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The Police and Violent Crime

Joseph D. McNamara*

Harlem

I am twenty-two years old and quite conscious of the newness of my blue uniform, leather gunbelt, and other equipment cops carry. I know I look like a rookie, but there's not much I can do about it. I am five feet, eight inches tall, the minimum height for a New York policeman, and cursed with a baby face that makes me look seventeen. It is Harlem, 1957. Dwight Eisenhower is President. The federal government frowns on family planning programs, and displaying condoms in stores is illegal. Abortion carries severe penalties under criminal law. Welfare policies withhold payment if a man resides with the mother of dependent children. The government is financing super-highways and low-cost mortgages in the suburbs, while ignoring a successful marketing campaign that will cause millions of firearms to be sold. These policies will cause economic decay in cities and scar the environment. The same policies will also increase segregation and crime, and exacerbate racial tensions. But it is still five years before the civil rights movement and no one thinks about these things.

I walk a foot beat on West 121st Street. My beat starts on Fifth Avenue, which is known as Spanish Harlem, and goes west into Central Harlem. It is a pleasant summer evening. People sit on the stoops of once luxurious brownstone houses.

A few of the brownstones on my beat have been maintained. Inside these houses, mahogany paneling glistens, and parquet flooring enhances the elegance of rooms with ten-foot-high ceilings and beautiful windows looking out on tree-lined streets. Only the heavy bars on the windows remind you that this is one of the highest crime areas in the world.

Harlem was originally built for the affluent, but the developers did not anticipate a recession in the latter half of the 1870s. In desperation, realtors "temporarily" rented apartments built to the north of Central Park

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to black people fleeing the depressed agricultural economy and prejudices of the South. Black Harlem grew rapidly and became known for its uniquely exciting food, music, entertainment, and earthy culture. Unfortunately, the underside of poverty, joblessness, drugs, crime, and violence also grew with the community

As I approach Lenox Avenue in the mellow dusk, mine is the only white face. The rigid segregation of New York means that even the poor Puerto Ricans east of Fifth Avenue do not cross the invisible border that separates residents of Harlem from the rest of the world. A policeman can still walk alone in 1957. Many of the people softly wish me good evening, or give guarded smiles. It is not wise to be seen as too friendly to the white cops patrolling the area, but the little children are less sophisticated. They have not yet learned that they must view cops as the enemy. As I slowly walk west they swarm around, holding my hand. Some try to blow the shiny, silver traffic whistle hanging from my belt. The .38-caliber Colt resting in a police department holster, designed so only the officer can draw the weapon, fascinates the little boys, until an ice cream truck pulls to the curb with its musical horn beckoning. The children desert me, racing each other to be first in line.

A number of the people on the stoops are drinking from beer cans discreetly hidden in brown paper bags. It is against the law, but I have already learned that Harlem cops ignore minor violations and, at times, major felonies. Music from radios placed in open windows near the stoops mingles with the sounds of traffic and children playing in the streets. Harlem is full of life and excitement. I cross Lenox Avenue, and the brownstones give way to high-rise buildings. Many more people are in the street now. Nevertheless, the scene is tranquil. There is no sign that I am about to experience first-hand the senseless violence that plagues Harlem and make the first arrest of my thirty-five year career. The arrest will teach me things about criminal justice not learned in the police academy or law schools.

The Police World

I cross Seventh Avenue and prepare to make a "ring" from the police call box located on the west side of the avenue. Each officer on patrol is given a specific time to call the switchboard. He (only three hundred or so women are allowed on the force of 26,000 cops and none are allowed on patrol) must call from a specific call box. My ring is seventeen, which means that at seventeen minutes after each hour I call the sergeant on the

"box." The sergeant makes an official entry of the call in a big bound blotter called the Telephone Switchboard Record. Theoretically, superiors check the book, thus holding the sergeants and officers accountable. Of course, they never do. The procedure is simply part of the self-deception and hypocrisy that passes for supervision in police bureaucracies. I know of one cop who actually makes rings from his girlfriend's house in Connecticut when he is supposed to be on foot patrol in Harlem.

