

# Book Review: Crime in Canadian Society, by Robert A. Silverman and James J. Teevan (eds.)

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CRIME IN CANADIAN SOCIETY, ROBERT A. SILVERMAN AND JAMES J. TEEVAN (eds.), Toronto: Butterworths, 1975. Pp. 455.

CRIME AND YOU, A. M. KIRKPATRICK AND W. T. MCGRATH, Toronto: Macmillan of Canada 1976. Pp. 170.

These two volumes add to the growing number of texts on the Canadian scene which attempt to deal with the wide ranging issues that constitute the study of criminology. In *Crime in Canadian Society*, Silverman and Teevan have collected twenty-two articles which, along with their own introductory contributions, deal with crime as a social phenomenon and discuss how crime is socially defined, statistically measured, and sociologically explained. In *Crime and You*, Kirkpatrick and McGrath direct their attention to the criminal control system along with some historical background on its development. It might be expected then that these two books should expand our knowledge in the two main branches of criminology; that concerned with defining, describing and explaining trends in crime, and that concerned with the administration of criminal control. Unfortunately, neither book fully lives up to the expectations of the academic criminologist looking for a text that will provide him with a thorough summary of the field or at least allow him to adequately introduce his students to it.

In *Crime in Canadian Society*, Silverman and Teevan bring together a collection of previously published works on trends in crime. Only the articles by Engstad and Klein have not been published before. Along with the Canadian material, there are three articles by the well-known American criminologists, Sellin, Quinney and Schur.

Part I is concerned with defining crime. Here the editors have set as a goal the clarification of legal and criminological terminology, but in their Introduction they contribute more to the confusion, particularly concerning the definition of criminal law. For example, they leave the impression that only those acts legislated against in the *Criminal Code* are "crimes," and completely ignore other types of Federal criminal statutes such as the *Narcotics Control Act*. The editors also include a very misleading statement concerning the way plea bargaining can affect the definition of known offences. They give an example of an accused charged with Assault Occasioning Bodily Harm, who, through consultation with his lawyer, agrees to a guilty plea on the lesser charge of common assault. This creates the possibility of a lesser sentence and a less serious record for the accused and adds efficiency and economy to the criminal control system. Silverman and Teevan then suggest that, "[i]f . . . a court definition of the offence is taken, the wrong act would be studied in terms of the actual behaviour." This is very misleading because it cannot be assumed that the person would have been convicted of the Assault Occasioning Bodily Harm. For example, the bargain may have been struck because the Crown had insufficient evidence to proceed on the A.O.B.H. charge, or indeed the police may have laid the A.O.B.H. charge to induce the bargain even though they had insufficient evidence. There is no discussion of evidential problems, and no distinction made between factual and legal guilt, thus creating distortions which can only be a problem for a beginning

student. As an introduction to the problem of defining crime, the discussion is not thorough enough, and possibly carries the danger of being misleading.

In Part II, the editors are concerned with "Measuring Crime and Delinquency." The editors' own introductory article is very good, in that it contains a critical evaluation of the various means of measuring crime, and makes the reader sensitive to how crime statistics are produced and used. This article also includes an excellent chart mapping the various stages in the Canadian criminal control process, as well as figures on the attrition in cases as they proceed through each stage of the process. Unfortunately, in some areas, the editors are forced to rely on American data. For example, they cite some of Black's findings<sup>1</sup> concerning police decisions on reporting offences, including the fact that 35% of victim-reported crime went unrecorded in Black's study and that such factors as complainant preference and demeanor affected police decision-making. Whether this data, gathered in the mid-sixties in urban-core ghetto areas of American cities, is applicable to Canada is very questionable, but certainly points to the need for similar research.

Overall, Part II is the most comprehensive section in *Crime in Canadian Society*. The quality of the introductory article is matched by selected examples of research relying on each of the major sources for data on crime, such as official statistics, victimization surveys, and self-reporting surveys. In this area at least, there has been considerable development in Canadian criminology.

