

Crime and Punishment

By

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Society needs to accept responsibility for what the public views through the media, via advertising, movies, radio, music, etc. The censors who should be controlling what is allowed are getting more and more lax in their standards and therefore children start viewing deviant behavior as the norm. We have problems with crime in our schools, children being assaulted, women becoming battered victims and all because society has turned a blind eye to human decency.

History of Crime

What is crime? Crime, by definition, is an act committed in violation of a law forbidding or commanding it. It is an unlawful activity that may or may not bring about a conviction or punishment. (American Heritage Dictionary, 2010) In laymen's terms it means deviant behavior as opposed to the social norms – standards by which humans ought to behave normally. As time changes, so do the definitions and the laws that are in place to give reason as to why people commit crimes. Is it hereditary? Is it due to one's environmental or social settings? Criminal research has been ongoing since the last 1800's and it gave the Chicago School and Edwin Sutherland enough to go with for years.

Sir Henry Maine (1822-1888) was a jurist in Great Britain and who lead the way on the study of comparative law. He wrote a thesis on Roman law while teaching civil law at the University of Cambridge. His thesis was looked upon as the beginning of sociology of law (Dictionary, 2009). Sir Henry could not find any formally defined crimes, what he did find that was all thefts, assaults and rapes were considered private wrongs, and left enforcement up to the victims and/or their survivors. Just about all of our civil law systems today have its roots in the Roman law, making a name for themselves on its organization, conceptions and even formulations. Modern times can say that the laws the Romans defined and wrote became our universal language in the lawyers' environment since medieval times till today.

Crime in Medieval times was a bit barbaric. The most prominent of these were King Henry VIII. Henry decided he wanted his own church and broke away from the Catholic Church, most notable the Church of Spain, from which he had married his brother's widow Catherine. Because the Catholic Church would not grant him an annulment so he could marry another, he decided to form the Anglican Church, The Church of England. Henry made it the law that everyone in his country, or under his protection, had to follow his laws or be executed for treason. His daughter, Mary I, brought the country back to the Catholic Church in favor of her mother. Unfortunately, the executions continued based on religious ruling and then again under Elizabeth I's ruling. (England Under the Tudors, 1990).

1931-1934 Public Enemy Era

Crime has always been a fascinating subject, and even more so public executions and beheadings. People would gather in the town square, with lunch perhaps, to watch whoever had committed a crime against the king be punished. They would walk by those who were fortunately (or not) to be put into stocks and maybe pity the poor fellow who ended up there. Why this type of behavior came about no one will ever know. Crime became sensationalized during Prohibition, and what was called the Public Enemy Era (1931-34). This was the time of John Dillinger, George “Baby Face” Nelson, Bonnie and Clyde to name a few. Dealing with these types of criminals also gave the FBI a new purpose in life. The reason why John Dillinger and the rest became so popular because they were always alluding capture – people loved to identify with dangerous people. And it wasn’t as if they were killing out of enjoyment – these people were career robbers. John Dillinger robbed at least two (2) dozen banks and escaped jail before getting captured at the Biograph Theater in Chicago.

The Public Enemy era also made a US Treasury Agent very famous – Eliot Ness. Eliot Ness joined the US Treasury department in 1927 – and by then Al Capone has gone from Brooklyn thug to powerful Chicago crime boss. Eliot Ness crossed Capone’s path when Ness was picked to lead a special investigative unit tasked with destroying Capone’s breweries and gathering evidence of Prohibition crimes. This special unit, formed in August 1929, was the basis for the inflated accounts of “Eliot Ness and the Untouchables.” (Heimel, 2001)

Modern Day Crime

As time advances and technology advances, so do the types of crimes committed. We have advanced from hands-on types of crime such as breaking and entering, vandalism, grand theft auto and moved into cybercrimes. Now we have nameless and faceless suspects and victims rising daily. Cybercrimes happen 24/7 when we are asleep, at work, at church. Cyber criminals do not rest and all they have to do is find your social security number and use it with someone else’s name and they have a new identity attached to you. When you go check your credit, or someone from the bank contacts you about a loan, it may or may not be you. Remember the days of leaving your doors unlocked or your car? Now everything has to be locked up – your homes, your cars, and now your computers. With the age of wireless someone across the street can hack into your wireless configuration and if you leave files open to be shared, there you go.

