



The Negro Crime Rate: Its Causes and Cure

C H A R L E S E. R I C E

A West Side political club invited a policeman over one evening not long ago to tell members how they could help make the city's streets safe to walk in. Quite a few people said later they had missed the officer's talk because they had been afraid to walk to the meeting.¹

SINCE 1958, serious crime has increased at a rate almost six times the growth of the nation's population. In 1964, serious crimes increased by 13 per cent over the previous year, the greatest increases being in the suburbs (17%) and in the South (18%). Murder increased 8 per cent, forcible rape 21 per cent, robbery 12 per cent, aggravated assault 17 per cent, burglary 12 per cent, larceny 13 per cent, and auto theft 16 per cent. Thirty-seven per cent of those

committing such offenses were under the age of 18.² In 1964, one out of every ten police officers was physically assaulted in the line of duty.³ The crime situation, in short, is getting out of hand. So warned Ross L. Malone, past president of the American Bar Association and a member of President Johnson's Commission on Law Enforcement of Justice. The state of affairs "in Washington, D. C., Brooklyn and other places," said Mr. Malone, "is almost at a vigilante situation."⁴ The New York metropolitan area in 1964 was more than 400 offenses above the national average of 1,361 major crimes for each 100,000 of population, an increase for that metropolitan area of 11 per cent over 1963. New York, however, ranked 42nd among 184 metropolitan areas in per

capita crime—far better than such places as Los Angeles and Washington, D. C.⁵

In 1965, the national rate of serious crime continued to rise, increasing overall 5 per cent above the record high of 1964. Crime in the cities and rural areas was up 4 per cent, while suburban crime increased 8 per cent.⁶ Violent crimes increased by 9.1 per cent in New York City and when Police Commissioner Howard R. Leary instituted an improved system of statistical tabulation, he announced that the results from March 10-30, 1966 showed “a marked statistical increase in crime, a statistical wave,” when compared to the crimes reported in the comparable period in 1965; burglaries, for example, were up 96.4 per cent, robberies 89.9 per cent, and felonies generally 59.9 per cent.⁷

Statistics, however profuse, have only a limited power to demonstrate and convince. Perhaps the most effective witness to the soaring increase in urban crime would be any resident of New York City or Washington, D. C. It is true that the people of New York City, for instance, are literally afraid of being killed if they dare to venture on their own streets or into their parks at night.⁸ A Los Angeles newspaper columnist, Paul Coates, gave his impression of New York City in the summer of 1965:

East Side, West Side, all around the town, people are gripped in fear of the crime on their streets. It isn't mass paranoia. The fear is very real. And the crime follows a pattern of lunatic viciousness.⁹

The common experience and attitudes of New Yorkers will attest that Mr. Coates did not overstate his case. But, more to the point for the purpose of this article, it is also true that the crime rate among Negroes is much higher than among whites. Significantly, more than half the murder

victims in 1964 were Negroes,¹⁰ indicating that Negro crime is not simply inter-racial. The 1965 FBI crime report stated that, during 1964:

Arrest figures showed that Negroes had been arrested for crimes of violence in far greater numbers than their proportion to the total population would suggest. Although they represent only 11 per cent of the population, Negroes outnumbered whites in arrests in three of the five violent-crime categories—murder, robbery and aggravated assault.¹¹

It must be kept in mind that Negro arrests are not necessarily translatable into Negro crimes, for, as Roy Wilkins pointed out, “The records show the Negro is more easily arrested than a white person.”¹² Yet, it is unrealistic and an evasion of the issue to attribute the higher incidence of arrests merely to the fact that police might readily arrest a Negro for a transgression where a white committing a similar offense would be ignored or warned informally. For it is evident, not only that Negroes are arrested more often, but also that they actually do commit crime more often. For example, although adult crime figures are not broken down by race in New York City, the Mayor's office unofficially estimates that 80 per cent of all crime in New York is committed by Negroes and Puerto Ricans, generally in their late teens or early twenties.¹³ The New York State Department of Correction does maintain racial statistics, and these show that, for example, in 1964, 42.6 per cent of the new commitments to State correctional institutions were of Negroes, 43.8 per cent were of whites, and 13.3 per cent were of Puerto Ricans. In New York City alone, where the non-white population is concentrated, Negroes were 53.3 per cent of those committed to such institutions, whites 25.5 per cent, and Puerto Ricans 21.1 per

cent; in the rest of the state, outside New York City, Negroes were 26.8 per cent of those committed, whites 70.5 per cent, and Puerto Ricans 2.0 per cent.¹⁴ The 1960 census showed that Negroes were 14 per cent of the population of New York City and Puerto Ricans almost 8 per cent.¹⁵ In New York State as a whole, including both the City and the rest of the state, non-whites, including Negroes but excluding Puerto Ricans (who are considered white for census purposes) were nearly 9 per cent of the total population, according to the 1960 census.

These statistics, reflecting actual commitments, are more reliable than raw arrest figures, and they confirm the higher incidence of crime among Negroes and Puerto Ricans in New York. Similarly high crime rates have been found in other areas of high Negro population.¹⁶ And almost as important is the effect of such crime upon other races, in feeding latent animosities and fears which tend to be directed against all Negroes rather than the small criminal minority of that race. Consider the cry of a young white woman whose husband had just been beaten, stomped, and stabbed in Times Square by a gang who had also molested her, "Who cares about civil rights when things like this happen to respectable people? White people aren't safe anymore."¹⁷ In fact, the gang was an integrated one, consisting of seven Negroes and one white man, but the single impression on the victims was one of Negro crime.

Granted the higher incidence of Negro crime, the more important inquiry concerns the reason. Any discussion of causes here must begin with the abominable conditions in which the people of the Negro ghetto live. We cannot overlook the problems of education, employment, and housing encountered by the Negro who seeks to better himself. In the Negro ghettos,

such as Harlem, these problems are focused with a cumulative effect of dire proportions.

