

Guns for Protection, and Other Private Sector Responses to the Government's Failure to Control Crime

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I. Introduction

Several years ago, in an episode of "All in the Family," Archie Bunker proposed a possible solution to the airline hijacking problem. He suggested that the government should arm all the passengers. Potential hijackers, fearing for their lives when confronted by a hundred or so armed adversaries, would no longer carry out these crimes. Archie pointed out that all the government would have to do is pass out the guns as the passengers boarded and collect them at deplaning, rather than use the elaborate x-ray and metal-detecting apparatus currently employed to discourage hijacking. More recently, the city council of Kennesaw, Georgia, passed an ordinance requiring all citizens to own a gun in order to deter crime in the community. Both of these instances were obviously meant to be jokes, the first as part of a television situation comedy and the second as an attempt to point out how equally ridiculous is the Morton Grove, Illinois, ordinance, which prohibits the ownership of all handguns. Nevertheless, these two occurrences highlight three issues that will be addressed in this essay:

- (1) Firearms in the hands of private citizens are viewed by many to be a possible deterrent to crime.
- (2) There is dissatisfaction with the performance of publicly provided crime-control efforts.

Author's Note: Portions of this paper were originally written for inclusion in *Firearms and Violence: Issues of Public Policy*, edited by Don B. Kates, Jr. (Cambridge, Mass.: Ballinger Press, 1984), sponsored by the Pacific Institute. I wish to thank Gordon Tullock, P. J. Hill, Don B. Kates, Jr., David Theroux, and other Pacific Institute reviewers for their helpful comments and critiques of my work on this subject.

- (3) Even though there is considerable discontent with current government law-enforcement policy, most people believe that the solution to the crime problem must involve government (often to an even greater degree than currently exists—i.e., by passage and enforcement of gun control laws), but that government efforts should take a different form.

The discussion that follows supports the first contention—that private ownership of firearms (and other private-sector responses to increasing crime) may be a reaction likely to deter rising violence. In addition, it is contended that violent crime is on the rise, at least in part, because of government failure to support the “public interest.” Instead, the bureaucratic crime-control system responds to pressure from politically powerful special-interest groups. Thus, the presentation agrees with the second contention noted above as well—that there is reason to be dissatisfied with government crime-control efforts. It will also be apparent that at least part of the problem of rising crime stems from increasing government involvement in crime control. In fact, private sector enforcement and deterrent efforts (such as increasing ownership of firearms) appear superior to attempts to change and/or expand public sector involvement.

The primary purpose of this presentation is to provide support for these observations. Some of the observed correlation between rising crime rates and rising gun ownership involves causation running from increasing crime to increasing firearm ownership for protection. Furthermore, protective firearm possession is just one of many private-sector responses to the failure of government crime-control efforts, and this private (or free market) production of protection should improve the efficiency and effectiveness of society’s criminal justice process.

In order to justify the contentions noted above, two separate topics will be addressed. In the first part of the following presentation, the government failure in crime control is documented in two areas: (1) Government law enforcement efforts respond to the demands of politically powerful special interest groups (including enforcement bureaucrats’ demands for more power through expanded criminalization of victimless crimes, and the demands of many other groups for more rights for the accused and prisoners, an end to capital punishment, etc.), rather than to the “public interest,” and (2) the incentives of self-interested law enforcement bureaucrats lead to inefficient crime control. Thus, private sector responses to this government failure to meet public needs (such as the purchase of firearms) are not surprising. The second topic addressed below is the implications of these private sector protection efforts. The incentives inherent in the free-market price system, with its profit motive and ability of consumers to choose among competing sources of protection, can be expected to lead to greater efficiency in the production of protection, and there is evidence indicating that these expectations are valid.

Some readers may feel that this paper is not about gun control, and in a sense they are correct. One point to be drawn from the following presentation is that the "gun control issue" is really part of a very complex broader issue of crime and crime control, and gun control should not be singled out as a potential cure-all. Crime is a problem because of government failure, and giving more power to the government in the form of gun control laws is not likely to reduce crime. In fact, gun control may ultimately lead to more crime.

Prior to a detailed discussion of the above mentioned topics, several points should be made. First of all, public perception is that crime in general, and violent crime in particular, has been on the rise for some time. This is apparent by simply examining the crime statistics reported by the Federal Bureau of Investigation's *Uniform Crime Report*.¹ One should recognize that there may be very significant problems with these statistics, but for the purpose of this exposition these numbers suffice since, as Samuel Walker observed, "Criminologists generally agree that problems with the *Uniform Crime Reports* notwithstanding, a significant rise in the official crime rate began roughly around 1962-63."² Furthermore, even if the statistics are totally meaningless (and there *is* no upward trend in actual crime), they are the only widely reported figures provided to the public.³ Thus, the general public *believes* that crime is on the rise, and people are reacting to that belief. Their reactions include increasing dissatisfaction with the criminal justice system, as well as increasing such private sector protection efforts as gun ownership.

Public opinion surveys indicate that historically there have been high levels of support for the criminal justice system. However, dissatisfaction is on the rise. For example, a recent poll found that only 23 percent of those interviewed had a high degree of confidence in state and local courts, while over one-third of the sample had little or no confidence. Fifty-seven percent of those polled believed "efficiency in the courts" to be a serious national problem.⁴ Furthermore, since 1965 the percentage of poll respondents who feel that the courts have not been harsh enough has steadily risen (from 48.9 percent in 1965 to 84.9 in 1978).⁵

As a consequence of such dissatisfaction (or more accurately, as a consequence of the fear arising because of government failure to satisfactorily control crime), private citizens have responded by purchasing firearms.⁶ Several researchers have argued that such a response occurs. Feagin contended that fear of crime could be the primary motive for home defense, and consequently for firearm ownership.⁷ Even when the fear of crime is put aside, Reiss and Bordua pointed out that those people who believe the criminal justice system is ineffective might take measures to defend themselves.⁸ Lizotte and Bordua, in a study of attitudes of firearm owners, found statistically that violent crime in the county of residence was a significant predictor of protective gun ownership.⁹ In a subsequent correction that employed more data, several variables including fear of crime, age, sex, race, size, friend's ownership for protection, and violent experiences were found to

be significant predictions of gun ownership for protection.¹⁰ So, there is support for the assumption that causations may run from either violent crime itself, or the fear of such crime, to firearms, rather than (or perhaps in addition to) vice versa.¹¹

Thus, there is definite justification for Kates's contention that protection is a significant purpose for gun ownership (along with sport and crime),¹² and the claim made here that gun ownership is rising in response to rising crime. Many researchers have found a correlation between gun ownership and crime rates and have thus contended that forceful reduction of gun ownership and/or availability will reduce crime. But correlation does not necessarily imply causation running from gun ownership to crime as Kleck, and Magaddino and Medoff point out.¹³ It is just as likely that causation runs from rising crime to increasing gun ownership for protection (actually there may be causation running both ways, as Kleck has observed). If that protection is even slightly effective as a deterrent to crime, then forced reduction of gun ownership could actually result in more crime rather than less.

Now then, if increasing firearm ownership is not leading to the rising crime rates, what is? The economic theory of crime proposed by Becker¹⁴ and subsequently expanded upon and tested by several others, indicates that crime rises if (1) the expected payoff to crime rises; (2) opportunities for legitimate income-generating possibilities decline as, for example, in an economic downturn characterized by high unemployment; or (3) the deterrents to crime such as the chances of capture and conviction, and/or the severity of punishment, are diminished.¹⁵ While empirical findings demonstrate that all these factors are clearly important, the presentation that follows will emphasize the third point. There has, over the last few decades at least, been a reduction in the chances of capture and conviction when violent crimes are committed. Criminals are increasingly likely to get away with their crimes. Over the past twenty years, for example, the percentages of reported total crimes cleared by arrest have diminished considerably from 26.1 percent in 1960 to 19.2 in 1980. The violent crime categories show even sharper declines, with murder and nonnegligible manslaughter arrests falling from 92.3 to 72.3 percent of those reported, rape declining from 72.5 to 48.8, robbery from 38.5 to 23.8, and aggravated assault from 76.8 to 58.7.¹⁶ Similarly, total conviction rates in the federal courts peaked in 1952 and have declined since, while dismissal rates have been increasing over the period.¹⁷ Similar trends characterize many state courts.¹⁸ The severity of punishment has also been on the decline. The use of capital punishment has fallen dramatically over the last fifty years, for example. The length of prison terms *actually served* has also diminished, despite the fact that the average length of sentence has been rising.¹⁹ These changes have, in turn, been associated with an increase in crime.²⁰

The question then becomes, Why has there been a reduction in crime deterrence? At least part of the answer can be found by examining the demands of

special interest groups for changes in criminal statutes and in police and judicial enforcement policies, as well as the legislative and bureaucratic response to these demands.

