

# CRIMINOLOGY, CRIME CONTROL, AND "THE AMERICAN DIFFERENCE"

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## I. THE CRIMINOLOGICAL SIGNIFICANCE OF *CRIME IS NOT THE PROBLEM: LETHAL VIOLENCE IN AMERICA*

In the development of any scientific discipline, an important role is played by works which contribute to the refinement and better specification of concepts, data, or objects of study. Zimring and Hawkins's new book, *Crime Is Not the Problem: Lethal Violence in America* makes a major and lasting contribution of this kind.<sup>1</sup> It might not be too much to say that, in this respect at least, it stands alongside classic texts, such as Edwin Sutherland's *White Collar Crime*, which have redefined the subject matter and priorities of American criminology.<sup>2</sup> The authors have succeeded in demonstrating, in a clear and empirically-grounded manner, that the United States is distinctive not in respect of its overall rates of crime, but instead in its rates of lethal violence. They also argue, perhaps less conclusively, that lethal violence has distinctive conditions and consequences that make it inappropriate to seek to explain or control it as an undifferentiated element of the "crime problem."

Zimring and Hawkins have brought into sharp focus a fact (or more precisely a fact pattern) that previously floated at the edge of criminological consciousness. As soon as one reads the book, or even just the title, one has the feeling of having known this pattern all along, without ever having explicitly formulated it.

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1. FRANKLIN E. ZIMRING & GORDON HAWKINS, *CRIME IS NOT THE PROBLEM: LETHAL VIOLENCE IN AMERICA* (1997) [hereinafter *CRIME IS NOT THE PROBLEM*].

2. See EDWIN H. SUTHERLAND, *WHITE COLLAR CRIME* (1949). Sutherland insisted that the conventional perception of the crime problem centered too much upon street crime and crimes of the poor and overlooked the serious injuries and costs associated with what he termed "white collar crime"—crimes such as fraud, embezzlement, or price fixing, typically committed by "a person of respectability and high social status in the course of his occupation." *Id.* at 9. According to Sutherland, this false perception resulted in the misdirection of crime-control resources, in particular, the under-enforcement of laws and penalties bearing upon white collar crime.

But we did not know this all along, and recent American policies and crime-control rhetoric and cultural self-conceptions have not been shaped by such knowledge. It simply was not possible for anyone—Zimring and Hawkins included—to have known this, at least not with any certainty or precision, because it is only in the last few years that we have begun to have access to systematic comparative data on international crime and victimization rates.<sup>3</sup>

New sources of data generally lead to new developments in theory. The self-report studies of the 1960s prompted the take-off of labeling theory, just as the national victimization surveys of the 1970s and 1980s facilitated what I call the "criminologies of everyday life" (such as routine activity theory, rational choice theory, and crime-as-opportunity) which take crime to be a much more widely distributed, and much more mundane phenomenon than was previously thought.<sup>4</sup> Zimring and Hawkins have shown how a careful and creative use of the international data now available can produce a better specification of the distinctive crime mix that characterizes a particular nation and differentiates it from others. In international terms, the United States has a crime problem which is at the high end of the normal range for societies of its type, but it has a lethal violence problem that is off the charts. Part I of *Crime Is Not the Problem* presents a body of evidence and analysis that clearly demonstrates what the authors term "the American difference" and, in the process, better specifies the character of the problems to be addressed by the American government and people. This is no small achievement.

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3. Zimring and Hawkins are not the first to characterize the American pattern of crime and violence in this way, though their analysis is more complete, better evidenced, and more forcefully argued than any previous account. For a similar description of United States patterns in comparative perspective, which, like Zimring and Hawkins, uses the newly available comparative victim survey data, see James Lynch, *Crime in International Perspective*, in CRIME 11 (James Q. Wilson & Joan Petersilia eds., 1995). The most important source of comparative data in this respect is JAN VAN DIJK & PAT MAYHEW, CRIMINAL VICTIMIZATION IN THE INDUSTRIAL WORLD (1992). See also WORLD HEALTH ORGANIZATION, WORLD HEALTH STATISTICS ANNUAL (1993).

4. On these developments, see David Garland, *The Punitive Society: Penology, Criminology and the History of the Present*, 1 EDINBURGH L. REV. 180 (1997). The tendency of the new criminologies of everyday life to focus upon the routine, mundane, minor varieties of criminal conduct ("normal crime") have helped sharpen the distinction that Zimring and Hawkins set out.

## II. PROBLEMS AND AMBIGUITIES

Like most breakthrough texts (and Sutherland's *White Collar Crime* is a good example here, too), the strength and clarity of the central claim does not preclude a measure of confusion about the conceptual and practical implications that flow from it.<sup>5</sup> Definitional issues, for instance, are less clear cut than they seem. In much the same way that Sutherland referred to "white collar crimes" but mostly discussed offenses that were not actually criminal, Zimring and Hawkins may intend to focus upon "violence" rather than "crime," but they concentrate their discussion upon the criminal varieties of violence to the exclusion of all others. Their main focus is upon homicide and the street crimes of robbery and assault and not the full range of behaviors (such as child abuse, domestic violence, riots, or civic disorders) that would be included in any criminological definition of violence.<sup>6</sup> The authors have nothing to say about forms of violence that are lethal but not criminal—such as state executions—despite the fact that any analysis of the cultural meaning and social roots of violence in the United States ought to take the death penalty as part of the phenomenon to be explained.<sup>7</sup>

The practical policy implications of their new diagnosis are also less than clear. Zimring and Hawkins are hardly the first to identify lethal violence as a top priority for control and prevention activities<sup>8</sup> though they may be the first to insist so emphatically

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5. For a good discussion of the ambiguities contained in Sutherland's conception, see David Nelken, *White-Collar Crime*, in *THE OXFORD HANDBOOK OF CRIMINOLOGY* 896 (Mike Maquire et al. eds., 2d ed. 1997).

6. For a criminological discussion of the category of violent crime and its varieties, see Michael Levi, *Violent Crime*, in *THE OXFORD HANDBOOK OF CRIMINOLOGY*, *supra* note 5, at 841.

7. Zimring and Hawkins have previously suggested that the persistence of the death penalty in the United States might partly be explained by reference to the political tension between state and federal authorities. See FRANKLIN E. ZIMRING & GORDON HAWKINS, *CAPITAL PUNISHMENT AND THE AMERICAN AGENDA* (1986) [hereinafter *CAPITAL PUNISHMENT AND THE AMERICAN AGENDA*]. *Crime Is Not the Problem* does not refer back to this earlier account. The book does note that: "The level of violence in a society can and should influence the nature of police work, criminal law standards . . . and many other ways in which a society responds to the risks of lethal violence." *CRIME IS NOT THE PROBLEM*, *supra* note 1, at 160.

