

# *Criminal Justice? The Legal System vs. Individual Responsibility*

James Bidinotto (ed.) Foundation for Economic Education, \$24.95 hardcover. Second edition, 1995.

Reviewed by John Attarian

Liberal intellectuals and policymakers like Attorney General Janet Reno cling to the view that criminals are products of circumstances and can't help what they do, and that government should attack the "root causes" of crime—poverty, ignorance, etc.—and rehabilitate rather than punish.

*Nonsense*, retort the contributors to this timely and hard-hitting book. Individuals have free will and are therefore morally responsible for their conduct, and punishment is the proper policy. Ably edited by *Reader's Digest* staff writer and crime expert Robert James Bidinotto, this powerful collection of eighteen scholarly yet highly readable essays by criminologists, psychiatrists, judges, and philosophers such as Stanton Samenow, Charles Logan, Lee Coleman, Ralph Adam Fine and David Kelley explodes the determinist excuses for crime, exposes the grotesque leniency of our "justice" system, and makes an overwhelming case for restoring individual responsibility and tough punishment.

One of *Criminal Justice?*'s outstanding merits is its grounding in philosophy and ideas. It tackles the root cause of leniency toward criminals—determinism, with its attendant "sympathy for the devil"—and argues strongly for free will and individual responsibility. Realizing that "Justice is the recognition of causality in human affairs," it rejects pragmatic arguments for punishment, endorsing instead retribution valuing innocent individuals.

*Criminal Justice?* demolishes a legion of excuses: poverty (rather, crime *causes* poverty—and white-collar crime is rising, too); peer pressure (people *choose* their companions); psychological forces beyond one's control (civilization proves that we do have our choices); biological factors like muscular body type and hyperactivity (many men with such traits don't commit crimes); early experiences (many people with unhappy childhoods do not become criminals); and learning disabilities (many criminals are in fact highly shrewd but chose not to learn in school).

Rather, "How a person behaves is determined largely by how he thinks. *Criminals think differently*" from the rest of us.

A "criminal mind" does exist: rampantly egocentric, intensely present-oriented, incapable of empathy, "profoundly amoral," with "poverty of feeling." Far from "sick," "[t]he criminal is very rational, calculating, and deliberate in his actions," shrewdly weighing risks against rewards.

As government has shifted from being "society's impartial umpire" to its "meddling therapist," our "criminal justice" system has become outrageously skewed in favor of criminals, through the insanity defense; the Miranda decision requiring police to inform criminals of their rights and narrowly circumscribing acceptable means of interrogation; the "exclusionary rule" greatly restricting methods for gathering evidence; bail and release on recognizance; plea bargaining; probation, parole and furlough.

For example, plea bargaining, whereby a defendant pleads guilty to a lesser charge in exchange for not going to trial, weakens deterrence and respect for the law, and extorts guilty pleas from innocent people. "The triumph of expediency over justice," plea bargaining gives prosecutors lighter case loads and defense attorneys quick and easy money. And the argument that overcrowded court dockets make plea bargaining necessary is bogus: when Alaska, Ventura County, New Orleans and other jurisdictions banned it, cases were processed faster, since time-consuming plea-bargaining negotiation had ceased.

Indeed, myths about criminal justice dissolve wholesale. No, tough prosecution and sentencing doesn't "clog the system": it deters crime from occurring in the first place. No, there was no incarceration binge in the 1980s: imprisonments *per crime* merely recovered from their earlier plunge. No, prison is not overly expensive, counterproductive and full of petty offenders: inmates are overwhelmingly violent and/or repeat offenders; imprisonment is a better bargain than violent crime, and it *does* deter criminals. No, our judicial system is not excessively punitive: America imprisons more because it's more violent than other countries. No, racial discrimination in the justice system is not rampant: the share of African-Americans

among prison inmates has been stable, and crime rates among blacks are higher than among whites.

The outrages revealed here will enrage even the most easygoing reader. Murderer Thomas Vanda, who used the insanity defense, wrote a fellow murder defendant a letter giving detailed advice on how to beat the rap by faking insanity—yet the psychiatrist who had declared Vanda insane refused to alter his opinion because of the letter. Not only are many prison sentences absurdly short, but criminals usually do only token time. The median sentence for murder is 15 years; the median time served is only 5.5 years. For rape, the corresponding figures are only eight years and three! Some prisons, such as Pennsylvania's Mercer Regional Correctional Facility, give thieves, rapists, and murderers country-club amenities: TVs, game rooms, tennis courts, etc.

To restore true criminal justice, the authors propose getting rid of plea bargaining, the insanity defense, furloughs, and the exclusionary rule for obtaining evidence. They argue convincingly for many other reforms such as making criminals actually serve all or most of their sentences; building more prisons; effective capital punishment for the most heinous crimes; enforcing speedy trial laws; and replacing parole and probation with offender supervision.

An outstanding treatment of a compelling subject, immensely persuasive at both demolishing determinist myths and restoring desperately needed realism and common sense about criminals, *Criminal Justice?* deserves the widest possible readership. If you are among the tens of millions of Americans alarmed at our soaring crime and wondering what went wrong and what to do about it, this is the book for you. 📖

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