In central Harlem, the population density is 66,500 per square mile, compared to 24,296 for New York City as a whole. The median annual family income is \$3,995, compared to \$6,100 for the City as a whole. Juvenile delinquency in central Harlem is more than twice the rate for the entire city—109.3 cases for each 1,000 persons aged 7 to 20, as against 46.5. The annual delinquency increase since 1951 is almost twice what it is for the city as a whole—4.6 cases for each 1,000, as against 2.4. Harlem's proportion of narcotics users runs 8 to 10 times that of the entire city. Seventy per cent of the crime in Harlem today is caused by narcotics.¹⁸ The venereal disease rate for minors and the murder rate run six times as large as those of the city. Most of the murder victims are Negroes, generally friends or relatives of the murderer.

Infant mortality in central Harlem is twice the city rate. Forty per cent of the housing units in central Harlem are old-law tenements built before 1901. In the 1960 census, 11 per cent of all housing units in the area were found to be "dilapidated" (not providing safe and adequate shelter) and 33 per cent "deteriorating" (needing more than regular maintenance).

In central Harlem, only 75 per cent of the people live in families, compared to 90 per cent for the whole city. Of the males 14 years and older 19.1 per cent are separated from their wives, compared to 3.3 per cent city-wide. In central Harlem, 29.7 per cent of the women are separated from their husbands, as against 6.2 per cent city-wide. Eighty-three per cent of all children in the entire city live with both parents, but only half of those in central Harlem do. In the third grade, central Harlem children are one year behind the

achievement levels of New York City pupils in general; in the sixth grade, nearly two years; and in the eighth grade, they are two and one-half years behind. Also, 15 per cent of the Harlem workforce is unemployed, compared to 5 per cent for the city.¹⁹

Probably the greatest factor contributing to Negro crime is the breakdown of the Negro family. A celebrated, and originally confidential, Department of Labor report, co-authored in 1965 by Daniel P. Moynihan (who resigned from the Department to make an unsuccessful race in 1965 for the Democratic nomination for President of the City Council of New York City), brought this aspect of the problem to national attention. The report described as America's "most dangerous social problem," the cycle of poverty and frustration in the growing black cores of our major cities. Among Negro women who have ever been married 22.9 per cent are now divorced, as against a white rate of 7.9 per cent. Consequently, about one Negro family in four is fatherless, a rate more than double the white total. The social emasculation of the Negro father, and the resultant matriarchal character of many Negro households, are in major part legacies of slavery and of a century of employment patterns in which Negro women assumed the role of breadwinner and head of the family.²⁰ More than half of all Negro children have lived at least part of their lives in broken homes by the time they reach the age of 18. From 1940 to 1963, the white illegitimacy rate rose from 2 per cent to 3.07 per cent per year of all live births. The Negro rate, however, went from 16.8 per cent to 23.6 per cent, and in central Harlem in 1963, no fewer than 43.4 per cent of the births were illegitimate. More than half of all Negro children are supported at some time during their childhood by welfare checks under Aid to

Dependent Children programs, compared to 8 per cent of the white children. Significantly, the birth rate for Negroes is 40 per cent higher than for whites, with the biggest population explosion occurring among Negroes in the lowest economic strata.²¹

In addressing the 1965 graduating class of Howard University, President Lyndon B. Johnson said, "Perhaps most important—its influence radiating to every part of life—is the breakdown of the Negro family structure."²² The President touched upon additional sobering facts:

Only a minority—less than half of all Negro children—reach the age of 18 having lived all their lives with both of their parents.

At this moment tonight, little less than two-thirds are at home with both of their parents.

Probably a majority of all Negro children received federally aided public assistance sometime during their childhood.²³

It is true that the President's assessment of causes of the family breakdown evoked the discredited image of inordinate collective guilt:

For this, most of all, white America must accept responsibility. It flows from centuries of oppression and persecution of the Negro man; it flows from the long years of degradation and discrimination which have attacked his dignity and assaulted his ability to produce for his family.²⁴

Nevertheless, Mr. Johnson did strike a central issue. For it is literally true that the family is the cornerstone of society. And there are many more Negro boys than white who grow to adulthood without ever knowing a man, let alone a father, who

is honest, sober, and industrious. The toll exacted by such a condition is, of course, high. A six-year study by the Russell Sage Foundation pointed to disorganized family life as one of the factors preventing effective individual counseling of potential delinquents.²⁵ Dr. Eleanor Glueck of Harvard University claims, after years of research, that it is possible to spot potential delinquents at the age of two or three years, through the traits of infant destructiveness and resistance to authority. And Dr. Glueck concludes that behind delinquency is "the weakening American family."²⁶ The North Shore Guidance Center in Manhasset, a well-to-do Long Island suburb, concluded after a four-year study that boys from middle-class and upper-class families are influenced toward delinquency by the bad example given by their fathers who readily cut corners and brag about their questionable commercial coups.²⁷ Other studies, and common sense, attest to the ill effect of family deterioration. In relieving this situation among Negroes, many techniques can and ought to be used, including appropriate revision of welfare laws, more effective restrictions on narcotics, a general re-emphasis of the virtue of self-responsibility, and others. All these things and more need doing.²⁸ But you will not find a single one of the national civil rights organizations, with the exception, to a degree, of the National Urban League,²⁹ doing anything significant about this problem. If Martin Luther King and James Farmer would inculcate in the Negro less self-pity and more self-respect, if they would call forth from the Negro man not his envy but his ambition and self-control, they would serve their race and their nation well. The White House Conference on Civil Rights, held in November of 1965, was supposed to deal with the Negro family question as well as other serious problems. But, to the dismay of its

organizers, the Conference turned into a forum for attacks by civil rights leaders upon the free enterprise system, for such gravy-train proposals as A. Philip Randolph's for a 100 billion dollar federal "freedom budget" to eradicate slums, and criticism of the Moynihan report as an encouragement of a new form of subtle racism. The root problems of the Negro family and other serious issues were hardly even discussed at the Conference. The Negro leaders not only exhibited a passionate thirst for federal subsidies but they also preached a denial of Negro responsibility. In this they behaved characteristically. Said James Farmer a few weeks later, "It has been the fatal error of American society for 300 years to ultimately blame the roots of poverty and violence in the Negro community upon Negroes themselves."³⁰ It is the burden of this article, on the contrary, that while slavery and other injustices are major factors in causing Negro ills, many Negroes must at least share the blame for the continuance of their own predicament. To the extent we focus upon external and environmental causes and neglect to exhort the problem Negroes themselves to strive for virtue and industry, we compound the problem. Interestingly, the one major Negro group (not exactly a "civil rights" organization) that has concentrated upon this need is the Black Muslim movement. The success of the Muslims in actually improving, through self-discipline, the personal and family conduct of Negro men and women is a revelation of the void that could be filled here by a responsible and peaceful group pursuing those aims.

