

# Rethinking Crime

The time has come to rethink everything about crime and allow new scientific knowledge to pry open the rusty doors of an ancient system

By Patricia McBroom

► THE AMERICAN system of crime control is an unplanned product of history and it shows. Year after year, the nation's police forces and criminal courts have steamed ahead, never knowing whether the measures they take against crime are effective and meaningful, or a total waste of time, or worse.

"The time has come to rethink everything," said systems analyst Dr. Robert L. Emrich. As science advisor to the President's 13-month-old Commission on Law Enforcement and the Administration of Justice, Dr. Emrich is part of a project that does, indeed, seem bent on rethinking crime from the ground floor up.

The Commission had literally to start at the bottom floor because as its executive director, Mr. James Vorenberg, put it, "we lack even the most essential knowledge about crime. . . ." His sharpest shock has been discovering the "degree to which we make do with untested assumptions, myths and oversimplifications," he said.

"We know very little—much less than most people think and newspaper stories would suggest—about the volume, kinds and effects of crime and who the perpetrators and the victims are," the law professor who took leave from Harvard University to accept the Commission post reported.

Consequently, one of the Commission's first steps has been to determine how much crime really exists in the United States. The much-publicized "crime rate" is a misnomer, according to the Commission, since it comes solely from arrest and offense figures furnished by local police to the Federal Bureau of Investigation.

## Many Crimes Unreported

There is reason to believe that many victims—probably a large number of them poor people—never report crime, Mr. Vorenberg said. Add to that the fact that many police agencies "kill crime," presumably to maintain a better balance between crime and their ability to solve it, and the real incidence of criminal activity may turn out to be shockingly high.

By sampling the general public, the Crime Commission expects to arrive at a victimization figure and a more accurate reflection of the crime rate.

In all, the Commission's five task forces have set themselves an impres-

sive array of studies covering weapons, communications, courts, prisons, rehabilitation, organized crime, police and criminals.

A major thrust of its work is to promote effectiveness studies, the Commission said, to find out, for instance, whether one technique of law enforcement or rehabilitation is better than another. A mild Statement, but it covers a veritable pandora's box.

What, for example, is the best way

to handle juvenile delinquents—continue to throw them in jail with adult losers, pack them off to "forest camps" for "rehabilitation" or send them back into the community? There is some recent evidence that forest camps do nothing to change delinquent attitudes, while the community approach does. But without significant scientific effort, a good answer is not possible.

Another goal is to evaluate the system of justice. Each day hundreds of



Fremont Davis

**BREAKING AND ENTERING**—Each year in the United States there are more than six million arrests, a rate that is believed to be considerably below the actual incidence of crime. Better locks and bolts could make crime more difficult, but only deep-rooted changes in the American approach to crime can make it less attractive.

decisions concerning criminal cases are made outside the courts through "informal and invisible" negotiations, Mr. Vorenberg noted.

"There are virtually no rules or guidelines governing the decisions" made in the great bulk of cases "which do not get tried but which involve liberty or imprisonment for millions of people each year."

Still another Commission aim is to bring technological sophistication to law enforcement—better weapons, better methods of detection, broader communications, more accurate criminal identification, and so on.

If this application of science to crime sounds promising, it is, but it has its dangers.

"Science without vision leads to tinkering," said one observer. The danger is that there will be too much emphasis on "law enforcement" and too little on "justice," too much reliance on technology and too little effort to see deeply into those basic aspects of American life that promote and perpetuate crime.

It is all well and good to pay policemen more money, design better locks and bolts, create an efficient method of detection, Commission critics believe, but this leads only to a fortified nation, not a wiser, safer one.

The Crime Commission has committed itself to a broad investigation, which, if carried to its fullest, must lead inevitably to some unsettling and murky questions concerning American society.

Such was the case with Dr. Emrich in his thinking on the causes of organized crime. Organized crime finds fertile soil in the popular ethics of this country, he said.

Mothered by prohibition and nursed by gambling and the narcotics trade, organized crime is now fully joined to legitimate business. It has an interest in or controls the jukebox and vending machine industries, the garment industry, the taxicab industry, banking, trucking, rental cars and laundries in major cities across the nation—Philadelphia, Boston, Detroit, New York and others.

### Represents Rebellion

Why has it been so successful?

Dr. Emrich believes organized crime finds its receptivity in the principles and prohibitions of the Protestant ethic. The public ethic condemns gambling and other vices, Dr. Emrich said, but they are nonetheless popular. Consequently, organized crime comes to represent popular rebellion against the Protestant ethic (witness Prohibition which gave the Mafia its start).

