

ings of deviance and formal social control.

In the "Discovery of Child Abuse" Stephen Pfohl examines the social forces that promoted the labeling of child beating as deviant and that produced universal criminal legislation in the 1960s. This is an important work that illustrates how deviant categories are created. Using a historical framework, Pfohl considers the social reaction to child abuse before the formulation of a fixed label and finds that such reactions were sporadic. He shows that the perception of abuse

behavior itself, but filled to the organizational structure of the medical profession, which led to the "discovery" by pediatric radiologists, who saw x-rays of broken bones. A new "illness" was created, and the clinical term of "battered child syndrome" was used so that medical practitioners could control the consequences of their diagnoses and prevent management of such cases by extramedical formal social control agents. Pfohl discusses the consequences of this definition for both child abuse legislation and the prosecution of abusers.



## Moral Entrepreneurs The Creation and Enforcement of Deviant Categories\*

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### RULE CREATORS

The prototype of the rule creator, but not the only variety, as we shall see, is the crusading reformer. He is interested in the content of rules. The existing rules do not satisfy him because there is some evil which profoundly disturbs him. He feels that nothing can be right in the world until rules are made to correct it. He operates with an absolute ethic; what he sees is truly and totally evil with no qualification. Any means is justified to do away with it. The crusader is fervent and righteous, often self-righteous.

It is appropriate to think of reformers as crusaders because they typically believe that their mission is a holy one. The prohibitionist serves as an excellent example, as does the person who

wants to suppress vice and sexual delinquency or the person who wants to do away with gambling.

These examples suggest that the moral crusader is a meddling busybody, interested in forcing his own morals on others. But this is a one-sided view. Many moral crusades have strong humanitarian overtones. The crusader is not only interested in seeing to it that other people do what he thinks [is] right. He believes that if they do what is right it will be good for them. Or he may feel that his reform will prevent certain kinds of exploitation of one person by another. Prohibitionists felt that they were not simply forcing their morals on others, but attempting to provide the conditions for a better way of life for people prevented by drink from realizing a truly good life. Abolitionists were not simply trying to prevent slave owners from doing the wrong thing; they were trying to help slaves achieve a better life. Because of the importance of the humanitarian motive, moral crusaders (despite their relatively single-minded devotion to their particular cause) often lend their support to

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other humanitarian crusades. Joseph Gusfield has pointed out that:

The American temperance movement during the 19th century was part of a general effort toward the improvement of the worth of the human being through improved morality as well as economic conditions. The mixture of the religious, the equalitarian, and the humanitarian was an outstanding facet of the moral reformism of many movements. Temperance supporters formed a large segment of movements such as sabbatarianism, abolition, woman's rights, agrarianism, and humanitarian attempts to improve the lot of the poor. . . .

In its auxiliary interests the WCTU revealed a great concern for the improvement of the welfare of the lower classes. It was active in campaigns to secure penal reform, to shorten working hours and raise wages for workers, and to abolish child labor and in a number of other humanitarian and equalitarian activities. In the 1880's the WCTU worked to bring about legislation for the protection of working girls against the exploitation by men.<sup>1</sup>

As Gusfield says,<sup>2</sup> "Moral reformism of this type suggests the approach of a dominant class toward those less favorably situated in the economic and social structure." Moral crusaders typically want to help those beneath them to achieve a better status. That those beneath them do not always like the means proposed for their salvation is another matter. But this fact—that moral crusades are typically dominated by those in the upper levels of the social structure—means that they add to the power they derive from the legitimacy of their moral position, the power they derive from their superior position in society.

