

## A Look At A National Problem

Americans are upset about crime.

We are understandably angry and frustrated when we cannot safely walk down city streets, or take the kids on a camping trip for fear the house will be robbed in our absence.

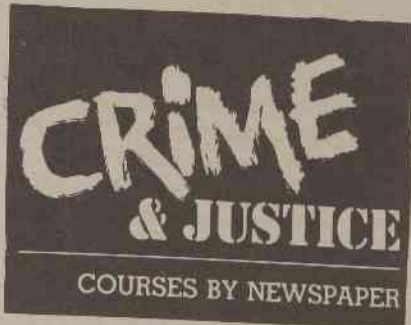
We are morally outraged when we discover that businessmen and government officials have been conspiring to use public funds for private gain.

Sometimes, frustration virtually tempts us to demand the ridiculous - to insist that there be a law against crime. In fact, of course, many laws already prohibit and threaten severe punishment for all sorts of conduct, including armed robbery, obstruction of justice, failure to report income, and the use of various drugs.

Yet, for many reasons, we cannot count on the criminal law alone to work perfectly, to prevent crime entirely.

First, not everyone reverse criminal law, or not in the same way. By passing a law we may even make the prohibited conduct more popular. President Hoover's Wickersham Commission, which studied the effects of Prohibition on the nation during the 1920s, concluded that a new institution - the speakeasy - made drinking fashionable for wide segments of the professional and middle classes who had previously not experienced the sinful delight of recreational boozing.

It is evident that the passage of law, especially criminal law, does not always work out the way those who advocated



passage foresaw.

### LEGISLATIVE POLITICS

Second, criminal law reflects through political advocacy different and conflicting views - and so it changes. Teetotalers scrupulously obeyed the Prohibition laws; drinkers did not. Drinkers changed the law.

During the 1960s, laws prohibiting marijuana use amounted to a new prohibition. People over 40 - who drank whiskey - complied with the law and were offended by younger people who smoked marijuana. As younger people are becoming successful politicians, penalties for smoking marijuana continue to diminish and may eventually disappear.

We could introduce criminal penalties for manufacturing defective automobile brakes, which kill and maim thousands. But we don't, because in recent years the automobile manufacturers' lobby has had more clout than Ralph Nader, who proposed such laws in the Congress. Maybe that, too, will change.

Other crimes - serious street crimes such as murder, rape, assault, and robbery - are almost universally con-

demned. It is these crimes that are the focus of proposals to "solve" the crime problem by increasing the severity and certainty of punishment.

Why, then, not simply enforce these laws more rigorously and punish swiftly and surely those found guilty of violating them? Many people - including some prominent criminologists - have advocated this seemingly simple and therefore attractive solution to the problem of American crime. But such a solution is not so simple. A criminal justice system can increase risk for a criminal - but not by much, and at higher cost than many people believe.

### HIGH COST

#### OF PUNISHMENT

The social and economic costs of punishment are often underestimated. It is easy to call for a major expansion of law enforcement resources; it is less easy to pay for it.

Policemen, courts, and prisons are expensive. It is cheaper to send a youngster to Harvard than a robber to San Quentin. And the average San Francisco policeman now draws - with pension - more than \$25,000 per year, to say nothing of his police car, support equipment, and facilities.

The recent experience of a "law and order" administration that poured billions of dollars through the Law Enforcement Assistance Administration into the war on crime is exemplary and sobering. While violent crime rose 174 per cent from 1963 to 1973, local spending for law enforcement multiplied more than seven times - and L.E.A.A. poured in \$3.5 billion between 1969 and 1974.

### MOTIVES

#### OF CRIMINALS

The war on crime looks more and more like the war in Vietnam. Those who pursue it are largely ignorant of what motivates the enemy.

Of course the threat of punishment deters. But nobody is clear about how much threat deters whom with what effect. For example, millions of presumably rational human beings are not deterred from smoking cigarettes even though the probabilities of punishment through cancer, emphysema, and heart disease are clear and painful. People often believe that present benefits



## At The Movies

### FOR WHOM THE BELL TOLLS

This 1943 film was one of the most successful ventures of the 1940's, and justly so. Director Sam Wood and script writer Dudley Nichols set out to create a movie that was a film presentation of the story rather than using the story as a jumping off point for something altogether different, as movie producers so often, lamentably, do. Ernest Hemingway, who wrote the novel on which the film was based, picked Gary Cooper and Ingrid Bergman as his

personal choices for the leading roles: Robert Jordan, the soldier of fortune who blows up a Falangist bridge in the Spanish Civil War, and Maria, the brutalized peasant girl he falls in love with. The film's exacting Technicolor photography, excellent acting, and length (132 minutes) are a testament to the commitment to fidelity.

Starring: Gary Cooper, Ingrid Bergman, Akim Tamiroff, Katina Paxinou.

9 p.m. in Avinger Auditorium; admission 25 cents

or pleasure outweigh future costs or threats of pain.

Heavy punishment programs can also incur unexpected social costs. Several years ago Nelson A. Rockefeller, then governor of New York proposed as an answer to street crime that harsh sentences, up to life imprisonment, be imposed for drug trafficking, and that sterner enforcement and heavier punishment be imposed against drug users, many of whom are engaged in street crime. The "lock-'em-up" approach seemed sensible and hardheaded to many New Yorkers fearful of walking the city streets and to numerous law enforcement officials.

Yet a recently conducted "New York Times" survey of 100 New York City judges, reported on Jan. 2, 1977, found that the new, very tough narcotics law failed to deter illegal drug use in the city. Furthermore, over half the judges believed the laws had worsened the situation as youngsters - immune from the harsher provisions - had been recruited into the drug traffic. This is an unexpected social cost of punishment. There are many others.

Particularly for young people, being a criminal may even have advantages over working in a boring and unrewarding job. One can earn far more stealing cars than washing them. Even the risk may prove advantageous. In some circles, a "jolt" in prison offers an affirmation of manhood - as well as advanced training in criminal skills and identity. Thus, the administration of justice can generate criminality as well as deter it.

Actually, the most promising targets of deterrence are white-collar criminals - business executives and professionals - who have the most to lose by conviction for a crime and are more likely to weigh the potential costs of committing crime against its benefits.

### FUNDAMENTAL CONTRADICTIONS

There are no easy prescriptions for crime in America. It has become an intrinsic part of life in this country as a result of fundamental contradictions of American society. We maintain an egalitarian ideology amidst a history of slavery and contemporary unemployment. We say we are against organized crime, but millions of us enjoy and consume its goods and services - drugs, gambling, prostitution, pornography.

We demand heavier punishment - longer prison terms - yet fail to appreciate the social and economic costs of prisons. We support the Constitution and its protection of individual liberties - yet criticize judges who insist the police conduct themselves in accord with constitutional protection.

Our legacy of slavery, immigration, and culture conflict, combined with the ideologies of free enterprise and constitutional democracy is unique in the world. As David Bayley's recent work comparing high American with low Japanese crime rates shows, we are not strictly comparable to Japan or, for that matter, to any place else.

Although politicians - as

(Continued on page 4)

### THE

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