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Social Policy and the Future of Criminal Justice

Elliott Currie*

What should criminal justice look like 25 years down the road? To talk about that in ways that are practical as well as hopeful, I think we need to look first at the social forces, both inside and outside the justice system itself, that are now shaping that system and will, whether we like it or not, profoundly constrain what we can reasonably expect to accomplish in the future. Our criminal justice systems, to our frequent dismay, do not exist in pristine isolation from the rest of society; and so as we consider how we might improve them, make them better fit with the best values of an advanced society, we need to understand what we will be up against. Willy-nilly, the quality and character of criminal justice will be heavily influenced by broad developments in social and economic policy which, in turn, will deeply affect both the size and intensity of the crime problem and the realistic possibility of a humane and constructive response to it.

In my own state, California, according to a recent study from the Attorney General's office, one in three young men will be arrested before they reach their thirtieth birthday, one in six of them for a serious "index" crime. Now that adds up to an awful lot of people. Those figures do not mean that we cannot do many useful and important things to make the justice system more effective and less brutal. But they do suggest that, over the long run, the success of those efforts will depend ---to an important degree--- on how successful we are in reducing the flow of troubled and violent people into the system in the first place, and of keeping them out once we have released them. And in this respect, there is both some good news and some bad news.

The good news is that we know more and more about what we *should* be doing, if we want to reduce the flow of violent offenders and make our society ---and our criminal justice systems--- less fearful and more humane places. The bad news is that we are not doing it. Instead ---all too often--- we have been doing precisely the *wrong* things; and, as a result, we are producing what is already a tragedy and what tomorrow may be a disaster. If we continue in the directions we have been haplessly following, I believe we will in the 21st century have neither secure communities nor a justice system we can be proud of.

Let us begin with the bad news. The hard fact is that we have been busily aggravating a number of deeply troubling trends in society as a whole and in the justice system in particular which, we have good reason to believe, are very much implicated in breeding criminal violence and which, at the very least, inhibit our capacity to prevent it.

Among them are trends in economic inequality and poverty, in the opportunities for decent work, and in the stresses and pressures we place on American families. And related to those broad socioeconomic trends are equally important trends in social *policy*; especially in our policies toward the needs of high-risk families, children, and youth, and, of course, toward the treatment of people who have broken the law.

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All of these things are deeply, inextricably intertwined with the state of criminal justice in America; and none of them bode well for the future.

Let us begin with inequality. By every measure we have, the United States is becoming a more unequal society. Now, we know that extreme social and economic inequality breeds violence in many ways. It creates a culture of resentment and alienation among people who are excluded from the social benefits others can expect to share; not just money or material things alone, but also, even more importantly, self-esteem, the respect of peers, the ability to participate in the community as a full human being on an equal footing with others.

Inequality and extreme deprivation also weaken the nurturing and socializing capacity of families, which too often leads in turn to neglect, domestic violence, and child abuse. They increase the risks of out-of-wedlock births, of poor nutrition, of inadequate prenatal and postnatal care. They thus help to create new generations of impoverished and ill-prepared families —and of children who are, as a result, often badly damaged before they are old enough to write their names.

So it is both disturbing and a little frightening that we have today a wider spread of inequality in America than we have seen since the government began collecting the statistics just after WWII.

Since 1974, the share of the country's income going to the poorest fifth of the population has dropped by close to 20 percent. What is especially troubling is that this trend is striking hardest at families with young children. A recent study from the Joint Economic Committee of Congress tells us that the economic well-being of those families is simply plummeting. On average, poor families with children have seen their income drop by more than 25 percent over the past ten years.

The most dramatic result of this has been the shocking rise in poverty among American children. Most of us are aware that poverty rates have been rising. But what is happening here is one of the truly catastrophic social changes of our time, and one that has gotten far less attention than it should. There were two and a half *million* more poor children in the United States in 1985 than there were just six years earlier. Today, close to one in every four American children under the age of six is poor; two out of five if they are Hispanic, and nearly half if they are black. And these children are today much *less* likely than children just a few years ago to be receiving any kind of public support. So it is that we have two and a half million more poor kids, but half a million *fewer* kids receiving even the most minimal income and medical support under the AFDC and Medicaid programs.