Naturally, many moral crusades draw support from people whose motives are less pure than those of the crusader. Thus, some industrialists supported Prohibition because they felt it would provide them with a more manageable labor force.<sup>3</sup> Similarly, it is sometimes rumored that Nevada gambling interests support the opposition to attempts to legalize gambling in California because it would cut so heavily into their business, which depends in substantial measure on the population of Southern California.<sup>4</sup>

The moral crusader, however, is more concerned with ends than with means. When it comes to drawing up specific rules (typically in

the form of legislation to be proposed to a state legislature or the federal Congress), he frequently relies on the advice of experts. Lawyers, expert in the drawing of acceptable legislation, often play this role. Government bureaus in whose jurisdiction the problem falls may also have the necessary expertise, as did the Federal Bureau of Narcotics in the case of the marijuana problem.

As psychiatric ideology, however, becomes increasingly acceptable, a new expert has appeared—the psychiatrist. Sutherland, in his discussion of the natural history of sexual psychopath laws, pointed to the psychiatrist's influence.<sup>5</sup> He suggests the following as the conditions under which the sexual psychopath law, which provides that a person "who is diagnosed as a sexual psychopath may be confined for an indefinite period in a state hospital for the insane,"<sup>6</sup> will be passed.

First, these laws are customarily enacted after a state of fear has been aroused in a community by a few serious sex crimes committed in quick succession. This is illustrated in Indiana, where a law was passed following three or four sexual attacks in Indianapolis, with murder in two. Heads of families bought guns and watch dogs, and the supply of locks and chains in the hardware stores of the city was completely exhausted. . . .

A second element in the process of developing sexual psychopath laws is the agitated activity of the community in connection with the fear. The attention of the community is focused on sex crimes, and people in the most varied situations envisage dangers and see the need of and possibility for their control. . . .

The third phase in the development of those sexual psychopath laws has been the appointment of a committee. The committee gathers the many conflicting recommendations of persons and groups of persons, attempts to determine "facts," studies procedures in other states, and makes recommendations, which generally include bills for the legislature. Although the general fear usually subsides within a few days, a committee has the formal duty of following through until positive action is taken. Terror which does not result in a committee is much less likely to result in a law.<sup>7</sup>

In the case of sexual psychopath laws, there usually is no government agency charged with dealing in a specialized way with sexual deviations. Therefore, when the need for expert advice in drawing up legislation arises, people frequently

turn to the professional group most closely associated with such problems.

In more detail, at the committee stage of the development of a mental psychopath law, psychiatrists have played an important part. The psychiatrists, more than any others, have been the interest group back of the law. A committee of psychiatrists and neurologists in Chicago wrote the bill which became the sexual psychopath law of Illinois; the bill was sponsored by the Chicago Bar Association and by the state's attorney of Cook County and was enacted with little opposition in the next session of the State Legislature. In Minnesota all the members of the governor's committee except one were psychiatrists. In Wisconsin the Milwaukee Neuropsychiatric Society shared in pressing the Milwaukee Crime Commission for the enactment of a law. In Indiana the attorney-general's committee received from the American Psychiatric Association copies of all the sexual psychopath laws which had been enacted in other states.<sup>8</sup>

The influence of psychiatrists in other realms of the criminal law has increased in recent years.

In any case, what is important about this example is not that psychiatrists are becoming increasingly influential, but that the moral crusader, at some point in the development of his crusade, often requires the services of a professional who can draw up the appropriate rules in an appropriate form. The crusader himself is often not concerned with such details. Enough for him that the main point has been won; he leaves its implementation to others.

By leaving the drafting of the specific rule in the hands of others, the crusader opens the door for many unforeseen influences. For those who draft legislation for crusaders have their own interest, which may affect the legislation they prepare. It is likely that the sexual psychopath laws drawn by psychiatrists contain many features never intended by the citizens who spearheaded the drives to "do something about sex crimes," features which do however reflect the professional interests of organized psychiatry.

## RULE ENFORCERS

The most obvious consequence of a successful crusade is the creation of a new set of rules. With the creation of a new set of rules we often find

that a new set of enforcement agencies and officials is established. Sometimes, of course, existing agencies take over the administration of the new rule, but more frequently a new set of rule enforcers is created. The passage of the Harrison Act presaged the creation of the Federal Narcotics Bureau, just as the passage of the Eighteenth Amendment led to the creation of police agencies charged with enforcing the Prohibition Laws.