8. See, e.g., *TO ESTABLISH JUSTICE, TO ENSURE DOMESTIC TRANQUILITY: THE FINAL REPORT OF THE UNITED STATES COMM'N ON THE CAUSES AND PREVENTION OF VIOLENCE*, reprinted in *NATIONAL COMM'N ON THE CAUSES AND PREVENTION OF VIOLENCE, VIOLENCE IN AMERICA, HISTORICAL AND COMPARATIVE PERSPECTIVES* (Hugh Davis Graham & Ted Robert Gurr eds., 1969).

upon the need to separate out thinking about violence prevention from thinking about crime prevention. Law enforcement agencies (such as the police, prosecutors, sentencers, and parole boards) have typically treated acts of lethal violence as especially grave, and have usually accorded them the kind of priority that the authors propose. The question that emerges is, have the agencies been addressing that priority through the deployment of generalized crime-control strategies when a more specifically targeted form of violence control would be more effective? Zimring and Hawkins do not provide a satisfactory answer to this question because their book offers no detailed overview of the range of anti-violence strategies that are currently deployed.<sup>9</sup> They tend to assume that, in the absence of a differentiated analysis such as the one that they offer, past crime-control policy will have been poorly targeted and indiscriminate. This is a reasonable assumption, and the authors' discussion of the effects of recent mandatory sentencing statutes gives it some force.<sup>10</sup> But since conventional moral and political evaluations of the seriousness of violent crime, unaided by any differential diagnosis of "the American difference," would be expected to produce a prioritization similar to the one that Zimring and Hawkins propose, we cannot simply assume that current policies fail to target lethal violence and fail to give this problem top priority. The bearing of the Zimring and Hawkins analysis upon policy is indeterminate, in part because the authors stop short of offering any clear policy proposals, but also because they offer no overall, comprehensive description of the measures that are currently in place.

Nor is it clear if the authors' insistence that lethal violence is epidemiologically and etiologically distinct from crime in general means that decision makers should shift resources in a way that results in less crime control and more violence control. The authors do not actually say that fewer resources should be spent on nonviolent crime, but this would be a reasonable reading of a book that characterizes property crime as (merely?) an "annoyance"<sup>11</sup> or as "inconvenient and irritating"<sup>12</sup> and which holds out

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9. See James B. Jacobs, *Legal and Political Impediments to Lethal Violence Policy*, 69 U. COLO. L. REV. 1099 (1998).

10. See CRIME IS NOT THE PROBLEM, *supra* note 1, at 173-74.

11. *Id.* at xi, 29.

12. *Id.* at 215.

insurance as a generally adequate antidote.<sup>13</sup> Any argument for such a transfer of resources would have to convince skeptics that nonviolent crimes deserve (or perhaps require) fewer governmental resources than they currently receive. I imagine that some readers will share Zimring and Hawkins's view that lengthy and expensive terms of imprisonment are being wasted on the drug users and minor burglars who are caught up in the mandatory sentencing provisions of the "three strikes" laws that have passed in many states.<sup>14</sup> But at a time when "zero tolerance" and "quality of life" policing are being hailed as highly successful initiatives, Zimring and Hawkins are unlikely to win much support for a relaxation of law enforcement as it bears upon minor crimes and incivilities.<sup>15</sup>

*Crime Is Not the Problem* is a title that gets our attention and makes its point. But for it to make sense, there should be an implied emphasis upon the fourth word—crime is not *the* problem: not the distinctive phenomenon that blights American society, not the profound problem to which we should give top priority. But the control of property crime and less-than-lethal assaults will remain an urgent necessity, even if it proves separable from the effective control of lethal violence.<sup>16</sup> If, for example, a vigorous campaign of gun control were to reduce the risk of lethal violence faced by citizens, there would still be a strong residual demand for the prevention, pursuit, and punishment of burglars, rapists, and unarmed robbers.

It may even be—though Zimring and Hawkins doubt it—that the prevention of low-level crime should be a concern for those whose main priority *is to prevent violence*. Here the vexed question of the relation between criminal involvement and involvement in violent conduct emerges as more important than

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13. *See id.* at 9-10.

14. *See id.* at 198-99. On these laws, see generally THREE STRIKES AND YOU'RE OUT (David Shichor & Dale K. Sechrest eds., 1996).

15. On "zero tolerance" and "quality of life" policing, see GEORGE L. KELLING & CATHERINE M. COLES, FIXING BROKEN WINDOWS: RESTORING ORDER AND REDUCING CRIME IN OUR COMMUNITIES (1996) and WILLIAM BRATTON, TURNAROUND: HOW AMERICA'S TOP COP REVERSED THE CRIME EPIDEMIC (1998).

16. The most influential account of the importance of low-level law enforcement is James Q. Wilson & George L. Kelling, *The Police and Neighborhood Safety*, ATLANTIC MONTHLY, Mar. 1982, at 29. This article is frequently referred to as the "Broken Windows" article. On the problem of low-level crime and disorder and their social effects, see WESLEY G. SKOGAN, DISORDER AND DECLINE: CRIME AND THE SPIRAL OF DECAY IN AMERICAN NEIGHBORHOODS (1990).

the authors allow. It is clear from the data they discuss that there is little correlation between crime rates in general and violence rates in particular. Areas can have high rates of one without high rates of the other. In the period between 1950 and 1980, crime rates increased markedly virtually everywhere, while homicide rates remained much more stable.<sup>17</sup> Zimring and Hawkins deduce from this that lethal violence rates and general crime rates are thus distinct phenomena with different conditions, separate etiologies, and distinct consequences.<sup>18</sup>

But things might look rather different if we approach the issue from the viewpoint of etiology rather than epidemiology. Crime and violence rates may reveal quite distinct patterns of variation, but individual involvement in violent crime is typically preceded by involvement in other, lesser criminal activities. Here the relationship is rather like that between soft drug use and hard drug use. The mass of soft drug users never go on to use hard drugs, and it may be inappropriate and wasteful to target that massive population of soft drug users for campaigns aimed at reducing the use of crack cocaine or heroin and the social pathologies associated with them.

It is true nevertheless that the vast majority of hard drug users begin their drug use "career" with soft drugs, and therefore the two phenomena are not entirely distinct.<sup>19</sup> The relationship is complex, and the fact that only a tiny proportion of the population of drug users (or criminal offenders) go on to become hard drug users (or violent criminals) makes it hard for interven-

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17. See CRIME IS NOT THE PROBLEM, *supra* note 1, at 1-87. For further comparative data on crime trends in this period, see David J. Smith, *Youth Crime and Conduct Disorders: Trends, Patterns and Causal Explanations*, in PSYCHOSOCIAL DISORDERS IN YOUNG PEOPLE 389 (Michael Rutter & David J. Smith eds., 1995). Japan is the major exception to the sharp upward trend in crime rates that occurred across all of the other developed nations after the Second World War.

18. There is room for some skepticism about this finding, however, since the delineation of the area of analysis is the key problem. In their comparative analysis, Zimring and Hawkins show that, at the city level, there is no correlation between rates of violence and rates of nonviolent crime. But if the unit of analysis is the police precinct, a closer correlation between crime rates and lethal violence rates might well emerge. The pocketed distribution of homicides, and their relative scarcity, even in American cities, when compared to the very large number of property crimes, make statistical comparisons of the two rates somewhat problematic.

