulated philosophies, we perpetuate the problem identified 30 years ago by the Commission.

The Goals of Criminal Justice

I noted earlier that one of the lasting legacies of the Commission was the title of their summary volume, "The Challenge of Crime in a Free Society," because it reminded us of two fundamental aspects of our work in criminal justice: freedom and crime. While I do not think it is true, many have said that if we simply ignore or lessen our commitment to due process we could have more crime control. Similarly, others have argued the same thing but with different language, by contending that if we want to increase crime control, we have to reduce our commitment to due process. Herbert Packer's classic analysis of the two models of the criminal justice system best exemplifies the argument that these two goals are difficult if not impossible to reconcile (1968). The President's Commission rejected this view. The Commission's view was that there had to be a priority, and the first priority was justice. Crime control had to be achieved in the context of a free society. I think this defines for us what we want out of a criminal justice system. First and most importantly, we want a system that is just. We want a system that reduces crime, or at least the harm associated with crime, and respects victims. We want a system that is safe for the people that work in and are affected by the system. If there is one basis on which one can criticize the Commission's analysis of the criminal justice system, it is its emphasis on the effectiveness of the system in reducing crime and the relative absence of consideration of how crime reduction could be achieved while ensuring justice.

What we see today, with for example the notion of jury nullification, is a growing portion of our population (sometimes thought to reside only in the inner city, minority

communities) that questions our system of justice. They do so in part because they have concluded our system is ineffective, but in larger part because they judge it to be unfair. I believe this is a much more widely held opinion extending well beyond minority communities, although it is most pronounced in those communities. Public opinion polls show a consistent decline in assessments of police, courts, and corrections. While this no doubt reflects a general attitude towards government, the fact that a majority of the population now concludes that police, courts, and corrections are doing only an adequate job should cause us concern, especially given the very high esteem found in earlier surveys for police and judges. The challenge today is to create a justice system in which there is cooperation and coordination, but which values those elements of a justice system which we have long cherished and which are embodied in our Constitution and laws. I think this is achievable. I think this is what we must do, but it will require that we pay as much attention to the measurement of justice as we do to the measurement of crime and criminal justice processes.

Let me suggest a modest beginning. In my model of justice, race and ethnicity can have no role in the operation of our justice systems. We know that is not the case today. Relatively small (to factors such as behavioral prison record) but significant amounts of variation in police, court, and corrections actions and decisions are explained by race and ethnicity. While this may reflect model specification problems, it may also reflect differential decisionmaking associated with proxies for race or race/ethnicity itself. Yet we have no national systematic effort to assess progress in understanding and eliminating these effects. A national program of research and statistics addressing this issue would be an important step in regaining public support for our system of justice, provided it led to the elimination of unwarranted disparity in decisionmaking.

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Figure 1, A General View of the Criminal Justice System

Figure 2, Draft Revision, Sequence of Events in the Criminal Justice System

Panel III

Changing Nature of Criminal Justice System Responses and Its Professions

Francis Hartmann began this session by recapping some of the significant points that emerged from the first two panels. A major objective of the Crime Commission, he said, was to narrow the gap between data and public policy. Looking back over the past 30 years, various panelists saw more homicides with guns, younger perpetrators, more crime against strangers, the addition of drugs to the equation, a different perception of hate crimes, changes in the nature of gang activity, an influx of mentally ill persons into the criminal justice system, a change in our sense of what constitutes organized crime, and a change in our sense of victims and the relationship between victims and criminals. One speaker noted that some poor and minority victims may be able to relate more easily to offenders than to victim assistance professionals. Several panelists said in essence that, at least in terms of political expediency, ignorance [of the facts about crime] can be bliss. And several expanded on the distinction between optimism and hope.

Charles Wellford offered several highlights from the paper he had prepared for the Symposium. Two of the Commission's more enduring contributions, he said, were its concerns that justice be done and its conceptualization of a criminal justice system. Consider the title of the Commission's report, *The Challenge of Crime in a Free Society*. The implicit message here is that the first priority of a justice system must be to deliver justice—something we have left largely undone. The second of the Commission's contributions is represented in its justice system flow chart. This was not the only such diagram—for example, Ben Renshaw also prepared one for the Philadelphia Crime Commission—but the Commission made its chart as simple as possible, clearly showing that all parts of the system affect each other in some way.

There are four areas in which the Commission's work has had especially profound effects. The first is in criminal justice education, as evidenced by LEEP [Law Enforcement Education Program of the U. S. Department of Justice], the Consortium for Higher Education, and other efforts. The second major contribution is in statistics. Prior to the Commission, there were competing notions about which data sources (police, corrections, etc.) should be used. The

third contribution is in coordination among criminal justice agencies. Today's drug courts and community policing efforts are evidence of progress in this area. Finally, the Commission had a positive effect in applying systems concepts to the justice field. One problem with the flow chart, however, is that it shows a closed justice system. Today, we must relate the justice system to other social and political systems.

But this record of accomplishment is not the same as accomplishing the Commission's goals. We must ask ourselves why there has been less progress than we would like. One reason, again, is that our model is too simple. It is a model of a closed system. Second, there are significant barriers to cooperation, reflected in the fact that different system components emphasize different performance measures. Today's police efforts in New York City are important because police are now saying, "crime is our business." Finally, our challenge—to reduce crime within the context of justice—is not easily met. We must look at what we have done over the past 30 years in terms of how we define and achieve justice. And we must recognize the connection between injustice and crime. Citizens are questioning our commitment to justice itself.

Overview of the Panel Discussion

Many Symposium participants agreed that two of the Commission's greatest legacies were its ability to articulate a view of criminal justice as a *system* and its emphasis on professionalism among police, prosecutors, and others who work within that system. For this panel, participants were first encouraged to provide examples of inter-system coordination they had experienced over the past 30 years. Changes in policing and the development of drug courts were discussed in this context. The panelists next discussed a hypothetical situation in which an 18-year-old drug addict is arrested for purse snatching. Participants considered how his case might be handled today, with particular emphasis on the roles of police, prosecutors, victim assistance organizations, defense attorneys, and the correctional system. Throughout the discussion, issues related to individual and civil rights, social justice, and juvenile justice were raised. Many participants emphasized the need for early intervention with troubled youth, discussed the inter-dependent relationship between the country's social justice and criminal justice systems, and stressed the need to address inadequacies in both systems.

Police and Prosecutors

Moderator *Angela Davis* first asked the panelists to comment on the ways in which police and prosecutors work together, including the difficult issues involved as they target more and more men who are members of racial and ethnic minority groups. One panelist characterized police/prosecutor relationships as “a marriage of convenience” that embodied many problems. There are many young prosecutors who “want to be part of the police subculture.” But there are still many instances where police violate defendants’ Constitutional rights, and sometimes prosecutors must say no to the police for this reason.

Another panelist observed there was consensus that a significant Commission accomplishment was to inspire professionalism in policing. But the Commission actually did more than that, he said. It redefined the meaning of professionalism. Before the Commission’s time, police professionalism referred to a military-style organization that was aloof from the community. But people had already begun to “put the police under a microscope.” At the same time, serious scholarship was going on; and that research was reflected in the Commission’s report—not so much word for word, but the sense of it, including ideas about diversity and community. All this represented a major turning point and helped produce a more substantive kind of professionalism, one that was open to research and new ways of doing things.

Several participants noted other changes in policing since 1967, including

- The movement away from preventive patrol and toward officer involvement in the community
- Value-driven measurement of police performance
- Strong, politically influential police unions.

Drug Courts

The moderator next asked whether or not drug courts should be considered a “success story.” Several panelists felt strongly that they were effective. One said they represented “the most significant change in the courts since bail reform in the early 1960s,” another called them “an excellent example of intra-system collaboration,” and another said they showed that the administration of justice could be cost effective. Significant elements of drug courts were noted, including early identification of participants; a non-adversarial courtroom setting; provision of a

full range of treatment services; the use of technology (urine testing) to inform decisions; and graduated consequences for positive drug test results. “Drug courts have humanized the court process,” one panelist said, “but there must be effective links to the community if drug courts are to work.”

One panelist emphasized that the drug court defendant’s primary problem is substance abuse, with criminal activity springing from that fact. Sometimes the threat of incarceration is used as part of a “carrot and stick” approach, but the courts can also prescribe various types of treatment, including individual and group counseling, acupuncture, and others. Responding to a question from the moderator, he said drug courts do not focus on alcohol abuse because such a high percentage of the arrested population tests positive for illegal substances like cocaine, PCP, and heroin. Abusers of these illegal substances are also largely responsible for the bulging correctional population. Defendants are asked about alcohol abuse, but are not tested for it.

Although many participants were encouraged by drug courts, a few expressed reservations. One said public defenders are concerned because drug courts represent a movement away from the adversarial system, which is intended to serve justice. In the title of its report, the Commission used the words, “Challenge” and “in a Free Society.” The Commission wanted to see the courts produce justice, not simply move cases through. Another panelist felt the issue of drug courts was particularly problematic with regard to juveniles. He noted the dearth of drug treatment services available for juveniles and wondered if federal funds earmarked for drug courts could be used to support treatment in a juvenile drug court setting. (*Note: They can.*)

“James” and the Criminal Justice System

The moderator presented the hypothetical case of “James,” an 18-year-old crack addict who is in possession of five grams of cocaine when he is arrested for purse snatching. She asked if there was anything the police could have done to prevent this situation. One respondent said DARE officers often work with juvenile officers to identify youth involved with drugs. Asked what “identification” means to the police and what the police do with this information, he said police often work with the schools to address risk factors for juvenile substance abuse, and they provide parent training and mentoring. But another participant said police could have

intervened more directly. For example, a neighborhood officer could have known about James. This possibility illustrates why “we must move away from the [military, aloof] model of policing.” There is no reason why police cannot also help in other situations, he said, for example in cases of elder abuse.

A discussion followed on the “thin line between victim and offender.” Several panelists commented that offenders like James are often first known to the criminal justice system as victims. Many felt intervention was possible, but at age 18 it was probably too late. One panelist said many victim advocates today would like to see the community and victims more involved in working with the offender. Direct confrontation with the offender, as in some of the restorative justice efforts today, can be a healthy way to deal with certain crimes. Another panelist added that through victim assistance organizations, there is now an organized role for victims and communities. We have come to realize, he said, that communities are more sophisticated than previously believed. Citizens who are members of racial or ethnic minority groups are less tolerant of perpetrators than in the past and less willing to identify with offenders. But they are willing and able to solve problems with criminal justice professionals, the schools, and others, and they want to steer youth away from criminal justice system involvement. With juveniles, he said, drug sales often precede drug use; and youth who are convinced to give up involvement in the drug trade can often become good leaders.

Another panelist suggested “James” would have “fallen through the cracks” at the time of the Commission but would be a candidate for drug court today. He noted that only 5 percent of offenders in his situation go to trial, while 95 percent reach plea agreements. We now have to consider the extent to which prosecutors, defense attorneys, and the courts should move out of their traditional roles, he said. If the changes exemplified by drug courts work, where should we go with this knowledge? Can the approach work in domestic violence and other types of cases? One respondent said a broader view of the defending counsel’s role is needed. The defense, he said, must consider what is best for the juvenile.

The moderator also asked whether there is anything the correctional system can do to “rehabilitate people like James.” We think of corrections as jail and prison, said one panelist, but probation is also part of corrections and has programs that can help drug offenders. Most of these are through partnerships with social services and use the coercive powers of the courts.

But while probation has the power to help, it is severely hampered by extensive caseloads. Also, money is going into the custodial aspects of corrections, with little left for treatment.

Individual and Civil Rights

The moderator asked whether there was tension between individual rights and the type of collaboration envisioned in the Violent Crime Control and Law Enforcement Act of 1994. One participant pointed out that the Crime Act gives the Civil Rights Division of the Department of Justice new authority for investigating and litigating against police departments that show a pattern or practice of violating civil rights. Another speaker said public defenders do not play enough of a role in community problem solving, but defense counsel are uncertain what their role should be.

The current emphasis on police becoming more aggressive about crime can be a dangerous situation, one panelist said, particularly in a large, urban department. There is a tremendous burden, now, on police to regulate themselves. Asked whether we can rely on police to do that, another panelist said with community policing, there are fewer “street sweeps” designed unilaterally by police. Instead, police-community partnerships not only result in more effective law enforcement but also represent one way police can regulate themselves.

Social Justice and Criminal Justice

At various points throughout the discussion, participants raised issues related to social justice. Several commented that there are two systems, a social justice system and a criminal justice system, and that in too many situations, the criminal system must take over because social systems are inadequate. In particular, “the courts are being dragged in to solve social problems,” as one panelist expressed it.

To illustrate the blurred lines between social and criminal justice, another panelist said one court is now operating (in receivership) six social service systems of the city, including housing. In fact, there is often little distinction between social and criminal justice. For example, when domestic violence cases involve criminal assault, the criminal court has jurisdiction. An 18-year-old like James in the earlier example might now face criminal assault charges; but it is likely his problems began in elementary school, and that is where people like James should get the help they need.

Another participant said that although the Commission made little mention of domestic violence, we recognize it as a crime today. We should also recognize violence against children as a crime, she said. But several others expressed concern about assuming that the way to solve any problem is to declare it a crime. One felt we were “bankrupt in dealing with social problems. We cannot ask the courts and other criminal justice agencies to solve all problems of anti-social conduct.” We continue to impose a criminal justice model, he said, when what we really need is a social justice model, adding that the media fails to hold the political leadership accountable for this.

Justice for Youth

The moderator asked for comments on the Crime Commission’s recommendations that all children should have opportunities for a good education, recreation, employment, and a decent family life. One panelist said the youth service bureaus advocated by the Commission were an unfulfilled promise, noting that juveniles returning to the community from correctional institutions were not eligible to participate in them. Today we have professional groups talking about how to treat juveniles who have been remanded to adult correctional systems. But we must find alternative sanctions at the police level, he said. If we keep passing youth through the juvenile court system—which is often derided as “kiddie court”—that system will collapse of its own weight. Comments by other panelists included the following:

- A meeting should be convened to examine what is being done for children from birth to age three.
- Changes in the original notion of *parens patriae* indicate a need to weigh the benefits of juvenile courts today against their disadvantages.
- We must consider more carefully whether or not a juvenile has a right to a jury trial.

Keynote Address: A Retrospective on the Thirty-Year War Against Crime

*The Honorable Patricia Wald, Judge, U.S. Court of Appeals,
District of Columbia Circuit*

When I got the invitation from Laurie Robinson to address this Symposium commemorating the 30th anniversary of the National Crime Commission report, my first reaction was “what a wonderful war it was.” I wanted to salute the warriors with all the affection and nostalgia that old age brings in its wake for remembrance of times past. (We have had many wars in the interim 30 years: wars on poverty, drugs, smut, violence, whatever. It’s hard to keep track.) The war against crime, however, is still going on, and will, I’m sure, cross that fabled bridge into the next millennium.

For over 200 years, our nation and its leaders have been preoccupied with controlling crime. Roscoe Pound, in his 1906 dissertation on “Causes of Popular Dissatisfaction with the Administration of Justice,” recorded the uncertainties, inefficiencies, and corruption of the criminal justice system. In the 1950s, Arthur Vanderbilt lamented, “Major crime in the United States has reached an all-time high.” We’ve spawned the Wickersham Commission of the 1930s, the President’s two Crime Commissions in the 1960s, the Commission on Civil Disorders in 1969, and the Commission on the Causes and Prevention of Violence in 1970. More recently, a study by the National Science Foundation took up the same key questions: Is the United States more violent than other societies? Yes. Is it more violent today than at earlier stages of our history? No. Who is at greatest risk of becoming a victim of violence? Minorities. Are most violent crimes the work of violent criminals? No. And finally, does increasing prison terms across the board have much impact on violent crime? No. Let me add two more questions and answer them without a study: Did the National Crime Commission know and say most of this 30 years ago? Yes. Did America listen? Not well enough.

But this is not intended to be an “I told you so” speech, nor can it be a comprehensive account of what has happened—or not happened—to all 200 of the Commission’s recommendations. Two generations of crime experts have been busy retracing that territory over

these few days. The most I can do is to put the Commission's experience in the perspective of my own life and times.

By what yardstick do I measure the Commission's work? I reject the most superficial one (Did we win the war?), although were we to apply that standard, we could claim at least partial victory and go home. Crime rates have turned down recently; the trend is uneven but decreasing nationally. Violent crime declined 12 percent in 1995, the steepest drop in a quarter century, and preliminary 1996 figures show another 3 percent fall. Serious crime around New York City is at its lowest ebb since 1980; since 1990, it has declined 44 percent. Whether and to what degree enlightened policies or just plain demography is responsible, no one is really sure. What rods can we use to measure the Commission's work? I have three.

First Measure

My first standard is this: How much did the Commission contribute to setting baselines (both positive and negative) for how a concerned society should react to deviant and injurious behavior in its midst? Did it define the terms of the public policy debate, quantify the problem, dissect its components, demystify the specter of crime and evil in our midst, and project a message to the public that crime reduction is doable without a total perversion of the rest of our social norms and goals? The title of the Commission's report was, provocatively, "The Challenge of Crime in a Free Society."

In re-reading the report, I realized the extent to which it was a communitarian document. The report called for "a revolution in the way Americans think about crime." Crime affected all of us, and as a result we all must get involved. Crime could be significantly reduced only if we moved to "assure all Americans a stake in the benefits of American life, reducing criminal opportunities and strengthening law enforcement."

The first step in reorienting citizens' perception of the "crime problem" was to better define what that overused term really encompassed. Who were the victims and who were the perpetrators? The public has always been fascinated—obsessed—by crime and justice. Headlines and sound-bites about violence and crazed murderers suffuse the news and broadcast media, feeding fears about the omnipresence of crime and underscoring what seems to be the irrational leniency of public officials, primarily judges, in dealing with it. Except for an

occasional stint in jury duty, few members of the public understand how the criminal justice system works, and the media is their main informant.

No statistic-laden government report can compete with the O.J. Simpson trial or the Jon Benet Ramsey case or the Unabomber or Timothy McVeigh. But a sound and succinct report can introduce a different voice into the dialogue, and it can provide thoughtful policymakers with ammunition in support of considered solutions.

One of the most innovative things that the President's Commission did was to document just how many Americans were affected by crime. The National Survey of Crime Victimization remains alive, well, and growing in importance. The survey was designed to ferret out the dimensions of hidden or unreported crime and the wide variety of forms that crime takes. The fact is that most crimes are committed by people the victim knows and in circumstances the victim helps create. The Commission recognized—perhaps for the first time—the importance of the ordinary citizen's fear of becoming a victim. The scope of that fear is itself a valid subject of research and study. According to one commentator, “The most dangerous effect of violent crime is fear, and that fear must not be belittled. By commissioning research on fear, the Commission granted legitimacy to an area that had largely been ignored or dismissed by criminologists.”

Let's turn to the second part of the Commission's communitarianism: increasing citizens' access to the benefits of American life and reducing criminal opportunities. Prevention took top billing in the Commission's recommendations—the strengthening of family ties, the elimination of housing and school segregation, and the establishment of closer working relationships between law enforcement agencies and individuals and organizations in the community. Other recommendations sound a bit '60s-ish in retrospect, but that doesn't make them obsolete: reducing unemployment, providing more job training and placement services in the schools, providing more employment opportunities for delinquency-prone kids, ensuring minimum family incomes, revising welfare regulations to keep families intact, making a greater investment in family planning, improving recreation and housing, providing child care, and improving slum schools.

The report insisted nothing would do much good if ordinary citizens didn't pitch in to improve conditions in their own neighborhoods and communities. It was replete with statements like these:

- “Controlling crime is the business of every American . . . controlling it involves improving the quality of family life, the way schools are run, cities are planned, workers are treated.”
- “Ordinary citizens must interest themselves in the problems of crime and criminal justice, seek information, express views, get involved.”

How have the Commission's aspirations fared? It is not news that the Commission's emphasis on prevention and community involvement in cutting off the ever-voracious feeders of crime—poverty, family dysfunction, unemployment—has not been as predominant a theme of the debate over the last 30 years as the authors of the report had hoped. A privately sponsored crime study a year or so ago, in which several of the 1967 report's key contributors participated, cited the following data: We now spend \$100 billion on crime control, most on police and prisons, more for prisons than for colleges, and triple the amount for law enforcement as for national defense. Simultaneously, we have drastically cut spending for social services, such as Head Start, child health care, school repairs, and libraries.

On the other hand, the “get involved personally” side of the Commission's gospel seems to have taken firmer hold recently. There are glimmerings now that all parts of the philosophical spectrum—conservatives included—are preaching that individual community members and local organizations, including churches, schools, and business, must involve themselves in steering young delinquents away from lives of crime. Community policing is being linked up with programs of mentoring and supervision of youths by their community's elders. “Hands on, not handouts” has become a rallying cry; citizens are urged to make donations to small community-based and locally engaged organizations, not to national bureaucratized charities. David Broder recently commented on a “convergence on crime,” focused on youthful offenders and relying on local delinquency control programs, that seems to produce results. The new moves revolve around strict enforcement of petty crimes, breakup of gangs, expanded after-school, pre-dinner places for kids to study and recreate, and intense follow-up of first offenders with home visits. “Youths who have had their first brush with the law need to know there are adults who care,” Broder wrote. It is a “policy area where liberal and conservative thinking has

converged in recent years.” The conservative Manhattan Institute issued a policy statement by Bill Bennett stressing adult monitoring, intensive mentoring, and ministering by community volunteers to keep “the minnows from becoming sharks.” Sound idealistic? Yes. Sound familiar? Yes. It’s all there in the Crime Commission Report of 30 years ago.

Big questions remain: Do we have the will to recapture our cities and communities, street by street, block by block? Can one-on-one programs work when bigger forces—lack of money, dysfunctional families, deteriorating housing, high unemployment, and schools in disarray—do not change? Committed individuals and grassroots organizations can change national policy and get results in discrete areas of antisocial behavior—mothers and drunk driving, women’s groups and the recognition of domestic abuse as a serious crime problem, anti-cigarette crusaders and regulation of smoking. Is the dialogue the Commission began 30 years ago finally finding a response? We can only wait, hope, and try.

Second Measure

My second measure of a Commission’s long-term worth is the number of useful innovations and new solutions to old problems it puts on the national agenda, in this case new ways of operating the criminal justice machinery. I would score the Commission high on technological improvements: introducing or popularizing concepts like target hardening, the forerunner of the now universal “911” call-for-help number, computer-based systems for managing police response time, ways to speed up arrest processing and to expedite court calendaring, and moves for a professional police force with college-trained men and women working alongside community aides. There were, however, two major conceptual breakthroughs the Commission advanced that met quite different fates over the ensuing decades.

Community Policing

The first important idea was community policing. The report said more police—even street-based patrols—are not by themselves the answer to safe streets and crime control. “Cops do matter” is the current slogan, but it matters just as much how they are trained and used. Those were the lessons not everyone learned. Here in Washington, 1,800 new recruits were hired in a rush in the early ’90s. Over a hundred turned out to have criminal records. Police corruption, particularly by big drug money, has continued to be a major problem in Washington,

Los Angeles, and New York. The Christopher Commission in Los Angeles found “a significant number of LAPD officers who misuse force and ignore policies and guidelines of the department regarding force.”

The results of putting more police on the streets have differed widely from city to city. New York City credits its 30 percent lowering of the murder rate to “environmental criminology” strategies based in the neighborhood ecology, including using police to get the notorious “squeegees” off the street (half of those arrested turn out to have prior felony records). The department also reduced subway crime 80 percent by a purposeful crackdown on graffiti, fare-cheating, and weapons possession. A renewed emphasis on using police to curb public drunkenness and restore order in perennially plagued trouble spots has—they tell us—paid enormous dividends. Crime statistics and computer mapping consolidate information on these “hot spots.” Coordinated efforts to defuse trouble are planned and executed right in the police district involved. The real secret to the New York success, in the eyes of its police officials, is addressing crime patterns and preventing them, not just responding to individual crimes.

On the other hand, the District of Columbia, with the highest police-per-citizen level in the country, can make no such boasts. A recent study found that only 16 percent of officers were assigned to street patrol, and they were ill-equipped for the emergencies they might encounter; 68 percent of patrol time was spent in responding to 911 emergency calls; and less than 10 percent of officers were assigned to scout cars for preventive reconnoitering.

The so-called “quality of life” enforcement touted in the New York strategy is controversial, but in the eyes of many it is vital to effective prevention. This is the Jim Wilson “broken windows” theory—fix them fast before the obvious deterioration invites more criminal activity. According to this theory, strict enforcement of minor street crimes, like disorderly conduct, keeps the streets more attractive to law-abiding citizens, and extensive debriefing of the arrestees often contributes heavily to crime intelligence. Thus, a summons for drunkenness led to the discovery of an illegal gun dealer, which helped solve a homicide. Dismantling criminal enterprises like auto chop shops, drug gangs, and burglary fences furthers the same goals and brings rich rewards in information and restitution.