It is only 6:05 p.m. so I lean against the wall of a building and watch the traffic. A police car pulls up with a six-inch bright orange cardboard form displayed inside the windshield. Seven indistinguishable cars patrol the precinct. The orange card placed on the dashboard by the patrolman driving the sergeant warns cops that this car contains a "boss." Sergeants are well aware that patrolmen are being alerted to their presence. However, the NYPD is a tight club, and most supervisors strenuously avoid situations requiring them to discipline a subordinate.

I hastily approach the car and salute (sergeants are officers, not non-coms, as in the military). My sergeant is sour faced. I later learn that he is okay, but now he makes me nervous.

"McNamara, you've been in my squad for awhile. Have you made any collars yet?"

"No sir."

"Any moving violations?"

"No sir."

"Well, what have you been doing?"

"Preventing a lot of crime, Sarge," I smile.

The sergeant is responsible for my "activity" and must report on a monthly basis to the captain in command of the precinct the number of arrests, citations for moving traffic violations, and parking tickets each officer in his squad issues. Unless the numbers go up, he gets chewed out by the captain. The police commissioner assures the public that activity reports are not in any way quotas for cops. Nevertheless, a lot of petty violations get written up on the last days of the month. Unfortunately, there is no category for "preventing crime."

Consequently, the sergeant does not appreciate my attempt at humor. He grunts and signs my memorandum book to show that he visited me. It is another bureaucratic pretense. He has fifty men to supervise. We both know that he will not look for me again during our tour of duty. If I want to goof off, I need only worry about plainclothes lieutenants from higher headquarters. They are known as "shooflies," and word spreads quickly on

the very rare occasions they are present. Years later, I learn that shooflies themselves usually notify a precinct in advance of their arrival. Like the sergeants behind the orange cards they want to be known as "good bosses" by the rank and file. In Harlem, it is unnecessary. Few black lieutenants work in the department, and none are assigned as shooflies. A white man in a suit and tie walking the streets of Harlem is highly conspicuous.

Murder

I still have a few minutes until my ring is due. I look south on Seventh Avenue and notice a crowd gathering several blocks away. The police academy taught us to be curious, so I wander slowly down toward 119th Street. As I get closer, I observe a flurry of motion inside the circle of people. I pick up my pace when I realize that two men are fighting. I see a flash of light from a blade and the crowd yells. A man goes down, and I am running quickly. The crowd parts for the person with the knife. He sees me and runs in the opposite direction, but I easily catch up with him a block away.

We tussle briefly, but he doesn't want to hurt me and he's pretty exhausted. This is good because my prisoner is big. My handcuffs just about fit on his wrists. I bring him back to the crowd. The man he stabbed has lost a lot of blood, but is now attempting to sit up. Someone has called for an ambulance and the police. The crowd is turning nasty toward me and the suspect. A patrol car arrives, so I begin to walk the suspect toward the police station. Later, I learn that this is highly dangerous. Crowds frequently attack officers and free their prisoners. In the future, I should take prisoners to the rear of a store and wait for help, or commandeer a car.

In the station house I stand in front of the elevated desk with my prisoner. The desk lieutenant is nowhere to be seen. After a couple of minutes, a sergeant gets up from the switchboard several feet behind the lieutenant's chair.

"What you got, kid?" the sergeant asks.

I identify myself and my beat and hold up a bloody ten inch butcher knife.

"He cut a guy, Sarge," I point to the handcuffed prisoner.

My name and beat register with the sergeant. "You missed your ring," he says, looking disgusted. "Take him up to the squad."

The suspect and I trudge up to the detectives' squad room on the second floor. I put him in a small holding pen and out of his hearing tell a

detective what happened. We bring the prisoner to a desk. I search him without finding anything incriminating.