Meanwhile, at the other end of the scale, a lot of people are doing better and better; the share of the country's income going to the affluent is rising just as rapidly as the share of the poor is falling. Now, we have long understood that this combination of growing deprivation in the midst of growing affluence is a classic breeding ground for violence. Back in the fifties, we called it "social dynamite," and we predicted it would explode before too long. We were right.

These widening social divisions are —in part— the result of some of the most far-reaching changes in our history in the ways Americans make a living—or, too often fail to make a living.

This is not the first time there has been a drastic transformation of work in America. We are still suffering the consequences of the earlier shift that destroyed millions of jobs in agriculture and threw masses of the rural poor into an urban-industrial economy that was no longer really capable of absorbing them. It is their

descendents who today make up a big part of what we have come to call the urban "underclass."

Today we are aggravating that still-unresolved problem. Many of the kinds of jobs that kept some of these people from falling through the cracks in the past are fast disappearing, especially the blue-collar industrial jobs that used to be a ladder into a reasonably secure and dignified life for the less skilled. And as recent research has repeatedly discovered, the so-called "service" economy is simply not replacing them with enough jobs that can provide a decent living for an adult --or can support a family well enough to make it likely that children will be brought up capably and humanely.

Now we are periodically offered impressive figures about how many millions of jobs the American economy has produced in the last few years. Well, we have indeed created a lot of jobs. But the deeper figures are more troublesome. Between 1963 and 1973, for example, only about one new job in every five paid less than a poverty-level wage. That was already too many, but between 1979 and 1985, almost *half* of all the jobs we created paid wages that were not sufficient to keep a family out of poverty.

This matters. It matters because we know all too well, from some of the best research we have on the roots of serious crime, that the kind of poorly paid, dead-end, unstable jobs we are now creating in such profusion cannot offer people --especially young people-- a real stake in their communities, a motivating hope for the future, or a shield against the powerful attractions of illicit and often violent ways of making a living-- especially the drug trade, which has of course become one of the most stunningly potent sources of violent crime in the eighties and a prime source of rising prison populations.

We know that parents locked into these jobs are the ones most likely to abuse or neglect their kids. We know that husbands locked into these jobs are the ones most likely to abuse their wives. So we can hardly be complacent about the fact that we are creating more than twice as many of these jobs, proportionately, as we were just ten years ago.

In many parts of the country, these developments are fast creating what some have called the "Dual City" --a city increasingly split between those strata able to take advantage of the substantial rewards available in the emerging high-tech service economy --good jobs, high incomes, a cornucopia of consumer goods-- and those who are locked out of the good jobs that make all that possible --partly because there will simply be too few of the jobs to go around, but also because too many of those who need the jobs lack the basic education and training to get them. New York City, for example, in the past several years gained almost a quarter of a million jobs that require some college education. But at the same time, it *lost* close to half a million jobs that require less than a high school diploma.

It is often said that this will soon cease to be much of a problem --because there is today a declining proportion of young people in the population and, therefore, fewer kids looking for jobs. Some argue that this will lead to a shortage of labor in the future --indeed that it has already in some places-- not a shortage of jobs. I would like to believe that, and I think it may indeed ultimately make some difference in the prospects for the young. But so far we do not see much effect on our still-catastrophic rates of youth joblessness. In the economic "recovery" of 1985, a whopping 56 percent of kids who dropped out of high school --kids who would have been in the graduating class of '85-- were out of work. And that figure was slightly *higher* than it was in 1975, in the middle of a recession, when the youth population was considerably larger.

Now I promise you that this means big trouble. It means a deepening division between the haves—who in the future will very likely “have” even more than they have now—and the have-nots, who will probably have even less. Again, we know full well that this is a terribly volatile situation and one that produces criminal violence with terrifying predictability.

These trends would be tough enough to deal with even if we had the most generous and intelligent social policy. But the reality is that these bad-enough trends in jobs and income have been steadily aggravated by social policies which have stripped away some of the cushions that in the past have kept many American families from falling through the cracks altogether. And you can rest assured that this will have some truly disturbing effects—especially over the long term—on the risks of criminal violence we can expect and, as a corollary, on the amount of room for serious reform we can realistically expect within the criminal justice system. Those effects are not always immediately apparent; but they are simmering away beneath the surface of American life. And many of them will only become fully visible when today's children become tomorrow's teenagers and young adults.