The effect of excessive welfare assistance as a contributor to the Negro crime rate cannot be discounted. There appears to be a definite, though not fully ascertained, relation between indiscriminate welfare and the rising crime rate. A thor-

ough study needs to be made in this area. For example, the Comptroller General of the United States investigated the Aid to Dependent Children program in the District of Columbia in 1962 and found that of 65 males (other than husbands) who were involved with the mothers of the dependent children, 40 had arrest records totaling 247 arrests. Only 18 had no arrest record and there was insufficient information as to the other seven.³¹ It would be useful to know the extent to which the ADC program has served to support those individuals in their wayward paths. Incidentally, there are at least 4.4 million persons, including adults and children, now receiving payments under Aid to Dependent Children programs in the United States.³² Nor is it wholly incidental that *Time Magazine* said of Philadelphia Juvenile Court Judge Juanita Kidd Stout, the first elected Negro woman judge in the United States, who is conducting a veritable crusade to make the streets safe by jailing hundreds of young thugs: "Her pet hate is the welfare system." Judge Stout was quoted as saying:

The tragedy of relief is that it has taken away from the people the drive to work. I deplore a system that regards the indiscriminate handing out of checks as its prime function, that subsidizes the lazy and immoral home with the taxpayer's dollar.³³

Judicial leniency has also given a mighty impetus to the soaring national crime rate, both white and non-white. Under pressure from the Supreme Court of the United States, federal and state courts are applying rules of apprehension, search and seizure, confessions, and other aspects of criminal procedure, which are grotesque in their exaltation of technicality over substance and shocking in their disregard of the right of law-abiding citi-

zens to live their lives in reasonable safety and peace. The prevailing policies on probation, parole, and treatment of repeated offenders have been similarly unbalanced against the public interest.³⁴ This lenient trend has drawn the criticism of the Attorney General of the United States,³⁵ the Director of the Federal Bureau of Investigation,³⁶ and other leaders of law enforcement and the American legal profession.³⁷ It has also raised a justified outcry from an angry citizenry. It was not without reason that former New York City Police Commissioner Michael J. Murphy recently protested that, due to court decisions, "we are forced to fight by Marquis of Queensbury rules while the criminals are permitted to gouge and bite."³⁸ And his successor as Police Commissioner, Vincent L. Broderick, accurately complained that, "The courts are often not made aware enough of the civil liberties of the majority of the people."³⁹

As a matter of simple fact, one does not have to be a legal scholar to realize that a continuation of the present judicial irresponsibility will cause government in this land to default in the performance of its elementary duty of public protection.

The source of the current atmosphere of judicial leniency can be clearly traced to the Supreme Court of the United States. Since 1957, the Court has been embarked upon an exaggerated refinement of its rules governing criminal procedure, and has illegitimately extended its control over local police procedures with the result that local law enforcement agencies have been seriously hampered in their work. Many examples could be cited. For instance, in 1957, Andrew Mallory was convicted of rape in the District of Columbia and the Supreme Court reversed his conviction because nine hours had elapsed between the time Mallory was arrested and the time he confessed. Mallory was in no way mis-

treated or deprived during that period, in which he was fed, questioned, and took a lie detector test. The Court reversed his conviction on account of the mere lapse of time,⁴⁰ and the implications of the ruling have influenced many courts, both federal and state, in the intervening time. Incidentally, after his release by the Supreme Court, Mallory himself went to Philadelphia, broke into a house and committed a similar crime, for which he is serving 11½ to 23 years in a Pennsylvania prison.⁴¹

In 1961, the Supreme Court, in the case of *Mapp vs. Ohio*, decreed that the highly technical rules governing search and seizure in federal courts must thenceforth apply fully in state courts as well.⁴² Since that decision, state and federal courts have been inclined to construe the law of search and seizure in a way that has had a crippling effect upon reasonable and proper law enforcement.⁴³ In 1964, in the case of *Escobedo vs. Illinois*, the Supreme Court reversed a conviction based upon a confession which the defendant had made during a preliminary police investigation before his counsel was allowed to see him.⁴⁴ The confession, not incidentally, was voluntarily made, but the Supreme Court considered the voluntary character of the confession irrelevant.⁴⁵ The *Escobedo* ruling understandably impelled Justices White, Clark, and Stewart to protest in dissent that, "The decision is thus another major step in the direction of the goal which the Court seemingly has in mind—to bar from evidence all admissions obtained from an individual suspected of crime, whether involuntarily made or not."⁴⁶ The subsequent implementations, in federal and state courts, of the Supreme Court's theories on confessions and the right of counsel, give one reason to fear that it was not entirely in jest that some have predicted that in the near future each squad car will have to be equipped with a roving defense attorney.

There are other respects in which the decisions of the Supreme Court have contributed to the undermining of law enforcement, beyond those mentioned here. The rules governing the availability of the federal writ of habeas corpus to persons convicted in state courts, for example, have been unduly extended beyond what is necessary for the adequate protection of the rights of defendants.⁴⁷

Here and there, we find a ray of hope in the courts. A system of publication of the names, addresses, and crimes of juvenile offenders, together with the names of their parents, has brought a reduction of 50 per cent in juvenile crime in Helena, Montana, during the past five years, with a reduction of juvenile traffic crime by 75 per cent.⁴⁸ District Judge Lester H. Lobel pointed up one obvious advantage of the publicity:

If a youth is old enough and tough enough to topple a tombstone, wreck a church, hold up a service station, snatch a woman's purse or beat up an old man, he's old enough and tough enough to have a public trial with his parents in the front row and full newspaper coverage.