It is seven years before the famous Miranda ruling by the United States Supreme Court requiring the police to advise suspects of their rights to remain silent and to legal representation. The detective questions the suspect, who is thirty-two. The man claims self-defense. The detective sneers. Gradually, the suspect tells us that he and the victim, who was the same age, were friends. They had been drinking together for several hours and had an argument over whose turn it was to buy another bottle of booze. It wasn't the money, he tells us. It was the way his friend put him down that led to a fistfight. The suspect took a beating and went home humiliated. He drank and brooded for several hours and then took a knife from the kitchen and walked three blocks to the corner of West 119th Street. When the suspect brandished the knife, his friend picked up a bicycle and tried to shield himself. It didn't work. The suspect was repentant, but he also blamed his friend for what happened.

At that moment an older cop, who had grown up in my neighborhood, rushed into the room.

"Congratulations, Joe. The guy died. You got a homicide pinch," he says.

The suspect groans and collapses to the floor.

The detective is furious.

"The suspect didn't know that," he tells the red-faced patrolman. "You should know better."

I am stunned. The transition from a pleasant summer evening to sudden death shakes me. I also wonder about the uniformed cop's callousness. I always thought cops were good guys who protected people from getting hurt. Yet, the reward system of the police department does not recognize crime prevention. Indeed, the more serious the crime, the more praise a cop receives for the arrest. If I had been a couple of minutes earlier and prevented the murder, the police department would have been unimpressed.

I started my tour at 4 p.m. It is 3 a.m. before I finish the follow-up investigation and handling of the evidence. I ask the detective if the homicide squad will come from headquarters to participate in the case.

The detective's black face crinkles into laughter.

"This is Harlem, young man. Unless a cop is killed—or some white merchant—homicide dicks could care less about this precinct."

The detective slips his gun into a desk drawer and locks it. He takes the suspect to the fingerprint stand and inks the desk pad. Carefully, he prints each finger onto the white fingerprint card. Both he and the suspect sign the card. The detective throws it into an out basket with dozens of other cards. A few minutes later, a messenger comes in and takes all the cards.

I sign the prisoner into the precinct cells and go up to a small dormitory to try to catch a few hours of sleep before taking him to court for arraignment. The four cots are occupied, so I return to the locker room and stretch out on a narrow bench. The prisoners in the holding cells downstairs have more comfortable beds, but the smell in the police locker room is a little better.

At 8 a.m., under the watchful eye of the desk lieutenant, ten arresting officers file out to the green paddy wagon with our prisoners. Losing your gun, badge, or prisoner brings an automatic five-day suspension and a mark on your record that will hurt your chances of advancement. Desk officers count to make sure that the penalty will fall on the officer and not on them if a prisoner fails to appear in court.

The other cops follow the paddy wagon in their own cars, but being a rookie on probation, I obey the rules and ride in the back of the van. The wagon is dark green and acquired its name early in the century when the Tammany Hall Democratic machine packed the force with Irish constituents. The van smells of urine, vomit, and sweat. I am glad I haven't had breakfast. I sit as close to the small, meshed steel window in the rear as I can. This gives me more air, but subjects me to wild bumping as the wagon bounces over Manhattan's potholes. The handcuffed prisoners slither about, cursing the driver. Soon we are slowed in bumper to bumper rush-hour traffic and do not get jolted as much. Our wagon is full, so we do not stop at other precincts on the way to lower Manhattan.

The first stop is police headquarters, 240 Centre Street, where upstairs the police commissioner uses the same desk Theodore Roosevelt sat behind as commissioner in 1895 before he went on to other things. However, we use the cellar entrance. Each cop escorts his prisoner through the rear basement door on Baxter Street. Once again, I sign the suspect into a holding cell. Then I walk with the experienced cops across to Broom Street where the Bureau of Criminal Identification (BCI) is located.