19. On patterns of drug use, see LYNN ETTA ZIMMER & JOHN P. MORGAN, *MARIJUANA MYTHS, MARIJUANA FACTS* (1997). On the career paths of violent offenders, see David P. Farrington, *Early Predictors of Adolescent Aggression and Adult Violence*, 4 VIOLENCE AND VICTIMS 79 (1989).

tions to identify those at risk. But the etiological fact of prior involvement does indicate the possibility of preventative options that address minor crime in order to avert later violence.<sup>20</sup> If this is the case, it would be a mistake to distinguish the crime problem and the lethal violence problem quite so emphatically.

At the level of (some) individual careers, if not at the level of aggregate rates, the crime problem may indeed be an aspect of the violence problem, and the two may need to be addressed in tandem. Etiological research on the development of early criminal involvement and subsequent violent behavior may help identify the pathways and interaction effects that link the two. We should take seriously Zimring and Hawkins's strictures against a "war against crime" that is undifferentiated and wasteful, but the effective prevention of violence may depend, in part, upon these broader strategies of low-level crime prevention that their analysis tends to deprecate.

Finally, a point about the authors' understanding of property insurance and its effect upon attitudes towards crime. Zimring and Hawkins assume that the spread of insurance against criminal loss has the effect of decreasing fear of property crime and, perhaps, magnifying the fear of uninsurable physical harm.<sup>21</sup> I doubt that the effect is so singular. It seems likely that the generalization of household insurance against theft and burglary—like the spread of home security, car alarms, and anti-intruder hardware—has a tendency to increase the salience of crime in people's lives. The generalization of insurance and private security are social developments that have the effect of establishing crime—and the fear of crime—as fixed aspects of the social landscape. What were once, for much of the middle-class population, fleeting, situated, occasional fears have now become more generalized—more embedded in our institutions and the *habitus* of our daily lives.<sup>22</sup>

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20. These preventative measures may be social and developmental (concerned with reducing initial involvement and increasing self-controls), or situational (concerned with reducing opportunities and increasing external controls), or some combination of both.

21. See CRIME IS NOT THE PROBLEM, *supra* note 1, at 9-10.

22. "Habitus" is a term developed in the sociology of Pierre Bourdieu. It refers to the set of dispositions developed by individuals to adapt to the demands of a particular social environment or "field." See PIERRE BOURDIEU, *SOCIOLOGY IN QUESTION* (1993).

The marketing of insurance, like the marketing of private security, requires that these industries stimulate anxiety and crime-consciousness in order to maximize the consumer's felt need for the product.<sup>23</sup> Members of the public who take out insurance may thereby purchase some peace of mind, but this comes at a financial cost, and may leave a residue of fear and irritation. As for those who cannot afford insurance, or feel themselves to be "underinsured" and therefore doubly "at risk," fears which are evoked will remain unrelieved. The "categorical contagion" that Zimring and Hawkins discuss—whereby a high risk of property crime is falsely perceived to be a high risk of lethal violence<sup>24</sup>—is actually built into the marketing strategies of insurance and security companies. High levels of fear and a flourishing market in insurance and security are mutually reinforcing rather than counteractive forces. We know very little at present about the impact of insurance upon crime, fear of crime, and our social reactions to crime, but what we do know should lead us to be less sanguine than Zimring and Hawkins appear to be.<sup>25</sup>

### III. THE CRIMINOLOGICAL CONTEXT: A FIELD IN TRANSITION

How should we locate this text in the field of criminology—a field to which it clearly belongs, but which it intends to transform? How does *Crime Is Not the Problem* relate to contemporary criminological discourse? My reading is that the text stands in what anthropologists would call a liminal zone, caught in the ambiguity and ambivalence of a transition which is currently transforming the field of criminological discourse.<sup>26</sup> In some respects its intellectual approach is close to some of the most novel and intellectually radical tendencies in criminological discourse, tendencies that pull away from the criminal justice

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23. See ROGER A. LITTON, *CRIME AND CRIME PREVENTION FOR INSURANCE PRACTICE* (1990).

24. See *CRIME IS NOT THE PROBLEM*, *supra* note 1, at 13-14, 20.

25. See Roger A. Litton, *Does Insurance Cause Crime?*, 1 *INT'L J. RISK, SECURITY & CRIME PREVENTION* 63 (1996).

26. On the concept of liminality, see VICTOR TURNER, *THE RITUAL PROCESS: STRUCTURE AND ANTI-STRUCTURE* (1969) and EDMUND LEACH, *SOCIAL ANTHROPOLOGY* (1982). On transformations in contemporary criminological discourse, see David Garland, *Limits of the Sovereign State: Strategies of Crime Control in Contemporary Society*, 36 *BRIT. J. CRIMINOLOGY* 445 (1996).

framework through which crime control is usually viewed. In other respects, the text is much more conventional, falling back upon established ways of thinking about criminal violence and standard criminal justice responses to it.

Like the "smart policing" methods that have recently become state of the art,<sup>27</sup> Zimring and Hawkins adopt an approach that is "problem-oriented" and proceeds by means of a focused, data-based crime analysis. The aim is to produce a differential diagnosis of the problem to be addressed by examining crime rates and the distribution of crime events, the circumstances in which such events occur, the risk-factors associated with them, and the conditions by which they are facilitated or impeded. The resulting analysis is intended to isolate a well-defined problem which can then be specifically targeted, using preventative measures matched to the particularities of the phenomenon.

Zimring and Hawkins draw upon the pragmatic, policy-oriented approach that has come to be known as Situational Crime Prevention—an increasingly influential approach championed by Ronald Clarke of Rutgers University who was, for a period, Head of the Research and Planning Unit of the British Home Office.<sup>28</sup> As an intellectual strategy, Situational Crime Prevention counsels that we should identify proximate, situational causes or conditions rather than search for deeper "root" causes. It promotes "good enough" theories and explanations rather than demanding fully specified etiological analyses. It insists that we should learn from practice and copy what works; that theory should be operationalizable, not abstract; and that research should be experimental and closely evaluated. It counsels us to focus our efforts on changing places rather than persons, to shift our efforts away from changing personal character and disposition towards the adjustment of situational inducements and external controls. Finally, it tells us that a strategy of multiple, small-scale interventions designed to adjust

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27. For a description of contemporary policing methods, see chapters 5 and 6 in DAVID BAYLEY, *POLICE FOR THE FUTURE* (1994).

28. On situational crime prevention, see Ronald V. Clark, *Situational Crime Prevention: Its Theoretical Basis and Practical Scope*, in 4 *CRIME AND JUSTICE* 225 (Michael Tonry & Norval Morris eds., 1983) and 2 RONALD V. CLARK, *SITUATIONAL CRIME PREVENTION: SUCCESSFUL CASE STUDIES* (1997). On the influence of Situational Crime Prevention in the British Home Office and on crime prevention policy in the United Kingdom, see Garland, *supra* note 26.

situational dynamics is to be preferred to more ambitious programs whose aim of producing large-scale social or personal change all too often proves unrealistic.