The parents don't like the publicity. So when I put a kid on probation, and some Saturday night the kid tells the old man, "I'm going over to Joe's place," the old man says: "Oh, no, you're not. You're not going to get *me* in trouble again." The parents can't stand the heat. I have today about a thousand parents who are about the best probation officers any court can have.⁴⁹

Elizabeth, New Jersey, has reduced its crime rate by forbidding youths younger than 18 to be on the streets after 10 P.M. without a good and sufficient reason for being there.⁵⁰ And in Philadelphia, the police are using police dogs to curb sub-

way violence, to the consternation of tender liberals and to the profound relief of law-abiding subway riders.⁵¹ But such encouraging incidents are too few indeed. The general picture is increasingly one of a breakdown of authority and a crescendo of violence and disrespect for law. A revealing incident occurred on March 3, 1965, when two plainclothes policemen attempted to break up a fight between two girl gangs in a school yard in the Bedford-Stuyvesant section of Brooklyn. The sweet young things acted out their latent animosities by attacking the officers with bottles, wooden clubs, and lengths of pipe. When reinforcements arrived, thirteen girls were arrested and one policeman required hospital treatment. So far the case was routine. But the parents of only nine of the girls came to the police station when the police informed them that their daughters had been arrested. And, when those parents reached the station house, learned the full story and saw the battered police, they did not admonish their children. Instead, they cursed the police. As the desk lieutenant said, "This wasn't a serious crime, but a symbol of the disrespect for law and order in our time."⁵² And so it was. Bishop Fulton J. Sheen, speaking at the annual Red Mass in New York City in 1964, warned that the quality of compassion is being twisted in the United States today to mean "compassion for the criminal, the bum, the breaker of the law." "We used to feel sorry for the one raped," he commented, "but now it is the rapist."⁵³ It was not without reason that Lord Shawcross, a leading British attorney, remarked that today, "The criminal is living in a golden age."⁵⁴

But this is not a technical legal treatise on the intricacies of the criminal law. The issue at hand is *crime among Negroes*. And while the challenge of rising crime must be met if we are to have racial or any other kind of enduring domestic

peace, a comprehensive inquiry into the overall crime problem, which is only tangentially racial, is not directly germane to this work. Suffice it here to say that the essential ingredient in any enduring solution to the general crime problem must be a thoroughgoing re-direction of attitude on the part of public officials at every level of the judicial and correction machinery. We must ever be zealous to achieve the rehabilitation of the wrongdoer whenever possible. We must be meticulous in our protection of the legitimate rights of the accused, including especially the indigent defendant. But we must at the same time, not be so eccentrically committed to the rehabilitation and personal rights of criminals that we unjustly nullify the personal rights of law-abiding citizens to walk the streets in safety, and unwisely threaten the community itself. Perhaps we can with profit recall the warning of the late Judge Alfred J. Talley, of New York City, who said in 1924:

The demand of the hour in America is for jurors with conscience, judges with courage, and prisons which are neither country clubs nor health resorts. It is not the criminals, actual or potential, that need a neuropathic hospital. It is the people who slobber over them in an effort to find excuses for their crime.⁵⁵

What is germane to this article, however, is the reality that, within the Negro community, crime is a problem of inordinate proportions. And it is to the reduction of that disproportion that any serious civil rights inquiry must direct itself.

We have already treated here certain of the factors which undeniably contribute to the greater incidence of Negro crime, including principally the breakdown of the family, economic deprivation, and inadequacy of opportunity. Clearly, the elimination of these, particularly the chaotic

family situation, should be the object of a national offensive equal to that which ought to be directed against judicial leniency.

But there are other factors at work within the Negro community which operate to encourage Negro crime and these it is urgently necessary to identify and condemn. One is the failure of Negro civil rights leaders to urge obedience to the law with anything near the zeal, and even fanaticism, with which they emphasize rights and white injustices. More civil rights leaders might echo with profit the vehement reaction of Roy Wilkins to a series of episodes of Negro assaults and vandalism in the New York City subways and streets:

The Harlem and Brooklyn morons. . . are cutting and slashing at the race's self-respect, something they can never re-build with their knives, their baseball bats, their brass knuckles and their filthy language Yes, the Negro punks have smeared their race, but good. Since the Negro minority, regardless of how hard some of its new "militant leaders" talk, does not have the requisite power over the nine-tenths; we must still win friends and influence people for our side. We can help matters along by recognizing that a punk is a punk, white or black, and by putting him in his proper place.⁵⁶

There is nothing which illustrates the perversity of the civil rights movement more clearly than the virtual universality with which its leaders, in the face of rising crime and racial violence, champion the creation of civilian review boards to rule on complaints of alleged police brutality. New York City, for example, already has a Civilian Complaint Review Board within the Police Department.⁵⁷ The board has its offices in a commercial office building, away from Police Department atmosphere and facilities, and the

policemen on duty there do not wear uniforms.⁵⁸ But this is not enough to satisfy the militant Negro leaders. They seek, in varying forms, an "independent" review board, with its members having no other connection with the City or the Police Department, and, most importantly, they seek specific representation of minority racial groups on the board.⁵⁹ Independent civilian review boards are in operation in such major cities as Rochester, Washington, D. C., Philadelphia, and Kansas City, generally with a detrimental effect upon police discipline, morale, and efficiency.⁶⁰

One of the most persistent critics of civilian review boards is FBI Director J. Edgar Hoover, who wrote in the FBI Law Enforcement Bulletin:

The police executive cannot become a mere pawn of bureaucratic committees. He must have full responsibility for the performance, discipline, and control of his officers.

Valid objections to external review boards are too numerous and extensive to be shunted aside. Such panels represent a backward step for law enforcement toward ineptness and mediocrity. Moreover, one of the major weaknesses of these boards is their inherent political overtones. In many instances, appointments will be made for political expedience rather than merit, and every faction, clique, group, and organization which has an ax to grind will demand representation. If there is one thing career police executives have learned over the years, it is that politics has no place in effective law enforcement.

