



Urban Crime Control Theory

William J. Bennett, John B. Dilulio, Jr. and John P. Walters
Body Count: Moral Poverty . . . And How to Win America's War Against Crime and Drugs

New York: Simon & Schuster, 1996. 271 pp. \$24.00
ISBN 0-684-83225-9

Elliott Currie
Crime and Punishment in America

New York: Metropolitan Books, Henry Holt & Company, 1998. 230 pp.
\$23.00
ISBN 0-8050-4835-9

George L. Kelling and Catherine M. Coles
Fixing Broken Windows: Restoring Order and Reducing Crime in Our Communities

New York: Martin Kessler Books, The Free Press, 1996. 316 pp. \$25.00
ISBN 0-684-82446-9

William Bratton with Peter Knobler
Turnaround: How America's Top Cop Reversed the Crime Epidemic

New York: Random House, 1998. 329 pp.
ISBN 0-679-45251-6

Jerome Skolnick, New York University School of Law

Would any criminologist have predicted the United States' violent crime decline from 1992 to 1998—especially New York City's, where the decrease has been most pronounced? When criminologists are asked to comment and explain the reduction, we offer moderately convincing post hoc explanations—like Wall Street economists suggest when asked why the Dow dropped 300 points yesterday. But, like them, most of us cannot predict with confidence what next year's figures will be.

Nevertheless, like economists discussing market fluctuations, criminologists can point to factors influencing crime rates: sentencing and imprisonment policies, drug and welfare policy, demographics, race, the global economy, employment rates, policing strategies, and changes in youth culture. And, like

economists, underlying theoretical and political commitments will incline them to different interpretations.

This is true of the authors of the books under review here. None are grand theorists of sweeping historical perspective. Despite their sharp disagreements of interpretation, these authors largely agree on relevant factors affecting crime rates. Each concentrates on assessing crime not only in the present, but in the recent past and into the foreseeable future. Each claims that its middle range position is supported by empirical findings, and each seeks to influence public policy.

The authors are known outside the halls of academe, and have been influential in shaping current crime control policies in the United States. None have been as influential in shaping American crime policy as have William Bennett, John J. Dilulio Jr., and John P. Walters (Bennett as Director of the Office of National Drug Control Policy, Dilulio as Princeton Professor and Director of the Brookings Institution's Center for Public Management, Walters as Bennett's Deputy for Supply Reduction).

Yet it cannot simply be the positions held by Bennett, Dilulio and Walters that explain their influence. *Body Count: Moral Poverty . . . And How to Win America's War Against Crime and Drugs* articulates and justifies the tough measures—expansion of the war on drugs, longer sentences, more prisons and incarceration, aggressive policing—that American voters demanded of crime policy in the 1980s and early 1990s. As crime and fear of crime reached a peak with the crack epidemic of the late 1980s, no politician of either political party could afford to appear 'soft'. Consequently, philosophies and the law shifted to empower prosecutors and to limit judicial discretion. Mandatory sentencing became widespread. Key states, notably bellwether California, passed 'three strikes' laws and made retribution and incarceration the goal of criminal punishment.

The authors of *Body Count* nevertheless argue that we have been too lenient, and that softness endangers our future. 'America's beleaguered cities,' the authors exclaim in this 1996 book, 'are about to be victimized by a paradigm shattering wave of ultra violent, morally vacuous young people.' They see us being attacked by a 'new generation of street criminals' they call 'super-predators'; these are supposedly 'the youngest, biggest, and baddest generation any society has ever known.' Moreover, they predict that the next generation will be even more rapacious, with juvenile crime peaking in 2010. Yet even as their book was being written, crime was falling in America's 'beleaguered cities,' and has since declined dramatically.

Although Bennett et al. never attach the 'superpredator' label to young black males, the implication is unmistakable. That America will be facing 'the youngest, biggest, and baddest generation any society has ever known' is a staggering assertion, scarcely backed up by evidence. Yet because 'tough guy' ideas like theirs have been so prominent in the body politic, it is worth tracking the authors' analyses.