II. Criminal Law as a Political Process

The reduced probability and severity of punishment alluded to above have occurred in part because of governmental responses to the demands of politically active special-interest groups. This claim that criminal law is a political process is not new. As far back as 1922 Roscoe Pound wrote, "Criminal law has a much closer connection with politics than the civil side of the law, and this operates to its disadvantage."²¹ Furthermore, the political nature of—and interest group influence on—the criminal justice system has been recognized by many who have examined it.²² Economists and political scientists have made considerable strides of late in developing a special interest (as opposed to "public interest") theory of government.²³ This theory makes the following predictions:

- (1) Legislators and other public officials supply and enforce laws demanded by politically powerful special interest groups.
- (2) Effective interest groups tend to be small relative to the population that might be affected by the government activity in question, because of the difficulty of organizing and making decisions when many individuals are involved.
- (3) Political power may take the form of votes, money, or the ability to disrupt a politically stable situation with such things as strikes, violence, and disorder.
- (4) Interest group members may be very self-interested but they also may be very well intentioned individuals seeking what they feel is "good" for the society as a whole (although their definition of "good" is typically affected to some extent by their personal circumstances).
- (5) Bureaucrats (i.e., police, prosecuting judges, prison officials) constitute interest groups that benefit when laws requiring enforcement are passed.
- (6) Government responds to interest group pressure by favoring the most powerful group (or groups), but the group will not be favored to the extent that it could be because the marginal political return of a law must equal the marginal political cost in order for an elected official to maintain his support. In other words, conflicting demands tend to lead to compromise, with no group completely satisfied or dissatisfied.

Empirical support for these predictions is also growing, particularly in the area of economic regulation. A number of studies have also examined the impact of interest groups on the passage and enforcement of criminal laws.²⁴ Space constraints prevent a detailed examination of the entire theoretical and empirical literature, but several studies are relevant to the claim made earlier—that government responses to such demands have led to a reduction in the probability and severity of punishment.

*Special Interest Demands That Have Led to a Reduction
in the Probability and/or Severity of Punishment*

Raymond Nimmer's examination of the criminal court reform process indicates that the source of court reform is interest group pressure.²⁵ As a source of such pressure, Nimmer cited organizations of "reform professionals" such as the Vera Institute of Justice in New York City. This institute defines what its members consider to be the needs of the criminal justice system in New York and then designs programs to meet those needs. Such groups are active throughout the country and have formed national organizations to promote reform at the federal level. Many of the well-intended court reforms that such interest group pressure has generated have enhanced the rights of the accused and reduced the chances of punishment. The National Advisory Commission on Criminal Justice Standards and Goals, for example, found that one major factor contributing to increases in serious crime is that courts have applied more stringent standards for admitting evidence without adequately justifying the changes, and often without providing sufficient guidelines for obtaining admissible evidence.²⁶ David Jones reported that "lower court judges and prosecutors have complained that the 'criminal law revolution' and its aftermath have shackled their ability to bring the guilty to justice," and the resulting reduction in the probability of punishment clearly leads to more crime.²⁷

A well-known change in punishment has been the sharp decline in the use of capital punishment. The role of the NAACP's Legal Defense and Education Fund (LDF) in bringing about a virtual end to executions is well-documented. In 1967, class actions initiated by the LDF successfully blocked all executions in Florida, California, and subsequently the entire nation, pending judicial rulings. Since 1967 the LDF has secured nationwide delays in all executions pending resolution of various constitutional issues they have raised in a large number of death penalty cases. As Bedau noted, "Since June 1967, all executions have been stalled, in some cases at the last moment, through concerted action directed from New York by the NAACP Legal Defense and Education Fund. Their efforts in securing appellate review, especially in federal courts, has resulted in a nationwide *de facto* moratorium."²⁸ The LDF's efforts have been supported by a number of other interest groups as well, including several church groups, the National Council on Crime and Delinquency, the American Civil Liberties Union, and the American Correctional Association, while the Ethical Culture Society and the American League to Abolish Capital Punishment have taken active roles. Thus, the reduction in executions has resulted from well-intended continuous and effective interest-group pressure, primarily through the courts. The reduction in criminal deterrence because of the decrease in the use of capital punishment has, in turn, led to an increase in the number of murders.²⁹

It is important to note that the demise of the death penalty does not reflect the opinion of the majority of the population. Studies of public opinion have found

that when asked about their attitude toward capital punishment, most Americans indicate their support.³⁰ Obviously this is a case of interest group rule rather than majority rule, even though there is little doubt that the interest groups involved have been seeking changes they feel are in the best interest of the majority.

One point should be evident from the above two examples. Interest groups may have very commendable goals, with no intention of reducing crime deterrence and thereby increasing crime. Protection of the rights of the accused and of criminals, for instance, is very desirable from a normative standpoint that stresses liberty (a normative standard this author adheres to). However, a clear secondary impact of the efforts of these well-intended interest groups is that crime deterrents are diminished and crime rates rise. Thus, a source of rising crime is government actions in response to such interest group pressure. Recall that the purpose of this section of the paper is to offer an explanation of reduced deterrence and rising crime that does not involve rising gun ownership.

Perhaps the most significant investigation in support of the contentions made here concerning the origins of changes in the criminal justice system is an empirical study of changes in the California Penal Code.³¹ This excellent study adds considerable support to theoretical predictions of the special interest theory of government and to the contention that interest group demands have led to reduced criminal deterrents and higher crime rates. Thus, this work by Berk, Brackman, and Lesser deserves fairly close scrutiny. The study spans the years 1955–1971. It was found that during the early 1950s the making of criminal law could be characterized as an “agreed bill” process that involved only a few major criminal justice lobbies—generally the California Peace Officers Association (CPOA) (made up of district attorneys, sheriffs, and police chiefs), the American Civil Liberties Union (ACLU), and the State Bar of California. In fact, “lacking more than a rudimentary ability to initiate and shape policy, legislators . . . followed the lead of major criminal justice lobbies.”³² The agreed bill process is one

in which the important decisions are made exclusively by negotiating lobbies and a few members of the relevant legislative committees. Debates on the floor of the legislature, when they occur, are largely windowdressing for negotiations that have already been concluded. The votes . . . are typically near unanimous—the official stamp of approval for actions undertaken in proverbial “smoke-filled” rooms. In other words, even for relatively controversial bills, the legislative process . . . really takes place outside the public view and involves groups representing a rather narrow range of interests.³³

In the 1960's a wider range of groups attempted to influence criminal justice, but floor votes still reflected the agreed bill process. The most active groups continued to be the ACLU (and its frequent ally, the Friends Committee on Legislation [FCL]), the CPOA, and the Bar Association, but certain small, vocal, groups of citizens appeared occasionally to initiate attempts to alter the Penal Code. Often they allied themselves with the law enforcement interests or the ACLU. In addi-

tion, several established interest groups whose original purpose was not directed at criminal justice often supported one of the established criminal justice lobbies.

Berk, Brackman, and Lesser went beyond other studies of interest groups' impact on changes in criminal justice by providing statistical support for the contention that this influence is, in fact, extremely important. In their statistical analysis, Berk, and his colleagues chose to look at the influence of what they called the law enforcement lobby (LEL) (primarily the CPOA) and the civil liberties lobby (CLL) (primarily the ACLU and FCL), recognizing that in many cases the principal groups worked in conjunction with others. "Effective influence" was identified in a number of ways. Lobbyists' estimates of their own and their opponents' effectiveness was obtained from newsletters and journals published by the interest groups. Additional information as to lobby effectiveness was obtained from the assessments of journalists, politicians, and criminal justice professionals. Independent evaluations of effectiveness in shaping the Penal Code were then made, and the resulting data were used in the statistical analysis.