With the establishment of organizations of rule enforcers, the crusade becomes institutionalized. What started out as a drive to convince the world of the moral necessity of a new rule finally becomes an organization devoted to the enforcement of the rule. Just as radical political movements turn into organized political parties and lusty evangelical sects become staid religious denominations, the final outcome of the moral crusade is a police force. To understand, therefore, how the rules creating a new class of outsiders are applied to particular people we must understand the motives and interests of police, the rule enforcers.

Although some policemen undoubtedly have a kind of crusading interest in stamping out evil, it is probably much more typical for the policeman to have a certain detached and objective view of his job. He is not so much concerned with the content of any particular rule as he is with the fact that it is his job to enforce the rule. When the rules are changed, he punishes what was once acceptable behavior just as he ceases to punish behavior that has been made legitimate by a change in the rules. The enforcer, then, may not be interested in the content of the rule as such, but only in the fact that the existence of the rule provides him with a job, a profession, and a *raison d'être*.

Since the enforcement of certain rules provides justification for his way of life, the enforcer has two interests which condition his enforcement activity: first, he must justify the existence of his position and, second, he must win the respect of those he deals with.

These interests are not peculiar to rule enforcer. Members of all occupations feel the need to justify their work and win the respect of others. Musicians would like to do this but have difficulty finding ways of successfully impressing their worth on customers. Janitors fail to win their

tenants' respect, but develop an ideology which stresses the quasi-professional responsibility they have to keep confidential the intimate knowledge of tenants they acquire in the course of their work.<sup>9</sup> Physicians, lawyers, and other professionals, more successful in winning the respect of clients, develop elaborate mechanisms for maintaining a properly respectful relationship.

In justifying the existence of his position, the rule enforcer faces a double problem. On the one hand, he must demonstrate to others that the problem still exists: The rules he is supposed to enforce have some point, because infractions occur. On the other hand, he must show that his attempts at enforcement are effective and worthwhile, that the evil he is supposed to deal with is in fact being dealt with adequately. Therefore, enforcement organizations, particularly when they are seeking funds, typically oscillate between two kinds of claims. First, they say that by reason of their efforts the problem they deal with is approaching solution. But, in the same breath, they say the problem is perhaps worse than ever (though through no fault of their own) and requires renewed and increased effort to keep it under control. Enforcement officials can be more vehement than anyone else in their insistence that the problem they are supposed to deal with is still with us, in fact is more with us than ever before. In making these claims, enforcement officials provide good reason for continuing the existence of the position they occupy.

We may also note that enforcement officials and agencies are inclined to take a pessimistic view of human nature. If they do not actually believe in original sin, they at least like to dwell on the difficulties in getting people to abide by rules, on the characteristics of human nature that lead people toward evil. They are skeptical of attempts to reform rule-breakers.

The skeptical and pessimistic outlook of the rule enforcer, of course, is reinforced by his daily experience. He sees, as he goes about his work, the evidence that the problem is still with us. He sees the people who continually repeat offenses, thus definitely branding themselves in his eyes as outsiders. Yet it is not too great a stretch of the imagination to suppose that one of the underlying reasons for the enforcer's pessimism about human

nature and the possibilities of reform is that fact that if human nature were perfectible and people could be permanently reformed, his job would come to an end.

In the same way, a rule enforcer is likely to believe that it is necessary for the people he deals with to respect him. If they do not, it will be very difficult to do his job; his feeling of security in his work will be lost. Therefore, a good deal of enforcement activity is devoted not to the actual enforcement of rules, but to coercing respect from the people the enforcer deals with. This means that one may be labeled as a deviant not because he has actually broken a rule, but because he has shown disrespect to the enforcer of the rule.

