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### HOW TO REWARD CRIMINALS AND PUNISH CITIZENS AND POLICEMEN

Nietzsche once wrote that the gravest threat to a society's survival is its unwillingness to control its criminals. And to paraphrase Michael Corleone, history teaches us that it is possible to murder anyone with impunity.

Sacramento is a middle-sized American city with more than its share of violent crime. The early part of 1991 has been particularly disgraceful. A so-called thrill killer has murdered half a dozen people, and the total number of murders so far this year exceeds 23. The discovery of unidentifiable bodies is becoming common-place, often only reported on the back page of the local newspapers. The murders are happening everywhere, including the most affluent neighborhoods.

The national clearance rate for murder has declined steadily since the 1950s: Three decades ago, over 95% of all murders led to an arrest. Today, the figure is under 70% and going down. In Sacramento so far this year, fewer than 40% of the murders have been solved (i.e. led to an arrest).

Part of the reason for the increasing inability of law enforcement to solve murder cases is that the proportion of stranger-on-stranger murder is going up. Cases involving relatives, neighbors or acquaintances are easier to solve, of course.

However, the primary cause of our society's increasing lawlessness is the one to which Nietzsche alluded: Our correctional, criminal justice and political systems have simply lost the will to combat crime, and in fact implement at every opportunity the policies most likely to encourage crime.

Thus, the Sacramento thrill killer's mass-murderous spree has led to immediate calls in the downtown State legislature for stricter gun control laws. It is useless to remind those folks that the two jurisdictions with the strictest gun control laws in the country - New York and Washington D.C. - are also among those with the highest rates of murder and other violent crimes. Policy is increasingly dictated by ideological commitment rather than empirical facts.

The thrill killer executed all his victims in fast food and convenience stores located in middle-class neighborhoods. The victims were employees and an occasional customer. An obvious and pragmatic response would be for every clerk, cashier and cook in such businesses to have ready access to a hand gun underneath the counter. But enabling citizens to protect themselves is not part of the professional criminological ideology.

Another way in which crime is encouraged is through the exclusionary rule. The definition and implementation of criminal justice policy is in the hands of politicians, judges, criminologists, academicians, Hollywood and media people, lawyers, parole agents and probation officers. With a few exceptions such as Harvard criminologist James Q. Wilson, a large majority among these professionals has, for many years, been much more occupied with the legal rights of defendants than with the plight of victims or the security of society. As a result, the typical policeman has long lost the motivation to really go after murderers and other violent criminals.

When my friends on the local police force stop a vehicle for a minor moving violation or a defective light, they routinely check the driver's license, his identity, whether the car is stolen

and whether there is a warrant out for him. That's about it. They rarely try to find out where the individual is from, how long he has been in Sacramento, where he lives, works, etc. Yet it is through such inquisitiveness that most serious criminals are eventually apprehended. It is such inquisitiveness that was typical of citizen-police encounters in the past, and still is in Japan for example today. But most of my policemen friends no longer bother, since such fact finding is unlikely to lead to arrest or conviction, but instead more likely to their own punishment, reprimand or a law suit.

Another factor is the matter of reward and punishment, or simply put: justice. Every year, murderers such as the Sacramento thrill killer put a premature end to the lives of thousands upon thousands of innocent, hard working, law abiding citizens, often putting them first through excruciating torture. One of this criminal's recent victims was a beautiful, promising, hard-working college girl. A few years ago, also in Sacramento, authorities discovered in another killer's apartment the remnants of the bodies of victims who had been partially eaten by the murderer!

It would be understandable if, in the face of such unspeakable evil, many would find slow torture a more appropriate punishment than swift and painless execution. But since the people of California are civilized, they simply voted to reinstate capital punishment in San Quentin's gas chamber. Yet, although capital punishment was approved twice by an overwhelming majority of the voters a decade ago, the criminal justice elite refuses to permit the State to execute anyone. Instead, each capital case is tried, appealed and suspended ad infinitum at an average cost of \$8 million per case to the taxpayers. During that endless process, every mass murderer becomes a celebrity, enjoying year after year free room and board, media coverage and the best legal services that the public can pay for. From Juan Corona to Salcido, from Charles Manson to Dorothy Puente, from David Chase to Dan White, and the dozens upon dozens of other killers and mass murderers, they have all learned the lesson that their crimes assured them of a spotlight on national television, a permanent place in history and the lasting attention of society. If this is not reward, what is?

This surrealistic situation will only change if and when the citizenry wrestles back from the criminal justice professions and from the opinion elite the means to protect itself. Until then, the system will continue to reward criminals, endanger our lives and emasculate the police. An important principle which is supposed to guide criminal justice is that of proportionality, or just deserts, by which is meant a correspondence between the seriousness of a crime committed and the severity of the ensuing punishment. This principle is operative today, in a very perverted sense: the more serious an offender's crime is, the more lavish are the resources and the attention which society bestows upon him.