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## Reducing Crime: It *Can* Be Done

By Randall J. Hekman, Martin Gold and David J. Ruhland

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"Because sentence against an evil work is not executed speedily, therefore the heart of the sons of men is fully set in them to do evil."  
Ecclesiastes 8:11

Common sense tells us the best way to discourage illegal behavior is to emphasize that severe consequences will definitely follow those who do such things. Consistent with this view, society has traditionally demanded of its justice system that it deter crime through punishment.

Since the turn of the century, however, this deterrence approach to justice has gradually been replaced with the rehabilitative model which assumes that people commit crimes because they are unwell in some emotional or psychological sense. This modern theory would hold that you can no more suppress crime through the fear of punishment than you can rid a patient of his appendicitis through the threat of incarceration. True crime reduction, it is felt, will happen only as we treat the needs of individual offenders.

Unfortunately, despite millions of dollars being spent nationwide in prior years to rehabilitate offenders, our crime rates continue to soar. The public, understandably upset, is again demanding that their lawmakers and judges "get tough on crime."

In response, social scientists and others point to the large number of people incarcer-

ated in our country with no apparent reduction in crime.

What is the answer to this dilemma? Is there a positive benefit from punishment? Can crime really be deterred?

Most justice system personnel have their own internal beliefs as to whether deterrence actually works to reduce a community's crime rate. Perhaps some of the confusion, however, comes from failing to recognize the difference between *special* deterrence and *general* deterrence.

Special deterrence is the impact of punishment on the future behavior of the lawbreakers we presently have in our system. General deterrence is the impact on uncaught, potential lawbreakers who observe their community's punishment to crime.

While all the evidence is not in, a number of studies have apparently shown that special deterrence does not work. According to several studies, a juvenile offender who is formally caught, prosecuted and punished is measurably more likely to recidivate or commit additional law violations than one who is not caught.

However, it is much more difficult to study whether general deterrence works. How do you interview "potential offenders"? Many argue that since punishment does not seem to work for offenders we catch, how can it pos-



sibly work for those we do not catch? Implicit in this argument is the belief that offenders are impulsive, almost irrational creatures who commit crimes oblivious to the consequences of their actions.

Can potential offenders be deterred by the threat of punishment? In 1975, Massachusetts enacted the Bartley-Fox Gun Law which mandated a one-year minimum prison term for the unlicensed carrying of a firearm. A study of the impact of this law concluded: "We see substantial decreases in *gun* related assaults, robberies, and homicides; and conversely, more or less offsetting increases in *nongun* armed assaults and robberies."<sup>1</sup> Michigan's experience was similar to Massachusetts' upon passing a law which added two years of incarceration to the sentence of any crime committed with the use of a firearm in Michigan. Comparing 1977 crime (when the law went into effect) with 1976, Michigan showed an overall 10 percent reduction in general crime. Crimes involving the use of firearms, however, decreased 24 percent. In comparison, rapes and aggravated assaults without firearms *increased* by 8 percent and 3 percent respectively.<sup>2</sup> As with all "official" data, we cannot be certain that Massachusetts or Michigan experienced a reduction in gun-related offenses in fact or merely in the records. But it is fair to say that on the surface, the numbers lend support to the premise that general deterrence is an effective tool for reducing certain types of illegal behavior.

In many Islamic countries, severe punishments are imposed for even innocuous crimes. What impact does this have? While not a scientifically reliable source, a news account is at least thought-provoking:

Rawalpindi, Pakistan (AP), Crime has taken a holiday since Pakistan's new military government announced severe anti-crime measures, including the Orthodox Moslem punishment of amputating the hands of thieves, looters and armed robbers.

"People are really terrified," said the duty chief at police headquarters at Rawalpindi, a city of nearly a half a million with twelve police stations.

"We haven't even had any cases of disorderly behavior. I guess people know now they'll really get punished."