Part III, on "Theories of Crime and Delinquency," clearly illustrates that the laws of under-development apply academically as well as economically. At page 8, Silverman and Teevan state that this book ". . . concentrates on the basic research and theory generated in Canada or applicable to the Canadian scene." However, both the introductory essay and the articles constituting Part III indicate that there has been virtually no theory generated in Canada, nor have there been many applications of theory. Indeed one may conclude that the bulk of Canadian criminology, in keeping with British criminology up to the end of the 1960's, is largely atheoretical.

The opening chapter by Silverman and Teevan in Part III consists of a description of dated American explanations of criminality, with virtually no discussion as to their applicability in the Canadian context. For example, they discuss in considerable detail the subcultural theories of working-class delinquency, without any detailed consideration of whether such theories are applicable to the Canadian scene. Indeed, three of the five Canadian articles selected for this section concern culture conflict and ecological explanations of crime, explanations that had their rise and fall in the United States during the 1930's and 1940's, but which for some unarticulated reason have been resurrected by Canadian criminologists in the 1970's. The under-development of Canadian criminology in this area is also indicated by the fact that the only article on labelling theory is written by an American. There is also a

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<sup>1</sup> D. Black, *Production of Crime Rates* (1970), 35 Am. Soc. Rev. 733.

lack of discussion on the conflict perspective and the critical perspective which have become dominant in Britain and the United States in the past few years.

In addition to these general problems in Part III, the editors can also be questioned on some of the statements they make in their own introductory article on theories. They never tell us what constitutes a theory, and it is certainly debatable whether some of the approaches they discuss, such as the ecological one, could ever be said to constitute a theory. The confusion is apparent at 159, where they refer to the "labelling theory perspective." Criticism may also be made of two statements, one equating the labelling perspective with the conflict perspective (p. 160) and the other asserting that "[t]here has been little attempt by criminologists to integrate the various theoretical positions and empirical research into a complex model to form a new and more comprehensive theory" (p. 147). The former statement is simply inaccurate and the latter fundamentally ignores the development of sociological explanations of criminality and attempts at integration by such writers as Cohen, Lofland, Quinney, and Taylor, Walton, and Young.<sup>2</sup>

Part IV is not preceded by an introductory essay, but rather by an editors' apology for the lack of a rationale for selecting the articles included in this section. Part IV consists of everything from the confessions of a "paper hanger" to a study on the differential treatment of Indians and Whites in the Manitoba court system. It would have been more logical for the editors to subsume the articles in Part IV under the three previous Parts. The article by Chimbos on organized crime could have been included under "Definitions of Crime"; the ones by Jayewardene, Tardif and Chimbos on trends in specific types of crime under "Measuring Crime and Delinquency"; and the article by Klein and Montague on bad cheque writing and the one by Bienvenue and Latif on the differential disposition of Indians, under "Theories." Each of the articles in Part IV does no more than provide an additional research example for issues already discussed in Parts I, II, and III.

In sum, the editors' own introductory comments are somewhat uneven, as is the quality of the papers they have selected. For instance, the article by Mohr, "Facts, Figures, Perceptions and Myths — Ways of Describing and Understanding Crime," is already recognized for its quality. On the other hand, some articles in the collection leave us with such unsatisfactory findings that we are left asking the most unprofound of questions: so what? Chimbos concludes that organized crime in Canada is profit motivated! In his article, Engstad demonstrates that compared with surrounding residential areas, areas with taverns have significantly more "bar crimes" (assault, disorderly conduct, breaches of the *Liquor Act*) and "auto crimes" (theft from auto,

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<sup>2</sup> A. Cohen, *The Sociology of the Deviant Act: Anomie Theory and Beyond* (1965), 30 Am. Soc. Rev. 5; A. Cohen, *Deviance and Control* (Englewood Cliffs, N.J.: Prentice-Hall, 1966); J. Lofland, *Deviance and Identity* (Englewood Cliffs, N.J.: Prentice-Hall, 1969); R. Quinney, *The Social Reality of Crime* (Boston: Little, Brown, 1970); I. Taylor, P. Walton, and J. Young, *The New Criminology* (London: Routledge & Kegan Paul, 1973); see also, R. Ericson, *Criminal Reactions: The Labelling Perspective* (Westmead, Eng.: D. C. Heath, 1975).

theft of auto); and, areas with shopping plazas have significantly more thefts. I suppose one could conversely find that there are more "domestic" assaults by husband on wife in suburban residential areas than there are in the Woolworth's store at the shopping plaza!