The statistical analysis involved use of both zero-order correlations and multivariate analysis. The zero-order correlations indicated that year by year, the LEL had its greatest effect in generating more criminalization (taking more rights from individuals), and some impact on increasing the power of police and prosecutors. The CLL had a substantial positive influence on laws favoring defendants, corrections officials, and the judiciary, and a significant negative impact on the severity of penalties and the power of police and prosecutors. The multivariate analysis reinforced the zero-order correlation results. Both lobbies were effective, but in different areas. The civil libertarians may have been more effective when the two groups were in direct conflict, since the CPOA's "core concern" involved procedure and in those areas the CPOA was relatively ineffective (their greatest effectiveness was in the area of criminalization). Also, the multivariate analysis indicated that the CLL variable had the more significant impact of the two.

Another important finding of the Berk-Brackman-Lesser study was that "public opinion" played no identifiable role in Penal Code revision. The study deemed "inescapable" the conclusion that criminal law was enacted for the benefit of interest groups rather than for the public good. However, no one interest group got everything it demanded. As the interest group theory predicts, there was clear evidence of legislative efforts to balance the costs and benefits when conflicts arose. Furthermore, often as a result of the balancing effort, "the horse-trading endemic to the legislative process produced criminal law that at least diluted and often distorted original interest. . . . Hence, what might have begun as incipient law soon became a hybrid whose content reflected what was politically acceptable." Even though no group dominated, at one time or another virtually every interest group gained through the passage of criminal laws. The ultimate losers had to be unorganized or ineffectively organized individuals.

Berk, and his colleagues summed up their findings as follows:

Our quantitative material was especially useful in revealing the behavior of individuals. We saw political actors motivated by highly informed, short-run self-interest, armed with varying resources, aggressively trying to advance their agendas. Yet, few had any global perspective beyond the vague implications of elastic rhetoric and nothing approaching a detailed blueprint for the entire criminal justice system. Thus, our quantitative analysis documented how myriad compromises across a variety of issues changed the Penal Code in fits and starts with hundreds of small increments whose overall pattern seemed totally devoid of any self-contained teleological implications. While particular Penal Code alterations were certainly no accident, it is hard to see their cumulative impact except in that manner . . . few of the individuals whose actions we have described, seriously considered long-run consequences for Penal Code content.

But Berk et al. went beyond establishing the link between interest groups and legislation. They provided an idea of the long-run consequences of interest group influences by using multiple regression to examine the impact of interest-group-induced changes on various crime statistics reported one and two years later.

The statutory changes granting more rights to defendants (changes that were primarily a result of what were obviously well-intended civil libertarian influence) led to reductions in felony arrests and prosecutions (the probability of punishment). Laws increasing the rights and resources of prosecutors (laws generally arising as a consequence of CPOA pressure) had the opposite impact. Finally, CPOA-induced laws leading to greater criminalization were also associated with more arrests and prosecutions. However, this is clearly a consequence of the added illegal acts that could be prosecuted. Unfortunately, Berk et al. did not test to see if increasing criminalization led to increases in or reductions in arrests and prosecutions of previously defined crime. We must draw on other sources to answer this question.

There is an increasing trend to criminalize more and more activities. Attempts to criminalize firearm ownership is an obvious example, but there are many others. As Cole reported, an important

. . . factor in the crisis of criminal justice is the "law explosion"—the increasing complex and demanding pressures placed on law and legal institutions to resolve conflict in an urban society . . . [included in this] has been the tendency to utilize the criminal law to perform a number of functions for society outside the traditional concerns for the protection of persons and property.

The National Commission on the Causes and Prevention of Violence noted three areas of "overcriminalization," (1) moral statutes such as laws against "fornication between consenting unmarried adults, homosexuality, adultery, and all kinds of abnormal sexual conduct even between married persons," (2) illness statutes "such as the laws punishing intoxication and possession of addictive drugs," and

(3) nuisance statutes penalizing disorderly conduct and vagrancy. These are typically victimless crimes but they appear to be taking up increasingly larger proportions of the resources of the criminal justice system, thus leaving relatively fewer resources available for control of violent crime. Decriminalization of victimless crimes and "the consequent reduction of pressure on police, courts, and correctional services would have a massive impact on the criminal justice system."

The Berk et al. study provides powerful evidence that interest group demands are a source of changes in criminal justice that lead to increasing crime. Bureaucrats themselves have pushed for increased criminalization. Other groups (e.g., ACLU) demand for the accused and for prisoners more rights that reduce the probability of and severity of punishment. These findings, along with the court reform and capital punishment findings noted earlier, provide compelling support for both the interest group theory of criminal justice and the contention that interest group demands have led to reduced costs of crime in terms of the probability of and severity of punishment. In addition, the Berk et al. findings support the predictions made concerning legislative responses to such demands. In particular, legislatures' primary purpose appears to be an attempt to balance (or compromise among) the demands of special interest groups in order to maintain political support. Naturally, many interest group members believe their demands are in the "public interest," but their perception of the public interest may not reflect the desires of the majority and may even generate results that are counter to the public interest, whatever that may be. (This author's definition of an action truly in the public interest is any action that benefits some members of society without harming any others—the Pareto criterion.) Of course, enforcement bureaucracies and courts ultimately apply (and perhaps alter) whatever laws come from the legislature.

Bureaucrats and Criminal Enforcement

Theoretical examinations of bureaucratic production predict that the incentive structure facing bureaucrats leads them to attempt to expand their size, budgets, power, and influence.³⁹ In order to do so, bureaucrats wish to avoid competition with other bureaucracies and make every effort to limit the effectiveness of legislative oversight. Naturally, they also act as interest groups and seek laws that will expand their power (this is not meant to imply that bureaucrats do not truly believe that such laws are in the public interest, but such beliefs would simply reinforce the incentives noted above).

Two of these conclusions of the theory of bureaucracy have already been upheld by considerable evidence. That bureaucrats attempt to expand the size and power of their agencies is supported by the fact that as interest groups, bureaucrats demand increases in criminalization and therefore more power. As Berk et al. noted, "... contending parties were considering their interests not only in narrow

criminal justice terms but in the context of . . . bureaucratic empire building, the next election, and the earning and spending of political capital," and one outcome was a "constant pressure for growth in power and pervasiveness of the criminal justice system. The pool of potential resources is expanded by expanding the criminal justice system itself."⁴⁰ This also supports the theoretical conclusion that bureaucrats act as interest groups. Ample evidence of this has already been presented.

However, considerably more support exists for the conclusion that a strong incentive of bureaucrats is to increase the size (i.e., level of enforcement) of the bureaucracy. For example, in his examination of the plea bargaining process, Jones found that prosecutors' incentives are tied to maximizing the number of *criminals convicted*, and this has become their major concern. This effort actually appeared to increase the number of crimes committed by each individual criminal, however, because

despite the rhetoric, very few prosecutors in the United States seem to be concerned at all with obtaining a conviction of one charge relating to each separate criminal episode (transaction) in which a defendant is known to have participated. For this reason, it is to the advantage of the sophisticated and persistent offender (and he knows it) for him to perpetrate as many separate criminal transactions as possible between the moment he commits the first and the time he is imprisoned, as well as during virtually all periods of pretrial or postconviction release.⁴¹

Other researchers have also found evidence of criminal justice bureaucrats' concern with measurable output and power rather than justice per se. In his oft-cited work, Blumberg reported one problem that arises from this bureaucratic desire to generate measurable output. Police, prosecutors, and courts tend to concentrate on those cases which are easiest to process and, "as a result, we have spent much of our limited resources in the prosecution of addicts, alcoholics, prostitutes, homosexuals, gamblers, and other petty offenders, simply because they are readily available and produce the desired statistical data that indicate 'production.'"⁴² Blumberg's findings reinforce observations made earlier. Recall that a principal source of interest group demand for increased criminalization has been the criminal justice system bureaucrats. Blumberg's findings point out why—bureaucratic statistical indicators of size and output are more easily expanded when "victimless crime" statutes are enforced rather than laws dealing with crimes of violence, and these statistical indicators appear to be a major bargaining chip in bureaucratic efforts to obtain more power. Thus, overcriminalization clearly is one explanation of reduced probabilities of arrest and prosecution for *violent* crimes, and therefore, for the rising rates for such crimes.

Eisenstein's findings support Blumberg's conclusions. He found that "for most prosecutors, the conviction rate is the prime concern. It consequently becomes more important not to lose than to win. Many prosecutors prefer to dismiss the

case or to plea bargain generously rather than to chance losing."⁴³ This appears to be a much better explanation of the existence and extensive use of plea bargaining than the reason offered by most prosecutors and judges. The large caseload and backlog are the most commonly cited justifications for the "need" for plea bargaining. However, Jones's study of plea bargaining indicates that such excuses are not valid.