Many Pakistanis interviewed said they favored the military command's proclamation of severe and traditional Moslem punishment. Others expressed deep misgivings about the amputation penalty and Pakistan's recent adoption of other Islamic ways.<sup>3</sup>

One of the authors, Randall Hekman, has been a juvenile court judge for eight years. He has often heard former juvenile offenders state that now that they are 17 (adult court age in Michigan), they are *definitely* going to keep out of trouble because they do not want to go to adult jail. Not always do these young people hold to their resolve. It seems clear, however, that crime-prone youth are very aware of the distinction between juvenile and adult court status.

Along these same lines, what has amazed Judge Hekman for many years is that, in Michigan, there are approximately twice as many arrests of 16-year-olds for serious crimes as there are for 17-year-olds. What is this? Are the police treating one group differently than the other? Are 16-year-olds more crime prone than 17-year-olds? Or is it just possible that the adult system, which emphasizes punishment, actually deters crime better than the more rehabilitative-oriented juvenile court?

To try to get answers to these and related questions, Hekman obtained and studied FBI Uniform Crime Report arrest data by age for all 50 states. He thought to compare states where adult status begins at age 17 with states where it starts at 18. If juvenile court leniency was encouraging (or not deterring) crime, we might find it happening in other states as well.

Since Hekman is not by training a researcher, he was grateful when Dr. Martin Gold of The University of Michigan Institute for Social Research and Dr. David Ruhland of the New York University Medical Center agreed to take Hekman's idea and plan a more thorough investigation. A significant additional benefit of working with Dr. Gold is that he has compiled an independent data source consisting of the self-reported delinquency of a representative sampling of American adolescents in 1972. In interviewing more than 1,000 youths, the researchers obtained reliable data on the crimes these



young people committed in the 12 months prior to May-June 1972.

Our hypothesis, very simply, is that young people who know that they will be treated as juveniles if caught will be more likely to "take a chance" and engage in crime than will their age-mates in other states who are subject to adult court jurisdiction. By having the two sets of data, we hoped more confidently to be able to attribute whatever results we found to the age of juvenile court jurisdiction in the various states. If the self-reported delinquency data and the official data both showed that juveniles committed more offenses than their adult counterparts, then we would be more confident that the age of juvenile court jurisdiction affected young people's behavior. However, if the official and self-reported data differed, we would need to separate the effects of the law on the behavior of the young people from its effects on the juvenile justice system itself — arrest policies, record-keeping, etc.

The results are convincing.<sup>4</sup> Both sets of data establish that 17-year-olds in states where they are legally juveniles committed more offenses than 17-year-olds in states where they are adults. That is, between 1970 and 1976, the FBI data revealed that 17-year-old juveniles were consistently arrested more often than adult 17-year-olds. The 17-year-old juveniles also confessed to more offenses than adult 17-year-olds in the 1972 National Survey of Youth. The data on the 16-year-olds is also convincing, but in another way. The official data indicate that 16-year-old juveniles were consistently arrested more often than adult 16-year-olds; but the adult 16-year-olds confessed to as many offenses as the juvenile 16-year-olds in the 1972 self-reporting survey.

Why do the arrest data and the self-report data agree for 17-year-olds but disagree for 16-year-olds? One plausible answer to this question is that the criminal justice system is not reluctant to treat most 17-year-old felons as adults but may be reluctant to treat most 16-year-olds that way. It is significant that in the years covered by our data, defining 16-year-olds as adults was a distinctly minority position among the various states, declining from seven states in 1970 to four in 1976. It

may be that in states where 16-year-olds are legally adults, there is a policy of informal leniency granted to such defendants by the adult system. If this is so, it is probably apparent to the police and to the young people as well. Therefore, the police choose to formally arrest fewer adult 16-year-olds and the deterrent effect of punishment is effectively reduced. This gives rise to a lower arrest rate but equal criminal behavior for adult 16-year-olds as compared to juvenile 16-year-olds.

The conclusions with regard to 17-year-olds, however, cannot be overstated. Whether you look to the official data or the actual reports of the young people themselves, 17-year-olds are significantly more likely to break the law in states where they are juveniles than where they are treated as adults. In short, it appears the adult system is currently more effective at preventing crime than the juvenile system. The availability of generally superior rehabilitative services in the juvenile system does not produce lower crime rates than the more punitive adult system.