Secondly, the Protestant ethic holds that power in an individual is good. But this idea has been extended so there is "popular sanction of lawlessness in pursuit of political or economic power," Dr. Emrich said. Few, for instance, get very upset at a Bobby Baker scandal or corruption in office.

Organized crime, Dr. Emrich believes, "follows the somewhat lawless

patterns of business, but stretches them."

Combatting a crime that seemingly nestles so easily in the arms of legitimate society, then, is an entirely different business from fighting the small criminal in the street. Dr. Emrich and others on the Commission hope that by studying the syndicate system, they can find out where it is vulnerable and develop tools to attack it.

But attacking organized crime just may call for some major changes in the way Americans see themselves and their society. Perhaps one answer is to bring the stated and popular ethic closer together by legalizing gambling and narcotics, Dr. Emrich suggested. However, this is his view, said the analyst. Others on the Commission would disagree.

### Ethics Revolution Coming

On a larger scale, Dr. Emrich believes the American society is headed for an important revolution in ethics. "We are in a violent period now," he said, not unlike the crises England and France have weathered in the past.

The need is for a social philosopher of Thomas Jefferson's stature to redefine American principles.

At its fullest a scientific evaluation of crime must also challenge an ancient system of prosecuting, condemning and punishing the outlaws of society.

"Criminal" covers a broad span of lawbreakers from the psychopath to the mental retardate. In the present system, all receive the same treatment—theoretically. But rather than promote justice, in many cases the system works to undermine it.

"There is enough evidence to indicate that equal justice before the law for people who are basically unequal raises serious due process questions," remarked Dr. Richard Allen, professor of law at George Washington University and director of the university's Institute of Law, Psychiatry and Criminology.

Dr. Allen is one of many in the legal profession who now question the value and justice of punishing further those who come before the courts already punished for life with borderline intellects, starved backgrounds, violent surroundings and perhaps damaged brains as well.

He would like to see criminal law tailored to fit special cases, such as the retarded. "The problem of the retarded is larger than we realized," Dr. Allen said. According to recent data, 10% of the total inmate population, or 20,000 prisoners, have IQs of less than 70, and many institutions report IQs substantially below that, he said.

Dr. Allen suggests establishing Exceptional Offenders Courts, along the lines of juvenile delinquent courts, where the emphasis would be on the offender's welfare.

"We don't punish young children," he remarked. The mentally retarded, intellectually at least, are much like children.

As a weapon against crime, the system society has inherited from history leaves much to be desired. "Prisons have shown a signal record of failure," Dr. Allen said. Two-thirds of the inmates bounce right back into prison after their release. He observed that between 1958 and 1963, crime in the United States grew five times faster than the population, according to Federal Bureau of Investigation figures.

Cognizant of these problems, a small number of states have liberalized their insanity laws, thereby allowing the expanding knowledge of human behavior to have a greater impact on the course of criminal law.

Under the old M'Naghten rule, still used in the majority of states, a man is judged "not guilty by reason of insanity" if the defense can prove he did not know the difference between right and wrong at the time of his crime.

"This is not a realistic standard," Dr. Allen said. Such a degree of insanity can apply only to the sickest and most delusional of men, and even they have some idea of rules.

M'Naghten bars from the jury the kind of information it needs to decide on a man's mental capacity.

Dr. Allen, however, sees a trend toward liberalization, with the Model Penal Code drafted by the American Law Institute as the primary guide. Here the main question is: Was the defendant "substantially" deprived of capacity to control his criminal acts? If so, he is committed for treatment until he is no longer dangerous.

### Miss Crime Roots

But new mental illness laws, though they may enhance justice, do nothing to get at the roots of the kind of crime that is frightening Americans—the crime in the streets, so much of which arises from slums and ghettos.

On this issue Dr. Leonard Duhl of the Department of Housing and Urban Development has a cogent suggestion.

Speaking at the recent National Symposium on Science and Criminal Justice, Dr. Duhl noted that after decades of experience with public housing, "we have had to cope with the discouraging fact that crime, vandalism and neglect of property" persist in the face of slum clearance.

But, he said, when the poor are involved in renewal and allowed to make decisions about the kind of housing they will live in, vandalism disappears, as a rehabilitation project in New York so clearly illustrated.

"We can show that whenever we can get people themselves involved in the planning . . . vandalism and crime rates are low," Dr. Duhl stated.

"The lesson has not been lost on us," he said. Cities can do much to "design out" crime, making it more difficult, but unless basic human answers are sought, "we will find ourselves living in a state of siege, for the violence will surely erupt wherever our safeguards fail or our vigilance slackens."