Westley's study of policemen in a small industrial city furnishes a good example of this phenomenon. In his interview, he asked policemen, "When do you think a policeman is justified in roughing a man up?" He found that "at least 37% of the men believed that it was legitimate to use violence to coerce respect."<sup>10</sup> He gives some illuminating quotations from his interviews:

Well, there are cases. For example, when you stop a fellow for a routine questioning, say a wise guy, and he starts talking back to you and telling you you are no good and that sort of thing. You know you can take a man in on a disorderly conduct charge, but you can practically never make it stick. So what you do in a case like that is to egg the guy on until he makes a remark where you can justifiably slap him and, then, if he fights back, you can call it resisting arrest.

Well, a prisoner deserves to be hit when he goes to the point where he tries to put you below him.

You've gotta get rough when a man's language becomes very bad, when he is trying to make a fool of you in front of everybody else. I think most policemen try to treat people in a nice way, but usually you have to talk pretty rough. That's the only way to set a man down, to make him show a little respect.<sup>11</sup>

What Westley describes is the use of an illegal means of coercing respect from others. Clearly, when a rule enforcer has the option of enforcing a rule or not, the difference in what he does may be caused by the attitude of the offender toward him. If the offender is properly respectful, the enforcer may smooth the situation over. If the offender is

disrespectful, then sanctions may be visited on him. Westley has shown that this differential tends to operate in the case of traffic offenses, where the policeman's discretion is perhaps at a maximum.<sup>12</sup> But it probably operates in other areas as well.

Ordinarily, the rule enforcer has a great deal of discretion in many areas, if only because his resources are not sufficient to cope with the volume of rule-breaking he is supposed to deal with. This means that he cannot tackle everything at once and to this extent must temporize with evil. He cannot do the whole job and knows it. He takes his time, on the assumption that the problems he deals with will be around for a long while. He establishes priorities, dealing with things in their turn, handling the most pressing problems immediately and leaving others for later. His attitude toward his work, in short, is professional. He lacks the naive moral fervor characteristic of the rule creator.

If the enforcer is not going to tackle every case he knows of at once, he must have a basis for deciding when to enforce the rule, which persons committing which acts to label as deviant. One criterion for selecting people is the "fix." Some people have sufficient political influence or know-how to be able to ward off attempts at enforcement, if not at the time of apprehension then at a later stage in the process. Very often, this function is professionalized; someone performs the job on a full-time basis, available to anyone who wants to hire him. A professional thief described fixers this way:

There is in every large city a regular fixer for professional thieves. He has no agents and does not solicit and seldom takes any case except that of a professional thief, just as they seldom go to anyone except him. This centralized and monopolized system of fixing for professional thieves is found in practically all of the large cities and many of the small ones.<sup>13</sup>

Since it is mainly professional thieves who know about the fixer and his operations, the consequence of this criterion for selecting people to apply the rules to is that amateurs tend to be caught, convicted, and labeled deviant much more frequently than professionals. As the professional thief notes:

You can tell by the way the case is handled in court when the fix is in. When the copper is not very certain

he has the right man, or the testimony of the copper and the complainant does not agree, or the prosecutor goes easy on the defendant, or the judge is arrogant in his decisions, you can always be sure that someone has got the word in. This does not happen in many cases of theft, for there is one case of a professional to twenty-five or thirty amateurs who know nothing about the fix. These amateurs get the hard end of the deal every time. The coppers bawl out about the thieves, no one holds up his testimony, the judge delivers an oration, and all of them get credit for stopping a crime wave. When the professional hears the case immediately preceding his own, he will think, "He should have got ninety years. It's the damn amateurs who cause all the heat in the stores." Or else he thinks, "Isn't it a damn shame for that copper to send that kid away for a pair of hose, and in a few minutes he will agree to a small fine for me for stealing a fur coat?" But if the coppers did not send the amateurs away to strengthen their records of convictions, they could not sandwich in the professionals whom they turn loose.<sup>14</sup>

Enforcers of rules, since they have no stake in the content of particular rules themselves, often develop their own private evaluation of the importance of various kinds of rules and infractions of them. This set of priorities may differ considerably from those held by the general public. For instance, drug users typically believe (and a few policemen have personally confirmed it to me) that police do not consider the use of marijuana to be as important a problem or as dangerous a practice as the use of opiate drugs. Police base this conclusion on the fact that, in their experience, opiate users commit other crimes (such as theft or prostitution) in order to get drugs, while marijuana users do not.