The average law-enforcement officer today is already saddled with greater responsibilities than he can fully comprehend and capably discharge. Society demands of the officer total compliance with the mandates of the law; however, it has yet to give him a clearcut picture of what the law demands and what

it forbids. Even those learned in the law cannot agree with certainty what powers the police officer possesses. Many times, his actions are adjudged wrong by the thinnest of margins in split decisions by the highest courts. He should not be subjected to public ridicule and penalized in salary, promotion and personal career based on decisions reached by outside overseers to whom professional law enforcement and public protection may be of secondary interest.

Experience has shown that high selection standards, outstanding training, realistic pay scales, and advancement based on merit are fundamental principles of good police service. It is a pity that the efforts being wasted in promoting impractical review boards could not be applied to these proven elements.⁶¹

And the California Governors Commission on the Los Angeles Riots, headed by John A. McCone, firmly concluded that a civilian review board "would endanger the effectiveness of law enforcement, which would be intolerable at a time when crime is on the increase throughout the country. Experience in two cities which have such boards—and in which alleged misconduct of police officers was a major issue in connection with riots which occurred in those cities in 1964—has not demonstrated the advantages of such a review board."⁶² The most pernicious effect of the agitation for civilian review boards is its distraction of attention from the realities of the crime problem. In a time of soaring crime rates and diminishing personal safety throughout the nation, the public interest demands, not an increase in the already neurotic preoccupation with the unjustly presumed brutality and racism of the police, but rather a serious effort to strengthen law enforcement. As former New York City Police Commissioner Michael J. Murphy said, "The policemen are the front line

soldiers in the battles against chaos."⁶³ And Senate Majority Leader Mike Mansfield rose in the Senate at the time of the 1964 riots to praise the work of the police in those disturbances, explaining, "It is about time for some one to say a good word for the police forces of this country." Senator Mansfield made a similar comment on the Los Angeles riots of 1965.⁶⁴ Inevitably, "The battered policeman's image of today is a definite barrier to recruitment of adequate personnel," according to Orrell A. York, executive director of New York State's Municipal Police Training Council. "There aren't many parents today," said Mr. York, "encouraging their sons to go into law enforcement careers."⁶⁵ As Lord Shawcross put it, "more graduates are going into crime now than into the police."⁶⁶

Hampered by court decisions overly attuned to the sensibilities of criminals and bums,⁶⁷ assailed by a hostile press and supported all too silently by the great majority of all races whom they protect, the police are faced with an increasingly difficult task.⁶⁸ One New York City policeman described his resentment at the needless frustration of his work:

"We never get first offenders," he says. "Almost never. It's always the same guys coming back for the third time and the fourth time and the fifth time. It hurts so much when we work to catch a guy, a guy who's been mugging people and robbing people, and then he gets a suspended sentence or three months or gets off completely, and he goes back on the street and starts it all over again."⁶⁹

There are, of course, instances where police have used excessive force or unlawful means in performing their duty, but the frequency and character of these instances have been scandalously exagger-

ated by those who argue for independent review boards.⁷⁰

As Lewis F. Powell, Jr., past president of the American Bar Association, put it, "The term 'police brutality' is extensively misused and is a joy to criminal elements everywhere."⁷¹ Furthermore, if existing means of departmental review are not adequate to correct these irregularities, recourse can be had to the ultimate civilian review board—the grand jury.

Roman Catholic Bishop James E. Kearney of Rochester, N. Y., withdrew his earlier support of the police review board in that city with the statement:

. . . I do feel now that the board is not necessary any longer. I think its continuation hurts the morale of the department and is a reflection on the integrity of our men in uniform.⁷²

In point of fact, what the advocates of independent review boards would have is nothing less than the politicalization of the police. For if minority groups are to be accorded specific representation on those boards, the members delegated from those minorities inevitably and irresistibly will "vote their race," as indeed they will be expected to do. In addition to accentuating color consciousness in the administration of the law, such a procedure, given the realities of the city, will ensure the influence and ultimately control of law enforcement by parish political groups.

It is worth mentioning by the way that San Francisco has staved off demands for a civilian review board by establishing a Community Relations Department in the Police Department. One of its members described the method of operation as follows:

First we looked into the area of what patrolmen may or may not do, unknown to themselves, to irritate individuals in minority groups.

We found there were a number of things, such as using the expressions, "Hey, boy," "you people," etc., and by such acts of discourtesy as not removing hats when entering homes, especially in housing projects, and such as a policeman not wiping his shoes before coming through a door.

When we had collected enough of these do's and don'ts on attitudes, gestures, remarks and general courtesy, we sent men around to the different stations and lectured to the men.

I think the system must have worked very well, for the department has been getting fewer and fewer complaints and critical phone calls on this subject.⁷³

Other cities, including New York, are experimenting along similar lines.⁷⁴ The New York City Police Department has formed Community Councils in problem-area precincts to exchange ideas and enhance cooperation between residents and police.⁷⁵ Such techniques, combined with existing departmental review procedures and ultimate grand jury review, clearly ought to reduce whatever justification might otherwise exist for independent civilian review procedures.

Any thorough consideration of the general problem of race relations must treat the issue of Negro crime. For the Negro crime rate is a revealing symptom of deeper ills. A thoughtful examination of the causes and character of that crime rate can serve to open the way to an understanding of more fundamental issues of human relations and civic order.