During the seventies, we greatly improved the availability of family planning services—and we brought many poor families, for the first time, the realistic option of having fewer children and of spacing the ones they had—which in turn led to the possibility, at least, of better economic conditions for families and better family functioning. More accessible family planning also contributed to a decline in birth rates among teenagers, meaning we had fewer kids that nobody wanted or that nobody could afford to care for.

Preventive health-care programs—especially nutrition programs and prenatal and postnatal care for mothers and children—were one of the biggest “success stories” of American social policy in the 1960's and 1970's. Those programs significantly increased the chances that disadvantaged kids would be born healthy, undamaged by prenatal and childhood traumas, and more capable of meeting the challenges of school and the labor market. Intensive early education programs, under Head Start, achieved a demonstrated record of success in preparing high-risk children for the later demands of school, work, and family life—and they brought clear and measurable declines in arrests, in welfare dependency, in illegitimacy, and in school failure.

But it is hardly a secret that we have been steadily chipping away at many of these programs, and that the axe has fallen indiscriminately on the successful and cost-effective as well as the ill-designed and inefficient. Between 1979 and 1984, the proportion of poor children enrolled in Head Start fell by 21 percent. The Title 20 Social Services block grant, which has provided the biggest source of federal funds for child abuse prevention and protective services, now provides, according to research by the Children's Defense Fund, about a quarter of a billion fewer inflation-adjusted dollars than it did in 1981, though reported abuse and neglect cases have risen sharply.

Now again, all of this has very real consequences. If these trends are allowed to continue, we can expect to see a worsening of the disaster that already afflicts low-income families in the United States; more families headed by parents who are too young and too poor, with children they cannot afford and may not want—children who are saddled with more physical and psychological deficits—whose parents have inadequate training in bringing them up and inadequate supports to help them do so.

In turn, we can confidently predict that this will lead to more abused and neglected children and more children entering school burdened by health and learning disabilities; more children, in short, who will not only face diminished opportunities in a

rapidly changing economy and society, but also diminished personal resources to help them take advantage of those opportunities that do exist. They will be a generation made both volatile and handicapped --in a world itself grown increasingly precarious and difficult even for those best prepared.

The systematic retreat from more constructive and preventive social services that might help us stem the flow of violent and troubled people in the first place has meant that the criminal justice system (and especially the prison) has become not only our *first* line of defense against crime, but, all too often, our primary service institution for dealing with the problems of troubled people. We have long understood that doing so puts an intolerable burden on the justice system and one which it cannot possibly fulfill. But we have also compounded the problem by systematically weakening the capacity of that system to provide preventive or rehabilitative services to offenders --especially young offenders-- without which their realistic chances of successful re-entry in productive life are slim.

Combined with the cuts in services *outside* the justice system, this means we are headed, if we are not careful, toward a situation in which there is very little in the middle --especially for troubled kids-- between sheer neglect and incarceration, with the prison becoming the agency of first resort for coping with kids who have problems. But that is not only a shockingly wasteful approach to troubled kids, it is also helping to sow the seeds of disaster farther on down the road.

We know that incarceration has a negative impact on some offenders --not all of them, but some-- and that understanding can no longer be dismissed as merely bleeding-heart fuzzy-mindedness, for it is backed by virtually every careful study of the problem we have seen for the past ten years. And that problem is likely to get worse, not better. The studies we have showing that perhaps a third of offenders will come out of prison worse than when they went in were mainly done in the seventies --before the massive prison population surge of the last decade. The conditions offenders face are in most systems worse now, given the level of overcrowding, the emergence of a more volatile inmate population, and the retreat from offering inmates anything resembling training, education, serious therapeutic intervention, substance-abuse help, or other supportive services that might help prepare them for life on the outside.

Combined with the receding chances for adequate jobs and services in their communities, this will mean that many ex-offenders will face a double handicap on release even greater than they face today --and that is saying something. They will be the last on the ladder just when the ladder is becoming harder for *anyone* to climb.