'It is simply a myth,' they argue, 'that our prison cells are filled with people who don't belong there, or that we would somehow be safer if fewer people

were in prison.’ The widespread circulation of that myth, they say ‘is the result of ideology masquerading as analysis.’ The essence of their argument is underscored: ‘*Virtually all convicted criminals who go to prison,*’ they write, ‘*are violent offenders, repeat offenders, or repeat violent offenders.*’

Note that *Body Count* here aggregates three categories of offenders—‘violent,’ ‘repeat violent,’ and ‘repeat’—to characterize the huge numbers of violent offenders who are in prison. But this makes no sense: since one of the categories is ‘repeat violent,’ the category ‘repeat offender’ must refer to those who are non-violent. Moreover, as Elliott Currie points out in *Crime and Punishment in America*, even a majority of violent criminals are not as dangerous as the term suggests. More than half of all reported violent crimes, he writes, are ‘serious assaults without injury,’ such as fights in bars or schoolyards.

In the interests of full disclosure, Currie and I are friends who have sometimes written together. This book, however, is entirely his own product, and provides a humanist-pragmatist counter to the ‘tough guy plus moral values’ crime control theory presented by Bennett et al. Currie’s analysis is rooted in the theoretical stance of Jeremy Bentham, albeit never explicitly. He does not, for example, deny that ‘prison works’ if our goal is simply to impose punishment. But he observes that when we imprison more persons for longer time periods, we sweep progressively less serious criminals in than those already there—a finding that is virtually a logical outcome of lengthier sentences and a wider net. Thus, the claimed benefits for public safety may actually be a negative.

He offers as an illustration the example of California’s three strikes law, where any third felony, even a theft of a bicycle, can trigger a mandatory sentence of 25 years to life. Since the passage of that law, twice as many defendants have been imprisoned in California for possessing marijuana than for murder, rape, and kidnapping combined.

This fits in nicely with Currie’s general theme that public policy makers should question the marginal benefits of additional years of imprisonment. Currie asks that we consider whether a five-year sentence ‘works’ to control crime better than a two-year sentence. ‘And,’ he adds, ‘if the question is whether a two-year mandatory sentence works better for an addicted burglar than a course of treatment outside of prison walls, it’s even less clear.’

Body Count argues for harsher punishment on the ground that violent crime and use of drugs are the result of ‘moral poverty’ rather than underlying social or economic conditions. Those who commit violent crime do so *because* they are ‘morally impoverished’ persons ‘without loving, capable, responsible adults who teach the young right from wrong.’ By the book’s end, we are offered an even more capacious litany of causation and displeasure, including out-of-wedlock births, especially by teenagers (and especially African-American teenagers about whom they do not acknowledge that teen pregnancy rates have been declining).

Their ‘solutions’ to unmarried teenage pregnancy are to moan and to reconsider reviving religion and orphanages. At a time when teenagers are becoming sexually mature at ever younger ages and marrying at ever later

ones, this approach seems scarcely promising. Nowhere do they advocate sex education and contraception to prevent pregnancy; or for the right of a pregnant woman to choose abortion when she believes she cannot responsibly raise a child.

In a book full of unconvincing statistics about how society benefits through its vast imprisonment project, *Body Counts*' main theory about 'moral poverty' causing crime cannot be tested. 'Moral poverty' is, of course, a judgmental metaphor and not a measurable variable. By definition, 'moral poverty' ignores real poverty. It also invalidates such measurable factors as race, joblessness and inequality as causal, and zeroes in only on 'the near complete collapse of our character-forming institutions . . . in a free society, families, schools and churches.' Consequently, the bonds of family must be 'restored,' although not by the help of government. 'We believe,' the authors write, 'the most obvious answer—and perhaps the only reliable answer—is a widespread renewal of religious faith and the strengthening of religious institutions.'