In this pragmatic style of analysis—which is not at all the same thing as criminological theory building—one also recognizes the influence of James Q. Wilson, whose preference for policy-near analysis and what-can-we-do pragmatism has influenced the whole field of criminology rather more than is usually acknowledged.<sup>29</sup> That Wilson's style of reasoning appears to influence even those—like Zimring and Hawkins—who are ideologically and practically at odds with him, suggests that there is something about this style which accords with the institutions and practices of crime control as they are presently configured. If Wilson's style of criminological pragmatism appears increasingly influential in the 1980s and 1990s, it is because his writings resonate with a new rationality of crime control and new institutional arrangements that are becoming increasingly important.<sup>30</sup>

The book also draws upon what it terms the "public health approach" to violence and violence-reduction.<sup>31</sup> This approach—which the authors take care to distinguish from a "disease model" of criminal violence<sup>32</sup>—is similar to Situational Crime Prevention in its anti-utopian pragmatism, its preference for prevention as opposed to punishment, and its emphasis upon harm-reduction as the primary goal (as opposed to law enforcement, or bringing wrongdoers to justice). As with Situational Crime Prevention, the adoption of a public health approach to criminal violence has the radical effect of "demoralizing" the phenomenon. It removes violent conduct (redefined as "non-

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29. See JAMES Q. WILSON, *THINKING ABOUT CRIME* 41-57 (rev. ed. 1983). Problem-oriented pragmatism strives to develop recipes for successful intervention and accounts of the circumstances under which a policy instrument is likely to be effective. It concerns itself with building general theoretical accounts of the conditions under which crime events and criminality develop, only insofar as this more academic knowledge can be shown to be directly useful. The shift from the latter to the former style of discourse is an important feature of the contemporary criminological field.

30. On the elective affinity between the criminological pragmatism and contemporary patterns of crime-control, see Garland, *supra* note 26. On the new "economic rationality"—with which Wilson's analysis accords—and its difference from the social rationality that governed crime control until recently, see David Garland, *Governmentality and the Problem of Crime, Foucault, Sociology and Criminology*, 1 *THEORETICAL CRIMINOLOGY* 173 (1997).

31. See *CRIME IS NOT THE PROBLEM*, *supra* note 1, at 179, 186-88.

32. See *id.* at 186-88.

accidental injury") from the framework of condemnation, blame allocation, and punishment and views it as injurious behavior that should be addressed by the most effective methods, whether or not these accord with the traditional values and objectives of law enforcement and criminal justice.<sup>33</sup>

But Zimring and Hawkins are not fully paid-up members of any of these schools of thought. Their text contains very little citation of the literature of public health or Situational Crime Prevention, even though the latter would have helped the authors make sense of the problem of multidimensional causation that they wrestle with in chapter 6 "On Causes and Prevention."<sup>34</sup> Moreover, the authors hesitate to pursue the logic of the public health approach, even though its radical and wide-ranging prescriptions seem rather more appropriate to addressing the profound problem of lethal violence than are the minor penalty-scale adjustments to sentencing law that they explore in such detail in chapter 10.

Most importantly, Zimring and Hawkins's determination to make lethal violence the focus of attention leads them to slight the problem of minor crime and its control. In striking contrast, the advocates of Situational Crime Prevention tend to focus their attention not upon violent crime—which, however problematic, is comparatively rare and difficult to predict—but instead upon routine property crime ("normal crime") which is much more pervasive, more predictable, and more susceptible to situational controls.<sup>35</sup> This contrast also distinguishes Zimring and Hawkins's analysis from that of James Q. Wilson who, together with George Kelling, argues that low-level crime control and quality of life policing are instrumental in removing the conditions in which more serious crime tends to thrive.<sup>36</sup>

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33. For a description of the public health model, and a comparison between it and criminal justice approaches, see Mark Moore, *Public Health and Criminal Justice Approaches to Prevention*, in *BUILDING A SAFER SOCIETY* 237 (Michael Tonry & David P. Farrington eds., 1995).

34. On the relation of preventive concerns such as "opportunity reduction" and criminological accounts of the "causes" of crime, see Paul Ekblom, *Proximal Circumstances: A Mechanism-Based Classification of Crime Prevention*, in 2 *CRIME PREVENTION STUDIES* 185 (1994).

35. For a discussion of the literature of Situational Crime Prevention and its focus upon "normal crime," see Garland, *supra* note 26.

36. See Wilson & Kelling, *supra* note 16.

So, although Zimring and Hawkins indicate that criminal justice solutions are highly ineffective in dealing with the lethal violence that characterizes the United States, and although they alert us to new and radical styles of thinking that promise alternative strategies for addressing this deeply embedded problem, the book ultimately draws back from offering any radical proposals of its own. We get hints at such an approach, and some sense of its appeal, but nothing much in the way of new strategies or radical initiatives.

#### IV. THE CRIME-CONTROL CONTEXT

Reviewers often commend a new book as being "timely." *Crime Is Not the Problem*, in contrast, appears at a historical moment which is peculiarly *inauspicious* for its analyses. At any point up until the early 1990s, the crime-control strategy proposed by Zimring and Hawkins would have been reasonably well received by the criminal justice agencies, and could have been used to sharpen and refine a policy approach that was already more or less in place. Whatever the novelty of Zimring and Hawkins's analysis and the data on which it is based, the idea that policy should focus upon serious crime (including life-threatening and deadly violence), giving it priority over lesser forms of criminal harm, is one that formed the common sense of crime control until very recently.<sup>37</sup>

Indeed, it would not be too much to say that the thirty years prior to the early 1990s have been something of a testing ground for the Zimring and Hawkins strategy. In these decades, an overloaded criminal justice system gradually defined deviance down and filtered out minor illegalities which, in earlier years, would have been prosecuted and punished. The reactive, 911 style of policing that became popular in that period distinguished between serious crime, which was an organizational priority, and everyday crime, delinquency, and disorder, which were accorded less importance and fewer resources, often to the point where minor and first-time offenders were unlikely to be prosecuted.<sup>38</sup> An untheorized notion that (low-level) crime "is not the problem"

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37. See Garland, *supra* note 26.

38. See BAYLEY, *supra* note 27.

appears to have shaped policing, prosecution, and sentencing policy for much of the 1960s, 1970s, and 1980s.