But there is no point in talking about Negro crime without stressing as well the urgent need for curtailing the crimes committed by white racists against Negroes and for eliminating racial miscarriages of justice in some southern courts. In his 1966 State of the Union address, President Johnson proposed "legislation to strength-

en authority of Federal courts to try those who murder, attack or intimidate either civil rights workers or others exercising their constitutional rights and to increase penalties to a level equal to the nature of the crime."⁷⁶ The existing law, enacted in 1870 to deal with the Ku Klux Klan, makes it a crime for two or more persons to "conspire to injure, oppress, threaten or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having exercised the same."⁷⁷ The maximum penalty, however, is ten years imprisonment, a \$5,000 fine, or both. These penalties have been justly criticized as inadequate where a serious crime such as murder is committed for the purpose of interfering with the exercise of federally-protected rights. This statute was used to convict the men accused of killing Mrs. Viola Gregg Liuzzo during the Selma tension in 1965. The theory used by Justice Department attorneys in that case was that, since a federal judge had specifically enjoined anyone in Alabama from intimidating participants in the civil rights march from Selma to Montgomery, the Klansmen had violated the law by conspiring to kill Mrs. Liuzzo, a civil rights worker from Detroit.⁷⁸ Interpreted in such a narrow sense, the statute would seem to be within the constitutional power of Congress to enforce the Fourteenth and Fifteenth Amendments. But it should not be further interpreted to make freedom from an ordinary assault a federal right. The Supreme Court so ruled in 1951 when it held that a private detective had not violated the statute when he assaulted several persons while investigating a theft.⁷⁹

President Johnson, however, seems to be proposing the enactment of a general federal criminal statute, "The Civil Rights Protection Act of 1966,"⁸⁰ to translate into

a federal offense any criminal interference with civil rights workers. Such a result would, first of all, carry us far beyond Congress' limited powers to enforce the Fourteenth and Fifteenth Amendments. And, in practical terms, it would put the federal government squarely in the role of a municipal lawmaker. It would, in that sense, be a fitting culmination for an era that has seen the destruction of that diffusion of governmental power which was the hallmark of the American system. Secondly, the sort of statute proposed by the President is unnecessary. For, while the disposition of southern juries to acquit whites accused of crimes against Negroes is well known, it is a tendency which has been exaggerated. Within the past year, convictions have been obtained in several prominent cases of this sort and the situation seems to be improving.⁸¹ At the very least, it is hardly a problem of a magnitude to call for the dissolution of the federal system. Also, there are alternative remedies. Federal courts have the power to oversee the selection of juries and those courts are continually refining effective techniques to prevent racial bias in the process. President Johnson, on the contrary, is proposing among other things, a racial balance, proportionate to the population of the district, on the panels from which trial juries are drawn.⁸² Not only would his plan eliminate the random, unbiased selection which is essential to a vital jury system, it would also, and necessarily, embody the essence of racism, an official classification by race. It would replace the ideal of blind justice with an ugly racist reality.

We ought to deal with racist crimes against Negroes in the same way that we should handle similar crimes committed against whites—with a firm repression applied through a system of even-handed justice. The federal government has the

capability to prevent racial bias in matters of jury selection and trial procedure, although no compulsive power can exorcise the undetectable wellsprings of bigotry which can cause a juror or judge to violate his trust. Nevertheless, progress is being made here and it is along this line that the major effort should continue. However, there ought at the same time to be an effective federal backstop to ensure some modicum of justice where, as in the Liuzzo case, the state procedures are ineffective or biased. This backstop, within constitutional limitations, could well be provided by increasing the penalties under the existing statute⁸³ punishing a conspiracy to deprive another person of federally-protected rights. The statute might well be amended to punish not merely conspiracy to deprive another of rights—for conspiracies are inordinately difficult to prove—but also the attacks themselves. The Klansmen in the Liuzzo case were convicted, not of killing the victim, but of conspiring to deprive her of her rights. It should be possible to make such an assault itself a federal crime, without involving the federal government in the business of enacting and enforcing those general criminal statutes which are solely the constitutional prerogative of state and local governments. Perhaps such a federal statute might be limited to cases, such as Liuzzo, where a federal court had previously and specifically forbidden interference with the sort of activity in which the victim was engaged and which the attackers sought to prevent by their assault. The problem is an urgent one, because it involves injustice and violence of a critical dimension. And it merits an earnest and sober effort to find a remedy within the bounds of justice and the Constitution.

How, then, are we to view the crime problem in relation to the racial question? What is needed? For one thing, we need a

reassertion of individual responsibility and culpability. There is a proper, though limited, sphere for the operation of the idea of collective responsibility. But today that idea has been carried to an extreme, so that often the result of repeating that everyone is at fault is a general impression that no one is really at fault.⁸⁴ In the aftermath of Dallas, the nation was so taken up with a generalized lamentation of the "hate" within us that we nearly forgot that it was one individual, a Communist sympathizer or agent at that, who actually and deliberately did the deed. Listen to Roy Wilkins go off the deep end on this point:

Quite properly the perceptive among us point the finger at the vocal vermin, the poison pen "patriots," the suave salesmen of superiority, the analyzing aesthetists, and the hawkers of hate. *These people, not the miserable Oswald*, slew John Fitzgerald Kennedy.⁸⁵ (Emphasis added)

In our legitimate concern over the degraded conditions in which many Negroes exist, we tend to forget that Negro crime and violence are perpetrated by only a small fraction of the Negro people and that the great majority of Negroes are law-abiding and not driven by their environment to crime. We tend, too, to forget that the immediate and primary accountability for a crime or act of violence rests upon the punk or thug who commits it. Instead of meting out swift, certain, and realistic punishment to these criminals, the social engineers tend to becloud each case in a permissive subjectivity and leniency that are as much a revelation of themselves as of the bankruptcy of their theories. One fallacy inherent in some of the current notions was exposed by the noted theologian, Robert W. Gleason, S.J.:

In today's world, as we have seen, a dif-

fuse sense of corporate guilt seems to have replaced the traditional feeling for sin. Yet not to seek complete abandonment in God, not to realize one's powerlessness outside of God, creates a false and illusory world. If one turns one's back on reality, one must replace it with illusion; in modern man this not infrequently takes the form of championing the cause of the socially underprivileged. The defense of this cause is concomitant with strong feelings of guilt and personal inadequacy. The worshippers at this shrine are sometimes characterized by a basic ambiguity; in point of fact do they sometimes seek to keep the underprivileged as they are, that they may continue to play God?⁸⁸