A complementary and similarly invalid excuse often given is that rising crime rates (which create excessive caseloads) necessitate plea bargaining, but the historical data Jones examined created substantial doubt about this claim. The rate of serious crime has increased progressively for nearly thirty years, but guilty plea rates have remained virtually constant for at least forty and possibly up to seventy years. Furthermore, Jones reported that guilty plea rates do not seem to be a function of caseloads. Rather, he found that an artificial quota exists in almost every American jurisdiction on the portion of pending criminal cases that will be taken to trial in a given period, and these quotas have remained at virtually constant percentages for forty to perhaps seventy years.⁴⁴ Of course, bureaucrats have every incentive to claim that plea bargaining at its current (and historic) levels is necessary because of the higher crime rates and caseloads that tax the bureaucracies' limited resources. In this way they can apply pressure for increased budgets and add leverage to their other demands. At the same time, however, criminals have incentives to commit more crimes, once they have committed one. Thus, bureaucratic responses to their incentives tends to lead to more crime.

Perhaps the most important conclusion—and one that deserves reiteration—of the theoretical analysis of interest group government and bureaucratic performance is that government policies represent private interest rather than the public interest. This implies that politicians and bureaucrats do not want their policies and procedures to be easily understood by the general public. A number of studies of criminal justice bureaucracies have found bureaucratic secrecy to be commonplace. Alan Bent, in his discussion of police, found that "the police have long practiced bureaucratic secrecy to the exacerbation of relations with the community True to the bureaucratic practice of maintaining barriers between itself and the public, police officials have resisted investigations of their internal affairs and attempts to impose controls over their activities."⁴⁵ In his examination of state felony courts, Eisenstein reported similar behavior on the part of prosecutors and judges.⁴⁶ This secrecy serves the purpose of making it difficult for non-interest-group members to discover what bureaucracies are doing and "who is getting what" from the government, but it is also an obvious attempt to limit the effectiveness of legislative monitoring and control of bureau production. Such secrecy can lead to more crime, however. If bureaucracies are not monitored closely and if bureaucratic secrecy, which abounds, tends to limit the effectiveness of monitoring by private individuals and legislators, then self-interest motives may really take over—and corruption results.

Political corruption is actually just a black market for the rights over which politicians and bureaucracies have been given allocative power.⁴⁷ Rather than assigning rights according to political power, rights are sold to the highest bidder. There is an extensive literature on police corruption that will not be examined here, but one point is worth stressing. One factor that enhances the possibility for corruption is the overcriminalization discussed earlier. As Bent noted, "The overload of statutes invites the influence of prejudices of individual police officers . . . resulting in the law being administered unevenly and selectively. . . . Additionally, the unparalleled autonomy and authority possessed by police officials makes bureaucratic secrecy dangerous. . . . Secrecy impedes accountability in a fundamental way by obscuring illegal and arbitrary acts [by police]." ⁴⁸ Thus, discretionary power because of overcriminalization in combination with bureaucratic secrecy create considerable opportunity for corruption. It should not be surprising, given the economic theory of crime, that if bureaucratic secrecy keeps the probability of detection and punishment low, corruption will abound and add to the crime statistics.

The above discussion is far from a complete accounting of governmentally generated sources of rising crime. However, it should be sufficient to indicate that crime rates are rising, at least in part because of government actions. Clearly, under such circumstances, gun controls cannot be considered a cure-all for the crime problem. Since government activity in law enforcement reflects the desires of interest groups, including those in the government, discontent among private citizens should not be surprising. Perhaps there is a better way—privatization of protection against crime.

III. Private Sector Responses to Rising Crime

With the failure of the government—documented in the previous section—to provide criminal enforcement that is motivated by "public interest," and with the resulting rise in crime (caused by government failure rather than gun ownership), private sector production of crime protection appears to be a superior approach. Many individuals (and communities), out of frustration with public sector inefficiency, are in fact opting for private enforcement techniques. The increasing ownership of firearms for protection is but one example. Private sector production of crime detection and prevention can be characterized as a growth industry in the United States (and in much of the rest of the world). Let us examine the growth of some of the private efforts.

The most obvious and visible example of private sector production of protection is the private security industry. Sherman pointed out that "few developments are more indicative of public concern about crime—and declining faith in the ability of public institutions to cope with it—than the burgeoning growth in private policing."⁴⁹ An estimated one million people were employed for private security

in the United States during 1982 as compared to 650,000 public law enforcement officers.⁵⁰ In 1976 approximately \$6.6 billion was spent on private guards, an increase of 46 percent in five years, and "in essence, most of the growth can be attributed to increases in crime in the United States."⁵¹ A 1982 estimate put expenditures on private police at \$10 billion annually.⁵² These private police are employed primarily by individuals and firms. However, recently an entire neighborhood in St. Louis bought the streets and hired private police to protect the area.⁵³

In addition to the purchase of protection services from private firms, individuals are increasingly supplementing government protection with efforts of their own. This often involves purchases by individuals of capital or training to enhance their ability to protect themselves. Fear of crime is inducing more and more citizens to buy firearms for protection, for example.⁵⁴ Burglar alarms are being installed and guard dogs purchased. Approximately \$5.3 billion in intruder-detection sales alone are anticipated by the industry for the 1980-85 period, with half those purchases being made in North America.⁵⁵ Individuals are learning self-defense, carrying whistles and other noisemakers, and buying such self-protection devices as personal tear-gas dispensers (Chemical Mace). There is a growing business in the provision of bulletproof cars and security systems for those in positions of power and wealth who face high risks of assassination or kidnapping. There are about a dozen U.S. firms now specializing in armoring cars, for example, at prices ranging between \$32,000 and \$250,000, depending upon the degree of safety required, and many other privately provided forms of protection equipment and services are available to those willing to pay.⁵⁶

Private individuals' protection efforts need not require monetary outlays for services and equipment, of course. Activities like neighborhood or tenant watches and patrols (including the Guardian Angels) and escort groups are becoming increasingly prevalent. A recent Gallup poll found that 17 percent of those surveyed reported participation in one or more of these voluntary neighborhood crime prevention efforts, leading Lawrence Sherman to conclude that "the recent emphasis on voluntary watching efforts suggests a diminishing confidence in the ability of the publicly empowered police to perform."⁵⁷

The burgeoning markets for private security protection services, intruder detection devices, and self-defense devices and training, along with the growth of private sector voluntary crime prevention efforts, indicate that gun ownership for protection is an obvious component of the overall privatization trend. Thus, we have a logical a priori reason to expect a causal relationship running from rising crime to increasing gun ownership.

Causality running from crime to guns (and other private sector protection efforts) does not necessarily imply that gun controls are not desirable. If privatization of protection, including gun ownership, is an ineffective or inefficient means of protecting people, then this question of causality may be irrelevant. Evidence

of private efforts in response to crime clearly damages the main argument made by gun control advocates (that guns cause crime, ergo gun control will reduce crime), but if private protection efforts are ineffective and excessively costly, then perhaps we should protect people from wasting their money in these areas. Rushforth et al., for example, claim (without any support) that "this goal of security through gun possession is illusory."⁵⁸ Is this true?

The Benefits of Private Sector Crime Prevention and Protection Efforts

There are many reasons to expect that private sector crime prevention and protection efforts will be both relatively effective and relatively efficient as compared to public sector efforts. The private sector tends to be relatively effective because of specialization that improves productivity. Private sector efficiencies arise from this specialization, but efficiency is also enhanced because private sector individuals tend to be much more cost-conscious than public sector bureaucrats. Additional benefits may arise from privatization as well, since many private sector efforts will tend to make public protection more effective and efficient. Private sector crime prevention activities are often complements to public police and therefore improve the police's ability to prevent or solve crimes. In addition, sufficient competition from the private sector may force bureaucrats to make a greater effort to produce at low costs. Let us explore each of these potential benefits in turn.

Privatization and Specialization

Public police perform many functions that have nothing to do with prevention of, or protection against, violent crimes and crimes against property. In Blumberg's words, "Much police work is of the social worker, caretaker, babysitter, errand boy variety; almost 80 percent of police time is expended in this fashion."⁵⁹ The police are responsible for such matters as traffic control; aiding injured, lost, and helpless individuals; and enforcing nonviolent "victimless" crime laws such as those against prostitution, gambling, marijuana use, and so on. With so many duties to perform, police may not be able to gather the expertise in any one area (e.g., violent crime categories) that a private specialist can. Of course, large police departments do undertake a great deal of specialization with their homicide, burglary, robbery, vice, narcotics, and traffic divisions, but even these police departments must concentrate at least some manpower, and therefore police time, in nonviolent and nonproperty crime areas (e.g., vice, narcotics, and traffic), and police are always expected to provide information and assistance to virtually anyone who demands it.