The contemporary wisdom concerning that *de facto* policy is that it may have appeared to be a sensible use of scarce resources, but that it resulted in a disastrous grant of immunity to "minor" offenders who were in fact, or who went on to become, much more serious criminals.<sup>39</sup> At the same time, it contributed to the erosion of community controls, a decreasing trust in the system's capacity to provide order, and a climate of fear in which criminality thrived. Even those who would deny these claims about the effects of this policy must acknowledge that the pattern of focusing upon the hard core and filtering out minor offenders coincided with a period of steep and sustained increases in property and nuisance crime, together with (mostly) rising rates of robbery, rape, and homicide.<sup>40</sup>

As everyone knows, the last five or six years have seen remarkable decreases in homicide rates and general crime rates—the latter have been stable or falling for a rather longer period—decreases that have coincided with new policing and prosecution policies.<sup>41</sup> These new policies reverse the wisdom of the previous period and stress the importance of low-level law enforcement. This "broken-windows" analysis, which claims that the vigorous policing of disorder, incivility, and minor crime is integrally linked to the prevention and control of more serious crime, stands as an opposing strategy to that proposed by Zimring and Hawkins. Its apparent success—which may merely be fortuitous timing—throws an extra burden of proof upon any argument that downplays the role of low-level crime control.<sup>42</sup>

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39. See KELLING & COLES, *supra* note 15.

40. See Garland, *supra* note 26; Daniel P. Moynihan, *Defining Deviancy Down*, 62 AM. SCHOLAR 17 (1993).

41. See BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, CRIMINAL VICTIMIZATION 1996: CHANGES 1995-96 WITH TRENDS 1993-96 (1997); FEDERAL BUREAU OF INVESTIGATION, U.S. DEP'T OF JUSTICE, UNIFORM CRIME REPORTS, PRELIMINARY RELEASE, JANUARY THROUGH JUNE 1997 (1997).

42. For a somewhat partisan view of the impact of the "broken windows" analysis and the "quality of life policing" strategy of the New York Police Department in the mid 1990s, see KELLING & COLES, *supra* note 15. The adoption of this approach, together with the new "Compstat" management technology, is said to have produced a significant decrease in the New York City crime rates, including homicide rates, which have, over the last six years, declined more steeply than the national average, which is itself declining significantly. See Michael Farrell, Address to the Wagner School, New York University (Feb. 23, 1998). More skeptical accounts of the link between the broken windows strategy and the decline in homicide rates have

It is worth noting here that if zero-tolerance policing has any impact upon homicide it is probably an indirect effect that accords with the logic of Situational Crime Prevention. To the extent that on-the-street searches and warrant enforcement become much more frequent, the illegal carrying of guns will tend to become more risky. If casual gun carrying is thereby reduced, unplanned violent encounters become less lethal, and the interaction effects of a criminal gun culture will be somewhat reduced.<sup>43</sup> Zimring and Hawkins may be right to claim that much of the effort that goes into the control of low-level crime is irrelevant to, or a distraction from, the control of lethal violence. But they are perhaps too sweeping in their dismissal. A more finely-grained analysis would not simply counterpose the control of lethal violence to the control of lesser crime. Instead, it would be concerned to differentiate and endorse those aspects of low-level crime control (such as the those just mentioned) that can make a strategic contribution to the control of violence.

#### V. UNDERSTATING THE CRIME PROBLEM: FEAR OF CRIME IN THE UNITED KINGDOM

As I suggested above, Zimring and Hawkins's effort to make lethal violence a top priority sometimes has the effect of slighting the importance of other forms of crime. Their claim that "crime is not *the* problem" is sometimes pressed in ways that suggest that "crime is not *a* problem." Their discussion suggests that societies, such as the United Kingdom, which do not exhibit high rates of lethal violence, will not be much affected by a widespread fear of crime, nor will they be vulnerable to "law and order" political campaigns and punitive "war on crime" policies.<sup>44</sup> Crime, in such settings, is merely an "inconvenience" or an "irritation" or

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been slower to find their way into print. Franklin Zimring and Jeffrey Fagan are currently researching this phenomenon.

43. At present there is no good research that would verify this account. Michael Farrell, New York Police Department Deputy Commissioner for Policy and Planning, argues that the more vigorous enforcement of gun controls has had the effect of reducing the casual carrying of handguns. See Farrell, *supra* note 42. It may be that the tendency of the drug markets to become more organized and to move indoors, off the streets, has reduced the pressure to carry weapons at the same time that the authorities have increased the likely penalties for doing so. See generally M. Massing, *Drugs: The New Myths*, N.Y. REV. BOOKS (Feb. 1, 1996).

44. CRIME IS NOT THE PROBLEM, *supra* note 1, at 14.

an "annoyance," and not a cause for social anxiety or political mobilization.<sup>45</sup> A look at recent developments in Britain suggests a rather different view.

It is very likely true that fear of crime is more intensely experienced when those involved run a substantial risk of lethal violence, even allowing for the frequently reported fact that the distribution of fear of crime and the distribution of risk of victimization are not closely correlated.<sup>46</sup> No one doubts, therefore, that America's lethal violence problem creates intense levels of anxiety and social concern and that these are significantly greater than those experienced in other countries such as the United Kingdom. But criminal violence and the threat of violence are by no means absent in British life, even if victimizations are rarely lethal.<sup>47</sup> And although most people are aware that the risk of being murdered in a street robbery or a burglary are very low, these small risks still engender serious concern and adaptive behaviors, particularly since England and Wales have a very high rate of burglary, a theft rate that has increased tenfold since 1950, and a robbery rate that has increased by a factor of forty-eight in the same period.<sup>48</sup>

Fear of crime has become a significant phenomenon in contemporary Britain—in the organization of everyday life, in the routine behavior of individuals, and in the political policies of the major parties. In the early 1980s, the Home Office identified fear of crime as a distinct phenomenon, only loosely related to patterns of victimization, and it instructed the police to develop community-oriented policies that addressed this problem, quite independently of policies that aimed to reduce crime.<sup>49</sup> Since that time, the measurement and reduction of fear levels have been a major part of the government's criminological research and policy

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45. See *id.* at xi, 29, 215.

46. See C. Hale, *Fear of Crime: A Review of the Literature*, 4 INT'L REV. VICTIMOLOGY 79 (1996); Michael Hough, *Anxiety About Crime: Findings from the 1994 British Crime Survey*, in HOME OFFICE RESEARCH SERIES RESEARCH FINDINGS NO. 25 (Her Majesty's Stationary Office 1995).

47. I leave to one side the violence that fans out from the political conflicts in Northern Ireland, which creates its own fears and pathologies.

48. See Smith, *supra* note 17, at 389. The rates of crime in Scotland have increased at a lesser rate over the same period. See generally PETER YOUNG, CRIME AND CRIMINAL JUSTICE IN SCOTLAND (1997).