Skeptics point out that the decline in the New York City murder rate had already begun in 1991 and is mainly attributable to the waning of the crack wars, higher employment rates for

young males, and a hefty increase in the number of criminals sent to jail. Many critics hold fast to their belief that “poverty, lack of education, addiction, and the paucity of jobs for unskilled workers are the real causes of crime and neighborhood deterioration,” and they worry that the “broken window” approach will distract policymakers from longer-term solutions.

The defenders of “quality of life” enforcement are quick to counter. Al Blumstein, one of the 1967 Commission’s consultants, says, “The word is out . . . the police can make a difference,” given latitude, respect, training, and a real strategy for controlling crime on their beat. Former New York City Police Commissioner William Bratton summed it up this way:

For years the common wisdom advanced by criminologists, sociologists, and many politicians was that police can’t be expected to have much effect on crime. Big increases or decreases are supposed to result from economic, demographic, or social forces beyond the control of any police department. A lot of police professionals accepted this idea, partly because it got us off the hook. We couldn’t be blamed for a sudden crime surge caused by social forces. But the idea also demeaned police. It seemed to say that no matter how dedicated, skilled, well-trained, and well-organized cops are, we really can’t do our job.

We’ve proved that police can make American communities safer. We’ve proved it not in some small town or mid-sized city, but in the largest, most complex city in the nation. If police can cut crime by double digits in New York City, they can do it anywhere.

That kind of debate is good for the system. A few more years’ experience in New York and other cities should tell us a lot more about this strategy.

Experiments that combine community policing, community courts, and probation agencies in Boston and New York resemble the paradigm of community police working with community aides outlined in the Commission’s report. Police and juvenile probation teams are paired in Boston to respond to violent incidents, thereby increasing the payoff in information from the crime scene and improving compliance with curfews and probation orders. In Manhattan, street-smart workers from a new midtown community misdemeanor court are teamed with police officers to work with disorderly street populations and local “hot spots.” The SOS Project, as it is called, links the homeless, the mentally ill, prostitutes, street inebriates,

and substance abusers directly to court-based support services, often without arrest or adjudication. One important facet of the community police/court engagement is prompt dispatch to the police of all court outcomes, sentences, compliance with court orders, etc. The midtown Manhattan court model is now being expanded to three other boroughs. Where “quality of life” arrests for minor crimes do occur, sentences are often in the form of payback to the community—painting over graffiti, sweeping streets, etc. In addition, the defendant is offered education, drug treatment, and employment counseling.

In 1994, Congress voted almost \$9 billion to put 100,000 new police officers on the streets (60,000, I’m told, have made it so far). But according to one account, only 3 percent are assigned to crime prevention and only an average of 1 percent of police budgets goes to training. Community policing is obviously still a work in progress, but the Commission can surely claim credit for launching a grand concept.

Sentencing

The other major pioneering policy of the Commission was community corrections and alternatives to incarceration. The Commission believed the wave of the future was more, not less, individualized sentencing. The report cited the need for both “legislative reexamination of sentencing codes to give greater discretion to trial judges . . . [and] statutory criteria to guide the exercise of sentencing discretion.” That, in my view, was right on the mark. What we now have, however, in the federal system and in many states is a regime of mandatory sentences in a wide range of crimes. Selective use of imprisonment, another of the Commission’s recommendations, has also been abandoned. (The Commission wanted courts and correctional authorities to retain the flexibility to select prison terms or alternatives to fit the facts of each case.) A few weeks ago I had to review life sentences given to several young men in their early twenties, who were middle managers in a drug distribution “crew” operating in the inner city. All of them had been dealing drugs since age 12 or so, their mothers and older brothers were traffickers, and drugs were stored and packaged in their homes. One had been offered five years if he would plead guilty to one of the counts. However, he went to trial and was convicted.

A wide disparity between a sanction for a guilty plea and one rendered after trial is part of the system. But the choice between five years and life for someone aged 24 is just too big to

deny a sentencing judge the discretion to take individualized factors into account. The Commission 30 years ago opposed mandatory minimum sentencing. Yet, since 1968, Congress has adopted literally hundreds of minimum sentences. The Commission noted that “by denying adequate sentencing discretion to the courts, the legislatures have unintentionally increased the bargaining power of the prosecutors in plea negotiation.” The prosecutor not only chooses the basic sentencing range by his power to decide on the charges, but also controls the grounds for judicial departures from the guidelines by his power to validate the defendant’s cooperation with the police and prosecutors.

In the narcotics area, where harsh mandatory sentences govern virtually every level of use and trafficking, the Commission sought more discretion for the courts and corrections personnel to take into account the nature and prior record of the offender and to divert abusers into civil commitment alternatives. The Commission wanted treatment available for defendants in both civil and criminal custody settings. Today, three-fourths of adult men in California prisons have a history of drug abuse, but only 10 percent are in a treatment program of any kind.

We have paid the price for rejecting the Commission’s proposals on sentencing, especially its emphasis on community-based alternatives to remote, high-security prisons. In the last decade alone, the national incarceration count has doubled to over 1.5 million, due largely to mandatory minimum sentences for drug crimes. Our prisons have become racial ghettos. One out of every three African American men is lodged somewhere in the criminal justice system. Ominously, the number of women in prisons has also been growing steadily in the past two decades, over three-fourths for nonviolent, low-level street crimes. They serve longer sentences than before, usually in places too far away to see their children regularly, and 75 percent have young children for whom they were primary caretakers before incarceration.

Can we change the odds? Community corrections and halfway houses enjoyed a promising start in the ’70s until random incidents of new crimes by releasees produced public pressure to close them down. So we put more defendants into prison for longer times for less serious offenses, but prison construction diverts funds from schools, child care, recreation, and the like. Community corrections for nonviolent offenders made sense to us 30 years ago. I think it still does.

It was, however, in the area of juvenile crime that the Commission's hopes were highest. We recognized that heading youngsters away from a life of crime beats arresting, convicting, and incarcerating them again and again. It was just harder.

Since 1967, while serious crime and crime in general have gone down, juvenile crime has increased, now accounting for 15 percent of the nation's violent crime. Although only one out of every six juvenile arrests is for a serious crime, the arrest rate for juveniles aged 15-19 for homicide has gone up 300 percent in the last 30 years. Teenagers committed 4,000 murders in 1995. They are also most likely to be on the receiving end of a fatal shooting or stabbing. The risk of violent death is four times higher for a 16- to 19-year-old than for a 35- to 49-year-old, eight times higher for an African American youth than for a white one. More teenage boys die of gun wounds than of all natural causes combined.

The Commission opted for several nonincarcerative ways of dealing with young, nonviolent offenders: Youth Service Bureaus for recreation, counseling, job training, and placement, located in the offender's immediate neighborhood; intensive supervised parole; and "an entirely new kind of correctional institution," close to the community, housing no more than 50 inmates, maintaining close relations with schools, employers, and universities to replace the massive, antiquated, Dickensian state training schools, which mixed violent, repeat offenders with first-time runaways. Except for sporadic efforts, it didn't happen. Throughout the 1980s and into the 1990s, most juvenile offenders continued to be housed in large institutions in deplorably primitive and overcrowded conditions. In one state, 10-year-olds were routinely hog-tied or shackled; 11,000 out of 65,000 incarcerated juvenile prisoners tried suicide at least once. According to the 1994 private study, the most pressing need was small, secure facilities for the violent and chronic offenders and community-based programs or facilities for the rest.

Virginia's juvenile head says the state is sitting on a "true time bomb waiting to explode." Sixty of its most serious youthful offenders are jammed into one room made for half that number, two psychologists serve 300 juveniles in need of counseling and therapy, and half the girls at one facility are victims of sexual and physical abuse with no trained staff to meet their needs. Maryland's facilities are operating 25 percent over capacity, and D.C.'s are under federal order due to overcrowding and other deficiencies. Nationwide in 1994, one-half of incarcerated juveniles were in placements that did not meet federal educational standards; one-

fourth lived in inadequate space and had insufficient health care; and 40 percent lacked suitable food, clothing, or hygiene supplies.

There is no happy ending in sight. Current juvenile crime efforts seem concentrated on lowering the age level for waiver to the adult criminal system, eradicating bans on commingling juvenile and adult offenders in prison, authorizing the death penalty for juvenile offenders at age 16 instead of 18, and building more secure fortresses. While there are signs of a renaissance of police interest in working with gangs, and in one-to-one monitoring of early minor delinquents by community members, the times have not embraced the Commission's innovative lead in this vital area. The final verdict, I hope, is not yet in.

Third Measure

My third criterion for the Commission is the dedicated people it sent forth to continue working in the trenches. We can be proud of the mark the Commission left on the system and of the bright talents it nourished (and literally led into a life of crime):

- Commission members: Nick Katzenbach, Justice Lewis Powell, Herb Wechsler, Garrett Byrne, Bill Rogers, Whitney Young, Luther Youngdahl, Leon Jaworski, Tom Cahill, and Charles Breitler
- Senior staff: Jim Vorenberg, Vince O'Leary, Dave Burnham, Art Rosett, Lloyd Ohlin, Charles Wellford, Charles Rogovin, and Gene Muehleisen
- The then-youngsters they motivated: Hank Ruth, Al Blumstein, Gerry Caplan, Elizabeth Bartholet, Bob Emrich, Sheldon Krantz, Tony Lapham, Troy Overby, Dan Freed, Gerry Stern, Susan Schapiro, Joe Vining, Bruce Terris, Peter White, and others I do not intentionally omit.

In 1967, I stood in the wings of the National Crime Commission while playing a more central role as a member of the companion D.C. Crime Commission. I later worked on the Kerner Commission, the Violence Commission, and the Carnegie Commission on Children; in legal services for the poor, in mental health, and in juvenile justice reform; and, at the Department of Justice, on LEAA and OJJDP legislation. Now after 18 years on the bench and hundreds of criminal appeals, where even the cold records and transcripts evoke the tragic consequences of social deviancy for criminal and victim alike, I can tell you there are no real winners in this war. There are only repetitive patterns of poverty, childhood abuse, early delinquency, poor schooling, and drug involvement that confirm the essential message of the Commission's report 30 years ago—that we can't meet the challenge of crime in a free society

without deeper involvement of all our citizens and without major public policy initiatives. We may as a society one day finally get the message, though I am not confident the day is imminent.

We commemorate with mixed emotions but unmixed pride our nation's last organized attempt to plan and advocate something bigger and better, more generous and ambitious, more balanced, and, I still believe, more realistic than anything since in the unending war against crime.

Building Better Policies on Better Knowledge

Michael Tonry, University of Minnesota

To people of a certain cast of mind, it is obvious that good public policies should be based on sound knowledge, and that better knowledge should conduce to better policies. So apparently it seemed to the authors of *The Challenge of Crime in a Free Society* and related Task Force reports. Together they made a number of recommendations for increased federal support for criminal justice research and statistics, creation of a federal research and statistics infrastructure, and enhancement of the quality and quantity of information available for informed policymaking.

How influential the recommendations were and what effects can be attributed to them 30 years later depends largely on perspective. From the perspective embodied in Samuel Johnson's aphorism about dogs that walk on their hind legs—"It is not done well but you are surprised that it is done at all"—the effects have been noteworthy: who would expect that any credible research and statistics activities would occur in an operating law enforcement agency? The National Institute of Justice (NIJ) and the Bureau of Justice Statistics (BJS) can both be traced to the President's Commission and, despite ups and downs, have conducted or sponsored work that is widely seen as important and serious; and both are probably doing better work today than ever before.

From a more optimistic perspective, BJS and NIJ have always lacked adequate financial and political support, and NIJ particularly is but a shadow of what it might and should have been. Albert J. Reiss, Jr., a principal in the Commission's pathbreaking victimization and police studies and for the past 30 years one of America's most influential criminology scholars, observed in a 25-year retrospective on the crime commission that the proposal for an independent research agency was "still-born" and that the role of NIJ "has shifted to that of program evaluation and away from the kind of basic research and development advocated by the Commission" (Reiss 1994, pp. 15-16). Alfred Blumstein, Director of Science and Technology for the Commission and for the past 30 years another of the nation's most influential criminology scholars, wrote, "Experience with the National Institute of Justice over its [first] twenty-five years makes it clear that such a major effort cannot be organized or executed as a minor part of a department that seems to have an inherently minimal and peripheral interest in empirical research" (Blumstein and Petersilia 1995, p. 485).

The President's Commission recommended establishment of a National Criminal Justice Statistics Center in the Department of Justice, establishment of a National Foundation for Criminal Research as an independent agency, and provision of substantial federal financial support for a number of independent criminal justice research institutes. Chapters 11 and 12 of the Commission's main report, *The Challenge of Crime in a Free Society* (1967), briefly make the case for these recommendations, and Chapter 10 of *Crime and Its Impact—An Assessment* (1967), the report of the Commission's Task Force on Assessment, directed by Lloyd Ohlin, discusses the mission of the proposed statistics agency at length.

The criminal statistics center was established in the Department of Justice and today, after several organizational and name changes, exists as BJS. The research agency was established—as part of the U.S. Department of Justice and not as an independent agency—and today exists as NIJ. Support for the independent research institutes did not materialize in any significant form—in Reiss's words, “one of many still-born recommendations of the Commission” (1994, p. 14).

The causal chain that links BJS and NIJ to the President's Commission is clear. As a direct follow-up to the Commission's report, legislation was introduced in 1967 which led to passage of the Omnibus Crime Control and Safe Streets Act of 1968. That Act created the Law Enforcement Assistance Administration (“LEAA”) which contained the National Institute of Law Enforcement and Criminal Justice (“NILECJ”) and the National Criminal Justice Information and Statistics Service. The directors of the early research and statistics offices were appointed by the Administrator of LEAA and lacked “sign-off” (spending) authority; the Administrator had final authority over research funding decisions. This arrangement proved unstable; *Understanding Crime* (White and Krislov 1977), a National Academy of Sciences report on NILECJ's early years, described a deeply troubled agency. LEAA was eventually abolished and BJS and NIJ emerged in the Justice Systems Improvement Act of 1979 as distinct agencies under the umbrella initially of the Department of Justice's Office of Justice Assistance, Research, and Statistics (now the Office of Justice Programs).

Both BJS and NIJ have achieved some of the things the President's Commission sought. BJS has steadily improved the reliability, timeliness, availability, and coverage of the data series it maintains and has overseen the evolution of the National Crime Victimization Survey (also traceable to the President's Commission). NIJ has sponsored important and influential research and

evaluations, and through its publication and other dissemination programs has made research findings widely available. Both have, in the mid-1990s, achieved visibility and credibility in their respective scholarly and professional constituencies that would have been unimaginable 20 or even ten years ago.

In important respects, however, the Congress did not follow the research and statistics recommendations of the President's Commission. The President's Commission urged that the federal crime research agency be established as an independent agency outside the Department of Justice—patterned on the National Science Foundation or the National Institutes of Health—as insulation from direct political pressures and short-term operational interests, and to establish and protect the intellectual integrity, credibility, and professionalism of the agency. The Wickersham Commission four decades earlier, for similar reasons, urged that a federal statistical agency be established outside the Department of Justice in the Bureau of the Census. Many of the rockier periods in the history of BJS and NIJ can be attributed to their placement in the partisan environment and legal (as opposed to scientific) culture of the Department of Justice.

This essay considers the 30-years-later influence of the President's Commission's recommendations concerning acquisition of knowledge relating to crime, criminal justice system operations, and policymaking. Coverage necessarily is selective: construed broadly, an examination of the “acquisition of knowledge . . .” would extend to all subjects to which research and statistics are germane and would require encyclopedic scope. Three sets of issues are considered here. Section I discusses structural issues relating to how federal criminal justice research and statistics should be organized if they are maximally to achieve the aims the President's Commission (and the Wickersham Commission 35 years before it) wished to see achieved. Section II concerns federal criminal justice statistical series; it first sets out specific needs for national data series identified by the President's Commission, and then examines whether and to what extent those data series have been established. Section III briefly considers whether the innovations that the President's Commission's proposals set in motion have furthered its goal of improved policies resulting from improvements in the scope and quality of available policy-relevant knowledge.

The initial version of this paper was prepared for discussion at a national conference that examined the influence 30 years later of the President's Commission. It was held in Washington, D.C., on June 19-21, 1997. Several issues raised there warrant mention. First, the President's

Commission's recommendation for creation of a research agency independent from operational and partisan interests, all in the interest of providing better knowledge to inform policymaking, arguably implies a highly rationalistic view of policymaking processes. As anyone who participates in policy processes knows, however, policymaking is much more serendipitous than that and it is seldom the case that better knowledge leads directly to better policies (e.g., Lynn, 1978; Lindblom, 1990; Moore, 1995). The President's Commission no doubt was aware of that, however, and it is unfair to impute to it and its staff a naive understanding of policy processes. That more reliable knowledge does not always or even often lead to policy change does not mean that better knowledge is not valuable for itself and for analytic and critical purposes.

Second, arguably implicit in the Commission's preference for independence and political insulation for the research institute and appointment of a professional researcher as director, is the idea that scientists will make better decisions about research subjects than will practitioners or people in operating agencies. A contrary view is that practitioners are more likely than scientists to know what subjects are policy-relevant and would benefit from systematic research. This suggests a false dualism between insulated ivory-tower scientists and hard-headed men and women of affairs. There is no reason why an independent research agency would not consult widely with practitioners and others concerning its research strategies and agenda. It seems clear that the President's Commission (1967, p. 277) envisioned many policy-relevant topics, including court delays and new-project evaluations, as appropriate research subjects.

Third, a related point, critics might argue that the Commission's calls for "basic research" were misplaced and that "better policy for better knowledge" might instead suggest a program of applied research and program evaluation. This might particularly be the view of researchers who work in government agencies and who are often asked by administrators and public officials to provide information relevant to issues then under consideration. However, as the preceding reference to evaluation research (President's Commission, 1967, p. 277) and policy experiments suggests, the Commission's report demonstrates that it had a broad conception of basic research in mind. Assuming, however, that an independent research institute would concentrate on longer-term, less immediately policy-relevant research does not mean that government should not also sponsor more applied work. It might have meant, however, that agencies other than the independent research institute would sponsor it.

Fourth, the Commission assumed that the most talented researchers are based in universities and, accordingly, that efforts should be made to attract university-based researchers to crime research. The Commission does seem to have believed this and, in the 1990s, this is a controversial subject. Some NIJ staff say privately that researchers based in private and non-private research firms typically do better work than university-based researchers. Certainly many researchers based in contract research firms take umbrage at the idea that university-based researchers are in general better qualified or more talented. A proponent of the Commission's view might point out that tenured teaching jobs at major research universities are much harder to get than are jobs with private research firms, and that university-based researchers with assured salaries are better situated to choose research projects on scientific grounds than are contract researchers who must often work on projects and subjects that government is prepared to pay for. This is an issue on which I express no personal view.

Reasonable people can disagree about the issues introduced in the preceding few paragraphs. Some of the arguments and criticisms are disagreements with the Commission's recommendations or the rationales behind them. My task, however, is to take the recommendations as offered and consider to what extent they were realized.

I. The Organization of Federal Statistics and Research Agencies

The President's Commission observed that "what it has found to be the greatest need is the need to know" (1967, p. 273) and that "[W]e need to know much more about crime. A national strategy against crime must be in large part a strategy of search" (p. 279). "Accurate data are the beginning of wisdom," observed the Wickersham Commission (1931, p. 3), in recommending a plan for creating a "complete body of statistics covering crime, criminals, criminal justice, and penal treatment" at federal, state, and local levels and entrusting this task to a single federal agency. Chapter ten of *Crime and its Impact: An Assessment*, the report of the Task Force on Assessment (1967, pp. 123-37), begins by quoting those words and reporting that the Wickersham Commission's recommendations were never adopted. In the following pages, the Task Force then set out its own recommendations which, though differing in detail, in broad outline and in governing premises closely resemble the Wickersham Commission's.

The shared premises warrant mention because, though they were in the 1930s and 1960s and are in the 1990s widely shared by many practitioners, public officials, and scholars, they are not widely shared today by many elected officials and lay people—and that is a major reason why development of federal research and statistics programs has been so incomplete and erratic (Reiss 1994, p. 16). The premises are that crime and criminal justice are subjects on which reliable, systematic data and research findings are important and obtainable and that policies concerning those subjects should be based on honest, good faith assessments of available evidence. The Wickersham Commission (1931, p. 3) said this explicitly: “Statistics are needed to tell us, or at least help tell us, what we have to do, how we are doing it, and how far what we are doing corresponds to what we have to do. They are important in so far as they may be made to give us an accurate picture both as the basis of criticism and as the basis of making laws and administrative regulations.” The Task Force on Assessment (1967, p. 123) said it implicitly by comparing the then dearth of federal criminal statistics programs with well-established national statistics systems concerning the economy, the labor market, public health, and education. The unasked but implicitly answered question in the Task Force report was, “Why, if the importance of good statistical systems concerning these other core functions of government is self-evident, isn’t their importance concerning crime and criminal justice equally self-evident?”

The Wickersham Commission (1931, p. 3) offered one answer: “Most of those . . . who speak on American criminal justice assume certain things to be well known or incontrovertible.” Felix Frankfurter (1930) observed that crime and crime control are subjects “overlaid with shibboleths and clichés.” As Norval Morris (1983, p. vii) put it, “People are born experts on the causes and control of crime; they sense the solutions in their bones. Those solutions differ dramatically from person to person, but each one knows, and knows deeply and emotionally, that his perspective is the way of truth.” Or, as Alfred Blumstein and Joan Petersilia (1995, p. 468) in less Olympian terms put it, “It may be that the policies intended to address crime and criminal justice are so strongly driven by fundamental ideological convictions” that policymakers do not want “to confront empirical reality because that might undermine their deeply held beliefs.” It should not be surprising if many policymakers, already possessed of what they see as truth, are not easy to persuade about the merits of substantial, long-term public investment in the acquisition of knowledge about crime and its control.

The President's Commission and its Task Force on Assessment, like the Wickersham Commission before them, however, argued that rational criminal justice policymaking requires adequate statistical data. The President's Commission in addition argued that sound policymaking also required public investment in independent high-quality basic research; although this paper mostly discusses statistical systems, because many of the structural issues concerning federal support are the same or similar, proposals for both research and statistics agencies are discussed in this section I. In proposing creation of a federal statistical agency, both commissions and their respective primary consultants (Ploscowe 1931; Warner 1931; Lejins 1967) canvassed a common set of issues:

- *Independence from the Department of Justice.* Whether research and statistics operations should be located within the Department of Justice, as independent agencies, or elsewhere.
- *Integration of Statistical Programs.* Whether statistical programs and data series on crime and criminal justice should be centralized in a single federal agency or dispersed among specialized subject-matter agencies.
- *Sources of Data within States.* Whether data should be collected from individual state and local operating agencies or from centralized state-level statistical agencies.

A. Independence from the Department of Justice

Both the President's and Wickersham Commissions wanted to separate information functions from the political dimensions and law enforcement culture of the Department of Justice. The Wickersham Commission recommended that federal statistical programs be consolidated and placed in the Bureau of the Census (1931, p. 17). The President's Commission, though urging that the statistics functions be placed within the Department of Justice (1967, p. 269), recommended that research activities be assigned to an independent "National Foundation for Criminal Research," patterned on the National Science Foundation, augmented by federal support for "a number of [independent] research institutes in various parts of the country" (1967, pp. 276-77).

At least three separate concerns can be identified: the Department's short-term operational emphases may distort and politicize research activities; the Department's legal culture may be incompatible with a research institute's scientific orientation; and a research organization in an operating agency may have difficulty attracting first-rate behavioral and social scientists to participate in its work. The past 30 years have shown some validity in each of those concerns. Employees of both NIJ and BJS have, of course, been acutely aware of these potential problems and have at different times made greater or lesser efforts to ameliorate them.

1. *Operational Culture.* The principal reason for recommending independence, and presumably the principal reason why those recommendations have always been rejected, is the perception that statistical programs and research will be subordinated to the political and organizational interests of the Department of Justice. The President's Commission (1967, p. 277), for example, observed that an independent research institute's "independent status would insure its freedom from the pressures and immediate needs of any federal agency responsible for criminal administration." The Wickersham Commission (1931, pp. 4-5) offered as one of five "principles of criminal statistics" the proposition that "it is important that the compiling and publication of statistics should not be confided to any bureau or agency which is engaged in administering the criminal law." The Commission then discussed at length various kinds of organizational interests that might motivate operating agencies to distort the data they publish. Later on (p. 13), it offered the related objection that data released by the government, even if distorted or misleadingly presented, may achieve unwarranted credibility: "[the data] will appear with the sanction of the Federal Government as public documents and will be widely used without questioning them."