This is an age in America of relativism and permissiveness. In a recent speech at the dedication of a Unitarian church, Supreme Court Justice William O. Douglas said that "truth" cannot be a goal and that "no one knows what 'truth' is."⁸⁷ The flight from absolutes, and indeed from all standards of right and wrong, is a national scandal. In San Francisco, a group of Protestant ministers ushered in the year 1965 by holding a New Year's ball for 600 homosexuals and their friends.⁸⁸ In 1962, the Supreme Court ruled that suggestive pictures of men in a homosexual magazine were not "patently offensive" because "these portrayals of the male nude cannot fairly be regarded as more objectionable than many portrayals of the female nude that society tolerates."⁸⁹ Interestingly, the Court handed down this ruling, establishing what might be called a new doctrine of "equal protection for boys" on the same day that it forbade school children to recite the Regents' Prayer in public schools.⁹⁰

Employees of stores and other businesses in the United States steal from their employers an average of \$150 per employee per year, and the rate of dishonesty is

greatest in those concerns where the pay and working conditions are high.⁹¹ Each year 300 million dollars worth of merchandise is shoplifted from supermarkets. The loss to all types of stores from shoplifting in 1965 was 2 billion dollars. One out of every 56 customers is a thief.⁹² And in this time of high prosperity, at least 8,100,000 Americans are receiving some form of public assistance, a rise of 48 per cent since 1955; New York City alone has more than half a million persons on public welfare.⁹³

Dr. Max Rafferty, Superintendent of Public Instruction of the State of California, touched upon four aspects of the current breakdown:

1. Violence: When an educational philosophy is almost completely permissive—lets a child express himself at any cost, holds we must avoid frustrating or inhibiting the child in any way, then the result is indiscipline, discourtesy, and doing what comes naturally; this means violence, for a human animal is a violent one.
2. Immorality and obscenity: When we educators began replacing "Evangeline" and "Silas Marner" with "Catcher in the Rye" and James Baldwin's latest, we were just asking for what we have since gotten. . . .
3. Decline of personal morale: It was the behavioristic psychology which warned educators and parents against any interference whatsoever with the divine right of the child to express himself—even if this self-expression turned out to be at the expense of those around him and at the cost of school discipline generally. The outcome was predictable: the beards, the sandals, the long, lank hair, the general aura of unwashed disinhibition. . . .
4. Contempt for law and the democratic

process: This country has just as large a percentage of decent, law-abiding youngsters as it ever had. But the minority, who always got into trouble in the past, are getting into worse trouble now.⁹⁴

The problems of crime and violence are not properly civil rights problems. Rather, they reflect a general moral deterioration which bears most heavily in its impact upon those Negroes whom we encourage to indolence, dependence, and violence. And for this reason it is especially the function of the Negro civil rights leaders to arrest that deterioration among those whom they have heretofore led astray. But in a larger sense, an enduring improvement in the crime picture, both Negro and white, will follow only upon a general return to the standards of conduct written in the nature of man and a rejection of the pernicious notions of judicial, public, and

private permissiveness. It is incumbent upon each of us to work for the restoration of those standards:

Let us speak out. Let public opinion resume its function as an indispensable aid in transforming the savage into a citizen. We shall be charged with hypocrisy, because we too are sinners; the sins of our past will be exhumed and flung into our faces; we shall be called timid and senile reactionaries. . . .

No matter; let us speak out. Let us say, humbly but publicly, that we resent corruption in politics, dishonesty in business, faithlessness in marriage, pornography in literature, coarseness in language, chaos in music, meaninglessness in art.

It is time for all good men to come to the aid of their party, whose name is civilization.⁹⁵

⁹⁴New York *Herald-Tribune*, March 4, 1965.

⁹⁵New York *Times*, July 27, 1965.

⁹⁶See *National Review*, Sept. 7, 1965, p. 788.

⁹⁷New York *Times*, Sept. 16, 1965.

⁹⁸For statistics from Federal Bureau of Investigation's Uniform Crime Reports, see *New York Times*, July 27, 1965; *New York Herald-Tribune*, July 27, 1965.

⁹⁹New York *Herald-Tribune*, March 8, 1966; Release, Federal Bureau of Investigation, March 8, 1966.

¹⁰⁰New York *Times*, April 5, 1966; see *New York Herald-Tribune*, Feb. 17, 1966.

¹⁰¹See *New York Herald-Tribune*, March 4, 1965.

¹⁰²New York *Journal-American*, Sept. 6, 1965.

¹⁰³See *National Review*, Sept. 7, 1965, p. 788.

¹⁰⁴New York *Times*, July 27, 1965.

¹⁰⁵New York *Times*, July 27, 1965; see also statement by Prof. L. C. Gould to the American Sociological Association, *New York Journal-American*, Aug. 31, 1965.

¹⁰⁶See discussion in White, *The Making of a*

President 1964 (1965), p. 230.

¹⁰⁷See 1965 Annual Report of the New York State Department of Correction. Of the 5,577 new commitments throughout the state, 248 were not convicted of anything, being insane persons or mental defectives committed to the custody of the Department of Correction; no separate racial statistics are available for this group.

¹⁰⁸See Glazer and Moynihan, *Beyond the Melting Pot* (1963), pp. 25, 318.

¹⁰⁹See discussion in Lomax, *The Negro Revolt*, (Signet ed., 1964), pp. 230-33.

¹¹⁰New York *Journal-American*, June 15, 1964.

¹¹¹New York *Journal-American*, Feb. 25, 1966.

¹¹²For statistics, see *New York Times*, July 27, 1964, reporting on studies by HARYOU (Harlem Youth Opportunities Unlimited) and ACT (Associated Community Teams).

¹¹³See Lincoln, "The Absent Father Haunts the Negro Family," *New York Times Magazine*, Nov. 28, 1965.