Congressman John Carter, Representative from Texas, wrote the Identity Theft Penalty Enhancement Act, H.R. 1731, in April 2003. When passed by Congress (June 2004) it gave prosecutors more power in convicting and sentencing those that commit identity theft. His bill created a new type of crime called aggravated identity theft for anyone that used another identity to commit certain felonies and acts of terror. If the thief uses the stolen identity in to commit another federal crime, and the intent of the federal crime is proven, the prosecutor need not prove the intent to use the false identity in a crime. This makes it easier on prosecutors and the amount of paperwork needed to take this case to court. This bill also created the insider identity theft

which is committed by those inside organizations or corporations that use other people's identities for illegal means that had been entrusted to them. A report had stated that about half of all identity thefts were a result of corporate databases being stolen. This information is used to file false claims such as Medicare and Social Security benefits. As such, because crimes have become more sophisticated so must the law makers and those that enforce them to maintain the status quo. (Modern-Day Crime, 2004)

Cyber crimes have taken a forefront in the fight against criminal behavior. We as law enforcement officials used to be able to look a criminal or suspect in the face and either interview or interrogate, depending on the situation. Computers have become an integral part of every day life as we try to become a paperless nation and stop the killing of trees. You can access anything you want on the internet; food, clothing, bill paying, banking, etc. You can even place phone calls via your computer using software like Skype. Cyber crimes have become so prevalent that colleges and universities had to change their course of study for Criminal Justice programs to include cyber crimes and IT Security. So much so the FBI had to create a new department – the Cyber Crime division.

The FBI's purpose behind fighting cyber crimes has four parts. First, and perhaps the most important, to put an end to those committing the most severe computer invasions and to stop the spread of malicious code (hacking, viruses). Second, to identify and prevent online sexual predators who use the internet to meet and take advantage of children, who also produce, possess, or contribute to child pornography. Third, to neutralize operations that target U.S. intellectual property, which endangers our national security and fourth, to take apart national and transnational organized crime enterprises engaging in fraud over the internet. (FBI, 2009)

Punishment – The Elizabethan Era

Elizabethan England was a violent time. Crimes were met with cruel and harsh punishments. These punishments were witnessed by hundreds of people. The lower classes treated these as a fun day out with a picnic! Even some of royals were subject to public executions depending on the severity of their crime. The execution of Anne Boleyn was witnessed by hundred of spectators. The classes were split by two ruling parties – the Upper Class, which included the royals and nobility and then everyone else (Elizabethan Era, 2005). The upper classes was educated, wealthy, and associated with the royals and high ranking members of the clergy. The crimes that the upper classes became involved in were not shared with the lower classes. But no matter what your class standing, a defendant's chance of getting an acquittal was slim to none. Trials then were intended to be in favor of the prosecutor and the accused were not even allowed legal counsel. Some of the crimes committed by the upper classes were High Treason, Sedition, Spying, Rebellion, Murder, and Witchcraft. And some most times the court (the King) didn't even have to have substantial proof of the crime; if someone in the King's court said someone committed a crime against the King, then so be it. Anne Boleyn was executed for crimes against the King in that he was told she committed incest with her brother. It did not matter that Anne was innocent; the King wanted rid of her and this gave him reason to marry another for an heir. The Lower class committed crimes through desperation and poverty. They were usually caught for thievery, purse snatching, and begging, poaching, being in debt, forgery and fraud. They were

usually handed harsher punishments than the nobility. Anyone caught stealing was immediately hanged – which was hard for a poor family which meant the women now had to go out to procure food for the family. Those caught begging were usually stoned as they were driven out of town. Those caught repeatedly were punished repeatedly and would be sent to prison to stay until the court felt they had learned their lesson. Those people unfortunately enough to be caught after that were usually put to death. Other punishments included cutting off various body parts, the pillory and stocks, whipping, branding, etc.