We conclude from our data that general deterrence works where the threat of a formal judicial response is *credible*.

If general deterrence does actually work, there are significant policy implications that we cannot ignore. Adult 17-year-olds reported less than half the offenses that juvenile 17-year-olds did. If, as we conclude from the data, this is because the young people believe that the adult courts will respond more firmly to their misbehavior, then this belief ought to be more widely disseminated. The certainty of punishment should be made apparent to young people regardless of their age and the court that has jurisdiction over them.

As we begin to think in terms of general deterrence working, we must closely evaluate all existing programs that fail to punish offenders. One such approach that enjoys wide acceptance is based on the thought that we should give first offenders a "break."

However, since potential offenders are deterred by the actual punishment of the relatively few who are apprehended, lenient first offender programs will only succeed in increasing the overall crime rate. First offender



programs are popular because they are relatively inexpensive and appear to be an appropriate response to an offender's first official "infraction." However, if the price society pays for treating first offenders with equanimity is to fail to discourage others from breaking the law, we are truly being penny wise and pound foolish. A first offender program is really deterrence working in reverse: it advertises that people can break the law with little or no consequence. It is only after an offender has committed crimes often enough to develop a crime "habit" that we punish him severely.

Based on our data, we project that if courts would respond decisively to offenders — even on the first offense — many potential offenders will be deterred from beginning "careers" of criminal activity and, ultimately, overall crime should decrease.

It is our personal conviction that a court's response to crime should take into account the wrongfulness of the offense, the responsibility of the offender and the court's function to implement specific as well as general deterrence. There are humane and pragmatic considerations as well. Fierce punishment beyond the point of proportionality would likely reduce crime sharply, as reports from Islamic countries where thieves' hands are severed will attest. But who wants to live in a society where trivial offenses result in excessive and unjust punishments? Pragmatically, overly severe punishment will be unlikely to gain the consensus which our study indicates is necessary for the law to have a general deterrent effect. It appears that a prevailing belief in the justice system is that 16-year-olds are too young to be treated as adults, and the resulting leniency with them cancels the potential deterrent effect of the law. We can expect that the more disproportionately severe the punishment is, the more informal leniency there will be. So excessive levels of punishment would not only be inhumane but could be self-defeating as well.

The justice system also needs to be careful that it does not encourage crime. If a consensus builds to treat offenders more firmly, that may encourage the police to expend greater efforts to apprehend young offenders. In one

sense, this would be a reasonable thing to do, since the research suggests that the *certainty* of punishment is a greater deterrent than the *severity* of punishment. But the danger lies in the effect of more frequent apprehensions on offenders. For, as we have said, research also shows that juveniles who are caught go on to commit *more* offenses than comparable youth who are not caught. However, we surmise that in light of the relatively small fraction of total offenders who are ever caught, it is unlikely that the counterproductiveness of special deterrence will offset the beneficial impact of general deterrence.

Optimally, the justice system should achieve an effective general *and* special deterrent capacity. We should build a consensus that the courts will respond firmly to unlawful behavior and unpleasantly, if necessary. The present study indicates that that will enhance general deterrence. At the same time, the justice system should learn how to deal effectively particularly with the young offenders who come to its attention. This will require a great deal of systematic, difficult experimentation, and we may be a long way from finding means of achieving special deterrence. But in the meantime, we shall have to proceed somewhat uncomfortably, knowing that as we punish offenders we are deterring unseen persons from breaking the law at the expense of the needy people who come before us.

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**Notes**

<sup>1</sup>The impact of the Bartley-Fox Gun Law on crime in Massachusetts by Glenn L. Pierce and William J. Bowers, Center for Applied Social Research, Northeastern University, Boston, Mass., April 1979, pp. 91-92.

<sup>2</sup>*The Grand Rapids Press*, May 19, 1978, p. 8D.

<sup>3</sup>*The Detroit News*, July 14, 1977, p. 8G.

<sup>4</sup>For the complete analysis of our study, see D. Ruhland, M. Gold, and R. Hekman, "Deterring Juvenile Crime: Age of Jurisdiction," *Youth and Society*, 13, no. 3 (1982).