One big advantage of private sector crime prevention and protection efforts is that they can be very specialized. Private individuals can concentrate their resources, and those that they hire or purchase, in areas they perceive to be the greatest threat to themselves and/or their property, rather than in areas desired

by special interest groups. Naturally, then, private sector efforts will be concentrated on (that is, specialized in) prevention of, and protection against, violent crimes and property crimes. This concentration of effort can be very effective. Consider, for example, the success of the railroad police.

Dating from the end of World War I, railroad police were complete and autonomous police forces. Wooldridge observed that

railway police compiled a remarkable record of effectiveness: between [the end of WWI] and 1929 they succeeded so well that freight claim payments for robberies decreased 92.7 percent, from \$12,726,947 to \$704,262. . . . Statistically, arrests by railroad police have resulted in a higher percentage of convictions than those of their municipal counterparts. A five-year sample from the Pennsylvania Railroad showed an 83.4 percent conviction rate, while a thirteen-year sample from another line revealed a conviction rate of 97.47 percent.⁶⁰

The railroad police have a "widespread reputation for good character and high ability," which "poignantly contrasts with the present status of many big-city public forces."⁶¹ Wooldridge noted that primary reasons for the success of the railroad police are that they specialized in one area of enforcement and, in the process, developed "an expertise not realistically within the grasp of public forces."⁶² Such specialization and consequent gain in proficiency (and efficiency) often characterizes existing private sector police firms.

Similar gains from specialization should also arise when individuals concentrate their own efforts and resources in areas from which they face the greatest threat. If a person perceives a significant threat of burglary, then he may purchase a burglar alarm and substantially reduce that threat. If he fears violent crime, he may wish to make purchases that enable him to better protect himself, like training in self-defense or a Mace dispenser, or a gun. These purchases of specialized equipment are really no different from a banker hiring an armed guard and installing cameras and alarms. Such specialization has two impacts. First, it makes it less likely that a criminal will be successful in his attempt at theft and violence. In other words, increasing levels of private protection efforts increase the potential cost of crime by increasing the probability of capture (or in the case of guns for protection, the probability of personal injury or death for the potential criminal). This leads to a second impact of such private efforts. As the potential cost of committing crime rises, potential criminals are less likely to become actual criminals. In other words, there is a deterrent impact of such private sector protection.

Unfortunately, most studies of crime deterrence have been concerned with the effects of public sector efforts. However, there is some evidence that private sector production of protection does deter crime. One interesting study along these lines was done by Timothy Hannan.⁶³ Using a Tobit maximum likelihood statistical procedure, he found that the presence of guards in banks "significantly reduces

the risk of robbery. Accepting point estimates, the magnitude of this reduction is approximately one robbery attempt a year for those offices which would have otherwise suffered a positive number of robbery attempts."⁶⁴ This empirical result supports findings obtained by G. M. Camp, who interviewed imprisoned bank robbers.⁶⁵ Camp found that most of the robbers (77 percent) checked to find out whether the bank had a guard before committing the robbery. In contrast, only 6 percent of those interviewed bothered to learn the police routine in the area before the robbery. One implication is that these criminals were more concerned with this private protection measure than with public enforcement (although another is that information about police routine is both more costly to obtain and less valuable because police change their routine).

Firearm ownership is a very specialized form of protection that clearly generates benefits detailed below in the form of preventing successful completion of crimes, as well as deterring crime. In John Sneed's words,

As in any other industry [other than crime prevention and protection], there will be specialization on the basis of the economies to be derived from the division of labor. Each consumer will balance his purchases of protection services [and those provided by public police] relative to self-supplied defense so as to maximize his utility. For example, many purchasers of personal property defense will keep a gun in their homes in order to deal with situations where delayed action by a specialist [private or public police] is useless or less preferred than immediate, though more risky, action by a nonspecialist.⁶⁶

Sneed raises a number of important points here about the role that gun ownership for protection may play in the overall privatization picture. For one thing, it allows the individual to respond very quickly to a crime situation. The response is generally much more immediate than public police are able to provide.

There is some evidence to indicate that the immediate response of gun owners can be quite effective. Private citizens *legally* shoot almost as many criminals as do police, and in some places citizens justifiably kill up to two or three times as many violent criminals as do police. There were 126 justifiable homicides by private citizens in California during 1981, for example, as compared to 68 justifiable homicides by police.⁶⁷ In addition, there are many more nonfatal than fatal justifiable assaults. The numbers here are very difficult to come by, of course, but an approximation might be gained by considering that there are an estimated thirty-eight nonfatal handgun assaults for every fatal one.⁶⁸ If approximately the same ratio holds for justifiable assaults as for all assaults, then about 38×126 (4,788) justifiable assaults would have occurred in California alone in 1981.

Although information on the relative success of private use of firearms to interrupt crime and apprehend criminals is very scarce, it appears that such private efforts are at least as successful as police efforts. Kates compared the success rates of police and private citizens by examining every story printed in forty-two

of the nation's largest newspapers between January and June 1975 and between May and July 1976 that were concerned with uses of firearms for protection or prevention of crime. He estimated that 68 percent of the times in which police used their firearms, they successfully prevented a crime or apprehended a criminal, while private citizen firearm use resulted in an 83 percent success rate.⁶⁹ So it seems apparent that the private use of firearms for crime protection does generate benefits in contrast to the claims made by some (e.g., Rushforth et al.). Of course, as Sneed notes in the above citation, firearms for protection is a somewhat risky means of protection. If the risk to the individual exceeds the benefits, then gun controls may be desirable. However, Carol Silver and Don Kates have presented some evidence indicating that the use of handguns for protection may be very beneficial relative to the risk to society arising from criminal handgun use. They concluded that it "appears that the number of instances in which handguns were used for defense exceeds the number in which they were misused to kill [between 1960 and 1975] by a factor of 15-1."⁷⁰ If handgun use for defense outstrips handgun use to kill by anything close to that amount then the risk of death associated with handgun use for defense is clearly quite small.

Furthermore, the above discussion does not consider one of the most important benefits arising from gun ownership for protection—the deterrent effect. Naturally the deterrent effect cannot be accurately measured, since we cannot count the number of crimes not committed for fear of confronting an armed victim. However, there is some powerful evidence that gun ownership deters crime. Let us begin with what may be the weakest evidence and advance through the most convincing. Philip Cook used cross-section data and looked at the relationship between armed robbery rates and the strength of gun controls.⁷¹ He found that areas with strong gun controls have higher levels of armed robbery than areas with weaker controls. One might interpret this to mean that when individuals' ability to defend themselves with guns is limited, they become more vulnerable to crime and therefore are more likely to become crime victims. That is, gun ownership is a deterrent. Of course, there is a danger in such an interpretation. After all, as stressed throughout this paper, correlation does not necessarily mean causation. In this case the correlation may arise because the strictest gun controls have been established in high crime areas in an unsuccessful effort to reduce crime.

There is more persuasive evidence of a deterrent effect arising from gun ownership, however. For example, surveys of prisoners "uniformly find felons stating that, whenever possible, they avoid victims who are thought to be armed, and that they know of planned crimes that were abandoned when it was discovered that the prospective victim was armed."⁷² This is not surprising in light of the risk criminals face when confronting an armed victim. Cook provided us with an idea of the magnitude of this risk with his calculations based on Atlanta data. He concluded that a robber doubles his chances of dying by committing only seven robberies, because of the risk of being attacked by a victim.⁷³

Some of the best evidence of the deterrent effect of gun ownership for protection comes from the impact of publicized programs to provide training in firearm use for potential victims. One such effort was sponsored by the Orlando police department between October 1966 and March 1967. The program was designed to train women in the safe use of firearms because of the sharp increase in rapes in the city during 1966. This program was widely publicized in Orlando newspapers. Kleck and Bordua recently examined the deterrent impact of this publicized training program.⁷⁴ They found that the rape rate in Orlando fell from a 1966 level of 35.91 per 100,000 inhabitants to only 4.18 in 1967. This was clearly not a part of any general downward trend since the national rate was increasing, and rates in surrounding metropolitan areas and Florida as a whole (excluding Orlando) were either constant or increasing over the same period. Furthermore, this decrease did not reflect a continual downward trend for Orlando since the trend had been erratic but upward for the previous several years. It seems obvious that the knowledge that potential rape victims might be carrying a gun and might know how to use it was a significant deterrent.