In the abstract, those concerns are difficult to refute. No one can be surprised by the observation that officials of operating agencies will sometimes be tempted to edit, delay, censor, or kill statistical reports or research findings that will embarrass them, their agencies, or their political masters. Nor should anyone be surprised if heads of operating agencies want to harness research capacity to achievement of short-term policy goals; the National Academy of Sciences Panel that reviewed NILECJ's early years described repeated efforts to tie research to short-term policy initiatives, including "an intensification of the Institute commitment to directly reducing crime; . . . this effort has generally been considered not only a failure but wrong-headed as well" (White and Krislov, 1977, p. 21). Although no agency in government is free from political pressures, managers of an independent agency imbued with values of intellectual integrity and political disinterestedness are more likely to resist political pressures and short-term operational concerns than are officials of operating agencies.

Thus, the properties that make independence attractive to people who want research and statistics to be free from political and bureaucratic influence are properties that make independence unattractive to others. Some recent Attorneys General, for example, have evidently seen NIJ's and BJS's missions as including support for their administrations' policies and some have expected BJS

directors to play advocacy roles inconsistent with BJS's functions as a nonpartisan statistical agency comparable to the Bureau of Labor Statistics.

The high-minded stances of the two commissions lost out to the unwillingness of elected officials to insulate research and statistics from political pressures. The Wickersham Commission's recommendation for establishment of a federal criminal statistics component in the Bureau of the Census was not acted on. The President's Commission's recommendation for creation of an independent research agency was rejected; instead the Law Enforcement Assistance Administration, created under the '68 Act, included a "National Institute on Law Enforcement and Criminal Justice" within it. Both LEAA and NILECJ, however, were part of the Department of Justice. The President's Commission, noting the importance of several existing statistical series housed within the Department (the FBI's Uniform Crime Reports, the National Prisoner series managed by the Federal Bureau of Prisons, and management statistics from the Federal Bureau of Prisons and the U.S. Parole Board), and possible leverage over states from Department control of financial incentives to states, recommended from the outset that the National Criminal Justice Statistics Center be included in the Department of Justice.

Both NIJ and BJS survived the elimination of LEAA. Arguments again were made concerning the need for independence of the research agency, on the National Science Foundation model, but were unsuccessful. Attorney General Griffin Bell, for example, in a memo to the President noted that "a major cause of weakness in LEAA's research programs has been the failure to insulate research activities from the demands of policymakers and program managers for immediate results" (quoted in Early, 1979, p. 357). Bert Early, executive director of the American Bar Association, testifying in favor of creation of an independent National Institute of Justice outside the Department of Justice, noted: "A research institute which is part of an 'action agency' such as the Department of Justice will inevitably be influenced and shaped by the Department's policy decisions and operational needs. Numerous studies of the current National Institute of Law Enforcement and Criminal Justice have cited such pressures as primary causes of the Institute's disappointing record in performing justice research" (1979, p. 357).

In the Justice Systems Improvement Act of 1979, the Congress adopted a hybrid approach for both NIJ and BJS. Both were placed within a newly created Department of Justice division, then called the Office of Justice Assistance, Research, and Statistics, headed by an assistant attorney

general, who had a coordination role over NIJ, BJS, and other sub-agencies, but no formal authority over NIJ and BJS operations and spending. The directors of those latter agencies, both nominated by the President and confirmed by the Senate, have sign-off powers over their agencies' spending and policies.

The hybrid arrangement has probably worked neither as well as its proponents wished nor as badly as its opponents feared. The inherently unstable relationship between the assistant attorney general and the NIJ, BJS, and other presidentially-appointed subagency heads sometimes—especially during the Reagan and Bush administrations—became tense. This should not be surprising since the assistant attorneys general, also presidential nominees, were higher placed than the NIJ and BJS directors in the Department's organizational chart and had a “coordinating” role but no formal authority to spend the subagencies' money or control spending decisions. The NIJ and BJS directors, equally unsurprisingly, have valued their independence and sign-off authority, and typically resisted efforts at control from directly above.

If the sign-off authority of the NIJ and BJS directors since the early eighties has in some ways helped preserve those agencies' autonomy, other aspects of the hybrid set-up undermined the professionalism and integrity of their operations. NIJ, for example, though a specialist research agency, has never been headed by a researcher (though its current research director, Sally Hillsman, a nationally prominent researcher, was recruited from outside government and is now a senior civil servant). BJS's current director, Jan Chaiken, is the first director from outside government who was widely acknowledged as a nationally prominent quantitative researcher before he was appointed. Alfred Blumstein (1994, p. 157) notes that NIJ “has often been directed by an individual with no significant prior experience in criminal justice research (one can imagine the uproar that would follow if someone with no prior health research experience were appointed the director of NIH).” Some directors, including notably James K. (“Chips”) Stewart and Jeremy Travis, subscribed to mainstream ideas about research integrity and professionalism, but other directors conspicuously did not. Probably the low point was the 1991 Program Plan soliciting proposals for research on “Occult Crime: A National Assessment” (National Institute of Justice, 1991).

Similarly, confirming the Wickersham Commission's worst fears about the credibility of government-sponsored statistics, some directors of BJS became active spokesmen for various Attorneys General's political and ideological positions and distorted statistical data to that end. One

director in the early 1980s, for example, claimed that 95 percent of all prisoners were violent offenders, repeat offenders, or repeat violent offenders. That director's successor made similarly hyperbolic public statements at the 1991 Attorney General's Summit on Law Enforcement Responses to Violent Crime (U.S. Department of Justice, 1991). Not surprisingly, in many circles, BJS statistical reports issued during the Reagan and Bush administrations were suspected to suffer from similar distortions (e.g., Hughes, 1992).

Patronage appointments often go to ideological soulmates and it may be too much to expect that BJS and NIJ directors can simultaneously be proponents of controversial political views and nonpartisan professionals in their oversight of agency operations. The role conflict may be greatest for BJS directors: statistical systems by their very nature must be nonpartisan to be believable. The Caesar's wife challenge both to be nonpartisan and to be seen to be nonpartisan may be difficult to satisfy. Jan Chaiken, the current BJS director, unlike his two immediate predecessors (not counting acting directors), has not been publicly associated with partisan politics during his tenure, and has been able to operate as a nonpartisan professional. Institutionally, however, there is nothing to inhibit subsequent administrations from appointing partisans who will once again undermine BJS's and NIJ's credibility.

The professionalism, credibility, and in the long term, the social value of the work of NIJ and BJS will continue to be unstable so long as the agencies' leadership and operations are subject to the vagaries of Department of Justice politics and policies. In terms of their specialist statistical and research-sponsoring roles, both NIJ and BJS are performing more professionally and effectively than ever before, but there is no assurance that current policies and institutional cultures will survive when new directors are appointed. I have little doubt that a 1990s rerun of the President's Commission would once again argue for the independence of NIJ from the Department of Justice and this time would agree with the Wickersham Commission that BJS should likewise be independent. Alfred Blumstein, whose career as a criminal justice scholar began with his work as director of science and technology for the President's Commission, who was a member of the NAS panel that evaluated NIJ's predecessor agency, and who was at one time publicly announced as a future nominee for the NIJ directorship, agrees (Blumstein, 1994; Blumstein and Petersilia, 1995).

2. *Legal Culture.* Concerns have many times been expressed that the Department of Justice environment is incompatible with the needs of high quality research agencies. This may be why the

Wickersham Commission saw the Bureau of the Census as a better home for a federal statistics agency, why the President's Commission recommended a free-standing research institute patterned on the National Science Foundation, and why others (e.g., Blumstein, 1994) have proposed the National Institutes of Health as a model. Serious scientific research is long-term, strategic, and cumulative. Heads of scientific agencies are typically distinguished scientists; while their political predispositions may not be irrelevant to their selection, scientific credibility is typically at least a necessary condition. The House of Representatives Judiciary Committee noted this need (House Committee on the Judiciary, 1979, p. 19) when, as a partial response to the finding that NILECJ "has never attained the stature of a reputable research organization in either the research community or the criminal justice community," it recommended that NIJ in future "must be directed by a person of considerable stature in the research community" (p. 20). Earlier, the NAS report on NILECJ had likewise proposed that candidates for NIJ director have "significant experience and recognition in both research and research administration" (White and Krislov, 1977, p. 109).

As matters have since unfolded, however, no one could argue with a straight face that research experience or scientific reputation has been a necessary condition to appointment as a BJS or NIJ director: no NIJ director and only one BJS director had previously achieved distinction as a researcher and no NIJ director had principally made his or her career as a researcher. Likewise, although long-term and strategic approaches to data-set development are evident in some BJS programs, long-term and cumulative research strategies have been less conspicuous at NIJ. (There have been notable exceptions, including NIJ's support for the Program on Human Development in Chicago Neighborhoods [Tonry, Farrington, and Ohlin, 1991; Earls and Visser, 1997], the multi-year "Research Agreement Plans" of the 1970s, and systematic and cumulative research programs on criminal careers and police experiments in the 1980s, but in the aggregate these have never represented a large fraction of NIJ's budget.)

All of these problems, and the preoccupations with operational and political concerns mentioned in the preceding section, are probably inherent in the decisions to place partly independent special-purpose agencies in the Department of Justice. The NAS Panel observed that "lawyers . . . have little sympathy for the complexities of social science research and an often inadequate grasp of the potential and limitations of research in the criminal justice field" (White and Krislov, 1977, p. 30). Lawyers are notoriously skeptical of research and statistics and the

Department's legal culture may gravitate against appointing nonpartisan technical specialists to patronage positions. Lawyers' advocacy roles may create a tendency toward cynicism about research; in litigation and in administrative agency proceedings, technical information and expert witnesses are things to be deployed in the effort to obtain the result a client wants rather than resources to be drawn upon to obtain the right answer. Lawyers are professionally predisposed to believe that there are "lies, damn lies, and statistics."

The different experiences and politics of the National Institutes of Health have often been contrasted with that of the National Institute of Justice, and the differences attributed to the professional orientations of doctors and lawyers. Blumstein and Petersilia (1995, p. 471), for example, observe that "from the first year of medical school, through residency, and through medical practice, physicians are taught consistently to advert to research findings in order to learn how to do their jobs better. They are constantly surveying the research literature . . . to keep up to date." By contrast, they observe, "in the legal profession there is no comparable tradition for empirical research. . . . Every case is addressed on its own terms. . . . Thus the search for generalizable knowledge that is the essence of empirical research—and that should provide a basis for public policy—is not a central aspect of legal professional work."

3. *Scientific Credibility.* At least since publication of the President's Commission's report (1967, pp. 275-277), supporters of proposals for independent research agencies have insisted that independence and high scholarly standards were essential if first-rate researchers are to be recruited to work on criminal justice research. The NAS Panel (White and Krislov, 1977, Chap. 4) echoed this concern as have others more recently (e.g., Reiss, 1994; Blumstein, 1994). The NAS Panel recommended a variety of measures to create a more scientific culture within NIJ: selection of scientifically qualified directors, creation of a distinguished scientific advisory board, creation of long-term strategic research programs, increased reliance on professional peer review processes, and a variety of changes designed to make the program more user-friendly to university-based researchers. Most of these things did not happen at NIJ: no fundamental reorientation toward a primarily scientific institutional identity has occurred. Use of peer-review has waxed and waned; under the current director, peer review is taken very seriously, but under previous directors this has often not been the case. And if it is true that the most talented and distinguished researchers typically work in university settings, the patterns of grants made over the years reveal a chronic

tendency of NIJ processes that appear to make funded work more attractive to contract research firms than to university-based researchers. The NAS Panel noted this tendency at NILECJ in the 1970s (White and Krislov, 1977, Chap. 4). Albert J. Reiss, Jr., noted in the 1990s that sponsored work was increasingly being done by research firms like Abt Associates and RAND, practitioner-oriented organizations like the Police Foundation and the Police Executive Research Forum, and professional associations rather than by university-based research units (Reiss, 1994, p. 14).

Proponents of research firms point out that their continuity of personnel and full-time research staff make them better suited to do government-funded research. This, however, may be an artifact of grant-award processes at NIJ where grants are typically awarded on a project-by-project basis rather than on a multi-year institutional support basis. In other research fields such as the physical and medical sciences, universities often operate large-scale research institutes with long-term funding.

I don't belabor this point further except to say that if it is true that scholarship on criminology and criminal justice would be enriched if an institutional ethos like those of the National Science Foundation or the National Institutes of Health could be established for federal crime research and statistics agencies, the failure to create such an ethos must have diminished the quality of the talent pool involved in criminal justice research and the resulting public benefit.

B. Integration of Statistical Programs

The issue here is whether there should be a single federal criminal justice statistics agency that maintains and publishes all national data sets, as the Wickersham Commission proposed, or whether the various national statistical series should remain in the agencies which first developed them, as the President's Commission proposed. I have no idea whether the difference in views results from differing conceptions of how statistics agencies ought ideally to operate or whether the Wickersham Commission's utter failure to influence the organization of federal statistics programs persuaded the President's Commission to think small.

The Wickersham Commission took it for granted that good information was indispensable to good policymaking, and proposed creation of a single criminal statistics program housed in the Bureau of the Census. The Bureau had by then for some years been developing statistical data series on state and federal prison systems. Consolidation would have required that the police data system

included in the then-developing Uniform Crime Reports compiled by the FBI and the juvenile justice statistics then being developed by the Children's Bureau be removed from those agencies and transferred to the Bureau (Warner, 1931).

The reasons for distancing statistics operations from the Department of Justice have already been mentioned: operating agencies might be tempted to tamper with data for institutional reasons, and even if they were not, that possibility would undermine the data systems' credibility; alternatively, the Department of Justice imprimatur might cause credulous observers to give statistical data more respect than it deserves.

The reasons for consolidating statistical operations in one agency were technocratic. The Wickersham Commission (1931, p. 6) and its consultant Samuel Warner (1931, p. 48) were admirers of the consolidated systems of criminal justice statistics in England, Canada, New Zealand, Australia, and several European countries, and described them as being incomparably better than anything in the United States. The Bureau of the Census was the obvious place, said Warner (1931, p. 48), because it is "that Department of the Federal Government which is most expert in solving statistical problems." Thus, even though the Commission noted that there would be transitional problems as the Census Bureau took over the juvenile statistics then being developed by the Children's Bureau and the crime-report and arrest statistics then being developed by the International Association of Chiefs of Police for the Federal Bureau of Investigation, in the long run there would be benefits.

There were to be practical advantages from centralization. First, statistics should constitute a whole integrated system requiring "unity of treatment," and this was self-evidently more likely if all statistical systems were managed by one agency. Second, as statistical measures and data-gathering were gradually improved, various systems each evolving on its own would inevitably become less compatible than if managed by one agency.

In practice, the Wickersham Commission's recommendations had virtually no influence (House Committee on the Judiciary, 1979, pp. 14-15): no new national data systems were established and the juvenile and police statistics remained in the Children's Bureau and the FBI. The Census Bureau in 1950 lost control even of the national prison statistics programs which were then shifted to the U.S. Bureau of Prisons.

By the time the President's Commission reported, the political invulnerability of the juvenile statistics and the Uniform Crime Reports was evident and there was no proposal for the incorporation of those data series into a centralized statistics agency. Nor, whatever the merits of the Wickersham Commission's conclusion that federal statistics should be independent of the Justice Department, was independence proposed.

The proposed statistics center was not initially established except as a division of NILECJ. In the 1979 reorganization, BJS was created as an independent agency within the Department of Justice, separate from NIJ, and with a presidentially nominated director with sign-off authority. In explaining that change, the House Committee noted the "current fragmentation of national justice statistics" (1979, p. 16) and the need to create BJS to "remedy the gaps in our knowledge about court dispositions, bail practices, imprisonment statistics, and other information systems." Once again, however, no proposal was made to give BJS control of the Uniform Crime Reports or the juvenile statistics. Thus, BJS became a "National Criminal Justice Statistics Center" for those data series which it or predecessor agencies had created (the victim surveys, pretrial, prosecutorial, and court statistics) and those that it took over from the federal correctional agencies (probation, parole, jails, prisons).

Whatever the merits of arguments for and against assigning responsibility for all national statistical data series to BJS, the juvenile and law enforcement interests arrayed against consolidation were influential with both the President's Commission and the Congress and preserved those data series' independence. The reasons the House Committee gave for creation of "a single organization with responsibility for state criminal justice statistics on a national basis" were much the same as those mentioned by both the President's and Wickersham Commissions: needs for (1) greater credibility, (2) uniformity and comparability, (3) avoidance of duplication of effort, (4) greater availability, and (5) adequate analysis of criminal justice statistics (Committee on the Judiciary, 1979, p. 15). However, by excluding juvenile and police statistics from BJS's authority, the new agency that finally emerged in 1979 had less authority and capacity to achieve the efficiencies and quality improvements of the centralized statistics agencies in England and Canada that the Wickersham Commission held up as a model.

C. Sources of Data

For a variety of reasons of efficiency and federalism, the Wickersham Commission decided that the federal statistics agency should receive data primarily from state-level statistical bureaus and not from state and local operating agencies. Achievement of such a system was made a condition precedent to implementation of the Commission's recommendation that the Census Bureau be given responsibility for all criminal justice statistical series. The House Committee report (1979, pp. 14-15) and the President's Commission Task Force on Assessment (1967, pp. 124-26) describe the absence of follow-through on the Wickersham recommendations. Only California successfully created such a bureau; and by 1967, the only national data systems in operation were the Uniform Crime Report's police data, the Children's Bureau's juvenile data, and the U.S. Bureau of Prisons' national prison data.

The President's Commission and the Task Force on Assessment both acknowledged the desirability of the Wickersham recommendation in principle and its impracticability in practice and recommended creation of state statistics bureaus, with federal financial support, continuation of direct collection of data from operating agencies, and collection of data for new series on whatever bases circumstances required.

Since then, the two-track approach has continued. Many states have established state criminal justice statistics bureaus, of diverse sophistication and professionalism. However, all of the major federal statistical series collect data directly from state and local operating agencies. This might by some be seen as surprising inasmuch as BJS helped to create the state statistical agencies.

II. Recommendations Concerning New or Revised Statistical Series

The President's Commission had demonstrable influence on the creation of new systems of national data and on revision of existing ones. When the Commission reported, there were no ongoing national statistical systems on victimization, jails, pretrial detention, prosecution, criminal court operations, sentencing, parole, or recidivism. New systems were created on all these topics. The Commission proposed changes and improvements in the existing police, juvenile, and prison systems, and many of those were also made. Discussion of all these developments in detail would require several books. This paper accordingly gives only broad outlines.

A. New Statistical Series on System Operations

The Bureau of Justice Statistics and its predecessors created most of the new statistical programs that the Commission proposed and made extensive efforts to disseminate the resulting data. Summary documents and fuller reports have long been available free to people who request them singly or who ask to receive them routinely as published. The 23rd annual volume of the *Sourcebook of Criminal Justice Statistics*, produced for BJS by the Hindelang Criminal Justice Research Center, including data from BJS and many other sources, was published in 1996 (Maguire and Pastore, 1997). Much of this material is now available in hard copy, by fax, in CD-ROM, or over the Internet.

1. *Pretrial Statistics*. The Commission proposed creation of national pretrial statistics programs on prosecution, grand juries, bail, and detention. No regular series of reports has been published on grand juries. Three series have reported data from selected jurisdictions on the other three topics. The State Court Processing Statistics Program, originally called the National Pretrial Reporting Program, conducted its first survey from February 1988 to February 1989 on jail, bail, and other forms of pretrial release (Bureau of Justice Statistics, 1990). Data were collected on a sample of felony cases representing America's 75 most populous counties. The initial plan was to collect additional data in 1990 and periodically thereafter (currently at two-year intervals). The 1990 survey was published in 1992 (Reaves, 1992).

Two series provide prosecution data. The first, Prosecution of Felony Arrests, reports case processing data from selected urban prosecutors' offices. An initial report appeared in 1979 (Brosi, 1979) and was followed by reports (on varying numbers of jurisdictions in different years) for 1979, 1980, 1981, 1982, 1986, and 1987 (Boland, et al., 1990). This series ended in the late 1980s, in part because it duplicates the State Courts Processing Statistics Program and the National Judicial Reporting Program. The second series, Prosecutors in State Courts, provides data on office characteristics and case processing from periodic national surveys of a representative sample of chief prosecutors from offices that prosecute felony cases (e.g., DeFrances, Smith, and van der Does, 1996).

2. *Court Statistics*. One major statistical series, the National Judicial Reporting Program, provides data on felony sentences in state courts and characteristics of convicted felons from nationally representative samples of counties. Data were first collected for 1986 and at two-year intervals thereafter. The most recent report covers 1994 (e.g., Langan and Brown, 1997). There are, in addition, ongoing BJS series on civil court statistics (e.g., DeFrances, et al., 1995) and federal

justice statistics (e.g., Scalia, 1996). BJS also provides funding to the National Center for State Courts for annual statistical reports on state court caseloads.

This is the one area in which the Census Bureau, in the Wickersham Commission's aftermath, attempted to establish a national statistics system. The national judicial statistics program, never comprehensive, was abandoned in 1946; Alpert (1948) tells the full story.

3. *Probation and Parole Statistics.* There were no national probation statistics when the President's Commission issued its report although various organizations—including the Administrative Office of the U.S. Courts and the National Council on Crime and Delinquency—had for a decade been exploring possibilities (Lejins, 1967, p. 195). There were also no national parole statistics but serious development work for a "Uniform Parole Reports Project" by the National Parole Institutes had been underway for several years, and a feasibility study under Don M. Gottfredson's supervision had been completed in 1965; parole authorities from 29 jurisdictions participated (Lejins, 1967, pp. 199-200).

Work on probation and parole statistics went forward under the aegis of LEAA, with the first annual parole reports appearing for 1976 and the first probation statistics appearing in 1979 in a combined probation and parole report. The combined reports have continued and in 1996 were released only six months after the year-end for which data were reported (Bureau of Justice Statistics, 1996b). In addition, in 1983, national prison statistics on admissions and releases were combined with the Uniform Parole Reports into one reporting system, the National Corrections Reporting System, which generally publishes data approximately two years in arrears (e.g., Perkins, 1994).

4. *Jail Statistics.* Except for limited data obtained periodically by the Census Bureau, there were no regularly compiled national jail data in 1967. The initial survey was a one-day population count conducted by LEAA in 1970, followed by counts compiled by the Census Bureau in 1972 and 1978 and at five-year intervals thereafter. In addition, beginning in 1982 and in each of the four years separating the five-year censuses, the Annual Survey of Jails collects data from a sample of jails to estimate baseline characteristics of jails and jail inmates (e.g., Gilliard and Beck, 1997).

Beginning in 1995, BJS began publishing combined mid-year jail and prison population data which, for the first time, makes international comparisons of incarceration simpler; most countries have combined jail and prison systems and report total incarceration data. The combined report

provides a full picture of American incarceration patterns. In addition, beginning in 1985, jail data were included in *Correctional Populations in the United States*, an annual volume that in one place publishes data from BJS's annual probation, parole, jail, prison, and capital punishment data collection programs (e.g., Bureau of Justice Statistics, 1997).

Beginning in 1972 and continuing in 1978, 1983, 1989, and 1995-1996, surveys of inmates in local jails have been conducted for BJS by the Bureau of Census. Through personal interviews with samples of local jail inmates, information is gathered on offenses, sentences, criminal histories, prior alcohol and drug use and treatment, and individual characteristics of jail inmates (Beck, 1991). The data sets have provided a rich source of information on jail inmates.

5. *Prisoner statistics.* In 1850, the federal government, as part of the Seventh Decennial Census, initiated the first count of all prisoners in 32 states and four territories. Between 1850 and 1870, U.S. marshals administered the census of prisoners as part of a special schedule of social statistics. Counts of prisoners were included in each subsequent decennial census through 1890 and in separate enumerations in 1904, 1910, and 1923. In 1926, under congressional mandate, the Bureau of the Census began the annual National Prisoner Statistics program, collecting prisoner statistics. This program was transferred to the Bureau of Prisons in the Department of Justice in 1950 and in 1971 to the National Criminal Justice Information and Statistics Service, BJS's predecessor. Currently, the Bureau of the Census serves as the collection agent for BJS, and the data series includes current counts of populations by jurisdiction and custody as well as admissions and releases. Counts are published annually (e.g., Mumola and Beck, 1997).

Surveys of inmates in state correctional facilities were started by BJS in 1974 and continued in 1979, 1986, and 1991. Through one-hour personal interviews with samples of prison inmates, data are collected on individual characteristics of prison inmates, criminal histories, family background, gun possession and use, prior drug and alcohol use and treatment, services provided while in prison, and other personal characteristics. In 1991, a sample of federal inmates was also interviewed. Profiles of the population are published (Harlow, 1994) as well as reports on special topics, for example, women (Snell, 1994).

B. New Kinds of Statistics Programs

The President's Commission proposed development of three new kinds of national data collection efforts: victim surveys, national recidivism studies, and "new indicators for crime problems."