A few years later this unit is responsible for the biggest blow the New York City Police Department ever strikes against the numbers racket. One hundred forty-three cops work through the night in BCI identifying the

fingerprints delivered from precincts and printing out the suspects' criminal history on sheets of yellow paper that the arresting officer takes to court so the judge can set bail based on the defendant's record. It turns out that cops on the take in BCI have been supplying "clean" yellow sheets for veteran gamblers. As a result, judges release the gamblers without setting bail. New York tabloids publish the story with blazing headlines: "143 Cops Suspected."

Every hunch numbers player bets on 143 that day and it hits. The winning three digit number is based on an elaborate and unfixable combination of pari-mutuel horse betting at a track. The winning number pays more than five hundred to one. One hundred forty-three costs the numbers racketeers millions of dollars and causes them more grief than police enforcement ever did.

I read the suspect's sheet and find he has four minor arrests for crap shooting and drinking in the street. He has never been to federal prison and served only a few days in the local jail. I return to headquarters and sign him out so that he can have his mug shot taken. It is 10:30 a.m. I am tired, anxious to finish in court, and to go home. But there is a delay. The prisoner has been designated to go through a line-up. Under an archaic tradition, thirty (out of three thousand) different detectives from the city are assigned to attend a line-up of prisoners at headquarters. The practice goes back to a time when there were few detectives and few serious arrests. Now there are thousands of detectives and hundreds of serious felony arrests. The chances of them ever seeing one of the suspects again are considerably greater than the odds of picking the correct pari-mutuel number. The bored detectives drink coffee and chat, hardly ever glancing at the line-up.

Criminal Justice

Finally, the line-up is over. The prisoner is again in my custody. We ride a few blocks in another paddy wagon into the courtyard of the Tombs, the prison serving the New York County Courthouse at 100 Centre Street. The huge metal door clanks shut behind us. We go into the jail where I again sign in my prisoner. I then go to the clerks' office in the courthouse where four men, who do not know how to type, peck at typewriters. It is now noon and lines of cops and victims wait impatiently as the clerks prepare boilerplate affidavits for the hundreds of felony arrests waiting for court hearings. Cops could do this in a matter of minutes in the station house, but the Tammany Hall political machine that runs New York City jealously guards this patronage of the courts. Thus, victims and

arresting officers wait to sign the affidavits. Unlike the other cops, I am alone. My victim is further east, on a slab in the county morgue at Bellevue Hospital.

At 4 p.m. the prisoner and I sit next to each other in court waiting for the preliminary hearing. It is twenty-four hours since I went on duty and twenty-two hours since the arrest. We have spent a lot of time together and I discover something strange; he's a murderer and I'm a cop, but I don't hate him. What he did, yes. But through the day, in our conversations going here and there, he shows respect to me, and as I get to know him I realize that he is not a monster. He's simply a guy who has led a marginal life going from one lousy job to another. Like many black men in Harlem, he is touchy about his pride. I begin to understand what a loss of face he felt after being beaten in front of a crowd by his friend.

He trusts me because I have treated him decently, the way a cop is supposed to treat a suspect. He talks freely to me, and I feel a little guilty that he seems unaware that I will use anything he says that is incriminating against him. Several times he asks me whether or not he should plead guilty I don't answer. The question makes me uneasy I'm tempted to say, "Yes. You did it." Eventually, I tell him that he should talk to a lawyer.

At long last the bailiff calls our case. The State and County of New York against the suspect. The charge: Homicide. It takes the bailiff one minute to read the affidavit that took four hours to prepare. The public defender representing the prisoner goes through the motion of asking for bail. The judge makes no comment, but holds the suspect without bail. I doze on the subway going back to the precinct. I find my car and drive home in a daze, too tired to think.

A couple of weeks later I am summoned to the Manhattan District Attorney's office. A very young deputy D.A. questions me about the case. He listens intently as I describe the suspect's drinking, his claim of self-defense, and his fainting in the detectives' squad room when he learns his opponent is dead.

"Do you think he was really drunk, or pretending to be?" the D.A. says.