49. See ADAM CRAWFORD, THE LOCAL GOVERNANCE OF CRIME (1997).

initiatives, and the periodic national survey research undertaken over this period showed high and rising levels of fear.<sup>50</sup>

These surveys suggest that, for much of the population, crime is more than a mere annoyance. On the contrary, it is perceived as a substantial background threat to the security of middle-class households and individuals, whose way of life has been changed by the routine precautions and avoidance behavior that this fear of crime has provoked. In poor and disorganized neighborhoods, where crime is high and social and physical capital low, fear of crime has frequently triggered a downward spiral of disinvestment and decline.<sup>51</sup>

Once they become generalized throughout the population—a process that has occurred rapidly over a single generation—these multiple, minor changes in conduct transform the cultural experience and significance of crime. The accretion of these many small behavioral adjustments, repeated on a daily basis by millions of people, eventually reaches a point where crime and its corollaries become an inescapably salient part of people's lives and consciousness. The public becomes more responsive to crime news and crime drama; more willing to invest in private security; more emotionally invested in punishment issues; more receptive to expressive political rhetoric that validates this experience and to policies that respond to these fears and resentments. In short, the British public—despite its comparatively benign rates of lethal violence—relates to crime in ways that are very similar to those that characterize America. It is therefore no surprise to discover that the most prominent British policy initiatives of the last decade have been boot camps, mandatory minimum sentences, the abolition of parole, “three strikes and you're out” sentencing laws, community notification laws, custodial incapacitation on a massive scale, and zero-tolerance policing—all of them imported directly from the United States.<sup>52</sup>

Zimring and Hawkins's claim that “[h]igher rates of theft change social life in many small ways, but no big ones”<sup>53</sup> is an empirical mistake grounded in a theoretical fallacy. The theoretical fallacy is that large-scale social changes require equally large-scale social causes. In fact, multiple, incremental adjustments,

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50. See Hough, *supra* note 46.

51. See SKOGAN, *supra* note 16.

52. On these policy developments, see Garland, *supra* note 4.

53. See CRIME IS NOT THE PROBLEM, *supra* note 1, at 31.

accumulating over time, and generalized throughout the population, are much more typical of the way in which important social changes occur.

## VI. CRIMINAL JUSTICE IS NOT THE SOLUTION?

One of the claims that the authors repeatedly suggest but never quite make is that if crime is not the problem *then criminal justice is not the solution*. Claims of this kind are increasingly being made by writers who adopt a proactive, preventative, harm-reduction approach to crime and who view the reduction in criminogenic opportunities, changes in victim conduct, and the enhancement of situational controls as more effective than a criminal justice approach as a means of reducing crime.<sup>54</sup> For these writers, the criminal justice system is an individualized, blame-allocating, reactive system, the primary effect of which is to deliver sanctions to convicted offenders. Whatever its success in meeting this justice function, its crime-control effects are much more limited. Of all the offenses that are known to occur, only a tiny fraction result in a conviction, so that the system's direct grip upon the crime problem is limited to its handling of these offenders.<sup>55</sup> All of its other impacts are indirect and of limited effect, given that they depend upon threats and moral messages which are regularly ignored with impunity by massive numbers of offenders.

Zimring and Hawkins are clearly impressed with the need to look beyond the criminal law to find effective solutions, and this leads them to invoke the public health approach and some of the Situational Crime Prevention ideas.<sup>56</sup> But there is little substance to this part of their discussion, and few specific recommendations emerge from it. Of the two chapters they devote to policy prescriptions, one of them, chapter 10, is devoted to a painstaking

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54. See, e.g., *DESIGNING OUT CRIME* (Ronald V. Clarke & Patricia M. Mayhew eds., 1980); *MARCUS FELSON, CRIME AND EVERYDAY LIFE* (1994); K. Pease, *Crime Prevention*, in *THE OXFORD HANDBOOK OF CRIMINOLOGY*, *supra* note 5; *THE REASONING CRIMINAL: RATIONAL CHOICE PERSPECTIVES ON OFFENDING* (Derek B. Cornish & Ronald V. Clarke eds., 1986).

55. Less than three percent of all offenses are processed to the point of a conviction. See *INFORMATION ON THE CRIMINAL JUSTICE SYSTEM IN ENGLAND AND WALES 3* (1995).

56. See *CRIME IS NOT THE PROBLEM*, *supra* note 1, at xii, 30, 100, 166, 179, 186-89.

discussion of minor adjustments that might be made to the law's penalty scales in order to differentiate the punishment of life-threatening conduct from the punishment of lesser offenses. This chapter has a slight feel of unreality about it, as the authors attribute to both lawbreakers and lawmakers a level of instrumental rationality that seems altogether removed from real life.

Chapter 11 invokes the successful history of traffic accident reduction (achieved through environmental and automobile design rather than changing the behavior of individual drivers), the harm-reduction model of public health research, and the fund of crime-prevention experience and resources developed in the private sector, all of which are said to offer exciting prospects for more effective violence control. But little that is specific comes out of this discussion. There is not even a clear set of prescriptions on gun-control,<sup>57</sup> let alone a broader strategy for inter-agency cooperation or a plan for mobilizing manufacturers, businesses, communities, and the other agencies of civil society into a concerted anti-violence effort. Somewhat surprisingly, Zimring and Hawkins consider such approaches to be merely "supplements and alternatives"<sup>58</sup> and continue to regard the criminal justice system with its threats and disincentives as the mainspring of their anti-violence strategy. Anyone who had expected the encounter with preventative thinking to result in radical new proposals will be disappointed by the conventional character of the authors' major prescriptions.

At one point, Zimring and Hawkins suggest that criminal justice and public health loss-reduction measures might be allowed to compete for resources on the basis of cost-effectiveness, which would in fact be a radical shift in policy thinking.<sup>59</sup> But this suggestion does not get us very far. The criminal justice system is not, primarily, a crime-control agency and cannot be

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57. For a discussion of possible gun control measures, see P. Cooke & M. Moore, *Gun Control*, in *CRIME*, *supra* note 3.

58. *CRIME IS NOT THE PROBLEM*, *supra* note 1, at 178.

59. *See id.* at 179. As Clifford Shearing has pointed out, governments have traditionally allocated funds to the police without questioning whether a greater level of security might be achieved by reallocating these funds to other crime-preventing measures and private security agencies. *See* Clifford Shearing, *Address to the Situational Crime Prevention in Context Conference*, Cambridge, England (Dec. 1996). The prospect of subjecting the public police to market competition is one that is only now appearing on the horizon. *See* LES JOHNSON, *THE REBIRTH OF PRIVATE POLICING* (1992).

evaluated exclusively in these terms. In contrast, public health measures, whatever other effects they might have, do not deliver punishments to convicted lawbreakers, nor satisfy the public demand for expressive, retributive measures. General crime control and individual punishment-allocation are distinct functions, however blurred they appear in traditional thinking, and an investment in one should not be mistaken for an investment in the other. Even were we to make a major shift towards preventative policies, there would be a residual need for the sanctioning of offenders, and therefore a need to allocate a budget for this function. Moreover, distinct dilemmas emerge when law-enforcement and loss-reduction objectives run side-by-side. The scandalized responses that occur when public health agencies propose to distribute clean needles to addicts, or condoms to prisoners, give some indication of the problems involved when considerations of health and disease control are combined with the enforcement of the criminal law and its punitive sanctions.