To sum up. The record of the past several years of social policy is one of heedless disregard for the social and personal consequences of economic and technological change, a disregard that has helped bring us high and recently even increasing levels of serious violent crime, even in the face of an unprecedented increase in incarceration and at least one benign demographic trend, the proportional decline of the younger and more crime-prone population. We have tolerated and in many instances encouraged the erosion of the institutions through which we hope to bind individuals into society as competent, productive, and compassionate members of a larger community. We are increasingly calling on our justice systems to protect us from the rather predictable consequences. All of this is bad not only for the state of public safety in our communities but also for the humanity, security, and efficiency of the justice system. That is the bad news.

The good news is that we do not have to continue in this self-defeating course. We have some increasingly credible alternatives. In the recent past, as is well known, our

failure to intervene in the downward cycle of social disintegration and a volatile and overtaxed justice system was frequently justified on the ground that we did not know what else to do or that we had tried more constructive approaches but they had not worked. That view was applied perhaps most adamantly to the rehabilitation of criminal offenders, but is also helped derail efforts at serious job training, an intelligent family policy, widespread early childhood education, and much more.

That view was wrong in the seventies, when it first became popular, and it is even more obviously wrong today, when we have another fifteen years and more of solid research and effective programs behind us. We know a great deal about what we *could* do to prevent the development of violent people and to help at least some of them thereafter. We do not know as much as we would like to, and if given the chance we will continue to learn. But we are not just groping around in the dark.

I think the accumulated evidence points to a number of things we should be doing, if we wish to create safer, more livable communities and a criminal justice system that embodies our aspirations. Necessarily, they involve changes both within and outside the justice system itself. There are those who believe that we can have a humane and efficient system of criminal justice in the midst of a brutalizing and estranging social order; I am not one of them. On the other hand, much can be accomplished on either front independently; not everything need happen all at once. Hence the following package, which seeks to place criminal justice reform within the context of what the Catholic bishops of the United States have recently termed "contributive justice" --the obligation to enable individuals to become "active and productive participants in the life of society":

- To begin with, we must move to reverse the growing trend toward a "dual society" sharply divided between the affluent and the new and old poor. How can we do that? First and foremost, this requires a wholehearted and creative employment policy, of a kind we have never really had in this country, but which some other countries have been using with great success for many years; one that does not stop with skimpy training and temporary work experience, but instead enlists government, the private sector, and nonprofit organizations in direct job-creation, intensive training for the disadvantaged, and comprehensive, accessible retraining for workers displaced by technological change. And we must underline the notion of "intensive" training. We must recognize that many of the people most at risk of serious crime have a great many problems that must be overcome if they are to enter the labor market with any hope of success, and overcoming them will not, cannot, come easily -- or cheaply.
- Similarly, we must make a much greater investment in intensive early education programs for disadvantaged children. Without that kind of preparation, the children of the eighties and nineties will not be able to move into the opportunities of the twenty-first century --even if a more coherent and compassionate economic policy has created them. Again, we are not just groping in the dark here. We have tried these programs, and we know they can work: we know they can reduce crime and delinquency.
- Even earlier in the life cycle, we need more intensive, accessible, and generous supports for families and children. We are much given, in the United States, to stirring rhetoric about the importance, even the sanctity, of the family, while simultaneously fostering some of the most profoundly antifamily policies in the developed world. If we are serious about reducing the potential for criminal violence, we are going to have to begin to provide many things that some other countries already routinely provide --but which only a relatively few families here can now expect:

decent income supports, work leaves and flexible schedules for parents, more accessible family planning, schooling and employment assistance for young parents, and expanded maternal and child health and nutrition programs.

Within the criminal justice system, three general areas seem to me to be most important and, according to the evidence, most likely to produce results:

