

## Our Cities Burn While We Play Cops and Robbers

Harold R. Medina

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## BOOK REVIEW

**Our Cities Burn While We Play Cops and Robbers.** BERNARD BOTEIN.  
New York: Simon & Schuster. 1972. Pp. 192. \$5.95.

The vast increase in recent years in criminal activities of all types has had a very unsettling effect on all Americans, especially on those who live in large cities. Congress, innumerable bar association committees, and groups of judges in various state and federal judicial conferences have conducted investigations and sponsored studies. The ignorance of the general public on almost all aspects of the subject, however, is disquieting. Especially depressing is the almost universal notion that the solution to the existing desperate situation is to hire more policemen and to appropriate larger sums for law enforcement. Comparatively little attention is given to the root causes of crime, or to the improvement of the correctional system in such a way as to cut down on both adult and juvenile offender recidivism.

Judge Botein's book, in less than 200 pages, gives an authentic and very readable description of the entire American system of criminal justice. It traces the progress of a criminal prosecution from the time of the arrest to the ultimate disposition. The frequent cry for prompt prosecutorial action and for the clearing of congested criminal dockets (as if this were possible by some sort of legerdemain or magic, without spending the vast sums needed to modernize seemingly medieval procedures) is exposed as a cruel fraud on the public. Various notable experiments, in many of which the author personally participated, are described at length. The point is made, again and again: mere tinkering with existing procedures will not suffice; real progress can be achieved only as a result of bold criminal justice experiments, especially those designed to deal with offenders before trial, and to create prison conditions which give some basis for hope that many of those convicted may someday return to useful lives in the community.

Judge Botein is superbly equipped to tell this story. He has been fighting all his life for civil rights, tolerance, and equality before the law. As a prosecutor, a skilled investigator working on complicated and troublesome subjects, a trial judge, and, especially, as Presiding Justice of the Appellate Division of the New York Supreme Court, First Department, he has participated in the most intimate and effective way in the workings of the criminal justice system. In these successive official positions he was in constant contact with the many shortcomings of the present system of criminal justice in the State of

New York, and elsewhere. Since leaving the bench he has devoted his disciplined mind and a large part of his energy to the task of obtaining the best results possible from existing, outmoded procedures, and to devising and experimenting with a great variety of proposed methods to improve the system. He has served as Associate Chairman of the New York City Criminal Justice Coordinating Council, as President of the Association of the Bar of the City of New York, as Chairman of the Advisory Council of the New York State Joint Legislative Committee on Crime, and in various other capacities.

The book contains extensive discussion of many of the most pressing issues facing the criminal justice system. Judge Botein describes the possible elimination from the jurisdiction of the criminal courts, and the transfer to administrative agencies, of cases involving public drunkenness, traffic and housing violations, possession of narcotics, gambling, obscenity, and certain sex offenses. Also discussed is the development of alternatives to prosecution in many cases involving nonviolent incidents, such as pre-indictment probation, or placing certain defendants under supervision for three to six months, after which time, if a favorable adjustment is made, the case is dropped. Experiments in New York City, Philadelphia, Washington, D.C., and Royal Oak, Michigan are used to illustrate the feasibility of such programs.

The heart of this fascinating book, however, is the chapter on "The Courts." The appalling conditions of the arraignment court and the calendar parts of the criminal courts in New York City are laid bare in no uncertain terms. Courtroom crowds, "matched only by the city's crowded subway system during rush hours," with "hundreds of people . . . packed into courtrooms, standing in the aisles and corridors" have the result of putting a premium on speed. Adjournments are frequently requested, and granted, with the result that police witnesses at best waste an enormous amount of time hanging around courtrooms, and at worst finally fail to show up. Many cases are dismissed, and guilty pleas diminish, all while crime keeps increasing dramatically. There are not enough judges, courthouses, lawyers, or probation and parole officers. The entire system has bogged down.

Conditions in so-called "correctional" facilities are also exposed. Judge Botein notes the small salaries paid to prison guards, and even to superintendents, the lack of prison recreational facilities, vocational guidance, and training programs, the brutality among the prisoners, and the general lack of reasonable planning for inmate rehabilitation. Additional sums appropriated for law enforcement merely have the effect of channeling more human beings through this dehumanizing

process; courts and prisons alike exhibit little consideration for human dignity. In this connection, correctional system innovations of other countries, such as weekend furloughs for selected prisoners, home leave, conjugal visitation, and "family prisons," are described.

The answer to deterioration in the system of criminal justice is money, not for the hiring of more policemen so that they may pour in more material to be processed by the system, but money to deal effectively with what causes the system to break down. Reforms, however, need not all be accomplished simultaneously. This book is especially addressed to more limited, immediate, and feasible programs of reform. It is written in a matter-of-fact way, without the sort of appeal to the emotions which so often makes serious attempt at reform less appealing to thoughtful people. But there is nothing dull about this book. The style, like the author, is incisive, candid, and as clear as one of the sacred springs we read about in Horace. This volume is an absolute must for all those who want to know about our system of criminal justice and what to do about it.

*Hon. Harold R. Medina\**

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