Overall, Silverman and Teevan can be thanked for bringing together a collection of Canadian papers that are instructive for beginning students in criminology, for writing a good review essay on measuring crime, and for reproducing in an Appendix useful statistical tables concerning official data on crime in Canada.

On page 7 of *Crime in Canadian Society*, Silverman and Teevan state that early Canadian criminology was rooted mainly in "penology and reform efforts directed at the criminal justice system." This tradition is still very strong in *Crime and You* by Kirkpatrick and McGrath, the purpose of which is ". . . to provide general information about the adult criminal justice system in Canada," but which makes evaluative statements without supporting empirical evidence or even balanced argument.

A quick scanning of the Table of Contents will reveal a fundamental problem; the authors state in their Introduction that, "[t]he corrections field should be seen and understood as a continuum which begins at the moment of police questioning and proceeds through the courts, probation, imprisonment, parole, and after-care to re-entry into the community," (p. ix) but they do not follow their own counsel. Their discussion on the system starts with the police, then leaps to sentencing and the various processes which occur after sentencing, without any consideration of such crucial matters as the granting of bail, the role of the Crown Prosecutor and the determination of guilt or innocence. While the more radically oriented might suggest that after the police have finished processing the accused there is little else that is decided until punishment is handed out, I do not think Kirkpatrick and McGrath want us to make such an inferential leap.

Other organizational problems plague this book. The authors frequently run together disparate ideas, creating considerable confusion. For example, following a discussion on the division of federal-provincial responsibility in the administration of criminal control, Kirkpatrick and McGrath suggest that the solution might be to make each agent and agency in the criminal process more familiar with the work of the others and to establish a more effective working relationship (pp. 22ff.). Whether the authors intended it or not, this indirectly lays the blame for the lack of co-ordination among the police, Crowns, probation service, the judiciary, and correctional staff on the question of federal versus provincial jurisdiction and completely ignores the many more complex organizational explanations for lack of co-ordination.<sup>3</sup>

There are some glaring errors of fact in the book which make one question its usefulness as a source of information. The authors warn the reader that his images of the police should not be taken from American stereotypes as portrayed in the American media (p. 36). However, in discussing the

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<sup>3</sup> A. Blumberg, *Criminal Justice* (Chicago: Quadrangle Books, 1967).

question of arrest, they say the police in Canada ". . . must immediately state the reason for the arrest and inform the suspect that he is not compelled to make a statement to the police, that anything he does say may be used as evidence in court, and that he may contact a lawyer." (p. 31) One wonders who has been influenced by American developments? In Canada, the failure of the police to state the reasons for arrest or even that the person is under arrest, does not make the arrest illegal; failure to caution the suspect does not in itself make the suspect's statement inadmissible; and there is no obligation on the part of the police to inform the suspect that he has a right to counsel.<sup>4</sup>

There are inaccuracies concerning other parts of the criminal justice system. Kirkpatrick and McGrath argue in favour of parole and against the sentencing panel system with indeterminate sentences, on the ground that the panel system involves a purely administrative decision while the parole authorities are involved in quasi-judicial decisions (especially pp. 48, 150). In fact, the Federal Parole Board in Canada operates entirely as an administrative agency.<sup>5</sup> The chapter on parole is unnecessarily dated, for it discusses the possibility of regionalization but does not outline the structure of the actual changes that have taken place as a result of implementing the Hugessen recommendations.

There are errors of omission as well as commission. For example, Chapter 5 entitled "Diversion," deals only with probation. The authors largely ignore the work of the Law Reform Commission concerning this concept, and particularly pre-trial diversion, including the important East York project.