Modern Day

Punishments and sentencing have come a long way in the last 100 years. What used to be legal is now considered not only illegal but immoral and inhuman. The courts and the system can no longer try a man for a crime without some type of physical forensic evidence, a jury of his peers, and the right to legal counsel. If someone has been to trial and ends up being convicted of a crime, he will come back to find out the punishment to be handed down for the crime. The purpose of imposing a punishment or a sentence on the convicted is to punish for the crime, deterrence to others, incapacitation, and rehabilitation. In some states, a jury may be allowed to pronounce the punishment, but in most states and in federal court, the punishment is decided by a judge. For more serious crimes, the sentencing is usually pronounced at a hearing, where the prosecutor and the defendant's attorney present their arguments regarding the penalty. For violations and other minor charges, the punishment is either predetermined or pronounced immediately after conviction. Sentencing in the United States has undergone several dramatic transformations. In the eighteenth century, the punishment imposed on the criminal was left to the juries. The jury would take into the consideration the facts that would affect sentencing, and a predetermined sentence was imposed based on those findings. In the late eighteenth century, legislatures began to prescribe imprisonment as punishment in place of punishments such as public whipping and confinement in stocks. The U.S. Sentencing Commission was brought about in 1984 to articulate the sentencing guidelines for federal courts. It is an independent agency of the judicial branch of the government. The Commission publishes Federal Sentencing Guidelines which replaced the prior system of indeterminate sentencing that allowed trial judges to give sentences ranging from probation to the maximum statutory punishment for the offense. (Britannica, 2009) Sheriff Joe Arpaio

There has been some debate about what type of living conditions for prison inmates is considered normal and what is considered cruel and unusual. It seems as if the convicted felons actually had more rights than free Americans. In Maricopa County, Arizona, Sheriff Joe Arpaio has made his life's work law enforcement. After serving in the U.S. Army in the 1950's he served in a few different law enforcement agencies before moving on to a successful federal career with the DEA. In 1992 he successfully ran to become the Sheriff of Maricopa County. Since then he has been reelected to five more 4-year terms. During his time as sheriff he has constantly earned unusually high public approval. In August, 1993, he started the nation's largest tent city for convicted inmates. Two thousand convicted men and women serve their punishments not in a jail cell with air conditioning but in a canvas compound. It is an amazing success story that has attracted the attention of government officials, presidential candidates, and media worldwide. Not only is his choice of housing a success but also the chain gangs, which put in thousands of dollars of free labor to the

community. The men's chain gang, and the world's first female and juvenile chain gangs, clean up the streets, paint over graffiti, and bury the indigent in the county cemetery. However, no matter how successful he has made this prison system, with his motto of "if you don't like it, don't come back" has earned him criticism from those groups that do not agree with his ways of penal authority. Sheriff Joe is being sued by our federal government for alleged racial profiling and related civil rights violations. Now he is being sued by the ACLU for supposed abuse of authority when enforcing federal immigration laws by stopping American citizen who just happen to be Mexican. The accusations are that he and his deputies are stopping people driving along the road for no apparent reason, and they weren't told why they were stopped (Eviatar, 2009).

Criminology in the 21st Century

The amount and type of crimes occurring and the development of criminal trials made slow but methodical progress starting in the 15th century. As crime progressed, so did defining sense of the crime, the elements of the crime, and the punishment to be handed out to the convicted criminal. The United States Sentencing Commission's primary objective was to change sentencing discrepancies that researchers had found to be common in the existing system. Basically it helps judges and juries that are set to impose punishment on the convicted with no guesswork. Criminalists and criminal psychologists have been studying the profiles of criminals since the 1880's. They did what they could with what they had; they were considered pioneers in their science of the time. Without Beccaria and Lombroso setting the groundwork for criminal profiling it would not have become as advanced as it has. And because of the extensive work in this, lawmakers then saw the need to not only define the crime, but to also define the elements of the crime and to make sure the punishment fit the crime.