I go back in my mind. "He wasn't drunk when I arrested him. Drinking, yes, but he knew what he was doing."

"What about the fainting? Real or an act?"

I am more sure of this. "An act. He wasn't happy to hear the guy was dead, but he didn't really faint. It was for our benefit."

"O.K.," the D.A. says, "I'm going to take it to the Grand Jury. The two hour interval when he went home makes it premeditated. It's Murder One."

The Police Reward System

Returning to the precinct, I wonder what the suspect would think of my role in his being indicted for First Degree Murder, a crime that carries the potential of the death penalty. When I get back to the station house, I see that my name is on the board to see the captain. A couple of cops ask me what kind of trouble I'm in. Captains are rarely seen, and usually they mean bad news.

However, the captain is very pleasant. This is the busiest and, therefore, the most prestigious command in the city. The precinct is less than one square mile and has four hundred cops assigned. Yet, more than one hundred murders occur each year. Usually, captains are promoted from this position unless there is a scandal. This captain has written articles on policing. Many cops consider him a rising star within the department. The captain tells me that I made a good pinch. He is recommending me for a police department medal and giving me a plum—an assignment to radio motor patrol for the rest of the summer. Usually, cops serve five or more years in the precinct before they get such an assignment. I'll see more action in the next couple of months than I would in years of foot patrol.

I can see the captain wants to say something else.

"You are also scheduled to be interviewed for the Detective Bureau."

I look at him in astonishment. I spent four and a half months in training at the police academy and have little street experience. "Even up here in Harlem, it's unusual for a foot cop to make an arrest for Murder One. And you did it on observation and by yourself, not in response to a call." The captain pauses. "Just think about it. Don't jump too fast if they offer you the gold shield. They're expanding the narcotics squad and a kid like you with a baby face, they'll stick you right in there."

I'm attending the famous John Jay College of Criminal Justice part time. I don't want to be a detective. It would interfere with my schooling and intentions to study for promotion to sergeant, and I know nothing about real police work. But being a detective is prestigious. I wonder why the captain is cautioning me against it. Years later, when the state investigation commissioner exposes wholesale corruption among narcotics cops, and many of them go to jail and a few commit suicide, I realize the captain was

warning me. Unfortunately, by that time, the captain has fallen victim to the NYPD's practice of closing the barn door after the horses escape. Two precinct cops are arrested for extortion. Although the captain is blameless, headquarters has to punish someone. He loses his command and retires from the department as a captain.

The suspect is indicted for Murder One and I never see him again. Only when I persist in calling the D.A.'s Office do I find out that he "copped" out (a negotiated plea) to Second Degree Manslaughter. One of the older cops tells me that the man will do two to three years. His victim supported a wife and six children by working at an auto assembly plant in Tarrytown. His death isn't even reported in Harlem's newspaper, *The Amsterdam News*. His family goes on welfare.

The year is exciting for me. I am learning my trade—more DOA's, rapes, and robberies and more arrests with the same delays, red tape, and indifference of the courts. A year later I am delivering a report to Division Headquarters in the 32nd Precinct on West 135th Street and remember that I have never been notified about the award the captain recommended. I ask a patrolman who does clerical work about it. He goes to a filing cabinet and pulls out a folder.

"Oh, yeah. That one. The inspector turned it down." The patrolman shrugs and raises his eyebrows. "What can I tell you? The boss said both the perp and victim were niggers."

Culture and Behavior

The racism of the police department and court system may shock some people. The tendency of many people is to view racism as a pre-civil rights movement phenomena, but as the Rodney King case shows, we should not deceive ourselves. The Rodney King incident, the Los Angeles riots, the Ice-T cop killer album controversy, the revival of the Klan, and activities of skin heads all show that racial tensions are as great as ever in America. Nor should the facts about the NYPD's bad management, lack of supervision, negative award system, code of silence, and indifference to community service be viewed as ancient history or unique to New York. The Mollen Commission in New York recently reported much the same corruption and management indifference that the Knapp Commission had reported twenty

years earlier.¹ The same bureaucratic negatives exist in almost every sizable policy agency and indeed in the courts, corrections, and other organizations affecting criminal justice. Each of the agencies has a distinct culture as do the various urban subcultures they service. My experience leads me to believe that peer pressures within these cultures influence concepts of right and wrong and sway individual behavior more than laws based upon rational deterrence theory