¹¹⁴For statistics, see *Newsweek*, Aug. 9, 1965; see

- also Glazer and Moynihan, *Beyond the Melting Pot* (paperback ed., 1964), p. 50.
- ²²*New York Times*, June 5, 1965.
- ²³*New York Times*, June 5, 1965.
- ²⁴*New York Times*, June 5, 1965.
- ²⁵*New York Times*, Feb. 20, 1965.
- ²⁶See *U. S. News & World Report*, Dec. 27, 1965.
- ²⁷*New York Times*, Feb. 13, 1966.
- ²⁸See *New York Times*, July 19, 1965, for a discussion of President Johnson's proposed national conference to study ways of bettering Negro family life. The result could be fruitful, provided it does not become another bureaucratic subsidy program, with attendant political patronage.
- ²⁹*New York Times*, Oct. 25, 1965.
- ³⁰See *New York Times*, Dec. 17, 1965; column of Rowland Evans and Robert Novak, *New York Herald-Tribune*, Nov. 24, 1965; *New York Times*, Nov. 25, 1965.
- ³¹Special Report by the Comptroller General of the United States to the Senate Subcommittee on the District of Columbia, July, 1962, p. 32.
- ³²*U. S. News & World Report*, Nov. 1, 1965.
- ³³*Time*, Apr. 16, 1965.
- ³⁴See testimony of J. Edgar Hoover, Hearings, Subcommittee on Appropriations, House of Representatives, March 4, 1965, pp. 310-311.
- ³⁵See *New York Times*, Feb. 25, 1966.
- ³⁶*New York Times*, July 27, 1965.
- ³⁷See *New York Times*, Jan. 24, 1966.
- ³⁸*New York Times*, Sept. 10, 1965.
- ³⁹*New York Times*, Sept. 11, 1965.
- ⁴⁰*Mallory v. U. S.*, 354 U. S. 449 (1957).
- ⁴¹See column of M. Stanton Evans, *National Review Bulletin*, Sept. 28, 1965, quoting Washington, D. C., Police Chief Murray.
- ⁴²*Mapp v. Ohio*, 367 U. S. p. 643 (1961).
- ⁴³See *Beck v. Ohio*, 379 U. S. p. 89 (1964).
- ⁴⁴*Escobedo v. Illinois*, 378 U. S. p. 478 (1964).
- ⁴⁵See 378 U. S. at p. 496.
- ⁴⁶378 U. S. at p. 495.
- ⁴⁷See *Fay v. Noia*, 372 U. S. p. 391 (1963); *Townsend v. Sain*, 372 U. S. p. 293 (1963).
- ⁴⁸*America's Future*, Aug. 21, 1964.
- ⁴⁹*America's Future*, April 23, 1965; see *New York Times*, Sept. 12, 1965.
- ⁵⁰*New York Herald Tribune*, Dec. 12, 1965.
- ⁵¹*New York Times*, March 14, 1965.
- ⁵²*New York Herald-Tribune*, March 4, 1965.
- ⁵³*New York Herald-Tribune*, Aug. 10, 1964.
- ⁵⁴*U. S. News & World Report*, Nov. 1, 1965.
- ⁵⁵Quoted by J. Edgar Hoover, Hearings, Subcommittee on Appropriations, House of Representatives, Mar. 4, 1965, p. 310.
- ⁵⁶*New York Times*, June 24, 1964; see also *New York Journal-American*, July 26, 1964.
- ⁵⁷See *New York Times*, July 24, 1964; *New York Times*, Oct. 25, 1965.
- ⁵⁸See *New York Times*, Dec. 10, 1965.
- ⁵⁹See Samuels, "Who Shall Judge A Policeman?", *New York Times Magazine*, Aug. 2, 1964.
- ⁶⁰See *New York Journal-American*, July 4, 1965.
- ⁶¹*FBI Law Enforcement Bulletin*, January 1, 1965.
- ⁶²A Report by the Governor's Commission on the Los Angeles Riots (1965), pp. 32-33.
- ⁶³*The Tablet*, March 19, 1964.
- ⁶⁴*New York Times*, Aug. 1, 1964; *Cong. Rec.*, Aug. 26, 1965, p. 21189.
- ⁶⁵*Wall St. Journal*, Oct. 7, 1965.
- ⁶⁶*U. S. News & World Report*, Nov. 1, 1965.
- ⁶⁷See *New York Times*, Sept. 5, 1965.
- ⁶⁸See the general discussion of police problems in Gordon, *Sick Cities* (1963), pp. 160-89.
- ⁶⁹Column of Jimmy Breslin and Dick Schapp, *New York Herald-Tribune*, Oct. 29, 1965.
- ⁷⁰*U. S. News & World Report*, Sept. 27, 1965.
- ⁷¹*The Wanderer*, Jan. 20, 1966.
- ⁷²*The Wanderer*, Sept. 30, 1965.
- ⁷³*New York Journal-American*, July 4, 1965.
- ⁷⁴See *New York Times*, July 30, 1965.
- ⁷⁵*New York Times*, Dec. 10, 1965.
- ⁷⁶*New York Times*, Jan. 13, 1966.
- ⁷⁷Title 18, United States Code, Sec. 241.
- ⁷⁸*New York Times*, Dec. 5, 1965.
- ⁷⁹*U. S. v. Williams*, 341 U. S. p. 70 (1951).
- ⁸⁰S.2923 (89th Cong., 2d Sess.).
- ⁸¹See *New York Times*, Feb. 27, 1966.
- ⁸²See *New York Times*, Jan. 13, 1966; S.2923 (89th Cong. 2d Sess.).
- ⁸³Title 18, United States Code, Sec. 241.
- ⁸⁴See Gleason, *The Search for God* (1964), p. 23.
- ⁸⁵*Chicago Tribune*, Nov. 27, 1963.
- ⁸⁶Gleason, *The Search for God* (1964), pp. 24-25.
- ⁸⁷See discussion by Edith Kermit Roosevelt in *The Wanderer*, March 18, 1965.
- ⁸⁸*San Francisco Chronicle*, January 3, 1965.
- ⁸⁹*Manual Enterprises v. Day*, 370 U. S. pp. 478, 490 (1962).
- ⁹⁰*Engel v. Vitale*, 370 U. S. p. 421 (1962).
- ⁹¹See discussion by Phyllis Battelle, *New York Journal-American*, June 30, 1964.
- ⁹²Berk, *Billion Dollar Headache*, *New York Journal-American*, Jan. 9, 1966.
- ⁹³*The Wanderer*, February 4, 1965; *U. S. News & World Report*, Nov. 1, 1965.
- ⁹⁴See *America's Future*, Sept. 10, 1965.
- ⁹⁵Will Durant, quoted in *The Tablet*, May 28, 1964.