Similar lack of attention to relevant issues is evident in less glaring ways throughout the book. In Chapter One, the authors repeatedly state that it is "public opinion" which must form the basis of criminal law and the criminal justice system. However, they fail to ask the questions, "which public?", and "where does this public get its conceptions from?" In sum there is no consideration of which segment of the public is most likely to use the criminal justice system (e.g., victimization surveys), which segment is most affected by it, which segment is most able to affect it, and so on. In Chapter 4, the authors discuss the development and uses of habitual offender legislation without reference to its function as a bargaining tool.<sup>6</sup> In Chapter 6, they present a very narrow view of the so-called "inmate system" in prisons, arguing that it consists of no more than a transposing of criminal values from outside into the institution. This belief by the authors is undoubtedly related to the fact that they make no reference to the literature on sociology of prison life by researchers such as Goffman, Cohen and Taylor, and Ericson,<sup>7</sup>

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<sup>4</sup> Cf. F. Kaufman, *Admissibility of Confessions* (2 ed. Toronto: Carswell, 1974).

<sup>5</sup> *Howarth v. National Parole Board* (1974), 50 D.L.R. (3d) 349; 18 C.C.C. (2d) 385.

<sup>6</sup> J. Klein, *Habitual Offender Legislation and the Bargaining Process* (1973), 15 Crim. Law Q. 417.

<sup>7</sup> I. Goffman, *Asylums* (Harmondsworth: Penguin, 1968); S. Cohen and L. Taylor, *Psychological Survival: The Experience of Long Term Imprisonment* (Harmondsworth: Penguin, 1972); R. Ericson, *Young Offenders and Their Social Work* (Westmead, Eng.: Saxon House, 1975).

which contradicts this view and imputes blame more towards structural conditions in prisons and their effect on problems of personal and social identity. A similar one-sided view is presented in Chapter 8, where ex-inmates are portrayed as selfish when they make demands from after-care agencies for food, shelter and clothing; here the authors ignore the reality that it is the primacy of the social control function of after-care services which, in the eyes of most ex-inmates, make them unapproachable for anything more than the basic necessities.<sup>8</sup>

The lack of in-depth analysis reaches its peak in the concluding chapter, entitled "You and Crime." The authors try to draw "the public" into the "crime problem" by quoting various figures on the economic cost of crime, based on losses through theft as well as the cost of operating the law enforcement bureaucracy. It can just as logically be argued that property crime is in fact beneficial to society as a means of re-distributing wealth where the welfare state bureaucracy does not meet the need. For example, a person steals a \$600 colour television set and sells it for \$200. The receiver is very pleased because he could not afford a \$600 set but is certainly able to pay the \$200. The thief now has \$200 to spend on food, clothes, drink, etc., and thereby stimulates the economy. The victim, while somewhat annoyed, eventually receives his \$600 back from the insurance company, and buys a new television set, which of course also stimulates the economy. The insurance company suffers no loss, for they simply increase their premiums according to the amount of claims made against them. Overall, the only loss is to those middle and upper class people who contribute a very small proportion of their income through premiums to insurance companies, and thus indirectly, to those at the lower end of society's scheme of things.

The major shortcoming of *Crime and You* is that the authors fail to ask the most basic question required of social science: how do we know? As a result, they proceed by addressing each issue on the basis of self-evident truth, without reference to relevant research evidence or alternative explanations, and arrive at policy recommendations before an adequate consideration of the evidence and issues.

One reason for this fundamental problem is that Kirkpatrick and McGrath fail to develop a philosophy of punishment which would at least allow the reader to put their arguments and recommendations in context. The authors continually refer to "effectiveness" of measures and programmes — pre-sentence reports (p. 39), imprisonment (esp. pp. 102-03), treatment in prisons (p. 165), parole compared with sentencing tribunals (pp. 43 et seq., 151, 162), and after-care case load size (p. 146) — without telling us in what sense effectiveness is being used, i.e., individual deterrence, general deterrence, reformation, incapacitation, or indeed, given their arguments in the last chapter, economic cost.