## VII. PUNISHMENT AND PREVENTION

As Zimring and Hawkins make clear, a shift away from a moralizing, punishing criminal justice response towards a loss-reduction, preventative approach runs against the grain of contemporary politics. The high levels of public anger and resentment that surround the issue, and the competitive political posturing that it has engendered, make it difficult for politicians to embrace nonpunitive strategies. In this context, two conditions seem necessary for the promotion of "preventative" policies in respect of violence. The first is to separate out the issue of punishing offenders from that of preventing or reducing violent crime. Zimring and Hawkins fail to make this distinction with the emphasis and clarity it requires, though they allude to it a number of times and invoke the public health approach on several occasions.<sup>60</sup> Individuals guilty of violent conduct must no doubt be sanctioned, but this penal process should not be confused with, nor used as a substitute for, the prevention of violence. Separating the advocacy of prevention from the criticism of punishment might be a politically adept position to adopt, since such a separation would help increase the number of constituencies who

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60. See CRIME IS NOT THE PROBLEM, *supra* note 1, at xii, 188, 207.

might be expected to line up behind the program. As Mark Moore points out, reporting on research undertaken for the National Academy of Sciences Panel on Violence: "The minority community . . . seemed to find it easier to talk about the problem [of violence] as a health problem than as a crime problem. The health profession, educators, and social workers also found the health formulation of the problem easier to understand and use."<sup>61</sup>

The second requirement is to characterize lethal violence as a solvable social problem. This might best be achieved by experimenting with a nationally funded and coordinated scheme of locally developed, small-scale demonstration projects that would be deliberately varied in their character and methods, and carefully monitored to ensure their proper implementation and assess their impact. These schemes could involve situational measures such as the control of gun sales and gun carrying (or requirements about the proper storage of weapons); developmental, educational, and jobs programs aimed at diverting at-risk youth from an initial involvement in crime; and community-building projects that aim to stabilize communities and enhance their capacity to organize themselves and to exert effective social control.<sup>62</sup> Successful schemes could form a platform for the building of further reforms, and would represent an achievement in themselves, while those that failed to produce the desired impact would provide valuable comparative data about the necessary conditions for successful interventions.

Zimring and Hawkins bemoan the fact that there are no credible experts in this field and it is true that, since the late 1970s, there has been a substantial discrediting of academic criminologists who were identified with liberal reforms and social solutions.<sup>63</sup> But the public credibility of experts is open to rapid change, particularly in the wake of highly publicized success, as is shown by the recent fortunes of William Bratton, George Kelling, and the New York Police Department.<sup>64</sup> The coincidence in time of quality-of-life and zero-tolerance policing policies with a sharp fall in homicides and violent offending may be troublesome for Zimring and Hawkins's thesis about the separateness of

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61. Mark H. Moore, *Public Health and Criminal Justice Approaches to Prevention*, 19 CRIME & JUST. 237, 258 (1995).

62. See R. Sampson, *The Community*, in CRIME, *supra* note 3.

63. See CRIME IS NOT THE PROBLEM, *supra* note 1, at 198.

64. See BRATTON, *supra* note 15.

the crime and the violence problems. But the evidence of decreasing rates of violence provides important new research opportunities and strongly suggests that the phenomenon is tractable—even if we do not yet quite know how.

#### VIII. ON LETHAL VIOLENCE, LESSER VIOLENCE, AND THE REPORTING OF VIOLENCE

“[I]t is not a proclivity towards violence that is distinctively American, but rather a willingness to engage in potentially lethal violence.”<sup>65</sup> Zimring and Hawkins make this claim after a discussion of international victim study data showing that rates of assault and robbery elsewhere are not so far removed from United States levels. Their analysis of this data leads the authors to conclude that the American problem is a distinctive and narrowly definable one—the proclivity towards lethal violence—rather than a more generalized problem of a culture of violence.

This conclusion seems quite plausible, but I would enter a couple of caveats. The presence of “a thin layer of life-threatening violence” in the American social environment is likely to have important secondary effects, some of which may affect the data upon which Zimring and Hawkins rely. For example, it would not be surprising if the Mayhew and van Dijk survey of victimization rates<sup>66</sup> experienced a pattern of underreporting of lesser violence among respondents who were routinely exposed to life-threatening violence. Such a pattern would skew the international comparisons, inflating the assault rates of the least violent societies and deflating those of the most violent.

It may even be the case that a social environment in which the threat of lethal violence is present is one in which expressions of minor, casual aggression are less likely to take place. The possibility of serious confrontation—of someone pulling a gun—may produce a generalized deterrent effect in certain public settings (the subway, bars, on the highway) that actually reduce the frequency of minor assault and aggressive exchanges between strangers.

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65. CRIME IS NOT THE PROBLEM, *supra* note 1, at 50.

66. See VAN DIJK & MAYHEW, *supra* note 3.

## IX. LETHAL VIOLENCE AND "THE CIVILIZING PROCESS"

The book's strongest message is that the United States is not primarily a criminal society: it is a violent society. As Zimring and Hawkins put it, "What is striking about the quantity of violence in the United States is that it is a third world phenomenon occurring in a first world nation."<sup>67</sup> For anyone influenced by Norbert Elias and his theory of civilizing processes,<sup>68</sup> the exceptionalism of the United States in this respect amounts to an explanatory puzzle on a par with the "England problem" in the historical sociology of Max Weber.<sup>69</sup> How is it that a society which, on most other indices, is highly advanced—with a complex division of labor, highly developed commercial and communications networks, a strongly bureaucratized state, extensive urbanization, and all the characteristics of a functional democracy—can nevertheless exhibit such unusually high levels of intrapersonal lethal violence? And—to add a further piece to the puzzle—how can one explain the continued use of the death penalty in the United States long after its abolition in virtually every other advanced democracy?<sup>70</sup>

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67. CRIME IS NOT THE PROBLEM, *supra* note 1, at 52.

68. See NORBERT ELIAS, THE CIVILIZING PROCESS (Edmund Jephcott trans., 1978). Elias's historical sociology sets out a theory of "civilization" as a "specific transformation of behavior" that took place in western societies between the late middle ages and the present. *Id.* That long-term transformation—which involved the development of refined codes of manners, the inculcation of socially-produced emotions such as embarrassment, shame and disgust, the emergence of privatized enclosures (such as bedrooms, toilets, hospital wards, mental asylums, and prisons) which removed from public view the "animalistic" features of social life, and a strong sentiment of repulsion towards violence and physical suffering—is brought about by the rise of the nation-state, the process of pacification, and the development of a complex, differentiated society which binds individuals into ever-lengthening chains of mutual interdependence. *See id.* In this context, social controls become increasingly differentiated and demand ever-more intensive forms of self-control and inhibition on the part of the "civilized" individual. *See id.* For a discussion of Elias's work in the context of criminal justice and punishment, see DAVID GARLAND, PUNISHMENT AND MODERN SOCIETY: A STUDY IN SOCIAL THEORY (1990).

69. The "England problem" in Max Weber's historical sociology refers to the puzzle that follows from Weber's finding that the emergence of a capitalist economic order is typically accompanied and facilitated by the development of a system of formal-rational law. The case of England represented an important exception to that general pattern, since it exhibited strong capitalistic development without a formalized style of legal thought. For a discussion of the "problem" and an account of its solution, see Sally Ewing, *Formal Justice and the Spirit of Capitalism: Max Weber's Sociology of Law*, 21 L. & SOC'Y REV. 487 (1987).