Further evidence of the deterrent effect of the Orlando program can be obtained by comparing the change in the rape rate, which was the crime category targeted by the program, to other Orlando crime rates.⁷⁵ Rates for virtually all crimes were rising or constant in Orlando, the surrounding metropolitan area, and Florida over the 1966–67 period. There was one exception: The Orlando burglary rate also declined. But this is not particularly surprising. In fact, it tends to strengthen the argument that gun ownership for protection has a deterrent effect, since burglary would seem to be the most likely crime category other than rape in which a criminal might confront an armed female victim.

The Orlando example is not unique. Publicized training programs in the use of firearms have led to a reduction in armed robberies in Highland Park, Michigan; drugstore robberies in New Orleans; and grocery store robberies in Detroit.⁷⁶ When potential criminals become aware that potential victims might be willing and able to protect themselves with a gun, the increased perceived risk of committing a crime can lead to the abandonment of the crime effort. Of course, it may also lead to the choice of another victim, perhaps in another area where guns for protection are less likely. As a consequence, location-specific gun control could easily lead to higher crime rates in that area, as the Cook results cited earlier may imply.

This brings up an important point. Wealthy individuals typically have many options at their disposal when it comes to protecting themselves. For one thing, they often live in high income communities where the tax base allows for a well-financed public police department. The number of police per crime committed is probably very high in most high income suburbs, relative to most inner-city low income neighborhoods. In addition, wealthy individuals can buy alarms, guard dogs, bulletproof cars, etc., and they can hire private police for protection. No

gun control advocate has contended that private police should have their rights to carry firearms limited, so gun control laws will not be very limiting as far as the wealthy's self-protection efforts are concerned. The impact could be significant for middle and lower income individuals, however, because they typically are not as well protected by the public police and they have far fewer self-protection options available because of their relatively limited buying power. As evidence of the relative importance of guns for protection for lower income individuals, note that of the 126 justifiable homicides by private citizens in California during 1981, 28.6 percent were committed by Hispanics, 47.6 percent by Blacks, and only 21.4 percent by Whites.⁷⁷ There is certainly no reason to expect that certain races are more likely to be crime victims or to kill criminals than other races. However, a much larger percentage of Blacks and Hispanics are in the lower income classes in California than are Whites, so we might conclude that lower income individuals, approximated here by Blacks and Hispanics, tend to turn to firearms for protection more often than higher income individuals simply because their choices are much more limited. In addition, of course, they are more likely to be the victims of crimes, so they are more likely to seek some means of self-protection.

If strict gun control laws are passed, many lower income individuals will be forced to choose between giving up their primary tool for protection of their persons and property, or becoming criminals themselves by disobeying the gun control law. Faced with such a choice, and realizing that gun control laws will be virtually unenforceable anyway (as Kates has pointed out⁷⁸), most will probably choose to disobey the law.

Before proceeding to another issue, one other piece of evidence of the deterrent impact of gun ownership for protection must be mentioned. As noted earlier, the city council of Kennesaw, Georgia, passed a highly publicized ordinance on March 15, 1982, that required each household to keep a firearm. The ordinance, just like a gun ban, is probably unenforceable, but the publicity surrounding its passage apparently provided potential criminals in the area with the knowledge that many Kennesaw residents owned firearms and were willing to use them for protection. Consequently, crime in Kennesaw has dropped at what has to be called a dramatic rate. Serious crime in Kennesaw dropped by 74.4 percent from 1981 to 1982.⁷⁹ Residential burglaries fell from 55 in 1981 to 19 in 1982, while aggravated assault was down from 9 to 2, rapes fell from 3 to 0, armed robbery declined from 4 to 0, and homicide from 1 to 0. In the seven months immediately following the passage of the ordinance there were only 5 burglaries as compared to 45 during the same seven-month period during the previous year.⁸⁰ Perhaps the Kennesaw ordinance was not a joke, after all! Reviewing the evidence from Orlando, Kennesaw, and other sources led Kleck and Bordua to conclude,

Given the data on private citizens' use of firearms against criminals and evidence on the slight risks of legal punishment associated with most crimes,

it is a perfectly plausible hypothesis that private gun ownership currently exerts as much or more deterrent effect on criminals as do the activities of the criminal justice system. The gun-owning citizenry is certainly more omnipresent than the police, and the potential severity of private justice is at least as severe or more severe than more formal legal justice, given the frequency of citizen shootings of criminals and the de facto near-abolition of capital punishment by the federal judiciary. In short, there is the distinct possibility that although gun ownership among the crime-prone may tend to increase crime, gun ownership among the noncriminal majority may tend to depress crime rates below the levels they otherwise would achieve.⁸¹

Gun ownership in particular, and private sector crime protection and prevention efforts in general, do appear to have considerable benefits, then—benefits arising from specialization, which tends to increase the likelihood that attempted crimes will be unsuccessful and to deter potential crimes. Such private sector specialization overcomes one source of the government failure documented in the previous section of this paper—the impact of special interest groups on the allocation of resources used for prevention of and protection against crime. There are other benefits as well, as indicated by Sneed. Competition for consumer protection dollars among alternative sources of protection is one factor that indicates that private sector protection efforts will be produced relatively efficiently. There are other factors as well.

Privatization and Production Efficiency

Private sector production of protection is likely to be relatively efficient in a cost-effectiveness sense, when compared to public sector production. The reasons are obvious and widely known. One such reason for private sector efficiency stems from the fact that private firms that produce protection services and devices can survive only if they make a profit. In an effort to make a profit, the private entrepreneur will attempt to produce the level of protection demanded at the lowest possible cost. If he is successful, he reaps the benefits, since he retains the excess profit. Citizens do not expect a public police department to make a profit, however. Taxes are collected to cover costs. Thus, the police department survives no matter what those costs might be (at least up to some level, as noted below). Since the police chief does not have to make a profit to survive, he has much weaker incentives to be concerned about production costs. Furthermore, he reaps no special reward by successfully producing at the lowest possible cost, since he cannot retain the profit. His cost-minimizing incentives, therefore, are extremely weak relative to a private producer. But the problem is even more severe than this. As noted in the previous section of this paper, bureaucratic producers have incentives to expand the size (and therefore the production costs) of the bureau. Thus, public police tend to produce a nonoptimal mix of enforcement services at relatively high costs.

The expectation of more cost-effective production by private sector firms is borne out. In fact, budget pressures are forcing many community officials to consider at least partial private-sector provision of services typically provided by public police.⁸² Recently, virtually complete privatization of police services has taken place in two communities. Reminderville, Ohio (and the surrounding Twinsburg Township), contracted with a private security firm in 1980. This arrangement was established following an attempt by the Summit County Sheriff's department to charge the community \$180,000 per year for the emergency response service and an occasional patrol by one car, both of which it had been providing. The community turned to a private firm, Corporate Security, for help. For \$90,000 a year the firm provided twice as many patrol cars and an emergency response within six minutes, as opposed to the sheriff department's 45-minute response time. The firm selects trained, state-certified candidates for the police positions, and the village chooses among the candidates. Corporate Security then pays the salaries of the seven chosen officers; provides and maintains two patrol cars; maintains the department's electrical, communications, and radar equipment; and carries the auto and liability insurance for the police force. The 1980 contract has been renewed once at only a slightly higher yearly fee, and a third contract will be negotiated soon.⁸³ The arrangement has been challenged by the Ohio Police Chiefs Association, but they have not been able to find anything in Ohio law to prevent it. The community is well satisfied with their private police force. In fact, despite many arrests, traffic tickets, and other actions typical of police, no complaints or charges have been registered.