1. *Victim Surveys*. Some observers would say that the National Crime Victimization Survey is the single most important research-and-statistics legacy of the President's Crime Commission. Whether conceived as a measure of crime trends and patterns adjunct to the Uniform Crime Reports (UCR) or as a richer source of data on much broader patterns of criminality than the UCR captures, victim surveys have shown their worth. Pioneered by the Commission in pilot studies headed by Philip Ennis (1967), Albert J. Reiss, Jr. (1967), and Albert D. Biderman et al. (1967), the Commission's recommendations led to establishment in 1973 by LEAA of the (then) National Crime Survey and sponsorship of a series of victim surveys for particular cities (Sparks, 1981, provides a detailed overview of the early surveys). The city surveys were soon discontinued, but the general survey, renamed the National Crime Victimization Survey (NCVS), has continued to the present. The survey, managed by BJS with data collection handled by the Bureau of the Census, was redesigned in the late 1980s and early 1990s (Bureau of Justice Statistics, 1989, 1996a), with data collected using both the previous and new designs in 1992 and the new design thereafter. Results are published annually in a short bulletin (e.g., Taylor, 1997) and in fuller paperbound volumes (e.g., Bureau of Justice Statistics, 1994). In recent years, BJS has also published a large number of special reports that draw on the survey, including examinations of such subjects as school crime (Bastian and Taylor, 1991) and violence against women (Craven, 1996). More recent special analyses draw on both UCR and victim survey data (e.g., on guns used in crime: Zawitz, 1995; on sex offenses and offenders: Greenfeld, 1997).

Considering that there were no victim surveys before the President's Commission sponsored the pilots, the NCVS is a remarkable accomplishment. Not only has it survived for nearly a quarter century, and been steadily improved during that period, but it has now achieved recognition as at least equal to the UCR as a source of information on crime trends and patterns. It has also been the model for ongoing national victim surveys in a number of countries, including Canada, England, the Netherlands, and Sweden, and occasional surveys in many countries; and it is the model on which the International Crime Victims Survey, conducted since 1989, is based (e.g., Mayhew and van Dijk, 1997).

2. *Recidivism Studies.* No ongoing data series on recidivism have been established that are comparable to those on other subjects discussed in this article. A general report on “Examining Recidivism” was published in 1985 (Greenfeld, 1998), as have special reports on such subjects as “Recidivism of Young Parolees” (Beck and Shipley, 1987), “Recidivism of Prisoners Released in 1983” (Beck and Shipley, 1989), and “Recidivism of Felons on Probation, 1986-89” (Langan and Cunniff, 1992).

In 1997, BJS began a major initiative to collect and publish statistics on recidivism. The aim is to generate periodic national-level estimates of the incidence and prevalence of arrest, conviction, and incarceration among selected cohorts of persons entering and exiting the criminal justice system. Building on BJS’s National Criminal History Record Improvement Program, the project will assist states in developing standardized criminal history files that may more easily be shared and interpreted among law enforcement agencies. In addition, through the development of common formats and conversion programs for selected states, one objective is to make criminal history files more accessible to researchers studying criminal careers and recidivism.

As part of this initiative, BJS is conducting a study of state inmates released in 1994. The study will examine the characteristics of the criminal records of inmates (both prior to their most recent incarceration and for three years following their release). As part of a collaborative effort with other federal agencies, the study will oversample for violent offenders, particularly offenders convicted of rape and sexual assault. The study will be the first national follow-up of released prisoners since BJS tracked a cohort of over 16,000 inmates released in 1983. To track offenders both within and outside of the state in which they are released, the study will link data from the departments of corrections within participating states with data from state and federal criminal history records.

3. *New Indicators.* The President’s Commission also proposed the development of new indicators on organized crime, professional or habitual (presumably today they would have said “career”) criminals, street crime, and police effectiveness. Each of these subjects has received considerable attention in research sponsored by NIJ and NILECJ, but to my knowledge none has become the subject of new BJS-sponsored statistical series.

C. Improvements to Existing Statistical Series

Although the President's Commission did not propose that the new federal statistics agency assume responsibility for the ongoing police (UCR), juvenile, and prisons statistics, it did propose many improvements in the scope and susceptibility of these statistics to various kinds of disaggregated analyses. Many of the proposed changes were made. BJS replaced the U.S. Bureau of Prisons as manager of the National Prisoner Statistics, and has steadily made the data more accurate, more comprehensive, and more timely. In addition to the annual surveys, results from four more detailed census-type surveys for 1974, 1979, 1986, and 1991 (Beck, et al., 1993) have been published. Both the FBI, in managing the UCR, and the National Center on Juvenile Justice, which took responsibility for juvenile justice statistics formerly managed by the Children's Bureau, also adopted many of the Commission's suggestions.

III. Improved Policies from Improved Knowledge?

How the influence of the President's Commission on federal research and statistics programs is to be assessed depends on the measures to be employed, and that choice depends on what, with hindsight, we believe the Commission hoped to accomplish. The most pedestrian approach is to consider whether subsequent developments honored the letter of the Commission's proposals. A second, less pedestrian, is to consider whether subsequent developments honored the spirit—the music rather than the words—of the Commission's proposals and report. A third is to consider whether the Commission's proposals and report furthered the Commission's overriding goal of improving the quality of criminal justice policymaking processes and the policies they generate.

A. The Letter

In pedestrian terms, the Commission's proposals concerning research and statistics have been markedly influential. Following the developmental paths described earlier in this article, it is not unreasonable to attribute the creation and existence of BJS and NIJ to Commission proposals. Of course, it is not unlikely that others would have proposed creation of such agencies had the Commission not done so, but the Commission did, and the agencies were created. The Commission recommended creation of a National Criminal Justice Statistics Center in the Department of Justice, and one exists in BJS. The Commission proposed creation of a series of new national statistical data series on victimization, jails, probation, prosecution, sentencing, and parole, and improvements to

existing data series on crime rates and arrests, juvenile justice, and prisoners; all of those data series now exist and many of the proposed improvements were made.

The Commission proposed creation of a National Foundation for Criminal Research, as an agency independent of and outside the Department of Justice. NIJ was created and, though not outside the Department, has a presidentially nominated and senatorially confirmed director with sign-off authority. Specific research areas nominated by the Commission included criminal careers, police effectiveness, organized crime, and street crime. Work has been sponsored on all four and the first two have been major themes of NIJ-sponsored research throughout its existence. In literal terms then, it is easy to demonstrate the Commission's influence.

B. The Spirit

Observance of the spirit of the Commission's knowledge-acquisition proposals is easier to observe in BJS's history than in NIJ's. For BJS, provision of reliable, comprehensive, and timely statistical data on crime and justice system operations was the goal; and in significant respects that goal has been realized. Any human institution can be improved, of course, but few could quarrel that sources of statistical data are incomparably richer and more accessible in 1997 than when the Commission made its recommendations.

For NIJ, however, the goal was creation of an independent research agency which would catalyze a flowering of basic and applied research on crime and its causes and the administration of criminal justice, which would attract first-rate scholars from many disciplines to engage in crime research, and which would achieve levels of scientific integrity and achievement equal to the best in any other realm of public policy. It is not coincidental that the Commission and later commentators used the National Science Foundation and the National Institutes of Health as models for what NIJ should be.

Whatever else NIJ has been, it has not been an intellectually and operationally independent scientific organization like the National Science Foundation. Although it has at times, including the present, relied substantially on peer review mechanisms in review both of grant proposals and final reports, it has seldom in its history invited researchers to nominate subjects for research. Through most of its history, funding had been based primarily on topic-specific requests for proposals. During the 1980s, the topics were increasingly narrowly specified (there has been some broadening

in recent years) which has meant that much of the research done has flowed from research administrators' rather than researchers' judgments of what is important; it is not a coincidence that research on prosecution, sentencing, institutional corrections, and treatment effectiveness atrophied after 1980 when NIJ directors lost interest in those subjects. Similarly, though most scientific research is strategic, long-term, and cumulative, NIJ's research agenda in many periods has lacked those properties.

Responsibility for these patterns does not rest primarily with the people who have managed NIJ. It was, after all, the Congress which elected to place NIJ in the Department of Justice, which almost inevitably resulted in the devaluing of research experience, status, and accomplishment as criteria in the selection of directors. That directors selected on nonscientific criteria, and subject to political pressures from above, did not always manage NIJ as a scientific agency should surprise no one. It was also the Congress which failed to give NIJ the resources of a serious research-sponsoring agency. Alfred Blumstein and Joan Petersilia have demonstrated that in real terms the NIJ budget was essentially flat from 1981 to 1994, and that budget contained large nonresearch components (1995, Fig. 20.1). Compared with either the public salience of crime and the amount of money spent on criminal justice agencies and operations, or the amounts of money spent on research in other major public policy areas like health or education, NIJ's budgets have always been tiny.

Thus, while NIJ has done much that is useful and has benefitted from the loyalty of many talented members of staff, congressional decisions about its organization and budget have prevented it from becoming the kind of research powerhouse the Commission intended and accordingly have undermined the Commission's objective of generating a substantial enhancement of the knowledge base for the development of better public policies about crime.

C. Better Public Policies

Were the surviving members of the Commission and its senior staff to be polled on the effects and influence 30 years later of the research and statistics recommendations, I predict that the results would show ambivalence. Certainly many positive things can be said. BJS and NIJ were created; and, despite buffeting from the vicissitudes of Washington politics, have survived and each is probably operating more effectively in the late-1990s than ever before. No informed observer could deny that the volume, sophistication, and potential policy relevance of research and statistics

on crime and the justice system are incomparably greater in 1997 than in 1967, and that NIJ and BJS have contributed to that progress.

The core research recommendations—creation of a politically insulated, independent research institute inside the federal government and a number of independent regional research institutes outside it—have never been acted upon. This does not mean that NIJ has failed to sponsor important research that has advanced understanding and informed policymaking. Nor does it mean that NIJ has failed to sponsor basic research; the Program in Human Development in Chicago Neighborhoods and long-term initiatives on methodological issues and criminal careers are well-known examples of basic research sponsored by NIJ. Despite these successes, I suspect that the President’s Commission would be disappointed that the independent research institute proposals were, in Albert J. Reiss’s terms, “still-born.” Organizations like the National Science Foundation and on the National Institutes of Health are not immune from political influence—recent crime research examples include congressional pressure on the Centers for Disease Control concerning firearms violence and the National Institutes of Health concerning “biology and crime.” Recent examples in other areas include successful pressure on NIH to give greater attention to women’s health issues and to expedite clinical trials in relation to AIDS and HIV. Nonetheless, these are exceptional problems; and in general research, agendas, priorities, and strategies are much more likely to be set by scientists at NIH or NSF than at NIJ.

As a result, NIJ research has tended to be short-term, with emphasis on evaluations rather than on basic issues. If such research were to be criticized, the gravamen would not be that such research should not be done or be sponsored by the federal government—it should; or that the research sponsored has generally been of low quality—it hasn’t; but that the federal government should also be sponsoring basic research on crime and justice processes, which by and large it has not. That is the special niche the President’s Commission wanted the independent federal research agency and the regional research institutes to fill and it is a niche that remains empty.

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Panel IV

Research and Statistics as Tools for Measuring and Responding to Other Changes

Wesley Skogan, the moderator for this panel, noted that the Crime Commission report offered 10 recommendations related to research and statistics. *Michael Tonry* said that as he prepared his paper for the Symposium, he considered the Commission's research recommendations, how they were carried out, and whether or not they appeared in retrospect to be good recommendations. Three of the primary research recommendations were to (1) establish a single federal agency within the Department of Justice (DOJ) to oversee statistics; (2) establish independent research agencies outside DOJ (for example, the National Science Foundation model); and (3) develop a network of independent research institutions. Earlier, the Wickersham Commission had also promoted three themes with regard to research: policy should be informed by knowledge, a network of state statistical agencies should be developed outside of DOJ, and we should strive to improve knowledge by improving statistics. We never did implement state statistical agencies as envisioned by the Wickersham Commission, he said. With regard to the 1967 Commission's first recommendation, the Bureau of Justice Statistics (BJS) has done most of the things the Commission asked it to do; and National Victimization Survey (NVS) data are now given as much attention as UCR data. This in itself has been a remarkable success. We also have pre-trial, prosecution, and other data that did not exist at the time of the Commission.

But the National Institute of Justice (NIJ) was not placed outside DOJ, and it has never been headed by a researcher (another Commission recommendation). The Commission also recommended a focus on long-term, basic research; but NIJ sponsors much more short- than long-term research, and at various times its research agenda has been tightly controlled by the Attorney General. The legal culture is not oriented to long-term research, he said, and Congress did not really want an independent research agency—most politicians were not really interested in testing the “truths” they saw. In fact, funding for research was flat for a long time. “I think the Commission got it right,” Mr. Tonry said. “Think about how much more NIJ could do if it were independent.”

Overview of the Panel Discussion

The panelists discussed many of the themes and issues Mr. Tonry introduced and added several others. There was clearly a consensus that policy should be informed by research and that much remained to be done to communicate research findings to the public and to elected officials. Many also agreed that more, and more rigorous, program evaluations are needed. The views expressed were much more diverse regarding other issues, including NIJ's status as a DOJ (rather than an independent) agency, the value and use of NVS and UCR data, the specific areas in which future research is needed, and the political as well as the inherent value of long-term research projects.

The National Victimization Survey (NVS)

Several panelists felt the NVS was one of the most important Crime Commission outcomes in terms of criminal justice statistics. One said the NVS actually owed its genesis to J. Edgar Hoover, who said that in our concern for offender rights we were neglecting the victim. He noted that many battles were fought to get the NVS started and to maintain and improve it. Even so, "the sound bite is the primary reason for continuing the NVS," he said.

One panelist said that while the UCR has been criticized, it has improved; and another pointed to the value of UCR data in state-level prosecution, court, and correctional studies and in state and local planning and assessment.

State-Level Research and Analysis

One panelist said BJS-sponsored state SACs (Statistical Analysis Centers) are uniquely situated to work with policymakers and practitioners. Stressing that "research must be relevant as well as objective," he said SACs know the relevant questions and provide results to practitioners in terms they can understand. However, he acknowledged that SACs are under pressure to turn data around quickly and produce timely reports. Another panelist agreed, saying "we should push more research efforts down to the state and local levels. There are more risks involved, but feedback is better and the research results are more connected to policy."

Advances in Criminal Justice Education

One panelist emphasized that, in addition to LEEP, another important outcome of the Commission's work was the development and funding of schools of criminal justice and criminology. At first more schools emphasized management over criminology, but this has changed over the years. The Commission's influence, in fact, has been international, and its report is available in libraries throughout the world.

Research and Politics

One panelist recalled two commissions that followed the Crime Commission: the 1968 Commission on the Causes and Prevention of Violence and the National Commission on Obscenity and Pornography (which recommended the repeal of all pornography laws). He noted that President Johnson did pay some attention to the Violence Commission report.

“Knowledge is the essence of wise government,” one panelist said, summarizing a view expressed by many other participants. But a recurrent theme throughout this (and other) Symposium discussions was the frustration of seeing laws and public policies developed with little regard for research findings. One speaker characterized a later national commission as “an information-free environment” and said that, “rather than seek truth, politicians seek to show that their opponent is wrong.” Several panelists, however, pointed out that politicians must base their decisions on many factors, or as one participant expressed it, “knowledge [alone] is not sufficient for recommending policy changes.”

NIJ Organizational Status

Several speakers were concerned that the Commission's recommendation to establish an independent research agency did not come to pass. As one panelist expressed it, “agency affiliation does influence the research agenda. There is a strong emphasis on immediate gratification at NIJ and funding is limited for behavioral research that has no immediate impact on practitioners' problems.” The speaker also urged more thinking in general about short-term versus long-term investments in research projects. For example, short-term research discourages any focus on prevention, since the success of prevention efforts cannot be measured in two years.

Another panelist pointed out that all federal research agencies (not just NIJ) are subject to political pressure. Even the federal health, mental health, and drug research agencies are pressured to consider “the disease of the month,” he said. Another panelist reminded the group that private research organizations with grants are also subject to political pressures; however, they are often in a good position to conduct multi-site evaluations and to provide quick feedback.

Others disagreed that the federal research agency should be independent. One said the current Attorney General established the Justice Research Council at the NIJ director’s request and looks to NIJ as a resource for policymaking. Several panelists agreed that if NIJ were an independent agency, it might have much less influence than it does today on DOJ and on federal crime policy. “Criminal justice research simply cannot ignore the political arena,” said one panelist, “and it cannot influence policy unless it operates in the middle of that arena.” But with or without an independent NIJ, many participants agreed that criminal justice research in general is not making enough impact on policy. As one panelist expressed it, “We must translate data into action in the election arena.”

With regard to the directorship of NIJ, several participants said NIJ has had many good administrators, although none have been researchers. Another said it is most important that NIJ and BJS directors have vision, leadership qualities, and respect for the states. Directors with these qualities, he said, may or may not be researchers.

Research Directions

The panel’s objectives, format, and time available did not lend themselves to a “polling” of panelists and other participants, and none was attempted. Thus the comments on research directions that follow represent a compendium of views offered by several participants. However, there was clearly strong support among many panelists for conducting more high-quality evaluations and for improving research dissemination efforts. With that in mind, comments related to research needs and directions included these:

- Capital punishment and gun control are two significant issues on which the Crime Commission took no stand (with regard to either research or policy).
- More basic research is needed in the future. Several participants gave examples of this, including birth cohort studies and longitudinal studies on the causes and

correlates of juvenile delinquency, violence, and substance abuse. One felt that if a 1995 birth cohort were studied, it would show reduced involvement in crime.

- More, and more rigorous, program evaluations are needed.
- Cross-cultural information about crime and alternatives to the adversarial system is needed. This should include historical perspectives from other countries regarding community policing, alcoholism, and other areas.
- Research is needed on the effectiveness of community policing.
- Organized crime has been virtually ignored as a subject of research and should be pursued.
- Researchers should give greater consideration to the impact of various types of legislation, for example, taxing policies that support building new structures (e.g., prisons, public housing).
- Management research is very important and should receive greater emphasis.

Regarding his recommendation for more management research, one panelist said he wished the Commission had “paid more attention to learning about how to implement” the recommendations it made. Consider the differences between the interventions recommended by the Commission and those that can realistically be imposed by agency directors, he said. Program evaluations, especially those that are multi-disciplinary and include cost-benefit analysis, can make a significant contribution.

Expanding on the recommendation for more evaluation, one speaker said there have been an “infinitesimal number of evaluation projects. We are not doing the hard work of evaluating promising approaches; in fact, most haven’t even been evaluated for safety.” However, another panelist said we know of many youth programs that work. He is currently cataloging youth programs that have been evaluated and have demonstrated effectiveness.

Although a number of panelists emphasized the value of long-term research, one cautioned against investing too much in the use of limited models to study rare events with extreme consequences. We need to get beyond individual paradigms, he said, and consider collective effects. Another panelist stressed that not only surveys but other types of sound research can produce factual information. An overall research objective, he said, is to help agencies make informed decisions, but the increased volume and even quality of the factual information we have has not met this objective very well. Often, scientifically rigorous research compromises its own usefulness because (1) it is too expensive compared to the limited payoff it

provides, (2) it takes so long that findings are useless by the time they are published, and (3) even when it is finally completed, the results are equivocal.

Funding for Research

The difficulty of securing funding for research—particularly for long-term, basic research—was discussed by several participants. One panelist noted that the Causes and Correlates longitudinal study was supported by NIMH and NIDA as well as by OJJDP. It comes down to cost effectiveness, he said. We should focus on serious and violent juvenile offenders, but we need more than one criminal justice agency to support this research. By the age of eight, severely troubled youth become known to the schools, mental health agencies, and others.

Similarly, another panelist noted that NIJ's two-year limit for projects—compared to five years at NIMH and NIDA, for example—presented a distinct disadvantage for long-term research. Also, NIJ's budget is much smaller than theirs, and should be larger. Even so, NIJ, unlike a number of other research funding sources, has been willing to work with applicants to develop fundable projects. The panelist also suggested that NIJ consider scientist awards, post-doctoral awards, or similar approaches.

As the session came to a close, one panelist emphasized that we should not scrap quality research simply because it is costly and said he strongly believed it was time for another Presidential Crime Commission. Another panelist agreed that “we cannot afford to do research that is not good science.” Finally, Mr. Tonry reminded attendees that the Commission's recommendation was for basic research. He said there are notable examples of this—the Perry Preschool evaluation, the work by Hawkins and others on risk factors for juvenile delinquency and substance abuse—that do seem to have paid off.

Societal Responses to the President's Crime Commission: A Thirty-Year Retrospective

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When the President's Commission on Law Enforcement and the Administration of Justice wrote conceptually about the problem of crime in America, it sought simultaneously to express a professional consensus about desirable methods for justice administration and to declare an agenda for the system's evolutionary reform toward that. These twin aims were based upon three subtle, unarticulated, tactical assumptions:

- A consensus exists among professionals about what ought to be done to pursue a more effective justice system;
- Questions of public values, some of which confront long-time debates about the purposes of the criminal sanction, can be resolved in the context of technical recommendations made by leading professionals in the field;
- The federal government can and should play a leading role in directing the strategies and pace of justice reform toward the professional, technical consensus.

Seen from today's vantage point, these seem to be remarkable assumptions. But in the pre-Watergate optimism of the day, many believed the entrenched social problems such as poverty and violence were complex technical problems afflicting democratic capitalism, susceptible to carefully designed and administered programs of government. By contrast, today's viewpoint is that crime is a profoundly simple failing of individuals to control their urges, susceptible to uncomplicated, harsh legislative policies holding them accountable for their misdeeds.

The story of this drift away from models of complexity toward models of simplicity, away from professional experts toward elected officials, is the story of crime control policymaking in the generation since the Commission published its initial report. It is a story of three forces at play.

The Monotonic Increase in the Information Base

First, one of the Commission's most persistent themes was the need for information. In corrections, for example, three types of information needs developed. First, there was a need for

better classification systems to justify differential treatment of offenders. Second, there was a need for evaluation research that would lead to a far more reliable knowledge base about the impact of correctional programs. Third, there was a need for better information systems to support correctional management practices.

It would be foolish to conclude that these three information needs have been successfully met in the intervening years. This year, for instance, a recently released major review (Sherman, et al., 1997) of evidence on crime prevention and control strategies concluded that little basis exists to promote one form of crime control over another, and our knowledge base for selecting crime control strategies is inadequate. A generation later, we are far from the science of crime prevention envisioned by the Commission.

Yet there has been tremendous intelligence collecting activity and accelerating evidence. In 30 years, criminal justice information systems have come of age. In state and local justice systems, management planning and program development occurs under conditions of computer projection models and sophisticated management information systems that track offenders from arrest to sentencing to release. Standardized classification systems are the norm for community and institutional corrections alike, and specialized classification systems for sex offenders and drug offenders are in wide use. Meta-analyses of correctional treatment outcome studies now routinely rely upon published reports numbering near the thousands. Notwithstanding the disappointing conclusions of the Sherman report, seat-of-the-pants justice administration, uninformed by data, can be relegated to the past should administrators so choose.

The growth in information for justice policy has not been limited to post-conviction penal management. There has been a surge in studies of crime and crime control, generally. Since the Commission wrote, *lambda* was “discovered” as an important parameter in crime rates, criminal career studies became widespread, and the Bureau of Justice Statistics has become a feeder of information on crime and justice practice. The academic profession of criminology has also become a factor in crime policy information, with upwards of 3,000 professionals attending the annual meetings of the American Society of Criminology each year.

In the discussion that follows, the role of information in shaping the changes in the public response to crime is described. It is a complex role: while a fact is indeed a fact, there are multiple interpretations to any set of data. When it comes to crime data, the meaning is often in

the eye of the beholder. Thus information's role in public responses to crime has been more to shape and fuel existing debates than to inform or direct them.

The Collective Impact of Structural Trends in Social Forces Affecting Crime

Second, the 500-pound gorilla of crime policy is the population's age structure: more young males means more crime. The Commission did not anticipate the impact of the burgeoning bubble of baby-boomers reaching the crime-prone years. Much of the increase in crime rates in the latter half of the 20th century can be explained by changes in the youth cohort moving through the crime-prone years. This structural aspect of the nation's crime problem overwhelmed the reform platform about crime policy initiated by the Commission.

How families and communities rear their children has also been changing (Felson, 1994). More families are headed by single parents, more adults who have children work out of the home during the day, more teenagers have babies, and more offspring are raised under conditions of impoverishment. Slow but steady changes in the structure of the American family are joined by demographic shifts in ethnic make-up in the nation to produce a new social reality for the U.S. population as a whole: the white, middle class family with a working father and a homemaker mother is today a minority social unit.