Enforcers then, responding to the pressures of their own work situation, enforce rules and create outsiders in a selective way. Whether a person who commits a deviant act is in fact labeled a deviant depends on many things extraneous to his actual behavior: whether the enforcement official feels that at this time he must make some show of doing his job in order to justify his position, whether the misbehavior shows proper deference to the enforcer, whether the "fix" has been put in, and where the kind of act he has committed stands on the enforcer's list of priorities.

The professional enforcer's lack of fervor and routine approach to dealing with evil may get

him into trouble with the rule creator. The rule creator, as we have said, is concerned with the content of the rules that interest him. He sees them as the means by which evil can be stamped out. He does not understand the enforcer's long-range approach to the same problems and cannot see why all the evil that is apparent cannot be stamped out at once.

When the person interested in the content of a rule realizes or has called to his attention the fact that enforcers are dealing selectively with the evil that concerns him, his righteous wrath may be aroused. The professional is denounced for viewing the evil too lightly, for failing to do his duty. The moral entrepreneur, at whose instance the rule was made, arises again to say that the outcome of the last crusade has not been satisfactory or that the gains once made have been whittled away and lost.

### Notes

1. Joseph R. Gusfield, "Social Structure and Moral Reform: A Study of the Woman's Christian Temperance Union," *American Journal of Sociology*, LXI (November, 1955), 223.
2. *Ibid.*



## Ironies of Social Control

### Authorities as Contributors to Deviance Through Escalation, Nonenforcement, and Covert Facilitation\*

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Many current theoretical approaches to deviance causation tend to neglect a crucial level of analysis: the specific interactive context within which rule breaking occurs. Anomie (Merton, 1957) and subcultural theorists (Sutherland and

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3. See Raymond G. McCarthy, editor, *Drinking and Intoxication* (New Haven and New York: Yale Center of Alcohol Studies and The Free Press of Glencoe, 1959), pp. 395-396.

4. This is suggested in Oscar Lewis, *Sagebrush Casinos: The Story of Legal Gambling in Nevada* (New York: Doubleday and Co., 1953), pp. 223-234.

5. Edwin H. Sutherland, "The Diffusion of Sexual Psychopath Laws," *American Journal of Sociology*, LVI (September, 1950), 142-148.

6. *Ibid.*, p. 142.

7. *Ibid.*, pp. 143-145.

8. *Ibid.*, pp. 145-146.

9. See Ray Gold, "Janitors versus Tenants: A Status-Income Dilemma," *American Journal of Sociology*, LVII (March, 1952), 486-493.

10. William A. Westley, "Violence and the Police," *American Journal of Sociology*, LX (July, 1953), 39.

11. *Ibid.*

12. See William A. Westley, "The Police: A Sociological Study of Law, Custom, and Morality" (unpublished Ph.D. dissertation, University of Chicago, Department of Sociology, 1951).

13. Edwin H. Sutherland (editor), *The Professional Thief* (Chicago: University of Chicago Press, 1937), pp. 87-88.

14. *Ibid.*, pp. 91-92.

Cressey, 1974) and combinations of these approaches (Cloward and Ohlin, 1960) tend to focus on rather abstract initial group properties such as opportunity structures and norms, rather than on the interactive group processes out of which behavior emerges. Those questioning the mechanistic force of such variables nevertheless stress the independence of the deviant as a maker of choices (Matza, 1966).