A similar, but even more completely, private sector police force was established in Oro Valley, Arizona, in 1975. In Reminderville, the village officials maintained full autonomy in hiring, firing, disciplining, and organizing the police force; but Rural/Metro Fire Department, Inc., a private firm that provides fire protection for approximately 20 percent of Arizona's population, agreed to take responsibility for full operations management of Oro Valley's police force and to replace services previously provided by the county sheriff. Rural/Metro kept all the records required by the state and decided what equipment and how many officers were needed, what salaries to pay, and when to use nonpolice personnel (e.g., routine work like writing parking tickets and directing traffic was not performed by police officers). All these services were provided for \$35,000 per year. As a consequence of policies established by Rural/Metro's police chief (e.g., twice-a-day check of homes whose residents were away), burglary rates in the 3.5-square-mile town dropped from 14 to 0.7 per month and stayed at that level.⁸⁴ The Oro Valley-Rural/Metro arrangement was challenged by the Arizona Law Enforcement Officers Advisory Council, which argued that under Arizona law an employee of a private firm could not be a police officer. Rural/Metro decided that they could not bear the high court fees required to fight the challenge, so in 1977 the arrangement was ended. The 1982 Oro Valley police budget was

\$241,000 as compared to the \$35,000 price tag for Rural/Metro's provision of police services in 1975. Inflation might account for a doubling of the cost of these services over seven years, but it cannot account for the 500 percent increase in costs. Theodore Gage's conclusion that "in short, Oro Valley has become a typical police operation with typical costs"⁸⁵ seems warranted.

The profit motive provides strong incentives to produce at low costs. There is another reason to expect efficiency in regard to private sector production of protection. This reason does not apply to the above examples of government purchase of police services (which are only intended to serve as illustrations of the lack of incentives on the part of public police to minimize production costs), but it clearly could apply if the communities had held competitive bids before awarding the contracts.

The reason is that private sector producers of protection are often subject to competition. Since consumers are free to choose among private protection options, the only way that a private firm can legally obtain customers is by persuading people that they offer a quality service at a reasonable price. Government producers of protection have another option—they can use the government's power of coercion to collect taxes and produce protection, whether it is valued at the price paid or not.

Resources are most efficiently used when they are guided to the use that generates the greatest benefit to members of society. Competitive markets tend to guide resources to their highest and best uses, because the price consumers are willing to pay for a good or service reflects the benefits they expect to obtain from its consumption. Public police departments are *not able* to take advantage of price signals in deciding how to allocate resources, and they really do not have any other signals as effective as prices for telling producers what consumers want. Private providers of protection service and equipment, on the other hand, are *forced* to pay attention to price signals. Gustave de Molinari, a nineteenth century French economist and perhaps the earliest advocate of protection provided by the private sector, stated that the "option the consumer retains of being able to buy security wherever he pleases brings about a constant emulation among all producers, each producer striving to maintain or augment his clientele with the attraction of cheapness, or of faster, more complete and better" services.⁸⁶

The importance of price signals and competition for clientele should not be overlooked in a discussion of efficiency. Most police departments have not perceived the pressures of competition (except in terms of competition for a share of the budget that other bureaucracies are also seeking), since their clientele (taxpayers) is guaranteed. However, all private sector firms selling protection services or devices must compete for consumer dollars. Consumers then choose among all the options available. If, under these circumstances, a consumer decides to buy a gun for protection, then that decision implies a rational, efficient allocation of protection resources. Such a decision reflects the previously noted fact

that a firearm is a specialized tool of protection that provides benefits the public police (and many other private protection options) cannot provide. Thus, private sector production of crime prevention and protection also would eliminate the second source of government failure documented above—bureaucratic inefficiency.

Competition has beneficial efficiency impacts, since it forces private sector providers of protection service and equipment to keep costs and prices down and the quality of their products up. If competition among private firms can also be directed at public police, there may be some positive efficiency gains there as well (although we must keep in mind that government production, whether produced at the lowest possible cost or not, reflects the demands of special interest groups rather than individual consumers).

Privatization and Public Sector Efficiency

Theoretical examination of bureaucratic production suggests one way to improve bureaucratic performance (and perhaps lower crime rates)—competition for law enforcement bureaus. This is one control device available to legislatures in their efforts to force politically desirable production, and legislatures obviously have used this control device by creating many competitive bureaus. For example, Frederick Kaiser reported that “presently, more than 110 Federal agencies with a combined budget of \$5 billion participate in police, investigation, and law enforcement activities. This collection of often-competing units . . . is characterized by fragmented authority and overlapping jurisdiction.”⁸⁷ In addition of course, virtually every political jurisdiction has its own police and court bureaucracies. But suppose that local governments all over the country also had the legal right to contract with private firms for the provision of police services (as they do in Ohio, but perhaps do not in Arizona). As the threat of private contracting became apparent to public police departments we should see considerably more attention being paid to efforts at reducing costs for the level of service quality being supplied. This is an extreme example meant to illustrate the potential impact of expanding private sector production of protection services. Competitive pressures should arise, however, and cost reducing incentives result, without going this far. As citizens turn to the private sector in increasing numbers in order to supplement the protection they receive from the public sector, they should come to realize that privatization has advantages. In particular, private sector protection will be specialized and consequently relatively more effective than public police at protecting individuals from the crimes they fear the most. Furthermore, private sector efforts will generally be available at relatively low cost. Therefore, citizens will become increasingly reluctant to pay taxes for public protection. The threat of loss of budgets and jobs may become sufficient enough for public police to have stronger cost-monitoring incentives. So, some of the benefits of private sector competition may spill over into public sector production.

Of course, more efficient bureaucratic production simply means that the demands of special interest groups are more accurately met. In meeting these demands, some dissatisfaction with government criminal enforcement will dissipate—the dissatisfaction coming from interest groups whose demands are not efficiently met without such competition. As long as consumer dollars pass through government hands, the desires of individuals will be downplayed and the demands of interest groups will be met. So efficient production (or more accurately, cost-minimizing) by government bureaucrats will not yield the same bundle of services as efficient private-sector production would.

Naturally, bureaucrats try to avoid competition from both the private sector and other public sector bureaus. It was noted earlier, for example, that organizations of public police attempted to prevent Reminderville, Ohio, from contracting with a private police firm, and successfully challenged private police arrangements in Oro Valley, Arizona. Furthermore, police administrators tend to have a “marked distaste” for private security systems.⁸⁸ Some police officials have also lobbied for gun controls, although a majority of police oppose such laws. Most police do, in fact, support some types of privatization, because the benefits for police generated by such private sector efforts outweigh the costs arising from the threat of competition.

Many of the private sector activities that are developing are actually complementary to public sector production. Neighborhood watches and patrols, for example, generally involve private cooperative actions by individuals in a particular area in an effort to deter crime by visibly patrolling. However, when a crime is observed, the private individual on patrol calls the public police. Since crimes are more likely to be observed in progress than discovered after completion, the police are more likely to apprehend and successfully prosecute the criminal. Thus, neighborhood watches are likely to reduce crime in the area because of the deterrent effect of the visible patrol, but they are also likely to increase the effectiveness of the police in solving crime actually committed. It is not surprising to find police departments actively supporting neighborhood watch organizations and aiding in their formation.

Many private sector efforts are complements to and improve the effectiveness of public police. “Operation ID” involves individuals marking their property so that it can be easily identified when stolen. Such projects have been actively promoted by police departments in many communities, because they increase the likelihood of catching a criminal after a robbery when he tries to sell the stolen property. However, for our purposes, perhaps the most interesting private-sector crime protection activity that serves as a complement to the public police is gun ownership. As noted earlier, gun ownership is a specialized form of self-protection. It allows the individual to respond much more quickly to a crime in progress than can the public police, given its characteristic response time. In fact, “the

odds are better than 1000-to-1 that the officer won't be there when [a crime] happens; indeed, most violent criminals will do some scouting and make sure there are no policemen around."⁸⁹ The potential for a relatively quick response by a gun owner increases the likelihood of apprehending the criminal. In light of this, it is not surprising to find an overwhelming majority of police officers opposing gun control. A number of polls by police and independent organizations indicate that this is the case. One such poll, performed by the Second Amendment Foundation in 1977 and verified by the GMA Research Corporation, found that approximately 64 percent of the 34,000 police officers surveyed believed that an armed citizenry serves as a deterrent to crime, 86 percent indicated that even if they were not police officers they would keep a gun for protection, and more than 83 percent indicated that banning handguns would benefit criminals rather than citizens.⁹⁰ A 1976 survey commissioned by Boston Police Chief Robert di Grazia (an active gun-control advocate), and conducted by the Planning and Research Division of the Boston Police Department, found that over 66 percent of the nation's leading police administrators favored possession of handguns by the citizenry, and 80 percent approved of possession of handguns in homes and business places.⁹¹ So, the majority of public police believe that gun control will help criminals and hurt noncriminals, since gun controls will reduce the private citizen's ability to protect himself and make it more likely that a criminal will be successful in his crime efforts. These benefits of guns for protection apparently outweigh whatever threat of competition most police perceive (as well as the potential for bureau growth that might arise if police were able to enforce gun control laws).