Structural changes in the economy also have been important. The employment sector, which had been variegated with industrial, professional, and service jobs, increasingly evolved into a bifurcated job market with only low wage, service sector jobs and higher wage professional employment; the well-paid unskilled and semi-skilled jobs disappeared, especially from the cities (Wilson, 1987). The gap between the poorest and richest Americans grew with plodding but sustained regularity throughout the period. Today, relative poverty—a social problem some argue contributes greatly to crime (Braithwaite, 1979)—is at a 25-year, unprecedented high.

These structural trends have interacted to open the doorway for a thriving, inner-city drug industry. It is a matter of some speculation how drug abuse has changed over the years since the Commission reported its recommendations. There have certainly been cycles of drug activity throughout the latter half of the 20th century. But the disappearance of competitive wage-

earning options from the inner cities, combined with the discontent due to inequality and entrenched poverty, certainly have helped lay a foundation for drug work.

Unlike the monotonic effects of information, structural changes oscillate across time and vary across locations (Reiss, 1986). The stubbornly stagnant economy in the Northeast and Rockies sets one kind of context for social responses to crime; vibrant growth economies in the Southeast and Southwest provide another. As the baby-boomers age out of their crime-prone years, waning crime rates await the arrival of the echo-shock, a smaller bubble of that generation's children—who, in turn, approach their adulthood in a nation with greater inequality of wealth and multi-generational patterns of poverty.

The Results of Politicization of Crime Policy

Third, the Commission spoke to an electorate that was concerned about crime and disorder, but not really in a state of alarm. The audience also included a political leadership anxious for answers and apparently willing to listen. Indeed, the Commission might well be seen as the first foray of politics into the crime policy arena. Here much has changed. Beginning with Nixon's "War on Crime," domestic politics embraced crime as an issue; and increasingly, crime has been a dominant theme in state and local elections.

That politics' embracing of crime as an issue has had enormous impact on crime policy is unlikely to be denied by any observer of the last generation. Exactly how that impact has played out, and whether the result has (on balance) been positive or negative, is a matter of less consensus. The analysis which follows will highlight certain moments in political life that seem to have had more than the normal formative impact on crime policy, but they cannot capture the enduring importance of political interests in crime. To "ensure domestic tranquillity" is one of the charter purposes of the democratic state, and public concern about crime can become a litmus test on this issue.

It was not only crime that attacked domestic tranquility, but public distress about crime's existence. In particular, frustration about repeat victimization and consternation about perceived leniency in the courts gave birth to the socio-politics of victimization in the form of an organized, dramatic, and grass-roots victim's movement that became a force to be reckoned with in the formulation and justification of crime policy.

The politicization of crime is not only a problem of electoral politics; it is also a part of the managerial context for governance. Over and above the importance of elections, crime control policies have to be administered. The growing allocation of public revenues to crime control agencies creates political opportunity costs, for every dollar spent on criminal justice cannot go toward schools, roads, or health care. While appeals to public concerns about crime promote political capital, delivering on promises made in the heat of the campaign costs actual capital.

Responses to the Crime Commission

The conceptual consensus which the Commission urged was wide ranging, but it included a few main themes. Four are of interest to this analysis:

- The problem of crime results from inadequate social institutions and a lack of economic opportunity;
- The failure of offenders to desist from crime results from their lack of integration into socially supportive structures such as secure jobs, stable families, and good housing;
- Criminal justice agencies can promote public safety best by improving services to offenders and coordinating the activities of social agencies concerned with crime; and
- Offender social adjustment is best effected by community-based agencies, and prisons should be seen as a last resort.

These views of the problem of crime are recognizable today as a heritage of Johnson's Great Society ideal, what might be called the traditional "liberal" view: crime is a social problem, based in poverty and social disorganization, and is best controlled through social programs designed to ameliorate the impact of those problems on individuals at risk of involvement in crime. This view contrasts today with what might be called a Reaganesque ideal, a "conservative" view: crime is an indication of a breakdown in social order and is best contained through tough controls placed on those who feel inclined to disregard the social order.

Much of the 30 years since the Commission's report has been a public contest between these two views. This is, of course, a simplistic statement, in danger of obscuring the nuances of public debate and policy development in the public arena. But one way to understand the response to the Commission over the last 30 years is through political bifocals: one lens exposes the arguments and positions of the liberal line of reasoning; the other focuses attention on the

conservative equivalent. These positions exist in interplay, shifting and sharpening with changes in the three forces that define them—information, social structure, and socio-politics. Three important responses are described below.

The Commission and its Immediate Aftermath

The Commission wrote both to describe a policy consensus of the experts and to advocate for a new public agenda. Among other recommendations, the specific advice included:

- Decreasing the use of the prison by greater use of probation, parole, and other community alternatives;
- Reducing the length of prison stay for offenders who receive custodial sentences;
- Improving prison conditions and empowering prisoner groups to live within more democratic regimes;
- Increasing investment in probation, parole, and community-based treatment;
- Improving coordination of government services to the disadvantaged groups from whom offenders are more likely to arise;
- Increasing the use of volunteers, paraprofessionals, and ex-offenders;
- Eliminating barriers to employment for ex-offenders; and
- Adopting the Model Penal Code, with a widespread availability of probation, discretionary release on parole, and short, graduated prison terms based upon the seriousness of the offense.

Very little was recommended in the way of specific legislation. The task envisioned by the Commission apparently appeared to them as largely organizational, within justice agencies, with appropriate fiscal support from the legislature. Theirs was less a manual for programmatic action than a primer about knowledge and strategy. There have been no systematic studies about how the report was received by its audience, but in retrospect it seems that a largely willing, professional support greeted the publication of the report. Graduate educational institutions, such as the newly opened School of Criminal Justice at SUNY-Albany, organized some of their curricula around the various volumes in the report. Scholars cited the report with regularity as a conclusive source on certain topics. The newly formed Law Enforcement Assistance Administration (LEAA) built a grant-giving program around the main findings and directions of the report. To many in the field at the time, it seemed the report not only authoritatively described what was known about dealing with crime and justice, but also convincingly laid the groundwork for a better agenda into the future.

In today's dispassionate eyes, we might see the report as thick with confidence but thin on evidence. The Commission repeatedly reminded its audience that little was known about the most effective ways to reduce crime, but nonetheless, it recommended broad courses of action in seeming disregard of the meager evidence base in hand. Faced with the dilemma of limited evidence at a time of immense opportunity, perhaps the Commission could not resist the moment in history when government asked of its crime professionals how to proceed.

The supportive acceptance of the report was not uniform. A decade after its release, James Q. Wilson (1975) criticized the Commission's willingness to accept on faith the optimistic—and to him, ideological—viewpoints of the scientific expert witnesses, whose claims were made on flimsy scientific grounds. His was the first conservative salvo in the emerging policy debates provoked by the Commission's views.

But the doubts of Wilson and others such as Ernest Van den Haag (1975) had little impact on mainstream scholarly thought. With the existence of LEAA, a multi-year period of decreasing rates and numbers of citizens in prison leading into the early 1970s, and the Great Society optimism of the era, most intellectual leaders felt that better crime policy was around the corner. A program evaluation mentality was ascendent in people's thinking, in which the main problem was to evaluate programs well and spread the word about the results of successful experiments. Improving crime policy might be a plodding exercise, but confidence existed in its value and eventual successful results.

Three unforeseen forces intervened to alter this course, and each is well-represented by an event: the Attica prison rebellion, the Martinson report, and the second Nixon presidential campaign.

In September of 1971, prisoners took over the correctional facility at Attica and seized as hostage to their demands a couple of dozen correctional officers. The dramatic Attica rebellion, the siege that followed, and the disastrous armed retaking of the prison were nightly television fare. It thrust the question of prison conditions into the public eye, and prisoners did not come out as a sympathetic bunch. More importantly, it linked the aims of prison reform to the already charged public debates about disruptive anti-war demonstrations and revolutionary activities of the left, to the detriment of all three groups. Instead of a technical problem of experts, prison

reform became a political football, symptomatic (in some ways as a caricature) of the loss of control, a society gone haywire.

The Attica revolt also drew liberal reformers into the policy fray. The Quakers (1971) wrote the most persuasive treatise, but their argument resonated with many of the traditional left, and an intellectual call grew for the abolition of prisons in America (PREAP, 1976). To many conservatives who might have been sympathetic with the Commission's main recommendations, the linkage of prisoner's rights to the justice reform agenda provided an incentive to dissent. After all, they pointed out, the problem of crime was not that prisoners were being mistreated, but that their victims had been.

A centerpiece of the Commission's agenda was rehabilitation—not the old, “failed,” medical model based on crime as mental illness, but the newer idea of reintegration based on a view of blocked opportunity for legitimate participation in society. Robert Martinson's paper in 1975 proved a deep challenge, perhaps a fatal one, to this view. Martinson's work has been much debated since its original publication, but at the time it was taken as an astounding indictment of rehabilitation programming: after systematically reviewing over 200 studies for a New York State commission on crime, he drew the conclusion that “nothing works.” The result sent shock waves through the prison reform community. If nothing works, what then shall the prison agenda be?

The somber implications of the Martinson study simmered under the surface of correctional management for years. Most day-to-day workers, busy managing offenders through this or that program, never heard of it. To neophytes who did, enraptured by the optimism of the day, the news came as a cold shock. But to seasoned veterans of the treatment business, the results had a ring of truth, for every program had experienced its failures; and nobody claimed a perfect record in the rehabilitation business.

The third major interruption of the Commission's blueprint for change was the second term of Richard M. Nixon. With an appeal to the Silent Majority, who worked, obeyed the law, and respected the nation, the Nixon campaign brought crime into the mainstream as a political issue far more successfully than had Barry Goldwater 12 years earlier. Suddenly, the debate about crime was galvanized into camps—the liberals and the conservatives. Stereotypes of each of these views took on a greater meaning than the more reasoned versions of either of them.

Was a person in favor of the criminal or the victim? Did someone believe in rehabilitation or punishment? The crime control agenda was removed from the arena of the expert and placed squarely in the lap of a public steeped in dramatic crime imagery.

Thus, the Commission wrote to galvanize an agenda, but its text fell upon a soft social science base and was soon inundated with historic events that undermined its claim of the moral high ground. Plagued with a weak information base, unduly confident claims, and a poised and doubtful public, the Commission's enthusiastic claims and urgings were soon swamped by a series of events and images that could not be overcome.

Nixon's own crime commission (1973) reported a series of standards for criminal justice practice that were thought at the time to be the concluding effort of the earlier Commission's work. In comparison to the excitement with which professionals embraced the 1967-1968 reports, however, the "standards and goals" received a lukewarm reception. Already there was a gap between what the professionals articulated as desirable practice and what the political will seemed interested in advancing. The Nixon commission was all but ignored, especially by the White House. By the end of the Carter presidency, any momentum behind the Commission's original work seemed to have completely abated.

Reaction to the Great Society

As a crime control program, the 1967 Commission report was a product of Great Society thinking. The report advanced the role of government as a crime prevention leader and built its claims upon an image of social programs for disadvantaged citizens. Its release was followed by Republican presidencies for 20 of the next 24 years. It is not surprising that the top leadership began to unravel the Commission's agenda.

The first unraveling of ideals underlying the Commission's perspective on crime policy came from politics, with the rise of the neo-conservative backlash to the Kennedy-Johnson years. To the extent that their leadership had argued that the problems faced by individuals were largely resulting from social and governmental failures, the new conservatives held that citizens' problems were of their own making: a result of sloth, self-indulgence, or greed. To the extent the Great Society paradigm promised solutions to social problems that would derive from aggressive, purposeful government action, the new conservatives claimed that only through

individual perseverance and tenacity could these peoples' problems be overcome. Crime was not to be seen as a problem of blocked social opportunities, but of uninhibited individual malice. This was, of course, not a new debate, but it was played out in the form of legislation. The Safe Streets Act of 1969 was the first major conservative victory, and it foreshadowed repeated legislative initiatives to hold individuals more powerfully accountable for their misconduct.

Hot on the heels of the Martinson research—which was not the only published claim that rehabilitation programs failed to work, merely the most visible (see Bailey, 1966; Robison and Smith, 1971)—came a new direction of research on criminality which undertook to document the nature and extent of criminal careers. It may not have seemed apparent at the time, but this research orientation was entirely consistent with the individualistic conceptual (and moral) models of neo-conservatism. Whereas the traditional liberal research effort sought in the aggregate to correlate patterns of crime with patterns of social disorganization (see Shaw and McKay, 1946; Sampson and Groves, 1989), the criminal career research intended to illuminate what individual offenders do, how often they do it, and for how long. Disinterested in *why* a person offends, that criminal career paradigm was interested only in *that* the person offends.

Unlike the scientifically-proven-futile, social-problem strategies such as rehabilitation or community development, the criminal career research results showed enormous potential gains from seeking to control individually active offenders. The first important study, by Shlomo and Shinnar (1975), estimated that a policy of incapacitation might reduce violent crime in New York State by 25 percent. A later study by Greenwood (1982) concluded that a sentencing policy of selective incapacitation would reduce robberies in California by 20 percent. Obviously, the puny results of penal treatment programs compared very poorly to these muscle-bound claims. Research on criminal careers and policy models of incapacitation provided scientific cover for conservatives who were accused of disregard for the socially disadvantaged. In reply, the conservatives could answer that there are fewer disadvantages more tragic than criminal victimization, and at least their policy agenda sought to do something about it.

Public dismay about crime remained high. Poll after poll showed Americans to be more concerned about crime than nearly any other problem, and with regularity, the papers reported government statistics showing increasing rates of crime. The dominating presence of the Civil Rights movement as an agenda setter in urban policy began to wane, leaving in its place a stark

perception of unsafe streets and an emasculated justice system. Whatever promise might have been felt in the Commission's afterglow rang hollow in the face of rising crime and accelerating fear of crime.

Among the most popular courses of action was sentencing reform, which provided mandatory minimum terms, restricted the availability of probation, and increased the length of the prison sentence. One analysis (Clear, 1995) showed that between 1975 and 1990, every state and federal jurisdiction enacted sentencing reform designed to increase the probability of a prison term and lengthen the time a felon would spend there. In the late 1970s and early 1980s, there was a vigorous philosophical debate about sentencing, with neo-retributionists led by Andrew von Hirsch (1976) arguing that the sole purpose of a sanction was punitive and neo-utilitarians answering that a rational test of a sanction was its capacity for reducing crime (see Wilkins, 1991). By the mid-1980s, this lofty debate had evaporated, and the sole issue in public conversation was how to reduce crime.

Nationally, a victim's movement was born. The most famous version was the Mothers Against Drunk Driving (MADD), begun by a woman whose child had been killed by a drunk driver and who was enraged over his lenient treatment by the courts. There would soon be stepchildren of MADD, such as Parents of Murdered Children and others, who called attention to the plight of victims of crime. The victim's movement had enormous public appeal through the media. It also had three very important characteristics: it was a middle-class movement of largely white ethnic identity and was closely aligned with (and invested in by) political conservatives. Despite the social reality that victims of crime were overwhelmingly young people of color living disadvantaged lives, the national victim's movement seemed symbolized by whites of the middle class, the descendants of Nixon's Silent Majority; and they were silent no more. When President Ronald Reagan created the Office for Victims of Crime in the U.S. Department of Justice, he firmly aligned his broader political agenda with the much more specific concerns held by victims of crime.

The Managerial Crisis in Corrections

By the end of the Reagan presidency, all crime policy momentum had completely switched to a set of propositions so antithetical to the Commission's stance that the latter

seemed an archaic reminder of softer, sentimental times. While Reagan and Bush were president, two Attorneys General (Smith, 1981; Barr, 1992) wrote federal crime policy that was openly disdainful of any role for social programs. Nationally, the prison population continued to grow, and its rate of growth also increased. Even though the prison population had been growing steadily for the two presidential terms before Ronald Reagan's arrival in the White House, most of today's accounts refer to increases in imprisonment since 1980. The reason is not scientific, but symbolic. If Nixon, Ford, and Carter had presided over annual increases in prison rates and numbers, none of them seemed publicly pleased about it. But to Reagan, this statistic seemed a hallmark of his most prideful achievements on the anti-crime front.

Prison growth had a major impact on day-to-day correctional administration. Throughout the 1980s, correctional administrators faced serious problems of prison crowding. Though in America, prison overcrowding was an historical constant (Sherman and Hawkins, 1981), the administrators of the day were severely pressed to manage burgeoning facilities within the requirements of the Constitution. Most prison systems failed; and by the mid-1980s, the average state prison system was operating under judicial court order to bring its practices into conformity with the Constitution. State administrators seemed caught between a rock and a hard place. Tax cuts were sweeping the nation at the same time that prisons were being forced to absorb more and more offenders, many of whom were about to begin long prison terms resulting from sentencing reforms described above. The public seemed to want, simultaneously, to put more people behind bars and for longer, yet not to pay the price tag.

In the face of these pressures, correctional administrators turned to "alternatives" to prison. Front-end alternatives included intensive supervision programs, electronically monitored home incarceration, and boot camps. Back-end alternatives were early-release programs, usually based on some sort of promise of tight surveillance. The political realities of correctional programming affected the design of prison alternatives. Even though, in theory, the array of community-based programs developed in response to crowded prisons might have appeared to mimic the recommendations of the 1967 Commission for a strengthening of community corrections, there was a major difference between what the Commission envisioned and what the 1980s produced. The new generation of community alternatives were very much a creature of the rhetoric of the times, and they were unremittingly tough in their approach. They promised

close surveillance, stiff conditions, tough enforcement, and swift, unforgiving responses to misbehavior.

Two studies by Joan Petersilia and her associates might be seen as bookends to this movement. In the first (Petersilia and Turner, 1985), a follow-up study of a sample of California felony probationers, Petersilia found that about two-thirds were re-arrested for a serious felony within three years, most before they had completed their probation terms. The study highlighted inadequacies in traditional probation supervision and informed a sober self-review by probation leaders around the country. One result was a call for a new breed of “intermediate sanctions” for correctional programming, approaches that would fall in control capacity and penal severity somewhere between the lenience of typical probation and the constancy of the prison (Morris and Tonry, 1990). Such programs grew rapidly, and with them rose the prestige and importance of the American Probation and Parole Association, a major leader in advocacy for change. By the end of the 1980s, every state and most local agencies had some form of enhanced probation, partial incarceration, or basic surveillance program to siphon off offenders who seemed otherwise bound for prison.

The second study (Petersilia, 1990) was a cost-effectiveness evaluation of everybody’s favorite version of the new intermediate sanction—intensive supervision probation (ISP). The study employed a randomized treatment design in multiple sites and concluded that, not only was ISP no more effective than regular probation, but in the long run it was no less expensive. The ineffectualness of ISP was not a shock to many observers, but the latter finding came as a big surprise, for it meant that ISP failed even at its most meager goal, to save money, because of its charges’ high failure rate and the ISP program’s low rate of truly diverting offenders from prison.

The crisis in correctional management had spawned a series of innovative programs that fed people’s hopes for a new era of correctional policy, but research burst the bubble. Not only was probation inadequate, the alternatives were no better. A hugely popular new alternative, boot camps, would soon be exposed with the same kind of disillusioning findings (MacKenzie, McDowell, and Souryal, 1995). To the cynic, it seemed that no matter the alternative system and no matter how trumpeted its arrival, no alternative could pass the close scrutiny of a systematic research evaluation.

Correctional overcrowding of prisons was matched by a sense of crowding and resource strain at every place in the justice system. Police chiefs, prosecutors, and judges described court dockets as overloaded with cases. Probation and other community corrections officials cited statistics showing the explosion in their caseloads. Just as it seemed that no room was left for squeezing, President George Bush announced his renewed and accelerated commitment to a war on drugs, the centerpiece of which would be stiff prison sentences. The crisis in criminal justice crowding reached a new level, as drug offenders began to inundate the system.

The irony was that the Bush drug war got under way just as the last of the baby-boomers were leaving their crime-prone years, and everyone expected a break in the now two decades of system growth. From the late 1980s until today, nearly all the growth in correctional populations has been a result of drug policy. Drug offenders occupy an ever larger proportion of prison cells and are an ever increasing demand on the time of justice officials in every assignment.

The Commission's Agenda, 30 Years Later

Some might be tempted to conclude that what we have today is a complete repudiation of the main theses of the Commission. This would not be accurate. Today's view of the Commission's irrelevance is a first-impression response, based on the Commission's generally liberal ideology in the face of today's decidedly conservative times.

In fact, the work of the Commission remains very much an influence on contemporary justice thinking, but shaped by 30 years of experience since the Commission first wrote. The assumptions which guided the Commission are today almost reified components of justice policymaking. The main strategies articulated by the Commission endure as even stronger elements of today's emerging strategies for the justice system of the next century.

Operating Assumptions

This paper began by listing three unstated assumptions that seemed to undergird the Commission's work. It is perhaps a bit ironic that, if this Commission's substantive contribution to justice policy has been long left behind after 30 years, the three assumptions that gave confidence to the Commission's function still remain strong. There is a growing belief in the existence of a public policy consensus about crime, a belief that any debates about that

consensus and the values underlying it are essentially technical, and strong support for a federal role in leading the nation's policy.

The politics of crime control are now perhaps the dominant force in the making of crime policy. The Clinton presidency, through its two Crime Bills and victims' rights legislation, has drawn the teeth of the Republicans and perhaps proven that, on the issue of crime, political success requires a strong, public stance of resolute purpose. It is, by now, not easy to distinguish a truly "liberal" and "conservative" debate. It is not that all parties agree in the particulars about crime policy, rather that the differences of opinion dance around the edges of a general consensus: crime is best fought by dealing with individual criminals firmly and without nonsense. The occasional loner who has tested the political waters by sounding themes other than tough accountability of criminals has been sternly slapped by the electoral hand.

The accepted model, perhaps nearly by consensus, is a simple one. People break the laws because they fail to control themselves. Social problems contribute to their choices, but little can be done about that sad fact. The role of the state is to substitute for their missing self control. Some offenders are so uncontrollable that only long prison sentences make sense, because they incapacitate. Other offenders, more malleable, need the threat of a hard, cold justice process to keep them in line, to add weight and depth to their wilting resources of self-control. A rational system that is intolerant of misdeeds and unflagging in surveillance can make the streets safer for us all.

While a few might object to the simplicity of the words and others might privately wish for a more complex model of modern criminality, there are not many leaders today who would publicly stand against this ideal view.

The disappearance of real political debate about crime opens a door for change. Just as the Commission wrote 30 years ago about a consensus that expressed more opinion than fact and had a ready band of clandestine doubters, today's consensus stands on weak empirical ground faced with a body of taciturn critics.

For example, researchers are still trying to estimate the true value of *lambda*. A recent paper now claims that unimprisoned active offenders commit about two robberies and three burglaries per year (Canela-Cacho, Blumstein and Cohen, 1997). This now means that

published studies in academic books and journals have variously estimated *lambda* as being zero (Gottfredson and Hirschi, 1986); about 5-8 (Zimring and Hawkins, 1995); less than 10 (Spelman, 1994); perhaps 20 to 30 (DiIulio and Piehl, 1991); and nearly 200 (Chaiken and Chaiken, 1982; see also Zedlewski, 1987). Investment in public policies such as boot camps and the D.A.R.E. drug prevention programs continues despite a solid body of evidence questioning their effectiveness (see Sherman, et al., 1997). Research on mandatory sentencing (Caulkins, 1997); juvenile waiver (Howell, 1997); boot camps (MacKenzie, et al., 1995); and other popular reforms confirms their weak relationship to community safety. It is easy to imagine that a public policy based on this consensus cannot forever withstand the implications of a weak evidentiary base.

The sense that science can help us remains very strong, nonetheless. Interestingly, successes in other arenas are beginning to build. Community policing and its relatives are credited with substantial reductions in crime in several major cities around the country (Wilson and Kelling, 1987; Kelling and Coles, 1996). Programs based in school and housing projects that take advantage of early intervention, at-risk targeting and situational crime prevention strategies show consistently encouraging results (Clarke, 1993; Felson, 1987). Despite the cautions of the recent Sherman report, meta-analyses of correctional treatments support their effectiveness under certain conditions (Andrews, et al., 1990; Lipsey, 1992).

Finally, the federal government continues to carve out a major role in local crime policy; some might say its presence today even exceeds that of the days of LEAA. The 1996 Crime Bill's requirement of truth-in-sentencing at the state level imposes potentially enormous costs on those states that comply. This year's juvenile crime bill also offers resources to states that follow the federal policy lead in response to juvenile crime. The Office of Justice Programs, through its information services, grants, and demonstration projects, is a major influence on local policy development. The Commission planned for a Federal role in justice policy that today has become a kind of standard practice.

The Agenda for Change

Thirty years ago, the Commission called for a program of action about crime that included challenges to each of the main functions in the criminal justice system:

- Police should become a community agency providing multifaceted services to citizens;
- The courts should become centers of advocacy for solutions to problems affecting the lives of everyday citizens;
- Justice service delivery ought to occur at the community level through cooperative enterprise of state agencies; and
- Corrections should have as its main interest the integration of the offender into normal community life.