70. This latter problem is addressed in CAPITAL PUNISHMENT AND THE

The presence of these "uncivilized" features in a highly advanced society poses a major challenge to sociological explanation.<sup>71</sup> What Zimring and Hawkins term "the American difference" thus represents a profound sociological problem as well as a criminological one. By way of a conclusion, it may be worth outlining some of the considerations that one might invoke to unravel this puzzle, if only to indicate the profundity of the social and historical questions raised by the "criminological" fact under discussion.

Two of the most important explanatory factors—the massive presence of handguns in American society, and the widespread use of criminally-prohibited drugs, particularly in poorer communities—are extensively discussed in *Crime Is Not the Problem*. I would endorse the view set out there, which is supported by comparative evidence, that drugs and guns are not always and everywhere related to violent outcomes and that one must turn to the social circumstances of their use for an understanding of their relation to lethal outcomes. But "social circumstances" can mean very many different things. Following the thrust of Norbert Elias's theory, I would point to the peculiarities of the American social configuration, and suggest that the widespread presence of lethal violence ought to be regarded not as an historical residue, or a cultural tradition, but as a consequence of the American system of social stratification with its sharply delimited forms of social integration.

The generalization of "civilized," "other-regarding" sentiments and of nonviolent modes of conduct has been more uneven and more inhibited in the United States than in other similarly developed nations. This appears to be due to very limited amount of integration, interdependence, and mutual recognition that continues to affect particular groups in American society, despite the existence of national markets and formal political and economic integration. This is, in part, the psychological and cultural legacy of slavery and racial divisions, and of the ethnic heterogeneity of an immigrant society, all of which produce distrust and social and cultural barriers between groups. But it

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AMERICAN AGENDA, *supra* note 7.

71. Elias's use of the term "civilized" is intended as a neutral, sociological one, carrying no evaluative connotations. Inevitably, though, the term calls to mind ethnocentric and colonial judgements which tend to get in the way of sociological analysis.

has a contemporary materiality too, in the spatial and economic segregation of the housing and labor markets, the functional apartheid that still characterizes many schools and cities, and the social disorganization that these conditions tend to bring in their wake. Together these conditions function to place severe limits upon social integration within and between social groups, to undermine the socialization efforts of families and communities, and to deny to individuals the conscience-building effects that better-integrated cultures and better-functioning families tend to engender.<sup>72</sup>

But one should also emphasize that American culture and conduct are characterized by a great deal of variation and contradiction. Alongside the pockets of violence—which are, for the most part, concentrated in the poorly integrated sectors of the population—there exists a mainstream culture that, in terms of its normative codes and much of its actual behavior, has reached levels of nonviolence, humanization, and refinement that are far in advance of most other comparable nations. Whatever else one may think of them, and whatever problems they bring in their wake, the “sensitivity” speech and behavior codes of political correctness, or the widespread subcultures of vegetarianism, environmentalism, and pacifism make normative demands that are highly civilized. Each of these codes, all of which have taken hold in the mainstream, requires a degree of self-control and an ability to identify with others that are possible only in societies that have reached a high level of “civilized” development.

This last observation suggests that violence—and the failures of empathy and imaginative identification with other human beings that violence involves—is far from being a pervasive or indelible quality of the American culture. It is rather a fact about American social stratification and social distance: about the limits of social integration and its disastrous consequences for community organization, family socialization, and individual personality formation. If impoverished sectors of the population are effectively segregated from the mainstream of housing, education, and work—and the routine social interactions and interdependencies that these institutions promote—and if families and communities

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72. See WILLIAM J. WILSON, *WHEN WORK DISAPPEARS, THE WORLD OF THE NEW URBAN POOR* (1996) [hereinafter *WHEN WORK DISAPPEARS*]; WILLIAM J. WILSON, *THE TRULY DISADVANTAGED: THE INNER CITY, THE UNDERCLASS, AND PUBLIC POLICY* (1987); Sampson, *supra* note 62.

lack the social capital necessary to exercise adequate levels of social control, then there will inevitably be individuals—typically young males—who will lack self-control, social skills, and a capacity for empathy and “interpersonal identification.” These are precisely the individuals who are most unfit for the labor market and most prone to engage in the world of guns and drugs and gangs, in the alternative status system of toughness and masculine honor, and ultimately, in conduct that results in lethal violence.<sup>73</sup> American society’s tendency to foster excluded, disorganized communities of this sort, amidst social relations of a highly refined and complex character, is the configurational peculiarity that most likely explains “the American difference.” The propensity to resort to lethal violence stems, at base, from a failure of social integration and control, just as the abnormally high use of guns, and the cultural and psychological significance that guns possess, stem from the insecurity and distrust of strangers (and of authority) produced by a poorly integrated social structure.<sup>74</sup>

The process of extending social integration and social control is not a matter of moral browbeating and repressive controls. It is instead a matter of establishing—through education, housing, jobs, community and family networks, and positive social attachments—the same levels of interdependency that bind most Americans into nonviolent, cooperative, other-directed lifestyles. To some extent, these processes are already underway, driven by the logic of economic and urban development, the expansion of consumer markets, and the achievements of the civil rights movement<sup>75</sup>—although the social and economic policies of the Reagan and Bush administrations have tended to slow such developments and sometimes to undermine them.<sup>76</sup> As Zimring and Hawkins point out, the bifurcation of American culture that sets up a “two-track pattern of social toleration of violence”<sup>77</sup> may be lessening because television, mobility, and the partial desegregation of schools and workplaces have brought white middle-class

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73. On the functioning of status and honor among young males, and their relation to violence, see Elijah Anderson, *The Code of the Streets*, ATLANTIC MONTHLY, May 1994, at 80-94.

74. On the cultural repercussions of this, see DENIS DUCLOS, *THE WEREWOLF COMPLEX: AMERICA’S FASCINATION WITH VIOLENCE* (1998).

75. See *CRIME IS NOT THE PROBLEM*, *supra* note 1, at 214.

76. See *WHEN WORK DISAPPEARS*, *supra* note 72.

77. *CRIME IS NOT THE PROBLEM*, *supra* note 1, at 213.

citizens into greater proximity to the kinds of crime and violence which were once dismissed as problems of the slum and the ghetto.

The increasing salience of violence for these more powerful groups will not necessarily bring about moves towards greater social integration. Reactions to social problems are politically determined, and may tend in the opposite direction, as do recent policies of mass incarceration which are, in effect, an attempt to reverse the process and reinforce social segregation with penal segregation. Much of Zimring and Hawkins's analysis focuses upon the short-term and immediate benefits of situational remedies, and from a pragmatic, criminological point of view, this seems realistic and appropriate. But the problem of lethal violence is a symptom of America's peculiar civilization deficits, and speaks to the need for a major program of long-term investment to bring about better social and economic integration, even if this is not especially efficient in its criminological benefits, nor especially popular as a political program.