By way of illustration, even law students would be unlikely to know the specific penalties for armed robbery, aggravated assault, burglary, or grand larceny. On the other hand, state penal codes routinely spend great energy in differentiating the various degrees of these crimes, adding years of punishment for variations involving use of weapons, degree of injury, whether or not the crime took place at night, or whether a dwelling was occupied at the time of commission. Still, the overwhelming majority of people do not commit these crimes despite their ignorance of the consequences. It is also true that, even where knowledge of potential punishment does exist, offenders know that under our system of due process a good chance exists that they will not be caught, convicted, or punished. For example, police officers who personally disapprove of serious misconduct by their colleagues still maintain the code of silence, even though they themselves would face dismissal if found guilty of lying in an investigation.² Peer pressure strongly influences the behavior of cops, as well as others, caught violating the law

Taken together, the tendencies of criminal justice organizations have consciously or unconsciously worsened the terrible impact that slavery had upon America's racial minorities. Oftentimes, the racial differentiation is unintended, even when the harm is most severe. As mentioned earlier in this article, the exodus of middle-class people from the cities was an unintended consequence of government policies enacted in the 1950s. Crime, segregation, and economic problems filled the void in the urban areas abandoned by the middle class.

Perhaps the most damaging consequence was that these government policies deprived inner city subcultures of a kind of mentoring that had served previous underclasses of poor immigrants well. Nonwhites no longer could turn to successful role models that more homogeneous cities of the

1. Clifford Krauss, *Police Corruption in New York: As Expected a Blight Returns*, N.Y. TIMES, Mar. 21, 1994, at B3.

2. *Id.*

past provided. Earlier groups on the bottom of the economic ladder were also plagued by crime, infant mortality, education, and health disparities, but over the course of decades many (but certainly not all) individuals in these groups adopted the family, work, and education values of groups that had preceded them, or they emulated successful people from their own group. Today, all too frequently, inner city youngsters see only drug dealers, pimps, gamblers, and other criminals as role models.

The Drug War

The so-called "war on drugs" is another example of a policy that on the surface reflects no racial discrimination, but in practice is devastatingly unfair to minorities. Nonwhites are arrested at four to five times the rates whites are arrested for drug crimes, despite the fact that drug use remained proportionate to population.³ Sentencing and incarceration rates follow similar patterns. Alfred Blumstein, the president of the American Society of Criminology, terms drug enforcement "a major assault on the black community"⁴ Doctor Blumstein adds that the white community would not tolerate similar police tactics.⁵ Thirty-five years of policing experience leads me to agree emphatically

The drug war dehumanizes both the police and the people they confront. General Colin Powell told us during the Gulf War that a soldier's duty is to kill the enemy. In our society, police officers are supposed to be peace officers. Their fundamental duty is to protect human life. When they think they are in a war and that any particular group is the enemy, the kind of policing depicted by the Rodney King tapes is inevitable. The drug war also makes drug users susceptible to dehumanizing stereotyping. They are usually portrayed as violent, out of control nonwhites, compelled to commit crime to get money for drugs. All of these stereotypes are false, but they lead to bad social policies when people in power endorse them.

For example, former Los Angeles police chief Daryl Gates testified before the United States Senate that "[t]he casual user ought to be taken out

3. Stuart Taylor, Jr., *How a Racist Drug War Swells Violent Crime*, AM. LAW., April 1993, at 31.

4. Alfred Blumstein, *Making Rationality Relevant—The American Society of Criminology 1992 Presidential Address*, 31 CRIMINOLOGY 1, 5 (1993).