At one level, this is exactly what is now beginning to occur, but with a look quite different from that originally envisioned by the Commission.

Moving into the Community

The leading force in this shift has been the police, for whom a focus on community-level action and strategic thinking has become a standard of practice. Community policing—which takes different meanings in different places—has profoundly altered the idea of professional policing. In place of a finely honed military operation, or a top-heavy bureaucracy, the new ideal police agency works at the community level to affect crime and disorder, seeks cooperative relationships with local citizens, and provides substantial discretion to local officers who are responsible for identifying problems and solving them. While none of the original Commissioners would have envisioned precisely what is now practiced under the community rubric (and they would most likely be shocked at the claims of crime reduction benefits claimed by the adherents), there is a significant similarity between what the Commission broadly envisioned and that into which police organizations have evolved with today's practice.

The emphasis on everyday disorder is very much a maintenance, service-delivery idea. Admittedly, police are not social workers in today's version, but they are clearly servants of the public quality of life. The idea that police should treat citizens as a resource to be tapped instead of an impediment to be overcome can also be found, in nascent form, in the Commission's orientation. Finally, the belief that citizens have a right to expect police to assist them in their daily problems of living is a core idea of the Commission. The Commission's interest in improving police-community relations grew from the police response to disorder of the 1960s. That today's interest grows instead from a desire to more effectively confront crime should not

distract us from the central point—ensuring good relationships between the police and the community has become a central aim of policing strategy.

The success of community oriented police work (and its cousin, problem-oriented policing) has been so widely accepted that other sectors of the justice system have taken notice. A handful of prosecutors have reacted by organizing prosecutorial services at local, neighborhood levels. One result of this strategy has been that prosecutors have become more oriented toward the problems of everyday disorder; and they are called upon by citizens to assist in solving quality-of-life problems, not merely the high profile crimes (Boland, 1996). Perhaps the Commission envisioned a civil rights advocacy operating at the courts' level, but the quality-of-life advocacy is not so far off. To the extent that new, neighborhood prosecution services align the courts with families affected by crime and orient these services to improving quality of life, they mirror some of the ideals of justice as service to the citizenry as articulated by the Commission.

A correctional response is also under way. Correctional efforts in Vermont (Perry and Gorzcyk, forthcoming) and the Boston area (Kennedy, Piehl, and Braga, 1996) illustrate the range of ways a correctional system can incorporate the community as a part of its agenda. In one example, community members sit on boards and select sanctions for fellow citizens; in the other, pro-active gang work by cooperating probation and police directly targets guns and violent crime as problems in selected neighborhoods. These are examples of the new breed of correctional programs emerging from a decade of correctional services standing at the sidelines of correctional reform (Clear and Karp, 1997; Clear and Corbett, 1997).

The Commission, in describing community corrections, had in mind a type of offender rehabilitation model that emphasized jobs and education. This idea has waned as research and fashion have moved attention away from the rehabilitation model. Instead, the new correctional community focus involves organizing communities and mobilizing citizens. Without fanfare, this is a renewed commitment to seek and involve volunteers, to coordinate efforts of correctional agencies with other community-level services, and even to take advantage of the special resources provided by ex-offenders and anti-crime workers. Described in this way, the new corrections sounds very much like a version of the Commission's strategic view.

Integrating Offenders and Serving Victims

The Commission's most prominent correctional recommendations had to do with the concept of reintegration. They envisioned a dwindling prison population, a vast investment in an array of community-based correctional systems, and the proliferation of cooperative ventures among government agencies confronting the problem of crime by working with offenders in the communities where they lived.

By far, this vision has not been fulfilled to the degree with which the Commission urged it. In 1967, nobody foresaw the quarter century of increasing prison populations or the quintupling of the offenders under correctional control which has led us to today's penal behemoth. It is this set of facts that has led some to conclude that the recommendations were "empty and irrelevant" (Stojkovic, 1994: 53). Most of those who felt enthusiasm for the perspective the Commission announced will have spent the last 30 years in disappointment with the emerging correctional policy agenda and how little the Commission's views seemed to have affected these developments.

To be sure, the corrections of today bears little resemblance to the corrections one would have predicted on the basis of the 1967 report. Prison has become the sentence of choice, and ever longer prison terms have become the policy option of choice. Community corrections agencies seem ready to focus on surveillance to the exclusion of services. Rather than embracing the offender who seeks reintegration, numerous communities rely on neighborhood notification laws to justify hostility and harassment of offenders, even to the point of driving them into hiding. The noble idea of reintegration, so fundamental to the Commission's view, remains unachieved.

Yet there are ways, many of them quite recent, in which the Commission's view of a community-based correctional system glimmers on the horizon and may come to dominate the coming decade of correctional work. The reintegration of offenders, as viewed by the Commission, was a task reserved for professional correctional workers. Various called "restorative justice," "reparative punishments," "community probation," and "community justice" (see Van Ness, 1991; Perry and Gorczyk, forthcoming; Byrne, 1989; and Restorative Justice Working Group, 1996, respectively), today's emerging view of reintegration employs a

cooperative strategy with community members and community groups. It is a new concept in the attention of correctional leaders, but one that is being embraced with enthusiasm.

To understand this new emphasis on community justice, one must remember how dispirited the community corrections field has been in the years since the Commission reported. Instead of an increased level of interest and support from public policymakers, probation, parole, and (most recently) intermediate sanctions were typically seen as examples of what was wrong with a lenient and ineffectual corrections system. Community corrections professionals were engaged in something of a holding action, facing political and fiscal pressures that paralyzed planning and vision. But in the latter half of the 1980s, a new breed of community corrections leaders emerged who sought to take control of their agenda and the public relations offensive. The American Probation and Parole Association surfaced as a major policy group and has played a leadership role in revitalizing and refocusing the profession.

The new emphasis on community derives from that renewed sense of professional identity. By widespread adoption of systems of offender management based upon risk classification and needs assessment, the profession became a proactive agency of community safety. Although some observers accused the system of becoming a “risk management” bureaucracy (see Feeley and Simson, 1993), in fact the orientation toward community safety has led many managers to see their services as related to quality of life, not just for non-offenders who must be protected, but for the full citizenry, which includes offenders and their families as well as their victims and neighbors.

After some initial reticence and apprehension, most community corrections leaders have embraced with vigor the victim’s movement, seeing in victims potential natural allies in the quest for methods to allow accountable offenders to adjust to community life. The focus on victims—and on all of us as somehow victims of any crime—has led to the development of interventions that face offenders with the consequences of their crimes: victim-offender mediation and conciliation, restorative justice group conferences, and community sentencing boards. Each of these approaches can be seen, in part, as the natural fruition of the seeds planted by the Commission 30 years ago. For in these approaches, the corrections system seeks a profound reintegration of offenders into the places where they live—as responsible citizens who have made reparation for their wrongdoing and taken steps to build a law abiding life.

Part of what is so intriguing about this new reaching out to the community is that, while the initiative for it comes from the correctional agencies, the support to make it happen derives from its credibility with the community. It is, in some ways, a truly community-based vision that incorporates what is known about offenders, their victims, and the needs of their neighborhoods, into a broader paradigm of justice.

The Coming Generation

Thus, while much of the Commission's vision has never caught the excitement of the public in the way the Commission must have hoped, much of what the Commission sought remains vital. As the next generation of public policy comes to life, it will also be a product of the same forces identified at the outset of this paper. Some speculation on these issues follows below.

Information

There has been a rebirth of interest in the relationship between crime and aggregate social structure. The community context of crime and the effectiveness of community-driven approaches will play a major role in future research agendas. The Sherman report (1997) already expresses optimism about these strategies, but specific studies and evaluations will have more impact than this broad review with its very general conclusions.

Another factor will be studies that fuel political agendas. Recent estimates of the "total costs of crime" (Miller, Cohen, and Wiersema, 1996), for example, are already being cited as bases for selecting some policy strategies over others; and a new Rand Corporation report (Reuter, 1997) on mandatory sentencing received front-page coverage in newspapers around the country. These two examples illustrate how information will continue to be an important part of public consciousness about crime policy.

Structure

The impression that a new horde of young "superpredators" is waiting around the corner has already been asserted (DiIulio, 1996) and denied (Zimring, 1996). What happens to the echo of the baby-boomers—how they behave and what is done about them—will be a major determinant of the public reaction to crime; this much is already clear. For example, if today's

pattern of declining crime rates remains steady, the public pressure on crime policy will be considerably relaxed.

There will also be significant implications in how the economy performs. For the first time in two decades, the distance between the poorest America and the richest is diminishing. This is very good news for people concerned about crime, of course. Whether the economy will remain strong, bringing relief to some of the most disadvantaged groups, will have a major impact on crime and crime policy. It goes without saying, then, that the residue of welfare reform will also play a role in this aspect of social structure.

Politics

It is hard to imagine, but the intractable resonance of crime for political campaigns is in danger from two sources. One is internal to the process itself—the fiscal pressure and desire for tax relief is making penal skeptics out of elected officials who would like to move on to other priorities. And, as was indicated earlier, the success of the Clinton Administration on this issue has removed some of its partisan value. But there is also an external source that destabilizes the current politics of crime: Crime is going down. It is easier to get the public energized to deal with a problem that seems a crisis than it is to deal with a problem that seems to be waning.

The reality of two decades of jail and prison construction, especially since the latter years have been dominated by a private correctional industry, will establish parameters on the politics of correctional growth. Rural communities whose economies rely upon the prison operating close by will not easily succumb to declining prison intake. There will be socio-political pressures to sustain the prison industrial complex. Moreover, it seems inconceivable that facilities will be closed down, even though that would be quite an echo of the Commission's work 30 years ago.

There are already signs that the political playing field is moving away from adult criminal justice toward the juvenile justice system. The rhetoric appears little changed, but the stakes are quite different. There is much less of a wide-open market for correctional investors into juvenile “hardware,” and the public has historically been less inclined to write off as “enemies” their own children. Moreover, the community movement in the justice system is very well suited to an emphasis on pre-adult offending and offenders.

Reprise

Thirty years ago, the President's Commission reports heralded an era of attention to crime and criminal justice administration. The justice reform road since that time has been traveled in the company of changing information, social structure, and political realities. It should surprise nobody that the Commission's many recommendations have encountered a very mixed response; have become caught up in the events of the day; and have, in no sense, been implemented exactly as planned. But it is also a bit surprising to realize that, after all these years, the Commission's work remains rudimentary to our thinking about crime, not merely as an artifact of history, but because of the continuing importance of the themes it addressed.

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Panel V

Changing Nature of Society's Responses to Crime and the Criminal Justice System

Francis Hartmann introduced the session by first reviewing the overall purpose of the Symposium. The first reason for meeting, he said, is to honor, celebrate, and thank the Commission members for the hard work they have done. They are still an inspiration to us today—they still have the energy and the passion that characterized their work 30 years ago. We are also here to contribute our own thoughts and to hear what others think about important issues. Finally, we want to consider how to be more effective in the external arena and to recommend direction to the current leadership at OJP. The first three panels gave us an historical perspective and an overview of changes in crime problems and in the criminal justice system. Underlying these discussions were issues of race and of social justice. The fourth panel focused on the role of research. And the final panel will consider more closely how our responses to crime have changed and the measures we should use to determine whether or not our responses are successful. Perhaps the right question to measure is this: Is this community better off?

Todd Clear commented on his Symposium paper, characterizing it as “a sort of speculative history.” The Crime Commission’s recommendations, he said, were based on three assumptions: (1) a professional consensus exists on what to do about crime, (2) values can be addressed through professional and technical recommendations, and (3) the federal government should play a strong role by building on this “professional/technical consensus.” With regard to the first assumption, the Commission offered a complex view of offenders, considering many different social issues. Our view of offenders today is much more simple—offenders should resist their negative urges—and we take an economic view of crime. Regarding the second assumption, questions of values and morals are simply not raised much any more. The third assumption has certainly proved correct: federal involvement is an everyday activity; it is standard practice.

Mr. Clear said he felt “cynically optimistic” today for several reasons. First, we seem to have reached a “political homeostasis.” The current President, he said, “has stolen the agenda

from the other political party.” Also, crime is going down, and other problems seem to be growing in importance. Some criticized the Commission for making recommendations grounded in idealism rather than fact (for example, James Q. Wilson in *Thinking About Crime*), but many of our responses—mandatory sentences, juvenile waivers, punitive prisons—have not reflected the same idealism. Finally, there is reason for optimism because another response seems to be “bubbling up.” People at the local level are saying that what we have been doing does not work. They are now supporting movements toward community justice, restorative justice, neighborhood prosecution, and other initiatives. We need to nurture and encourage this trend.

Michael Smith, the panel moderator, recalled an earlier remark that reformers had to be “crazy” to make progress. But the Crime Commission members were courageous, he said, not “crazy” in their approach and in their recommendations. Mr. Smith asked the panel to consider a question as they discussed their views: What evidence gives you enough confidence to step forward? Mr. Smith suggested the answer for him was not so much science, but rather knowledge and courage.

Overview of the Panel Discussion

Throughout this discussion, several panelists observed, and others advocated for, a shift in the federal role from provider of “answers” to facilitator. Many panelists said they were particularly inspired by the development of partnerships among criminal justice agencies and various community groups. Several speakers discussed issues raised earlier in the Symposium: harsh sentences; the over-representation of racial minority group members in the criminal justice system, as well as their under-representation in policymaking forums; policies that ignored research findings; and other sources of frustration. A number of participants recommended looking to local efforts like restorative justice innovations and tribal justice systems that hold accountable all parties affected by crimes. Many participants emphasized that “we already know what works”—healthy relationships, healthy families, healthy communities—but that new ways of communicating this knowledge must be found.

“We’re from the Government, and We’re Here to Help You”

The panel discussion began with a focus on the changing federal role in the development of crime policy. One panelist said that in the mid-1960s, the Commission felt a criminal justice revolution was being developed by the courts; it viewed the federal government as “the source of all wisdom, ideas, and encouragement;” it looked to Congress to hold hearings and to investigate; and it looked to the federal government for money. Today we are “living in a totally different world [and] I view all those realities as having disappeared.” The most promising initiatives, wisdom, leadership, and advances are coming from the local level. Federal funding often distorts our ability to find the right path, he said. Another panelist said the Commission represented to him “the highest expression of the inclusiveness we grew up with,” but since that time “the waves of cynicism have washed over us and we have come to view government as ‘other.’”

Many panelists agreed that the federal government today cannot take the position that it “has all the answers.” One said it should “play a facilitative role, and include young people at any future Symposium.” Another panelist emphasized that “we must continue to treat people as consumers of criminal justice services.” One panelist emphasized that “the current OJP leaders all have a much-needed community-focused vision.”

Idealism, Partnerships, and Other Driving Forces

Several panelists said they are driven today by the same idealism that drove the Commission. Other sources of encouragement and personal strength included these:

- “The community movement,” which represents a “turning back to [a time when we had] more faith in ourselves.” This was a theme sounded by a striking number of participants.
- Working in environments where inter-disciplinary cooperation has prevailed. One member of the judiciary said he regularly calls on criminal justice administrators, university researchers, and other research advisors to help focus and redirect programming.
- The fact that 30 years later, many former Commissioners and staff still care and are still doing the same work.
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Specific areas in which progress has been made. One panelist said he was encouraged by less hatred of the police; a view of the victim as a client of the criminal justice system; research in Canada resulting in better prison inmate assessments and assignments to appropriate supervision levels; and application in communities of Hawkins' research on risk-focused prevention.

- Personal beliefs that it is possible to move forward, and that what one individual does can make a difference.
- Community policing and the COPS Office's efforts, which have shown that we know ways to mobilize communities and to reduce crime, at least in the short run.

Expanding on the concept of community partnerships, one panelist said his goal is built upon existing relationships and strengthens the formal links between the judiciary, the community, the executive branch, and educators. Community courts are a critical development in terms of partnerships, and research does produce information that can be used. Another panelist said it was the residents of his community—including members of many different ethnic and racial groups—who give him confidence. “If we can get the people one step beyond fear of crime,” he said, “we can make progress.”

Harsh Penalties and Mean Spirits

Another panelist discussed three trends he has observed over the past 30 years, which he said were also mentioned in Todd Clear's paper: (1) increased acceptance of the concept of “deserved punishment” and a demise of the rehabilitative ideal, (2) a remarkable increase in determinate sentencing, and (3) an increased emphasis on goals of deterrence and incapacitation. Our views “fly in the face of what we know about offenders,” he said. For example, most crime is unplanned, inspired by a need for gratification and without concern for consequences; criminals do not specialize much; and young adults commit the majority of crimes. Our policies do not match this knowledge. If crime is unplanned, why the emphasis on deterrence? Why build geriatric prisons if we know most offenders are young?

With regard to today's harsher sentences, one panelist reminded the group that “judges are not the source of all evil,” but are hampered by the way laws have been shaped. Even federal judges appointed in part for their conservative views, he said, are now beginning to rebel against

mandatory sentencing and “other ways of meting out cruelty.” Expanding on this thought, one panelist said we seem to have developed an “us versus them” mentality and don’t have the vision to see beyond it.

Race

One panelist noted that no one of color served on the Commission staff and that Whitney Young was the only person of color on the Commission. Relatively few pages of the Commission report addressed issues of special concern to inner cities, and the Los Angeles riots of the 1960s were discussed in only one page. The Kerner Commission said there are two separate justice systems, one white and one black, and that has not changed. In addition, redistricting cases now being heard in several states will have a tremendous impact. We must find out more about tribal systems of justice, he added.

Another panelist said that while he was driven to work for improvement, his passion was derived in part from “a sort of channeled anger about the high number of African Americans involved with the criminal justice system.”

Other Sources of Frustration

Another speaker said he was frustrated because, although the Commission appears to have represented a consensus, that consensus seems to have been “based on ideals and stereotypes, not facts.” But at least we can admit that and talk about it, he said. A well known prayer asks for serenity, he said, and we have been “stuck on serenity” too long, but we are beginning to find the courage to move forward.

One panelist said he was angered by comments in earlier panels about politicians. Many try to do the best they can, he said, and must strike a balance among various interest groups. Another said that as Congress considers juvenile justice legislation, “books don’t matter, research doesn’t matter, the good questions asked here don’t matter.” Juveniles may again be housed with adults in jails, and there is little money available to support public defenders. Still, there is hope, he said, because there are people in Congress and in government who do care—it is too easy to generalize.

Another panelist was concerned about several issues he felt had not received enough attention: One is the appropriate use of technology; for example, its use to control people raises the prospect of creating more of a police state. Stealth crime, the Internet boom, international crime—these issues need to be examined in an organized way.

Community Initiatives

In contrast to these frustrations, obstacles, and injustices, many participants said the view that “nothing works” is wrong and pointed to a range of local practices that were their main sources of optimism today. As one panelist expressed it, the notion that “the government has all the answers” is being challenged by community policing; community, drug, and other specialized courts; community prosecution, and other local efforts. We are now acknowledging the community’s role in producing justice, he said.

Several participants also derived a sense of hope from the ongoing restorative justice movement. One panelist commented that a striking number of criminal justice recommendations—both during the Commission’s time and today—envision offenders as detached from the community. In contrast, it seems like an “alien system” to many American Indians to have a stranger hear cases. But it would make a great deal of sense to bring in all of the offender’s relatives, as well as community members who were affected by the crime. As people explore alternatives to the adversarial court system, they are moving closer to tribal processes and ideas about sanctions. These trends strike American Indians as more meaningful, more appropriate. The federal government should support approaches that work with and hold accountable everyone involved.

Several panelists commented that victims also want to place emphasis on prevention and intervention, not enforcement. A bi-partisan movement is needed now, said one panelist, and leaders in the victim movement may also become the leaders in today’s criminal justice reforms.

What Works and How We Know

One panelist suggested that to determine effectiveness, we should ask, “How many people feel better about their communities today?” and, “How many feel better about the way the criminal justice system is working?”

Several panelists emphasized their beliefs that we already know what works: healthy families and healthy communities. As one panel member explained, “We know who the delinquents are—their parents are on drugs, they do poorly in school, they are black or brown, etc. That’s not news.” Similarly, another speaker said, “we can only reduce the crime rate if we start with the children.” One expressed interest in community policing as “an action research program—an ongoing effort to find out what works and to solve problems.”

Another panelist, however, said, “we seem to know more about what does not work than about what does. We can point to some successes, but many criminal justice systems are dysfunctional and many police organizations are broken down.” Another said one of the most important challenges is to ensure that correctional systems are functioning well. Texas, he said, is an example of a system that is now functioning: it has enough prison and jail space, the largest substance abuse program in the country, and a number of community justice programs. The task now is to fine-tune the system.

Several participants emphasized that to change the criminal justice system we must continually evaluate it. One recommended taking a hard look at recidivism data regarding offender outcomes and behaviors after prison release. Criminals are not uniform, they are diverse. Changes like marriage and economic self-sufficiency, and especially bonding with other people, can positively influence their behavior. We must provide access to education and vocational training—enable them to achieve. At least 95 percent of people in prison are going to get out; and most return to the same communities and have similar associates. We must also consider alternative sanctions. Day fines, as demonstrated in some European systems, can be more effective than jail time in many cases. In addition, day fines help define for all residents how seriously the community views crime.

For offenders, another panelist emphasized, what works is “developing a relationship with someone else. Government can’t accomplish that, but government can promote the process.” For the Crime Commission, ensuring domestic tranquility—peace—was the litmus test. “There is no peace without justice . . . and it is the community that is the source of justice. We must strengthen communities and families.” The idea of hope, he said, “has taken some hits lately.” Hope is based on faith, and faith is an antidote to fear and a sense of powerlessness. Our charge, and our best hope, is to return power to the people. We can do this by trusting in the

informed judgment of the people. The public needs information and it needs an opportunity to talk. The experts can shed more light on how to measure success, but perhaps effectiveness can be judged by the frequency and nature of citizen-to-citizen interactions.

Communicating the Issues

The public is afraid of violent crime, said one speaker, and at the same time is unaware of the facts—how much crime there actually is and what programs work. Also, many polls show that while the public wants safety, it also wants youth to have a chance for rehabilitation. Child advocates must become much better organized and put today’s communications technology to good use. And we must get information to the public in a form it will understand. Rather than more statistics, we “must put a different face on the issues . . . we must talk about people.” Consider the impact of a symbol like the AIDS quilt—a statistical study in itself when viewed from the top of the Washington monument. Reflecting a similar view, several panelists emphasized the value of “telling stories in order to connect research to practice.” One panelist observed that the Commission today “is looking back from a very cerebral place, but for American Indians—and for many others—oral tradition and storytelling is a critical source of knowledge about right and wrong.”

Synthesis of Symposium

Mark Moore, John F. Kennedy School of Government, Harvard University

The Crime Commission exercised leadership by setting out a vision that was appropriate and powerful for its time. In this conference, we have had a chance to recommit ourselves to a set of purposes. As David Curry said, what animated the Commission was a passion for justice and knowledge, and that should be what animates us as well.

In an essay called “Politics as a Vocation,” Max Weber tried to account for what made statesmen out of politicians. He said the defining characteristic of a statesman was passion—but not the feckless passion that is so characteristic of Russian intellectuals. Instead, he meant a German kind of passion, a matter-of-factness, an ability to let the cold realities of a situation operate on your mind with inner calm and concentration. That’s an interesting idea. It says that it takes a certain amount of passion and energy to face up to cold, problematic realities. In the best politicians and statesmen, that is what we see—the ability to take the energy that comes from a sense of outrage, a sense of possibility, a sense of importance, and translate it into a capacity to concentrate on the cold realities of the situation.

This suggests some of the language of this conference: that politicians are animated more by optimism than by hope and faith. Part of our commitment to justice and knowledge is to understand that we will be motivated often by hope and faith but that optimism also has to be our guide. So the question I want to talk about is this: What is the vision to which we might commit ourselves today, and how does it compare to the Crime Commission’s vision 30 years ago?

The Crime Commission: Key Themes

The Crime Commission had two big things in mind: (1) how to produce an effective, decent criminal justice system and (2) how to deal with crime. Those two were not exactly the same. The Commission felt the criminal justice system had to be reformed in a way that would produce something called criminal justice. They thought that had some important relationship to the control of crime, but it wasn’t the only thing that was necessary to control crime. To meet

the challenge of crime in a free society, they felt we must do more than produce a first-rate, highly functioning criminal justice system, and that was to work at producing social justice.

They had a theory about how to fix the criminal justice system, what needed to be done in the domain of social justice, and how those two efforts could combine to reduce crime. Darnell Jackson made that abstract statement more concrete yesterday when he said, “The way I see it, we have two systems. There’s the criminal justice system, and then there’s the social justice system. The reason we have drug courts is that we are trying to make the criminal justice system do the work of social justice.” Thus there’s a picture of the criminal justice system trying to control crime but also trying to do it decently, a social justice system that’s trying to produce equal opportunity, and some understanding of the connection between the two.