When they write about the relation between race and crime they interpret racism as 'an even less persuasive explanation for the present day crime problem than poverty.' Of course, this assumes that we have accepted their argument that poverty is unrelated to criminality. How do they know? They rely on an 'insightful observation' by James Q. Wilson that 'crime amidst plenty' was the real 'paradox of the sixties.' But if crime is, as the authors recognize a page earlier, 'concentrated in economically disadvantaged neighborhoods' how can there be said to be 'plenty' in the areas where crime is concentrated? Actually, there is no paradox. There was plenty for some, and poverty and unemployment in economically distressed urban neighborhoods—historically a recipe for the emergence of youth cultures leading to rising crime rates. Moreover, even when a rising tide lifts all boats, those in areas of poverty may experience 'relative deprivation' especially in a materialistic, consumer-oriented society.

Is this an important book? Yes, since it starkly reveals the ideas driving contemporary US crime policy. If moral poverty is the cause of crime, government can do little about it. To say that deficient parenting is the cause of crime is old hat—who would listen? But introduce a jazzy sounding term like 'moral poverty' with what is claimed it produces—the young black female welfare mother and the male 'superpredator'—and you may have the makings of a Christian conservative best seller.

Like those of most criminologists, Currie's theories are secular. He develops a version of social disorganization theory to explain why crime happens and what to do about it. Family breakdown is not ignored but is considered a variable intervening between crime and impoverishment. From a policy perspective, Currie proposes that social action finds ways to alleviate economic and social conditions that lead to crime. He cites a 'carefully evaluated' program in South Carolina where, in contrast to conventional juvenile justice treatment, caseworkers addressed 'issues that arose in every institution that affected the youth's life—family, school, health care—with a special focus on family troubles.'

Thus while Currie's position at first glance seems the polar opposite of Bennett et al.'s views as expressed in *Body Count*, in certain respects these authors nonetheless agree: all focus on the broken family as a cause of crime. Currie advocates 'preventing child abuse and neglect, enhancing children's intellectual and social development, providing support and guidance to vulnerable adolescents, and working intensively with juvenile offenders.' Bennett et al. would argue that the way to reduce child abuse is through strong families rooted in religious commitment. Whereas Currie backs a variety of secular social programs to instill moral values that avert crime, Bennett et al. champion religion.

But the critical difference between Currie and Bennett et al. involves the efficacy or inefficacy of wider and more severe punishment as crime reduction measures. For Currie, the national character of the United States should not be judged solely on 'whether we reduce crime, but how.' This, then, suggests a link between Currie's *Crime and Punishment and America* and the otherwise quite different *Fixing Broken Windows*, co-authored by George Kelling and Catherine Coles to refine the now famous article Kelling first published with James Q. Wilson in the *Atlantic*. *Broken Windows*'s theory postulates that a broken window, when left unrepaired, signals neglect and lack of concern for the neighborhood, thereafter inviting vandalism and further property damage in turn. 'Broken windows' is also a metaphor for a larger conception, 'disorder,' which includes disorderly behaviors such as public drunkenness, loitering, panhandling, urinating and defecating in public. For Kelling and Coles, the leap from windows to people is significant and contestable, yet they argue that both ought to be treated under the broader rubric of 'disorder.' Moreover, they argue that order is a normative concept largely shared by many residents in urban and suburban neighborhoods. And the kinds of disorder such residents commonly condemn extend to both things and persons—to dirty, littered streets and broken windows, but also to behavior perceived as annoying or disturbing such as public drunkenness, panhandling, and loitering for purposes of prostitution.

This is precisely where the theory becomes controversial. How do we know that residents share the same conceptions of order? Granted that most will find public defecation disgusting, will they commonly deplore beer drinking on hot city nights in neighborhoods where crowded apartments lack air conditioning? And how will we know if someone is drunk in public? Will we give sobriety tests to pedestrians? Even when statutes prohibit specific conduct, such as jaywalking, police use broad discretion to decide whom to stop and arrest. Analogously, citizens from different communities will surely maintain different ideas about when arrests should be made, just as courts deliver widely divergent judgments.