5. *Id.*

and shot. ⁶ He assured the Senators that he was not being facetious. Some people might dismiss the statement as bizarre,⁷ but it is worth noting that both houses of Congress have passed a provision in the Omnibus Crime Bill calling for a federal death penalty for drug traffickers and that President Clinton is asking Congress to expedite the legislation.

The long mandatory sentences for drug dealers provide another example of bad law. The sentences have not lessened drug dealing or drug use, but they have caused drug distributors to recruit young boys who can only be charged with juvenile delinquency. We now have legions of teenage career criminals who are all-too-willing to blow people away with the military assault weapons that are part of their arsenal.

At the same time that states are increasing drug enforcement budgets and billions of dollars are being spent on prison construction needed to house more nonviolent offenders, these areas are closing schools and libraries for lack of funding. Rarely are necessary funds available to treat drug users. Some counselors tell people who are unable to get into voluntary treatment to get arrested so that a judge can sentence them to a program. The waiting period for entry is shorter.

Preventing Crime by Getting Tough

Too much crime and violence exists in our nation, and fear of violence destroys the quality of life for many people. In some neighborhoods, the level of fear keeps innocent people barricaded in their homes, destroying opportunities for community efforts that can succeed in making the streets safer. People are legitimately demanding that their government fulfill its essential duty to protect their safety. Most Americans believe the government currently is failing in that duty. Some ask, how is it that we can put a man on the moon but not ensure safety in the community? Simply put, human behavior is complex. Social science is not as precise as the "pure" sciences, which make possible the remarkable technological achievements of our time.

Criminological theories abound. Yet, despite centuries of study, the definitive theory that explains why one person commits crime and another

6. *One-Year-Drug Strategy Review Hearing*, 101st Cong., 1st Sess. 77 (1990) (statement of Daryl Gates).

7. *But see* DARYL F. GATES, CHIEF: MY LIFE IN THE LAPD 286-87 (1992) (explaining context and meaning of statement that casual drug user should be shot).

does not elude us. Certainly, we know that inner city cultures have always had higher rates of crime, but we do not know why some people in those cultures never commit crime, albeit they experience the same environment as others who commit a great deal of crime. Our doubts about how to prevent crime notwithstanding, criminal laws need to be passed, police departments deployed, and the courts and correctional institutions operated. Important decisions are being made every day because they must be made.

For almost two decades we have decided to put almost all the eggs in the basket of strict incarceration. The decision to follow an eighteenth century belief that humans are rational calculators seeking maximum pleasure and minimal distress has led the United States to quadruple the number of people behind bars. Yet, the fear of crime is at an all-time high. Drug use seems about the same, and it is puzzling that with such greatly increased incarceration the nation has not had a dramatic decrease in crime and violence. My feeling is that when we cast the net so wide (estimates are that sixty percent of inmates have been convicted of nonviolent offenses)⁸ we actually let some very violent people fall through the cracks. All of the agencies, from the police to the prisons, lose sight of priorities. The public is upset about violence, but the bureaucracies have made drug crimes their top priority. Attorney General Janet Reno has stated that we may be releasing prisoners convicted of violence to make room for drug dealers.⁹

The war on drugs has caused such an increase in arrests that other agencies involved in criminal justice are inundated with more cases. Huge increases in justice agencies' operating expenditures have created fiscal crises throughout the country. Local governments, unlike Washington, cannot afford demagoguery. The federal government excuses itself from balancing its budget, but citizens elsewhere require that state and local governments not spend more than they receive.

Presently, court calendars are so crowded that considerably less than ten percent of defendants can exercise their rights to a trial. Denunciations of plea-bargaining aside, if only a few more people charged with crimes demanded trials, the courts would fail. Our courts would by default violate United States Supreme Court guidelines for a speedy trial. The courts would

8. U.S. BUREAU OF THE CENSUS, STATISTICAL ABSTRACT OF THE UNITED STATES: 1993 211 (1993).

9. Michael Tackett, *Attorney General Signals Drug Policy of '80s is Taking a Turn*, CHI. TRIB., May 9, 1993, at C4.

be forced to release many people accused of crime prior to adjudication of their guilt or innocence.