That was the vision the Crime Commission was trying to offer society. They also had a managerial or implementation vision, which was a theory about how the processes and institutions of the criminal justice system needed to be developed, either to implement the strategy they had decided on or to develop a new idea they could act on if the old idea turned out to be inappropriate.

I want to discuss the Crime Commission’s

- theory about how to control crime,
- theory about how to reform the criminal justice system, if not the social justice system,
- theory about the relationship between the criminal justice system and crime,
- ideas on crime prevention, and
- vision of policymaking.

Controlling Crime

Yesterday, Chuck Wellford directed our attention to the report’s title: “The Challenge of Crime in a Free Society,” not “How to Control Crime.” The Crime Commission understood that there were competing values. There was the goal of controlling crime, which could be done—conceivably—if we were willing to expend a great deal of state authority to reduce freedom. But the report’s authors thought another important goal of society was to use only the minimum amount of state authority and then either to find other ways of controlling crime or to

live with a certain amount of crime, which we would have to endure as the price of having more freedom.

For them, the value question was, “How can we reduce crime while preserving freedom?” They understood that the goal was to control crime with justice, not simply control crime. They also thought that goal was key to maintaining the support of the population. If the criminal justice system was not both just and effective, it could not expect to enjoy the support of the broader population and would operate illegitimately and ineffectively.

Freedom and justice meant the protection—even the extension—of individual rights, along with a sustained effort to expunge race and class bias from the operations of the criminal justice system. It may also have meant—though they did not spell this out—that freedom, justice, and crime control would depend on the development of a significant social justice system as well as an effective criminal justice system.

They were extremely sensitive to the role of state authority. They wanted to roll it back, to use as little of it as possible. They wanted to make sure any uses of such authority would be justified. They hoped to replace some of the potentially lost effectiveness in crime control through greater efficiency in the operations of the criminal justice system, through the application of scientific management, and through more effective cooperation among the different elements of the criminal justice system. But they went on to say that reforming the system could produce criminal justice but not necessarily control crime, and that the real solution to the crime problem lay in the creation of social justice. In her panel yesterday, Angela Davis reminded us of the Crime Commission’s emphasis on the importance of providing education, recreation, jobs, and strong families for kids as a way of controlling crime. That enthusiasm for focusing on kids continues to this day.

It seems to me we could go further than that when we think about social justice. We need to supply those things to adults who missed them when they were growing up. That might be a basis for thinking about what we might do with adjudicated offenders, too. As Julius Debro reminded us, we have a special obligation to concentrate on the reduction of racial disparities and to work hard at reducing the perception and reality of racial discrimination in this society, as well as to try to rid ourselves of the taint of poverty.

To the Crime Commission, it was important to establish social justice as well as criminal justice. Not only was social justice a good in itself, but it would strengthen the criminal justice system. Nancy Gist reminded us of the statement, “There is no peace without justice.” This is an allusion to the right relationship between social justice and criminal justice. The big, substantive idea that the Commission offered the nation was that we had to fix the criminal justice system *and* the social justice system.

Reforming the Criminal Justice System

That vision may perhaps be too narrow. Chris Stone noted that the institutions of the criminal justice system ought to produce justice, not just control crime by restricting civil liberties. What might that mean? It would certainly mean paying attention to the rights of the defendant. That’s the part on which the Crime Commission focused our attention. But it would also mean paying attention to the rights, interests, and feelings of victims. It wasn’t long after the Crime Commission wrote its report that a significant victims’ movement emerged. But there’s an even more ambitious idea, and you could hear it all over this last panel. It isn’t just that we balance the rights of the defendant with the rights of the victim in figuring out what’s an appropriate sentence, which would be one vision of justice. It is that the courts restructure a relationship that has come apart; that the purpose of many of these courts is to construct just relationships among strangers (offenders and victims) and also conceivably among more intimate groups—husbands and wives, neighborhood merchants who have been victimized by kids, or parents who have become estranged from their kids.

Ronald Earle said, “Government can’t create love.” But Ada Melton and others said it can create the occasions where love, tolerance, obligation, or duty might be rediscovered. That is a “thicker” concept of justice than simply observing the due process rights of victims and offenders.

The principal crime problem that the criminal justice system has been concerned about involves offenders and victims who don’t know one another. But Daniel Glaser reminded us that most offenders come back to the community, and Chris Stone remarked that the flow diagram that shows crime on one end should show crime at the other end, too.

This flies in the face of two common fantasies about the criminal justice system. I'll call them (and offend many people in the world) the Right Fantasy and the Left Fantasy.

The Right Fantasy is that when people commit crimes, we can end our relationship with them either by locking them up and throwing away the key or by killing them. The Left Fantasy is that when people commit crimes, it gives us an opportunity to supply them with enough services to turn them into the nice people they always wanted to be. Both of those are deeply wrong ideas. The reality is that we are going to be locked into a long-term relationship with offenders. So an interesting question is, "What kind of a relationship do we want to have with those offenders?" That is a very different way to ask what we are trying to do with criminal justice dispositions.

I think of it, actually, as the kind of relationship I have with my adolescents. I'm going to be stuck in a long-term relationship with them. They're going to continue to drive me crazy, and I am going to continue to love them and try to find the right balance between tolerance and control over what they are doing.

The Crime Commission's idea about justice might be a little narrow and austere. The panel discussions have presented more ambitious ideas about what the criminal justice system could do regarding the continuing relationships among offenders and victims.

Another key idea is that the Commission felt each institution should get outside its boundaries and begin interacting with other institutions, particularly other criminal justice institutions. Police had to have relationships with prosecutors. Prosecutors had to have relationships with courts. Courts had to have relationships with correctional institutions. Missing were relationships with other governmental units—child welfare, parks and recreation, the public education system—and, by far the hardest to develop, relationships with communities.

There were two points at which the importance of that omission became clear to me. One was when Lucy Friedman, in what was almost an aside, said, "What we're learning in working with victims and offenders and particularly with kids is that we have to support naturally occurring systems of support." Then we heard the discussion of drug courts, particularly the idea of bringing in not police, jailers, and officials, but parents, coworkers, and supervisors—and essentially engaging them in the process of controlling the offender's behavior

and helping the person stay off drugs. In each of those cases, we are reaching outside the criminal justice system into informal systems of control, support, and assistance, but still using the apparatus of the criminal justice system to mobilize those controls. The key operating relationships we must think about are not only the relationships with other elements of the criminal justice system but also the relationships with other units of government and with the community.

Relationship Between the Criminal Justice System and Crime

We have observed that the goal of the criminal justice system was primarily to operate appropriately and fairly and only secondarily to control crime. We have also noted the hope that the social justice system would not only produce social justice but also reduce crime. In many ways, the separation of the two systems neglects the idea that the criminal justice system might actually support the construction of social justice. As Darnell Jackson reminded us, it would be easy to overestimate that effect, but it would also be a mistake not to recognize the contribution that institutions of the criminal justice system could make to the creation of social justice.

As Jeff Fagan observed in a social science way, crime is now an independent as well as a dependent variable. That means that crime control is a means of producing social justice and satisfaction and that social injustice is producing crime. It's important to keep that in mind. Then we had that other interesting moment—the encounter between Elizabeth Bartholet and Donald Santarelli. What Betsy said was, “Well, we were in favor of criminalizing attacks of men against women in the context of domestic violence. Why are we not enthusiastic about criminalizing attacks of parents against children?” Interesting question, right? Santarelli said, “We’re now trying to criminalize social policy. We’re trying to execute social policy by creating a criminal liability and a new responsibility for the criminal justice system and bringing it into a place where it doesn’t belong.” It might be wrong in the sense that it would be an inappropriate use of state power or an ineffective use of that power. But I’m not sure we have established either of those points. If it would not be an inappropriate or ineffective use of state power, there might be an opportunity for the criminal justice system to support social policy, which would mean producing safe families as well as great recreational and other opportunities. (I’m not arguing for this, just observing the possibility of arguing for it.)

Prevention

We have heard a lot about prevention, and it is significant that the first chapter of the Crime Commission's report was about prevention. But, again, we have a theory of prevention that is associated with criminal justice operations. That theory, as Don Gottfredson reminded us, says we can prevent crime (if not the first instance, at least many subsequent ones) through the apparatus of deterrence, incapacitation, and rehabilitation. Some of those measures might even prevent the first offense by an offender. That's the criminal justice theory of prevention.

At the other extreme is a social justice theory of prevention, which says that if we extend great opportunities to both children and adults to live well in this society, and if we live up to the promise of equality of opportunity, fewer people will wish to, choose to, and feel motivated to become offenders. So the two ideas of prevention are criminal justice prevention (reactive; extensive use of state authority; painful business) and the social justice theory of prevention (hopeful; accepting our responsibility to society at large; holding open the possibility of realizing a society we would all like to be a part of).

How much space is there between those different ideas? How much of that space have we explored, in terms of finding effective crime prevention techniques? You start with a sort of "sparse deterrence"—incapacitation and rehabilitation—done by professional criminal justice agencies, but a lot of important preventive techniques are in fact "thick deterrents." It's the equivalent of getting mentors to sit next to you and keep you on the straight and narrow course. The reason you behave right is that they are right there. You may have an impulse to break loose. But your mentors are sitting there, and you understand where your duty lies. So there's a concept of support and control. That's the way thick deterrence works.

Shortly after the Crime Commission report came out, I remember watching Jim Vorenberg on TV talking about what to do with persistent minor offenders. They are a hard problem in the criminal justice system. They are persistent, leaving behind a string of victims, but their offenses aren't very serious, so it doesn't seem appropriate to end the relationship by either life imprisonment or execution. So the question is, "What in the world are we going to do with these people?" At that stage, Jim said, "Well, there are just some people who need a

leash.” That’s right. There are some people who behave one way if they have a leash and another way if they don’t have a leash.

There’s another idea of prevention, which is situational crime prevention. That idea says, “Let’s reduce the opportunities to commit offenses.” It also says, “Let’s try to make less property available to be stolen.” But another part of it says, “Let’s try to reduce the number of occasions where people will be provoked into committing crimes, not by the availability of undefended property, but by the sheer aggravation of the situation they find themselves in.” We begin thinking about relationships as potentially criminogenic. Criminogenic relationships lead to domestic violence, child abuse and neglect, crimes committed among gangs, and hate crimes. All of these are crimes motivated by relationships, not by the desire for property. If courts and the criminal justice system are in the business of reconstructing relationships, they may be able to reduce those crimes.

Another possible relationship crime (as Donald Black pointed out to me once) is vengeance. In some ways, it’s self-defense and personal vengeance rather than a reliance on the criminal justice system to do the job. If Ed attacks Ted’s sister, and Ted doesn’t believe he can satisfy his indignation through the criminal justice system, then Ted will attack Ed. The lack of a justice system response to the first attack creates the conditions for the second attack. Thus, intervening in situations is a kind of prevention. These different categories of prevention eventually reach the root causes approach. The approach that was most popular in the discussion is the interruption of trajectories of kids headed toward future criminal offending. Rolf Loeber talked about that most deliberately, but we are all familiar with the work of David Hawkins and others who have demonstrated the possibility of intervening early in a kid’s criminal career.

The point is that there is a general concept of prevention that people will sign up for and have consistently signed up for in the past. For that to become an operational item, we need a much clearer picture of what prevention includes. One of the sadder things in the recent crime control debate is the loss of an argument about crime prevention. I think what was distinctive about the Clinton Administration was its willingness to emphasize crime prevention and to include that in federal legislation, even though it was nipped in the bud. (You know, midnight

basketball was a joke, and it couldn't do anything valuable.). The Commission's argument about crime prevention has gotten lost recently. I think we need to reclaim some of that terrain.

Vision of Policymaking

The Crime Commission had a vision of effective policymaking, which would be guided by data and knowledge rather than ideology and base passion. It would be a Weberian approach rather than a different kind of passion. And yet, we had this wonderful panel here before us, the people who are actually engaged in policymaking. And what was the dominant theme? Anger, craziness, a glint in the eye—and this from the reformers, mind you!

I think it is wrong to imagine that effective policymaking is devoid of passion, anger, or craziness. Those things are inevitably going to be there; you might as well use them. What excites people's passions is their values and the images of justice that they would like to see. When you heard Jesse Williams and Betsy Watson talk about their anger, it was an anger that came from indignation, from a feeling that they were being badly treated, that they were part of an unjust system. Such anger is an enormously useful asset for mobilizing themselves and others to take action. You cannot decide what to do simply on the basis of a fact. You have to have a fact attached to a value that you care about. What are the values we care about in the operation of the criminal justice system or in the organization of this society?

Much of the Crime Commission's effort was to focus our attention on empirical questions of what works. But what animated the Commission's enthusiasm for social justice as well as criminal justice was not an empirical argument but an idea about what society wanted and expected as justice. The Commission's enthusiasm was not based on facts and arguments; it was based on a normative appeal to an ideal.

At the moment a different normative idea of justice is dominant in the country, one that I feel will not be rooted out by additional facts. It will be rooted out only by a different argument about values, about what kind of society we want to be, and about what kind of justice we want to have. It's important to keep that in mind. When someone starts talking about justice, and it's not your idea of justice; it is wrong to treat that person as a passionate ideologue and view yourself as the one with access to rational knowledge.

I'm tempted to talk about what I describe as the central R-and-D model. For a long time, we envisioned that academics, working hand in glove with the federal government, would develop and test ideas. Then, once those ideas were proven to work, they would be disseminated. A lot of our justice institutions were set up with that understanding. I believed in that model for a long time. I hoped it was true, because if it was, it gave me, as an academic, a lot of leverage in society. The difficulty is that I have hardly ever seen it work.

What I have learned over 20 to 30 years is that I am usually behind the practitioners. The practitioners who are facing the problems are often doing things I haven't thought of. My job, as an academic, is to scurry around behind them and explain to everybody else why what they are doing is interesting. That puts me in the role of art historian rather than painter. I say, "Look over here! Now look at what's going on over there! If we put these two things together, we would get the following." That turns out to be a very different kind of relationship—between academics and social scientists on one hand and the world of practice on the other.

The only reason that is a valuable way to go is that the Crime Commission gave us the professionalism and the development of talented professionals in the criminal justice field. A lot of the imagination and brains, the "glints in the eye," and the craziness needed to figure out solutions to today's problems are now within the practice field, not just in the academy. That is an enormous asset.

I thought it was absolutely stunning that we had, on the panel here today, people who describe themselves as LEEP [Law Enforcement Education Program] babies. There were lots of them, and I'm one of them. I didn't go to college because of LEEP, but I had a sort of private tutoring program. All of us grew up in the legacy of this spirit of authorization, of a pursuit for justice, of a pursuit for knowledge. All of us felt we had the opportunity to imagine and to work out for ourselves what it was to produce justice. Notice that there are at least three concepts of professionalization here—technically competent people, people who are committed to the right values, and people who feel authorized to imagine and act—to deal with a problem on behalf of the society in their particular location. What you heard in the panel today is the decentralization and the spread of leadership in criminal justice, not from federal central commissions, but into the field and into the nation's local communities. The authorization to experiment has been spread widely, and that turns out to be a very good thing for society.

Conclusion: Legacy of the Crime Commission

The Commission reminded us of some important values that we had to guide us in our efforts to reform the criminal justice system, to control crime, or to fix society. Those included a respect for individual rights, a determination about the protection of liberty and the commitment to use state authority sparingly, the ambition to use state authority fairly, and the idea that we would have to take actions outside the criminal justice system to produce social justice as well as to produce a certain kind of criminal justice. That was the course they set us on, and it was the right course.

Today's course involves producing justice and constructing relationships, in addition to protecting freedoms. It includes engaging the communities and other government agencies, as well as ensuring fairness by operating with fairness across the criminal justice system. It means using criminal justice to strengthen the institutions that supply social justice as well as to control crime. And it means a more intense and differentiated focus on prevention as well as on control.

Let me talk about this last legacy, the one we have been feeling worst about. The Crime Commission taught that it was important to produce social justice as well as criminal justice. A lot of the pain we have felt here over the last couple of days comes from seeing society retreat from its commitment to producing social justice. Part of that pain also comes from the fact that, as society has retreated from producing social justice, criminal justice institutions have received more resources rather than less. So, here we are, those of us in criminal justice, finding our lives enriched while the rest of society and other institutions are shrinking—in violation of what we think about how society ought to be constructed. I have to admit Al Reiss got me. We were all anticipating a long talk, and he said one short sentence: "Crime has been very good to me." I felt the sting of that. Here I am, energized, animated, excited about the prospects of using criminal justice institutions to make enormous contributions to society. But at the same time, other institutions that I know are key to achieving our goals are being cut back.

I come out of this meeting with a renewed determination to do what I can to make the institutions of the criminal justice system work effectively on behalf of criminal justice, effective crime control, and social justice. But I am also fearful that whatever I do, it's not

going to be enough for people like Jesse Williams, IV—the young people who need and deserve fairness and a chance to succeed. I have a deep sense of shame and regret about the failure of this society to attend to the other important teaching of the Crime Commission report, which is that without social justice, there can be no ultimate criminal justice.

I'd like to thank you for educating me over the past couple of days, and I thank my friends on the Crime Commission for the guidance and inspiration they have given me throughout the years.

Closing Remarks

The Honorable Laurie Robinson, Assistant Attorney General, Office of Justice Programs, U.S. Department of Justice; and Joseph E. Brann, Director, Office of Community Oriented Policing Services, U.S. Department of Justice

Assistant Attorney General **Laurie Robinson** called the Symposium a wonderful event. At the Department of Justice, she said, “It often feels as if we have one foot in the camp of criminal justice knowledge, research, and practice, and one foot in the political arena that surrounds discussion of crime in this country.” She thanked the Symposium participants for re-energizing Department of Justice staff and helping them find “real sustenance on the knowledge-based side of the spectrum.” There, indeed, seems to be schizophrenia in the country in talking about crime, she said, with politically driven rhetoric on the one hand, and on the other, innovation and experimentation by pragmatic criminal justice practitioners on the front lines. These local practitioners, “are not stuck in the ideology. They are experimenting, they are open-minded, they have deep values, and they are flying ‘below the radar’ of the national-level debate. We need to give them all the support we can.”

Joseph Brann, Director of the Office of Community Oriented Policing Services (COPS), thanked the panelists and moderators for their thoughtful contributions. He also thanked the Office of Justice Programs (OJP) staff for organizing the Symposium and said he was grateful for the excellent working relationships Ms. Robinson and the OJP department heads had established with him when he arrived from local government.

Mr. Brann noted some of the colorful metaphors and “oxymorons” that emerged in the Symposium discussions—for example, “cynical optimist,” and “progressive conservative.” The work of the Commission, he said, gave law enforcement a blueprint that had shown itself to be correct and prophetic. The reflections of the past few days have helped participants vividly understand important historical conflicts in the criminal justice system. A number of problems were discussed throughout the Symposium, including a lack of racial minority group representation on the Commission and the relatively brief attention in the report to conditions and issues affecting inner city residents. Clearly, not all of the objectives in the Commission report have been achieved.

But the original Commission recommendations have ultimately resulted in the reduced crime, improved police/community relations, and stronger partnerships in the justice system now seen in many parts of the country. And there is reason to be optimistic about what is happening in communities throughout the country. Thus, while debate about crime will continue, the character of the debate will change because of increased participation by community members through community policing, restorative justice, community prosecution, community courts, and similar efforts. The Commission’s emphasis on community involvement has strongly influenced the policing profession and other criminal justice system reforms.

Mr. Brann noted that in Spike Lee’s film, “Get on the Bus,” each man had a different reason for participating in the Million Man March, yet they shared a common goal and similar beliefs in what they might achieve. Many of us are indebted to the Commissioners and staff who came together 30 years ago, from different backgrounds and perspectives, to pursue a common

goal. Finally, Mr. Brann agreed with several participants that young people should be included in any future symposia that are built around a similar theme. Together, he said, we can build on the great promise of the Commission's efforts.

Appendices

Post-Symposium Comments on the Corrections Report of the President's Crime Commission

Excerpts from a paper submitted after the 30th Anniversary Symposium, by
Elmer "Kim" Nelson, Allen Breed, Vincent O'Leary,
Keith Stubblefield, Richard "Pete" Velde

The 1997 Symposium held on the 30th Anniversary of the President's Crime Commission, a generally celebratory event, proved also to be an occasion for questioning the "rehabilitation" emphasis of the recommendations in corrections by some of those present, and most notably by the Executive Director of the Commission, Professor James Vorenberg, who commented that, "corrections is one area where the Crime Commission went wrong. The Commission put much higher faith in rehabilitation than the research justified."

Others who attended the Symposium offered strong endorsements of the vision of a more balanced and rational correctional system which guided the 1967 Report. Nevertheless, those who have authored this statement felt a need to respond to the issues raised about the thrust of the corrections report and the foundation on which it rested. We wish to thank the sponsors of the Symposium for offering us this opportunity to do so. We are also grateful to those in attendance who encouraged us to develop this response, and especially the colleagues who provided a critique of the initial draft.

It is misleading to portray the corrections recommendations as "rehabilitation," a term that has become a slogan for ideological attacks on policies seen as soft on crime. The Task Force took pains to dissociate itself from the traditional focus on therapy for individual offenders, proposing instead the idea of reintegration: ". . . rebuilding solid ties between the offender and the community, restoring family ties, obtaining employment and education, securing in a larger sense a place for the offender in the routine functioning of society" (*Task Force Report on Corrections*, p.7). It was emphasized that these efforts must be undertaken, "without giving up the important control and deterrent role of corrections."

Far from being a Utopian leap, the 22 recommendations made by the Commission in the corrections area were practical, incremental steps toward a system capable of balancing incapacitation of dangerous offenders with sensible programs for the over 98 percent of offenders who return to community life. While the correctional evaluation research of the day

was reviewed in the Task Force Report, the findings were not offered as infallible “science.” On the contrary, the report cited analyses revealing the shortcomings of most existing programs, and called repeatedly for a “strategy of search” through which increasingly dependable and useable information could be obtained concerning what works and does not work with different types of offenders and different kinds of interventions. The bulk of the corrections findings and recommendations were directed to urgent needs and problems in the field.

An area of particular emphasis in the Commission report was the improvement of decisionmaking in the correctional field. Among the most critical decisions are those involved in classifying offenders as accurately as possible according to the degree of risk they pose to the public. An assessment technology recommended in the Corrections report has been developed further and is today widely applied. While far from error-free, it is of genuine value in administering parole guidelines and pre-trial release decisions, and in the classification of offenders at key points in the system.

The Commission report also advocated community-based program alternatives. The number and variety of such programs has grown greatly since the Commission report was written, as well as the auspices under which they operate. Although probation and parole are not popular with most politicians today, and are generally unappreciated by the media and the public, they remain the workhorses of corrections, responsible for a majority of offenders in the total system. Many of the recommendations made by the Commission have been adopted by community-based agencies throughout the country, for example the extensive use of volunteers and the varying of caseload size and supervision according to offender characteristics.

Even some sophisticated observers find appeal in the simplistic assertion given currency in the 1970s that “nothing works” in the way of positive correctional programs, and withdraw support from the very reforms most needed. Current research information, greatly improved over that available in the 1960s, makes it clear that some program and policy choices are indeed more effective than others for specifiable types of offenders.

Commissions do not create broad societal changes. The opposite is more true. The President’s Crime Commission did its work at a time of opportunity for consideration of rational antidotes to the outmoded correctional apparatus of that day. Policies and programs are merely artifacts of underlying values and assumptions.

We feel gratified to have played some part in sponsoring and seeking to implement the major themes of the 1967 Commission's *Task Force Report on Corrections*. While we would make some changes, for example in giving emphasis to the rights and needs of the victims of crime and to the critical importance of early prevention of criminal behavior, the goals which underpin its recommendations seem even more important today than 30 years ago.

Looking Back... Looking Forward

An Overview for the Symposium on the 30th Anniversary of the President's Commission on Law Enforcement and Administration of Justice

**June 19-21, 1997
Washington, D.C.**

Office of Justice Programs National Institute of Justice Office of Juvenile Justice and Delinquency Prevention Office for Victims of Crime Bureau of Justice Statistics Bureau of Justice Assistance Office of Community Oriented Policing Services

This paper was prepared for the Office of Justice Programs and the Office of Community Oriented Policing Services by Joseph Foote, with support from the Institute for Law and Justice, Alexandria, VA. Mr. Foote wishes to thank Nicholas deB. Katzenbach and other persons who consented to be interviewed and who gave generously of their time to review this paper. The views expressed in this paper do not necessarily reflect the positions of the Office of Justice Programs, Office of Community Oriented Policing Services, or the U.S. Department of Justice.