Criminologists have their work cut out for them now more than ever. Back when Beccaria and Lombroso got started in their studies they were limited in their facts and subject matter; they knew what they knew and today seem they were lacking in their findings. But crime was very much different then. Most crimes occurred out of necessity and these days crimes happen for no apparent reason. Criminologists today are very active participants in updating the contents of the criminal law. Criminologists show that the law must be flexible in order to keep up with the ever changing times and situations. At the same time, the laws must be constantly modified to reflect cultural, societal, and technological advances of the common age. Criminologists use crime stats, demographic sampling and surveys to monitor the feel of the environment – to see whether crime is up or down, what age group is effected the most, urban or suburban, etc.

Congress and legislations is always working to pass new laws designed to meet the changing social needs of all people. They have passed laws making crimes that occur as a result of contact via the internet just as punishable as those crimes that are committed the old fashioned way – murder, robbery, fraud, etc. Not only do criminologists have to take into consideration how much money we spend every day to make up for the losses due to crime, but how money should go into victim services. Those that are a victim of a violent crime will probably need therapy that their insurance companies may or may not cover. High crime areas put business owners at risk for robbery or vandalism and will then put in a security system and this in turn will drive the

prices of consumer goods up. We all pay for crime and I think we are all responsible to deter crime, report crime and keep it out of our neighborhoods.

Along with those crimes that cause us to become a victim there are also those crimes they can be defined as “victimless”. Or are they really? Can someone that is arrested for pornography honestly say there are no victims? What about the exploitation of women? Even though one would argue that the women that allow themselves to be photographed for such a purpose know what they are doing. There are those in society that argue about who may or may not be getting hurt by this type of behavior. Public order crimes are defined as “crimes that involve acts that interfere with the operations of society and the ability of people to function efficiently” (Criminology, 2004). In other words, common crimes such as rape or robbery are considered to be naturally wrong and damaging to others while public order crimes are said to be dangerous because they conflict with moral rules and public standing. And as long as we have these types of crimes, it is up to law makers to address these not matter how trite they may seem to others in society. We must make sure that these types of moral crimes stay immoral.

Conclusion

Crime and punishment has been in our history since the Romans, and perhaps even before. And this, like most things in history, started off shaky with what defined a crime and the laws and punishments being made up as we went along. We have progressed not only as a country but as a world with rules, regulations, civil laws and punishments to fit the crime. We are still using laws enacted by the Romans and refined our laws from there. We saw executions, public humiliations, and glamorous crime organizations with Al Capone, John Dillinger and Bonnie and Clyde. While we ourselves did not break any laws, we secretly applauded those who had the audacity to do so. History shows us that the definitions of crime change. What used to be a crime in the 15th century is no longer. But people still say that tougher punishments deter crime. Do they really? Is it the punishment that scares people or the thought of being caught? It is said that the best place to get your pocket picked was at a public hanging of pick pockets. The reason being that although the punishments were severe, the chance of getting caught was minimal. So it would seem if we wish to deter crime, we might start building up our police forces instead of making budget cuts and layoffs due to lack of funding.

Crimes and the punishments that go along with have come a long way. As we advance as a culture so do the crimes committed. The development of the criminal justice system meant that the authority to respond to crime has been taken out of the hands of ordinary people and given to the professionals – law enforcement officials, judges, courts and prisons. No longer was taking the law into one’s own hands to be tolerated. Crime over the decades has changed. What used to be criminal in the 60’s is no longer and vice versa. Now it is not only the poor that commit crimes. White collar crimes such as fraud and embezzlement and cyber crimes have taken precedence to bank robberies and purse snatching. But as crimes evolve, so do the men and women fighting crime and making progress in criminal profiling so help stay ahead of the criminal.

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