The federal government must explain to taxpayers what they are getting for their money when it comes to criminal justice. Citizens should also realize that the current "Three Strikes and Out Initiatives" are very likely to increase, not decrease, violence. Many of these proposals would give life sentences to individuals whose crimes are petty and nonviolent. In addition, in a nation unwilling to pay higher taxes, it makes no sense to keep people in jail when they are senior citizens too old for violence. (It might, however, be even harsher punishment to release them when they will have to struggle for adequate health coverage like other senior citizens.) Furthermore, attorneys will be forced to seek trials for every felony charge, given the potential life sentence that might someday befall their client. Any significant increase in the number of defendants seeking trial will paralyze the courts and cause the release of many defendants accused of serious crimes because they are denied their constitutional right to a speedy trial. It would be wiser to concentrate on the truly violent crimes such as murder, rape, armed robbery, and assaults with firearms. We need to make sure that the penalties are adequate in order to restore public credibility.

Unfortunately, every few years many politicians from both parties re-declare war against crime and against drugs. If tough political rhetoric worked, we would be crime free. Despite, or as I have theorized because of, highly emotional approaches to crime, effective law enforcement has suffered and the public fear of crime is at an all-time high.

The Future

It has become a cliché of politicians to say that youth are our future. In fact, criminologists are able to predict crime rates fairly accurately by employing demographic analysis of national youth cohorts. Most serious crime is committed by males between the ages of fourteen and twenty-four.¹⁰ This segment of the population has shrunk over the past decade, but crime has continued to rise until last year. It may well be that the percentage of the fourteen to twenty-four year old male cohorts comprised of inner city youth who have higher crime rates has increased. It may also be that various opinions that young people are more prone toward crime and violence are true. In any event, the number of fourteen to twenty-four year old males in

10. See U.S. BUREAU OF THE CENSUS, *supra* note 8, at 17

the population is expected to increase by fourteen percent by the year 2005¹¹ Hopefully, our society will temper its anger towards crime with wisdom and a determination to eliminate racial bias, which makes hypocrisy of our constitutional ideals of justice and undermines efforts to instill a respect for law in young people.

Unfortunately, this year's proposed federal budget resembles the severely ill patient desperately avoiding diagnosis out of fear of knowing how bad things are. Of course, such behavior can worsen the illness and even have fatal consequences. Yet, the administration's budget proposals seek to increase enforcement efforts that have not worked for the past two decades. Simultaneously, the proposed budget deletes funds for agencies which analyze the effectiveness of government enforcement programs.

There are no panaceas for crime prevention. However, two members of President Clinton's cabinet have made suggestions for actions that are overdue. Surgeon General Joycelyn Elders has suggested that an impartial commission be appointed to seek better ways to deal with the problem of drug abuse.¹² Lee Brown, Director of the Office of National Drug Control Policy, previously recommended that a national commission study the high level of violence in our society and recommend new policies of prevention. My guess is that an impartial commission would say that a great deal of harm flows from the anti-crime and anti-drug policies. A commission probably would recommend support for programs that altered negative youth cultures leading to destructive behavior instead of blindly constructing more prisons to house nonviolent minority males. After a lifetime career in law enforcement, I believe that successfully convincing youngsters not to have children that they cannot nurture would do far more to prevent crime than passing tougher laws, hiring more police, and building more prisons.

The President would serve the nation better by appointing a commission to find alternative methods to deal with violence and drugs. Embracing the politically safe but publicly harmful policy of trying to outdo the opposition in being "tough" on crime only guarantees doing more of what does not work.

11. *Id.*

12. Stephen Labaton, *Surgeon General Suggests Study of Legalizing Drugs*, N.Y. TIMES, Dec. 8, 1993, at A23.

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