- We need to boost dramatically the halting, but often effective, steps we have begun to take against domestic violence through the justice system, from the police through the courts. A stronger response to people who beat their wives and lovers would represent an important moral step forward for American society in its own right. But it can also be an important strategy to help reduce violence in future generations down the road, for we know that kids brought up in these violent families are at especially high risk of violence themselves. And research increasingly tells us that a tougher response by police and courts *works*; it deters violence against women.
- We will also need much greater and more serious attention to what I have called "middle-range" sanctions for people who have already broken the law. The flip side of our overuse of incarceration has of course been the failure to provide meaningful restraints and services for offenders short of incarceration; despite many innovative and often encouraging efforts to do so, the overall picture has if anything worsened in recent years, as probation caseloads have risen and resources for community-based alternatives fallen. The result is that we are increasingly allowing many offenders who might be helped by intensive guidance to simply fall through the cracks, with results that are often all too predictable. Reversing this trend should be a central item on any intelligent criminal-justice agenda for the future. I think the evidence from some well-designed intensive probation supervision programs around the country is particularly promising, giving us good reason to believe that it can be a very effective way of enabling the "contributive" participation of offenders in the community by linking them with families, schooling, and jobs—at far lower cost than incarceration and with minimal danger to public safety.
- Finally, we need to re-establish the old and noble idea, unfortunately largely lost in the recent moral and political climate, that the task of equipping more serious offenders for a productive and contributory life in the community is a high moral responsibility and intellectual challenge, and one that should command our best energies and a generous commitment of resources. In the understandable zeal of reformers to get people out of the prisons and juvenile institutions, we have sometimes slighted the imperative—and the opportunity—to do things for those who must spend some portion of their lives in our care. We will need a commitment—more serious than we ever launched at the height of the "rehabilitative" era—to research and the development of intensive programs in skills training; in basic literacy and other remedial education; and in the treatment of offenders' abuse of drugs and alcohol. We will need more and better prerelease readiness programs and programs to maintain the links between prisoners and their families and children, reduce family conflict, and improve childrearing skills.

I have no illusions that any of these efforts, even if done seriously and in combination, will give us either a dramatically lessened crime problem or a humane and constructive justice system overnight. We are in for a long haul, at best. But I think that if we do these things with real seriousness, we can begin to create an upward spiral whose effects will be felt over time in the quality of community life and in the effectiveness of the criminal justice system, in ways which steadily reinforce each other.

I also think the alternative can be troubling indeed. A downward-spiralling scenario is equally possible, absent the kinds of interventions I think we need to make.

It is not difficult, given current trends, to envision a society increasingly wracked by bitter inequality, by the continued erosion of useful and legitimate work, by the accelerated impoverishment of public agencies of care and nurturance, by the increasing stress and social isolation of families, the consequent growth of domestic and community violence, the intensification of the illicit drug trade, the spread of powerful gangs with growing influence inside and outside prison walls.

It is also not difficult, under those circumstances to envision the justice system becoming more and more a purely reactive enterprise, a sort of way-station through which a vast population of the damaged and violent are cycled from idleness and predation in the "community" into idleness and predation behind walls, and back again —perhaps increasingly controlled, once outside, through electronic monitoring or chemical sedation and mood alteration.

Now, we are a very rich and highly educated society. We have the resources and, increasingly, the knowledge to avoid this; but will we? That, as always in social policy matters, is a tougher, murkier question. In my less optimistic moments, I sometimes fear that we may lack the will to attack the roots of violence in a truly serious way: that indeed we are a society that has great difficulty pulling itself together around *any* coherent vision of the common good. This is not a new, or very original, worry on my part. About 150 years ago, Alexis de Tocqueville found himself deeply worried about the consequences of what he regarded as a peculiarly American tendency to retreat inward into private satisfactions. "If men continue to shut themselves more closely within the narrow circle of domestic interests," Tocqueville wrote,

I cannot but fear that men may arrive at such a state as to regard every new theory as a peril, every innovation as an irksome toil, every social improvement as a stepping-stone to revolution, and so refuse to move altogether for fear of being moved too far. I dread, and I confess it, lest they should at last so entirely give way to a cowardly love of present enjoyment as to lose sight of the interests of their future selves and those of their descendants and prefer to glide along the easy current of life rather than to make, when it is necessary, a strong and sudden effort to a higher purpose.

But Tocqueville did not say that was *going* to happen; only that it *might*. And today —in my *more* optimistic moments— I think I see a movement, a kind of sea-change, in a different, and more positive direction. I think I see glimmers of a growing sense of social responsibility —a sense that a society blessed with the kinds of resources we have really ought to be taking better care of its people. Above all I think I see the beginnings of a rejection of the fashionable passivity and negativism of the last few years —a willingness to get on with the serious business of building a society that matches its technological prowess with a commitment to the careful tending of its human resources.

But those buds of change have to be nurtured; American culture is, in some ways, rocky and inhospitable soil for the kind of bold, cooperative action I think we need today. And so it is up to us to put that budding sense of care and responsibility on the political agenda, and keep it there.