Kelling and Coles offer the example of Berkeley, California, which was enjoined in May 1995 from enforcing an ordinance which banned sitting on a sidewalk within six feet of a business. The ordinance was supported by merchants, especially those on Telegraph Avenue, in addition to a majority of Berkeley residents. Both argued that people sitting on the sidewalk in front of

the doors to Telegraph Avenue businesses, and panhandling passersby, were destroying their business. Potential customers were bypassing Telegraph Avenue for suburban malls and other venues where middle-class standards of civility prevailed. However, while voters therefore supported the ordinance, Federal District Court Judge Claudia Wilken held in San Francisco that sidewalk sitting and panhandling constitutes protected, expressive conduct under the First Amendment; such actions are lawful insofar as they communicate a message of neediness and passivity. Similarly, in New York, an ordinance prohibiting begging in the subways was declared unconstitutional in a Federal District Court (although the decision was overturned in the 2nd Circuit Court of Appeals).

Kelling and Coles oppose such judicial opinions. In support of their argument, Kelling and Coles say liberal jurists are out of touch with the seriousness of the problems which affect many homeless panhandlers. According to Kelling and Coles, many are mentally ill and the victims of a misguided civil libertarian project that succeeded at deinstitutionalization. They do not oppose treatment, but regard legal decisions such as Judge Wilken's with skepticism, if not scorn.

But if the first prong of the broken windows theory is obviously normative, a second fork of argumentation is theoretical—and, at that, positivistic. Here, Kelling and Coles maintain that repairing broken windows prevents more serious criminal acts from occurring. Moreover, unlike most theories, this one is proclaimed to have been tested in the subways and on the streets of New York City. Both Kelling and Coles, and later Bratton in his own book, tell stories about actions taken after William Bratton became New York City Transit Chief (and with Kelling as intellectual adviser). To enact broken windows theory, they insisted that the subways be cleaned of graffiti (thought to indicate to riders that the subways were out of authorities' control), and that panhandlers be arrested. The transit police also began to arrest persons who avoided paying fares by manipulating or jumping over turnstiles. Bratton introduced a Bust Bus, which speeded up arrest processing and which allowed officers to book, and then mostly to release, low-level lawbreakers on the spot. Nevertheless, police discovered that around one arrestee in ten was either wanted on a felony warrant or was carrying an illegal weapon.

The subway, then, was an ideal venue in which to test and prove the broken windows theory: arrests had the effect of increasing subway revenue; serious crime on the subway decreased; and increased rider confidence seemed to result. When Rudolph Giuliani became Mayor, he hired Bratton as his police Commissioner. Building on his previous success, Bratton now energized the police, ordered them to crack down on disorder offenses and introduced more accurate crime mapping through a computerized mapping program called 'Compstat.' As Bratton writes in his autobiography: 'The maps made crime clusters visual. It was like computerized fishing. You'd go where the blues are running'. Each week, on Wednesday and Friday mornings, top brass grilled precinct commanders and their staffs about crimes in their area. Bratton describes a typical grilling: 'Captain Smith from the six-two. Wasn't there a

problem with car theft around Sheepshead Bay? What were your tactics there? How did that work?'. Or Louis Anemone, the tough, aggressive career Chief of the Department, might say, 'Inspector Dunne, don't you have a car theft problem in the 75? What are you doing about it?' Dunne better have the right answer, which is that he has instituted similar tactics, or that he's about to; otherwise, he would be scrutinized closely about his results.

And in a clever move, Bratton opened Compstat meetings to selected outsiders, from professors to CBS's *60 Minutes*. Bratton claims that while generations of criminologists and many police chiefs argued that the police can have little impact on crime, he proved us wrong. And he made this claim, alongside George Kelling, at a Plenary session of the American Society of Criminology in 1996. The highly articulate Bratton is very skilled at publicizing his successes. Unfortunately, he worked at the pleasure of a Mayor who wanted to be in the foreground and to take credit. Not that Bratton is lacking in ego. Note that he calls himself 'America's Top Cop' in his book title.

Yet the broken windows theory was by no means a strategy confined to the practices of Bratton alone. Not only did his successor, Howard Safir, continue to move in the same direction: he was even more aggressive as crime rates continued to fall, changing Bratton's 'quality of life' policing slogan to 'zero tolerance.' Under Safir's even tougher approach, marijuana arrests for sales and possession will have soared to 40,000 in 1998, a whopping eight times the number of New York City marihuana arrests in 1992.