Another reason for the problem is that Kirkpatrick and McGrath pay little or no attention to relevant research evidence. They assert that "treatment" programmes in prison can work, if only they are given a chance to

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<sup>8</sup> Cf. J. Irwin, *The Felon* (Englewood Cliffs, N.J.: Prentice-Hall, 1970).

succeed (pp. 102-03; 165), and thereby ignore decades of research experience which tells us that no matter what type of regime prevails in penal institutions, there is no significant difference in recidivism rates.<sup>9</sup> It is also known that perpetuating the myth that offenders can be "treated" in institutional settings affects the decision to incarcerate, and may result in an even greater number of persons being sent to prison.<sup>10</sup>

In a similar fashion, the authors assert that parole is a good thing, even after quoting figures from Waller's study that within a two year period almost one-half of the parolees he studied were re-arrested, or convicted for further offences, or had their parole revoked.<sup>11</sup> They argue in favour of parole over sentencing tribunals on the grounds that the latter are too open to arbitrary decision-making, without adducing comparative research evidence on decision-making by existing parole boards compared with, say, the California Adult Authority system.<sup>12</sup> The authors quote a "magical" figure of forty as being the proper case-load size for an after-care supervisor, without telling us how they arrived at that figure and without reference to relevant research, most of which tells us that varying case-load size has no significant effect on "failure" rates.<sup>13</sup>

Similar unsubstantiated arguments permeate the book. The authors talk of "the powerful influence of TV" as an instigator of increasing violence in society without any research evidence (p. 168). They advocate "dangerous offender" legislation with no reference to the complex issues involved (p. 54). They assert that "statistical comparisons of recidivism or prison populations . . . are completely invalid since they deal in raw data with no relevance to the criminal justice system or to the cultural attitudes they reflect" (p. 155), thus ignoring important criminological debates, such as that involving Hogarth, Waller and Chan concerning international incarceration rates.<sup>14</sup>

The above quotation summarizes the authors' attitude to criminological research, and points to the main reason why this book is inadequate for persons in the field. The authors pay no more tribute to Canadian criminological research than to mention briefly university Centres of Criminology in a chapter entitled "The Volunteer Role"!

At times, the book is little more than a series of value judgments by the authors, which is sure to generate value conflict. For example, they refer

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<sup>9</sup> Cf. R. Hood and R. Sparks, *Key Issues in Criminology* (New York: McGraw Hill, 1970) at Chaps. 6, 7.

<sup>10</sup> Cf. J. Hogarth, *Sentencing as a Human Process* (Toronto: University of Toronto Press, 1971).

<sup>11</sup> I. Waller, *Men Released from Prison* (Toronto: University of Toronto Press, 1974).

<sup>12</sup> For instance, K. Hawkins, *Parole Selection: The American Experience* (unpublished Ph.D. dissertation, University of Cambridge, 1971).

<sup>13</sup> For instance, S. Adams, *Some Findings From Correctional Case Load Research* (1967), 31 Fed. Probation 48.

<sup>14</sup> J. Hogarth, *Towards The Improvement of Sentencing in Canada* (1967), 9 Can. J. of Corrections 122; I. Waller and J. Chan, *Prison Use: A Canadian and International Comparison* (1974), 17 Crim. Law Q. 47.

to many prison inmates as persons who "accept and perpetuate the homosexual heritage of the criminal tradition" and to ex-inmates as persons who are in a situation where "poor friends are better than no friends." Who are they to judge?

There is a snippet of interesting historical material on prisons in Chapters 6 and 7 of *Crime and You*. Apart from this, the book has little to offer, especially compared with the much more thorough and academic introduction to criminology edited by McGrath, entitled, *Crime and Its Treatment in Canada*.

Kirkpatrick and McGrath have dealt with too many complex issues in a very short space. They have tried to cover too much, and have ended up saying very little. Moreover, there is no consistent theme. I suggest that if they had taken seriously their title, *Crime and You*, they might have produced a worthwhile volume on how the citizen presently participates in the criminal process, as a victim, as an accused, as an employee, as a volunteer, and so on. They could then have relied on research evidence to show problems in the current operation of the formal system of criminal control, as a basis for arguing in favour of de-criminalization or de-formalization accompanied by increased citizen responsibility and involvement in informal processes of social control.

To conclude this joint review, I can recommend the appropriate sections of *Crime in Canadian Society* to those who want to introduce their students to problems of defining and measuring crime within a Canadian frame of reference. Those who wish to introduce students to the administration of criminal control in Canada are advised to avoid *Crime and You*.

By RICHARD V. ERICSON\*

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