In a dramatic statement to the American people in 1967, the President's Commission on Law Enforcement and Administration of Justice called for a "revolution in the way America thinks about crime." It set forth seven goals that remain challenging today:

- Prevent crime
- Adopt new ways of dealing with offenders
- Eliminate injustice and unfairness
- Upgrade personnel
- Conduct research to find new and effective ways to control crime
- Put up the money necessary to do the job
- Involve all elements of society in planning and executing changes in the criminal justice system.

The President's Commission urged the Nation to view law enforcement and criminal justice as a system and to upgrade it to be more effective in preventing and reducing crime. It called for the use of new technologies developed by Space Age science. It advocated basing policy on fact and not on myth, and maintaining American democratic values of fairness and respect for the individual.

A central purpose of the Symposium on the 30th Anniversary of the President's Commission is to measure the reach of change that has taken place since 1967. This paper, based on discussions with living members and senior staff of the Commission and others in the field of criminal justice, on writings about the Commission, and on other published works, attempts to set the work of the Commission in historical context.

This paper is not a formal research document. It makes no pretense to be a definitive analysis of outcomes 30 years later. Rather, it uses reflections and insights of some of those who were there to examine briefly what the Commission set out to do, what it

accomplished, and how those efforts help to inform policy debate on crime and criminal justice today. **SUCSESSES OF THE COMMISSION**

Here are the views of Commission members, the executive director, senior staff, and one of the heads of the Law Enforcement Assistance Administration (LEAA) about what the Commission contributed.

Propounding a Criminal Justice "System"

In many jurisdictions in 1967, police, courts, and corrections operated independently of one another. The Commission viewed this situation as ineffective and envisioned one comprehensive system devoted to enforcing law and administering justice.

Commission Chairman Nicholas deB. Katzenbach says, "I would give particular emphasis to the Commission's approach of seeing criminal justice as having several parts that have to work together, or it cannot be effective. This is a lesson that has not been learned, it seems to me, by the general public, or by Congress or State legislatures."

"The idea of a criminal justice system," adds Deputy Director Henry S. Ruth, Jr., "has its roots in the writings of Roscoe Pound and the Wickersham Commission. The work of Frank Remington and others also focused on the interactions of elements of the criminal justice system."

"The matter of discretion at every step of the criminal justice process is critical to understanding how the system works," Ruth adds. "The police have discretion as to whom they arrest, the prosecutor as to whom to prosecute, the jury as to whom to convict, and the judge as to how to sentence. Thus, 100,000 crimes come down to 3,000 people in prison."

"Practically no data on the criminal justice system existed when the Commission began work," Ruth notes. "Not much police data existed. Court data were a mess."

Much credit for developing the concept of a criminal justice system goes to Alfred Blumstein, chairman of the Commission's Task Force on Science and Technology. He produced a flow chart of the criminal justice system that attracted wide attention and is used today. The data were so scanty, however, that Blumstein "had to stretch to estimate the numbers for his famous chart," Ruth says.

The Commission sparked change: "The criminal justice system today is less brutal and takes advantage of modern technology," says Commission Executive Director James Vorenberg. In addition, says Commission member Herbert Wechsler, "The Commission launched something important in this country-'objectivity in government with respect to crime.' " Policy would be based on reality and facts.

Laying the Foundation for Federal Efforts

An enduring contribution of the Commission has been, in the eyes of Chairman Katzenbach and his colleagues, to lay the foundation for the appropriate role and most useful direction and scope of Federal efforts in State and local law enforcement and administration of justice. A direct line runs from the Commission to LEAA to the Office of Justice Assistance, Research, and Statistics(OJARS) to today's Office of Justice Programs (OJP).

Office of Justice Programs

OJP operates under the leadership of Assistant Attorney General Laurie Robinson, who also directly administers Corrections, Drug Court, and Violence Against Women Act

grant programs and the Executive Office for Weed and Seed. OJP also includes the Bureau of Justice Assistance (BJA), Bureau of Justice Statistics (BJS), National Institute of Justice (NIJ), Office of Juvenile Justice and Delinquency Prevention (OJJDP), and Office for Victims of Crime (OVC). Close to 700 employees work in OJP, fewer than the high of 800 who worked at LEAA but more than the 300 who were in OJP just 3 years ago.

Even as the Commission conducted its work, the Office of Law Enforcement Assistance was founded in 1966. The Commission reported in 1967, drawing significant attention because of the growing public concern about crime, the prestige of its members, and the controversy expressed in the report by the sharp division between the majority and the dissenters. Congress, sensing the need to respond but ever careful of the then prevalent view of limited Federal responsibility for crime control, enacted the landmark Omnibus Crime Control and Safe Streets Act of 1968. That act created LEAA, the first comprehensive Federal programmatic response to State and local crime control by providing to the States--in part through block grants and in part through categorical grants--funds to reduce crime by improving local criminal justice systems--police, courts, and corrections. An LEAA administrator, Donald Santarelli, says, "The creation of LEAA was a direct response to the Commission's report. Its creation signaled the makings of a significant change in the Federal Government's attitude towards crime, avoiding the federalization of State and local crime and assumption of operational responsibility, and with great respect for the dual federalism of government responsibility, it sought to strengthen the States rather than assume Federal enforcement responsibility." LEAA ran its program for 14 years.

In the Justice Assistance Act of 1984, Congress created the separate OJARS agencies to perform many of the functions of LEAA, which were later organized under OJP. When Congress enacted the Violent Crime Control and Law Enforcement Act of 1994, it accelerated the momentum of Federal support for local jurisdictions. Federal funding for State and local crime control came more than full circle as Congress authorized a record \$2.7 billion in 1996 and \$3.2 billion in 1997.

Today, OJP carries on the work begun and nurtured by many people of both political parties who labored in Congress and the Department to build a Federal presence that is useful to State and local law enforcement and criminal justice agencies.

"The Commission believed that the proper Federal role is to be supportive," Katzenbach says, "supportive in dollars, in ideas, and in encouraging and coordinating the exchange of information." The Commission wanted to stimulate creativity at every level of government, he says, and to urge everyone in the criminal justice system to find ways of doing things more effectively and economically. Those notions guide Federal thinking and policymaking today.

The COPS Program

Title I of the Violent Crime Control and Law Enforcement Act of 1994 provides Federal grants to States and units of local government to enable them to hire additional police officers. The program is administered by the Office of Community Oriented Policing Services (COPS), established in the Department of Justice in 1994. The Office reports to Acting Associate Attorney General John C. Dwyer. By February 1997, grants had been awarded to hire or redeploy 54,000 police officers and sheriffs'

deputies, who will serve more than 87 percent of the American population.

Advocating Federal Money and Standards

"Money was the single most useful idea that the Commission dwelt on," says Wechsler. "More money was absolutely essential for the enlargement of personnel and the authorization of new programs, both nationally and locally."

"Perhaps as a secondary aspect of that," he adds, "was the Commission's emphasis on the important role for the Federal Government to play, primarily by enhancing local capacities."

These ideas--more money and Federal standards--were important because the Commission saw that much of the criminal justice system was subject to political patronage at the State and local levels. "That is why the Commission was useful," Wechsler says. With strong State and local representation on its membership, it could propose reform of what it found in criminal justice--an underfunded, politically operated non-system.

Maintaining a Balance in Rights

"The Commission gave a great deal of attention to the need to balance concerns about public safety with the continuing recognition that we are a democratic society and have to care about values and fairness," says Commission staff member Sheldon Krantz.

The Commission was a product of its times, and the times included the milestone decisions of the Supreme Court, under Chief Justice Earl Warren, that extended the application of the Bill of Rights to the States. "What the Warren Court had done was determine that a lot of the States were dealing in a very harsh and discriminatory and unfair manner with suspects of crimes or defendants," says Krantz. "The Court thought that there ought to be a national standard in many instances, a Constitutional standard that applies everywhere. We were very much a product of that thinking in the late 1960's." He adds:

We had a number of people on both the Commission and staff who were beginning to recognize what developed very substantially in the 1970's and 1980's, and that is that, although we have to be worried about fairness to defendants, we also have to protect our streets and we have to be concerned about victims. The victims' rights thinking was not very ingrained in the Commission's work. The movement came after us.

Emphasizing the Importance of Family

The Commission believed that juvenile delinquency could only be stemmed if: every young person was given a real opportunity to participate in legitimate activities-- education, recreation, employment, and family life; schools in poor neighborhoods were made as good as schools elsewhere; discrimination and arbitrary restrictions were eliminated from employment practices; job training was made available to everyone; physical surroundings were reclaimed from deterioration and barrenness; and the rights of citizens were exercised without regard to creed or race.

With little notice from the media, the President's Commission spoke strongly about the value of maintaining family structure and providing young people with developmental supports. "We are even more aware of the importance of this matter today than we

were then," Katzenbach says. "It is still an incredibly difficult problem to figure out how to resolve. It is still very difficult because of the breakup of the traditional family institutions."

"Family and early childhood influences were seen by the Commission as extremely important," Ruth adds. "But these notions were not picked up. The media paid practically no attention to the Commission's views on family and the need for supports for young people, especially those at risk for criminal activity."

"The Commission was at its best on juvenile crime," observes Vorenberg, "on strengthening the family, providing housing, educating young people. That was the high point. But these recommendations were very controversial. People wondered why a crime report would talk about these matters." And, adds former LEAA head Santarelli, "The Commission made its recommendations at a time when Americans were not as sophisticated, or as cynical. Few understood the changes that were occurring in the family, or the relevance those changes had to juvenile delinquency. That was one of the most important aspects of the Commission report. It was more farseeing and predictive. It focused the public's attention on what was to become an ever more serious problem. Juvenile delinquency was certainly as important as any of the problems they focused on."

Urging Professionalization of Police

The Commission pushed for the then rather radical notion of professionalization of police forces. "In many larger urban communities, police had been highly politicized," Katzenbach notes. "But the need to professionalize the police and make a career out of it helped to take it out of politics."

The Commission stopped short of calling for civilian review boards, then a frequent demand of many activist groups. "I fought it," former member Thomas J. Cahill says, "and it did not go in the book as a recommendation. I have no regrets. I have watched the outside review boards operate, and I have seen sad situations arise out of it. If you are chief of police, the responsibility is yours, not somebody else's."

Policing in America is far more professional today than it was in 1967. On the whole, police officers are more likely to be selected on the basis of merit, more likely to be better educated and trained, more likely to have access to better technology, and more likely to adhere to the rules of law than they were in 1967.

Exploring New Models of Corrections

"The Commission focused on the rehabilitative model of corrections," says Charles Rogovin, assistant director for organized crime for the Commission. "But the rehabilitative model has never really worked, probably because we don't really know how to do it. We have now moved to a far more punitive approach, with mandatory minimum sentences and some truly Draconian punishments. But there are no signs of any diminishment of drug traffic."

On the functional and structural fronts, the views of the Commission have been highly influential, observes Elmer K. Nelson, associate director of the Commission:

For this fragmented and balkanized arrangement, the Commission emphasized coordination of probation, parole, and incarceration. It called for a wide variety of sentencing alternatives, including community-based corrections. It wanted a greater flow of information within the criminal justice system. And it wanted a larger role for

the Federal Government as a leader in developing model programs and enhancing information exchange. The Commission also promoted a strategy of exploration, to search and experiment and find out which ideas work. To some extent, these things have come to pass.

Nelson adds that society may not be choosing to use these advances fully, however. "Today we see the harsher side of corrections, with extended time in prison and the removal of options, including community-based corrections," he says. "The Commission viewed the offender population as heterogeneous, and called for highly flexible approaches that could differentiate among these people. Today that view is submerged, and a countermovement is in effect with respect to drug offenders, at least."

"We were hoping to encourage a more rational and balanced system," Nelson says, "but that goal has yet to be realized. Public policy regarding crime still swings like a pendulum and tends to get stuck at the most extreme positions." Ruth puts it this way: "The rehabilitative emphasis of our report has been completely rejected by policymakers today."

In the area of disposition of drunk offenders, long the scourge of jailers, the Commission proposed a small but helpful reform. Drunks accounted for a million people a day held on drunk charges, the Commission found. "The Commission addressed the use of jail to dispose of drunk offenders," Ruth notes. "The idea was to rid the criminal justice system of these individuals, and that goal has been largely achieved."

Looking Broadly

One wide-angle overview of the Commission's work comes from former staff member Krantz:

We developed a very important way of looking more broadly at both crime and the administration of justice: how to define crime, the kinds of categories to put it into, and how to organize the agencies of justice in a way to address the problem. That was fundamentally important work.

Another very important contribution of the Commission was that it focused very heavily on enhancing the agencies of justice, particularly the police, by saying that their work is as significant as that done by virtually anyone. It is hard to realize it, but even in the 1960s, many police and prosecuting agencies were para-professional and not fully professional.

ORIGINS AND APPROACH

The Kennedy and Johnson Administrations were alive with ideas, many of them grounded in a strong belief that Federalism--the assertion of Federal power and a national approach--offered the most effective approach to such social problems as poverty and lack of housing. And crime.

Attorney General Nicholas deB. Katzenbach, appointed by President Johnson, had created an Office of Criminal Justice under the Deputy Attorney General. With its tiny staff of four, the Office was headed by Harvard Law School Professor James Vorenberg, who worked part-time and commuted from Cambridge. The Office became

a seedbed of innovative ideas. One of those was for two commissions: a national commission to introduce reality and facts into political debate about crime. The other would look into ways to reduce crime in the streets in the District of Columbia.

"Another purpose of the national commission was to demonstrate to and educate the public about the fact that the Federal Government has little effect on controlling crime," Ruth recalls. "The Federal Government can stimulate and assist State and local governments in dealing with their crime problems, but it cannot take over those problems for them."

As the idea of a national commission gathered support in the Oval Office and among senior Department of Justice officials, Attorney General Katzenbach began to search for somebody to lead it.

"Initially, I tried to stay out of being chairman," Katzenbach says. "I tried to get somebody else with a national reputation to do it because I thought that it might serve the President better than his Attorney General doing it. I approached Tom Dewey(2) but he declined." President Johnson asked Katzenbach to be the chair, and Katzenbach and Vorenberg drew up a list of prospective members. They amassed one of the more formidable arrays of intellectual and political firepower that the Nation had seen for such a study in many years. They chose distinguished Americans who brought a wide range of backgrounds: a former Republican Attorney General, the publisher of the Los Angeles Times, a Federal judge, the attorney general of California, and leaders from business, law, civic activism, State government, and science.

The Commission was also politically potent--in ways that would prove helpful to embarking on a "revolution" in the then largely static law enforcement community. Its members brought access to key constituencies: San Francisco Police Chief Cahill had credibility with law enforcement professionals. Yale University President Kingman Brewster, Jr., was a strong figure in education. Mayor of New York City Robert F. Wagner was a central figure in urban politics. Julia Davis Stuart, president of the League of Women Voters of the United States, represented government reformers. Whitney Moore Young, Jr., executive director of the National Urban League, brought critically needed ties to the African-American community.

Commission Approach: Get the Facts

President Johnson formally established the President's Commission on July 23, 1965, and directed it to report to him early in 1967 with recommendations for preventing crime and delinquency and improving law enforcement and the administration of criminal justice.

The Commission recruited a staff, which eventually grew to 63, of outstanding lawyers, police officers, correctional personnel, prosecutors, sociologists, psychologists, systems analysts, juvenile delinquency prevention planners, and professional writers and editors. Many were on leave or loan from universities and Federal, State, and local governments. Some 175 consultants and hundreds of advisers also contributed. The President appointed James Vorenberg, on leave from Harvard Law, as executive director. The deputy director was Henry Ruth, who had been a prosecutor in the Department of Justice's Organized Crime and Racketeering Section and later a member of the Office of Criminal Justice.

The Commission established itself as a model of the fact-gathering approach. It undertook several historical surveys--on police-community relations, professional

criminals, unreported crime, and correctional personnel and facilities. The surveys of corrections and of victims of crime were the first nationwide studies ever made in those areas. More than 2,200 police departments were asked what field procedures they found especially effective against crime. Science and technology experts, under Alfred Blumstein of the Institute for Defense Analyses, brought special expertise in systems analysis and applications of new technologies to law enforcement.

The Commission also sent staff members and consultants into the streets and neighborhoods to talk with residents, and into police departments, courts, and prisons to talk with law enforcement and criminal justice professionals and with accused individuals and convicted felons. It drew on data from Federal and State agencies, held conferences, and engaged in extensive communication with law enforcement agencies throughout the Nation. The Commission produced a report, *The Challenge of Crime in a Free Society*, and a shelf of task force reports that remain useful today.

WHAT THE NATION LEARNED

The President's Commission believed that more money would improve the criminal justice system, enhance the administration of justice, and--perhaps--help to prevent crime and lower the crime rate. It also believed that law and policy should be informed by research, statistics, and knowledge generally.

Still, Federal leadership and financial support go just so far. "Translating the Commission's research, findings, and recommendations into action proved to be difficult," says Vorenberg. "Not everything the Federal Government identifies as a need can be converted into action. Even the Commission rejected the notion of a large new operating office at the Federal level."

Chairman Katzenbach says the Federal role should be--and is--to suggest ideas and directions, help with resources, and disseminate results on the information network--and then to stand aside while State and local governments do their job.

Bridging The Research and Policy Gap.

A core concern of the Commission was how to base policy on empirical fact. A "gap" exists between the insight of the elected official, who knows the voter very well, and the analysis of the researcher, who studies the criminal, victim, police officer, prosecutor, judge, and corrections officer. Putting these two areas of expertise together is the nub of the issue. "Legislators think they know the answers." Chairman Katzenbach says, "Or they get caught up in 'get-tough' rhetoric that always seems to sell with the public. Put the felons in jail and throw the key away--which is an expensive solution."

What is the size of the gap today? Some observers believe that it is fairly wide, noting contentions by some criminal justice researchers that drug interdiction is not cost effective and that prison-building is no long-range, effective answer to the crime problem. Vorenberg disagrees. "I think the gap is somewhat narrower now than in the past," he says. "There is less hysteria about crime in the streets today than at almost any time in the past 25 to 30 years."

Still, Vorenberg and other Commission alumni cite the drug interdiction policy as perhaps the leading example of the gap. Chairman Katzenbach puts it this way:

We have created a situation where it is difficult to have political or public consideration or debate about how we ought to approach the drug problem. It's not

that anything we are doing is necessarily wrong, although some of it I would criticize. But we have created exactly the opposite atmosphere--an unwillingness to look at any aspect of it. Nobody in my position--as a citizen knows whether and how much interdiction, at what price, is good policy.

"The Commission report really emphasizes the need for us to be driven not by rhetoric but by facts," says former staff member Krantz. "The Commission saw a need to make sure that we do not use the great technology that we have to become a police state, when that is not what the United States wants to be. Those messages still need to be recognized today, because I really do think that we are constantly being driven toward more and more repressive forms of dealing with admittedly difficult problems."

Krantz adds his concern that "research in academic communities in this country is pretty far removed from what is going on in the streets." Even thoughtful academics write books about crime and are basically saying that nothing works. "But out there in the communities, all kinds of exciting things are happening," he adds.

Is this, as Krantz implies, an appropriate time for the research community to take a look at itself? To what extent is it ready to accept the challenge of closing the gap? Everyone agrees that policy should be based on science, but the science needs to be both good and relevant. Maybe some programs out there in communities do work. Are they failures because not all such programs work? What measures of success exist beyond the "merely" quantitative?

WHAT HAS HAPPENED TO THE COMMISSION'S IDEAS?

The Commission's contributions to research begin with its emphasis on the very notion of marrying research with criminal justice planning and policy. "The Commission played a part in the development of governmental practices of using research instruments," says Wechsler. "Private and university research already existed, and [Felix] Frankfurter and the [Sheldon and Eleanor] Gluecks had done good work. But the Commission developed new methods of gathering and using information."

Where did the law enforcement and criminal justice community go from there? Professor Alfred Blumstein of Carnegie Mellon University, chairman of the Commission's Task Force on Science and Technology, has reviewed the current status of several of the Commission's most important proposed innovations. Here is a summary of his findings.

In 1967, automatic fingerprint recognition technology did not exist. With the speed and ability to process digitized fingerprint images now afforded by new computer technologies, latent fingerprints are now used to solve some crimes, and storage and retrieval of fingerprint records have become more efficient.

DNA identification is one of the most important new approaches to forensic identification developed over the past 15 years. But DNA testing is still too expensive for routine use. As costs decrease, a broad-based database of individual DNA will allow comparisons of crime scene evidence with DNA records of known offenders.

Communication networks that link police to each other, to central command and control systems, and ultimately to individual callers who report crimes are the most important police technologies. Most large police departments now have computerized command-and-control systems for communications between and among officers in the

field and headquarters personnel.

In the 1960s, many questioned the legality of personal electronic monitors--the bracelets that allow police to put offenders under "house arrest" and track them if they attempt to leave their place of confinement. Today they are considered an appropriate means for dealing with offenders short of incarceration.

In 1967, data reported by the police to the Federal Bureau of Investigation (FBI) and published annually in the Uniform Crime Reports were the only source of statistical information available on crime in this country. The National Crime Survey and a number of self-report studies now add the perspectives of victims to crime statistics reporting.

Although theories of criminal behavior abounded 30 years ago, those theories were based on intuition rather than empirical evidence. Research is now used to calculate the benefits of a wide variety of criminal justice programs.

Widespread use of computers is the most important development in the criminal justice system of the past 30 years. Although few conceptual innovations have occurred, computer applications and availability have become much more widespread, even in the smallest operating units. For police, innovations in the use of this technology typically involve geographic information systems to replace traditional pin maps, and the use of that information in police patrol allocation programs. The courts also employ computers to organize their calendars, send basic notices to the various participants in legal hearings, and for other purposes.

Issues surrounding computerized individual criminal history records have been debated for many years. The Commission recommended that each State maintain its own records, with a central index indicating merely the identity of individuals with a record in at least one of the States, and with an indication of which State or States held the detailed records. This basic structure has been pursued in the criminal-history network currently being coordinated by the FBI and supported by BJS.

A FINAL WORD

Is the time ripe for another look at crime on the model of the President's Commission? "I think it may well be the time, especially with regard to drugs," Chairman Katzenbach says. "But it would have to have people from a variety of backgrounds who are capable of discussing it objectively. Today, drug offenders are crowding State and Federal prisons beyond their capacities, and because of mandatory sentencing for even nonviolent drug offenders, other violent criminals are being paroled to make room for them. I would find these extremely harsh measures easier to accept if a Commission endorsed them. But I fear the 'War Against Drugs' may be distorting our whole criminal justice system, empowering politically motivated prosecutors through mandatory sentences and property forfeiture laws at the expense of apolitical judges, and expanding Federal criminal law policy at the expense of the States--something the Commission sought to avoid."

Thirty years later, the revolution the Commission called for, a "revolution in the way America thinks about crime," is slowly taking place. Progress toward realizing the Commission's seven goals, listed at the beginning of this essay, has been significant. Not a bad record at all.

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Thomas J. Cahill, a Commission member, was Chief of Police of the San Francisco Police Department. He entered the police department as a patrolman in 1942. He now lives in retirement in San Francisco.

Nicholas deB. Katzenbach, Chairman of the Commission, served as Attorney General of the United States under President Lyndon B. Johnson; Deputy Attorney General under President John F. Kennedy; and an Assistant Attorney General, Office of Legal Counsel, also under President Kennedy. He lives in retirement in Princeton, New Jersey.

Sheldon Krantz was a staff member of the President's, Commission. He served as a professor at Boston University and as dean of the University of San Diego Law School. He now practices law in the Washington, DC, office of Piper & Marbury.

Elmer K. Nelson, Associate Director of the Commission, is now a professor (emeritus) of public administration at the University of Southern California.

Charles Rogovin was Assistant Director for organized crime for the Commission. He is now a Professor of Law at Temple University.

Henry S. Ruth, Jr., Deputy Director of the Commission, was a prosecutor in the Department of Justice's Organized Crime and Racketeering Section and later a member of the Office of Criminal Justice. He is an Adjunct Professor of Law at the University of Arizona and lives in Tuscon, Arizona.

Donald Santarelli was not a member of the Commission or its staff, but as a counsel to the House Judiciary Committee he was involved in drafting and later, as an administrator, administering the LEAA statute that grew out of the Commission's report. A former Associate Deputy Attorney General, he is now a partner in private practice with the law firm of Bell, Boyd & Lloyd in Washington, DC.

James Vorenberg, Executive Director of the Commission, was a Professor of Law at the Harvard Law School, a post he still holds.

Herbert Wechsler, a Commission member, was the Harlan Fiske Stone Professor of Constitutional Law at Columbia Law School. He had served as an Assistant Attorney General of the United States under President Franklin D. Roosevelt and was the director of the American Law Institute. He lives in retirement in New York City.

ENDNOTES

1. See National Commission on Law Observance and Enforcement(1931). *Reports*. Washington, DC: U.S. Government Printing Office.
2. Thomas Dewey had been Governor of New York and Republican candidate for President in 1948, losing to Harry Truman.

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