But the problem is that aggressive policing catches a large percentage of little bluefish who will never turn into big ones—for example, young men drinking beer in the street—and most of these are citizens of colors other than blue. Charges have been made by a variety of civil rights and liberties groups—Human Rights Watch, the New York Civil Liberties Union—that the New York City Police Department regularly ignores police harassment and brutality. Just as routinely, these charges are denied by the NYPD, and scoffed at by Mayor Giuliani. Yet there has been recent serious brutality in the NYPD, as the Abner Louima case illustrated. The NYPD acted quickly to investigate and charge in that case. Nevertheless, putting aside the probably aberrant insertion of a stick deep into Louima's rectum, the beating Louima received by four officers as he was being transported to the precinct house had to be part of an established practice, at least in that precinct, of inflicting punishment before trial.

While violent crime as measured by FBI Uniform Crime Reports has declined dramatically in New York City, the rest of the United States is also experiencing comparable, if relatively less dramatic, declines in crime. Crime has fallen in Los Angeles since 1992 by 39.6 percent compared to New York City's drop of 43.2 percent. Even Washington DC has had a welcome crime decline of 18.6 percent. In Oakland, homicide has dropped to levels not seen since 1972. Elliott Currie's concluding chapter cites various factors for these sharp reductions. In particular, he stresses the decline of the crack cocaine epidemic, and the economic boom which has increased legal work opportunities. Interestingly, he also refers to an anecdotal factor as a reason for the crime drop. He calls this a cultural shift away from violence, especially among minority youth 'driven by

revulsion against the destructiveness of the epidemic that had destroyed the lives, bodies and futures of so many of their relatives and friends'.

But while placing the analysis of recent crime reduction in larger cultural and historical perspective, Currie's chapter on criminal justice alternatives acknowledges that policing can make a valuable contribution. While Currie is skeptical about the 'zero tolerance' strategy of the New York City police, he nevertheless agrees with recent emphases on 'hot spot' policing—a version of Bratton's bluefish theory. Yet in contrast to other more conservative approaches, Currie strongly advocates—and I believe rightly so—that the New York City police place far more emphasis than at present on working closely with communities.

In sum, reading these books by persons steeped in criminological theory, research, and practice makes obvious that there is no simple formula for understanding current crime reductions. Who would disagree with Bennett et al. that positive family values are a crucial component of crime prevention? But it should also be obvious that such values prevail in affluent, stable, neighborhoods, not the neighborhoods from which the inmates of the prisons are drawn.

The criminal justice system surely has a role to play in preventing crime but in a good society, the less it is relied upon the better. The classical criminal law paradigm justifies punishment on moral grounds of retribution, but also as a crime prevention measure through deterrence and incarceration. The broken windows theory is attractive because it claims to *prevent* crime at relatively low cost. It essentially argues that by arresting, searching, interviewing and warrant checking low-level offenders, and by confiscating their weapons, violent crime is prevented without judicial intervention plus imprisonment. Whether it works, or whether other factors, including a vast imprisonment project, are also responsible for the crime decline cannot be tested rigorously. Likely, every factor is influential but we have no way of accurately measuring how much of the variance is accounted for by any single factor.

One fact is clear: violent crime is declining in America. In response to the decline, what combination of approaches will comprise the future crime policies of the nation? Will these approaches aim affirmatively to assist low-income neighborhoods so as to offer the opportunities enjoyed in low-crime and higher-income venues, as Currie advises? Or will they overlook economic and social inequality, and institute the 'tough guy' measures advocated by Bennett et al.? Will they rely on the 'zero tolerance' interpretation of the broken windows theory adopted by the New York Police Department, or be guided by a community policing model wherein police discretion is informed and tempered by consultation with representatives of the areas being policed?

In response to the crime decline, criminologists may confidently explain why the nation moved in any direction *after* various trends have already been noted. But on the basis of our theories, which of us would be sufficiently confident to predict where, and why, American violent crime rates will settle in the 21st century?