Thus, it appears that privatization of protection, including gun ownership, can have positive spillover impacts on the success of public sector law enforcement efforts, in addition to the benefits it provides directly to citizens. It seems clear that privatization should be encouraged and supported rather than limited. Gun control laws are likely to have precisely the opposite impact on crime rates to that which control advocates claim.

III. Conclusions—How Much Privatization?

With all the growth in privatization, the argument that guns are being bought for protection seems to be very reasonable. One problem with the arguments for (and some of them against) gun control is that they focus only on the gun-crime relationship and ignore a lot of related phenomena that are also occurring.⁹² Rising gun ownership is just one part of a large trend toward greater private-sector involvement in crime prevention, detection, and protection, a trend that is taking place because of the growing fear of crime. (Of course, increasing crime rates, which are at least partly a result of government failure, generate still greater fears.)

With all the benefits from privatization, one might ask how much privatization should be allowed. There certainly are conflicting views as to the answer to this

question. Consider, for example, the study by Marshall Clinnard, which contrasted crime rates in Switzerland and Sweden and attempted to explain observed differences in crime rates by noting differences in the social and political makeup of the two countries.⁹³ First note that crime rates and especially violent crime rates are much higher in Sweden. It is also interesting to note that most Swiss households have a gun because about two-thirds of all males are part of the militia from age 20 to 50 or 55, and they keep their weapons at home. Thus, a lack of firearm availability cannot be the explanation for low crime (and especially violent crime) rates in Switzerland. Clinnard's explanation for the low crime rate in Switzerland relative to Sweden stressed the different degrees of government control. He observed that Sweden has a strong central government that has tended to inhibit individual initiative and responsibility in all areas, including crime control. The Swiss have relied much more on individual efforts with a much weaker central government. In fact, private sector provision of police services is rather common in Switzerland, with more than thirty Swiss villages and townships currently purchasing protection at what the Swiss Association of Towns and Townships describes as "substantial savings."⁹⁴ This led Clinnard to conclude that

Communities or cities that wish to prevent crime should encourage greater political decentralization by developing small government units and encouraging citizen responsibility for obedience to the law and crime control. The increased delegation and responsibility for crime control to the police and to governmental agencies . . . should be reversed.⁹⁵

So Clinnard's findings clearly support even greater privatization.

These conclusions are in sharp contrast to the claims made by others, including Raymond Kessler. He contended that the "basic sources of crime" are "rooted in the political economy of capitalism."⁹⁶ However, crime in socialized countries is a significant problem, so it is difficult to justify Kessler's claim that crime is "rooted in the political economy of capitalism." One Soviet writer on crime, for example, reported an "almost continuous growth of alcoholism and crime," and that far from "being eliminated, bribery and corruption increased, particularly in the work of many economic and trade organizations, in institutions of higher learning, in various state organizations and enterprises, and even within the party."⁹⁷ Another author wrote of "the spreading epidemic of senseless, brutal hooliganism and crime."⁹⁸ Crime statistics from Russia are typically unreported or unreliable, but Peter Juviler compared conviction rates in the United States and the USSR for 1971 and concluded that "if actual crime rates followed anywhere near these conviction rates then . . . one would be safer from violent crimes in the United States."⁹⁹ In fact, it is interesting to note that Soviet citizens are adopting private sector protection techniques because of fear of crime. Juviler cites several Soviet writers in reporting that

it is not uncommon for people living in an apartment house to have keys to the elevator, equip apartment doors with peepholes and double locks, chip

in for someone to run the elevator and lock and guard the door by 1:00 A.M. Soviet car owners remove windshields from their machines except when driving in the rain. They keep kids off the streets as much as possible. . . . Gates on many a high garden fence carry a sign, ZLAYA SOBAKA (Beware of the Dog). Some homeowners go to the extent of sleeping outdoors with shotguns or stringing up electrical fences when fruit and vegetables are temptingly ripe. . . . Residents in factory barracks and distant collective villages become accustomed to thieving, violence, and drunkenness among the young and not so young, and try to protect themselves accordingly.¹⁰⁰

Since Russia has suppressed private market (capitalist) activity significantly, replacing it with government, and crime remains a significant and growing problem, it seems unlikely that capitalism can be blamed for crime. Thus, the argument for greater privatization seems to be the strongest. However, we still do not have an answer to the question of how much more privatization should be allowed (or even encouraged).

A growing number of scholars advocate complete privatization.¹⁰¹ That is, they contend that government should have no role whatever in the crime protection area. Their argument is an appealing one. It stresses the advantages of freedom of choice and competition, the cost-minimizing incentives of profit seekers, and the benefits of specialization. (Much of the argument is briefly summarized in the preceding section of this paper.) This point of view stresses the efficiency and effectiveness of supply by private producers *relative* to supply by public producers. However, some would contend that it tends to overlook certain problems that may emanate from the demand side of the market.

Private sector production of protection generates external benefits for which private suppliers may be unable to charge. For example, suppose a few individuals hire a private security firm to patrol their neighborhood. This patrol deters criminals, both for the individuals paying the firm and the individuals in the neighborhood who do not pay. Thus, there are strong free-rider incentives associated with many private sector protection efforts. If everyone paid for the benefits received, the firm would patrol more often and prevent more crime, but since individuals can reap benefits without paying, they have strong incentives not to enter into the neighborhood group that hired the security firm.

The free rider problem arises to one degree or another with the production of many private sector protection attempts. Neighborhood watches face considerable free-rider problems, for example, as individuals refuse to participate, or drop out, but still receive benefits. There are even spillover benefits associated with individual purchases of firearms for protection. Suppose that an area of small retail shops is plagued by robberies, for example, and some of the store owners decide to purchase firearms for protection. Further, assume that in the course of a few weeks robberies are attempted at two or three of the stores whose owners have guns, and that the guns are used in an effort (whether successful or not) to prevent the robbery. Potential criminals realize that a number of shopowners

in this retailing area have guns and are willing to use them. Rather than take a chance of running into one of these store owners, criminals may choose to concentrate their efforts in another area. Thus, all the store owners in the area are better off, including those who chose not to buy a gun. Still, if more store owners owned guns for protection, rather than free riding off those who do, more crime would be deterred. The free rider problem actually means that *too little* private sector protection is purchased and produced. Therefore, it *does not* justify suppressing private sector protection efforts further, as gun control would do. Instead, efforts to encourage more privatization are appropriate. More guns for protection are needed, rather than less.

Furthermore, in contrast to what many people claim, the free rider problem *does not justify government production*. The problem arises because individuals cannot be persuaded to cooperate in buying the good or service in question, not because the private sector would not produce it if producers were fully compensated for the benefits they provide. For example, it was argued earlier that the private sector will concentrate resources in the areas of greatest perceived threat, so such resources will be deployed against potential violent and property crimes. One function of police is to enforce traffic laws. Under the existing system of rights and liabilities, it is doubtful that anyone would voluntarily contribute to the purchase of the services of a private firm to enforce traffic laws. Yet there are obviously tremendous benefits generated by a traffic system in which people must obey at least a minimum level of rules or be punished. This would generate classic free-rider problems if traffic control were left completely to the private sector. However, it does not mean that government must enforce the traffic laws. It simply means that given current rights and liabilities, people will have to be *coerced into paying* for this service since they cannot be persuaded to cooperate. Government is the only entity that is widely recognized to have the power to coerce. Thus, government involvement may be required to collect taxes and pay for enforcement of traffic laws. Once a private firm is appropriately paid, it will provide the service, and in all probability do it at a lower cost than the public police. For example, during the mid-1960s, Kalamazoo, Michigan, contracted with a private company to patrol its streets and enforce traffic laws.¹⁰² The process worked well until it was declared illegal. Wooldridge reported that "the judge who administered the *coup de grace* was offended that anyone should make a profit out of law enforcement, and apparently did not consider it relevant that a profit making company might do the job more cheaply than a non-profit-making sheriff."¹⁰³

This is an important point. Even if total privatization would lead to too little protection because of the free rider problem, there are considerable benefits to be gained from higher levels of private production. Communities should have the right to contract with private police firms if the firms can offer services that are adequate in the mind of the taxpayers and produced more efficiently than

by the public police. This would not necessarily eliminate all public police, of course, but it should force them to compete for the right to supply the service and therefore to become considerably more cost-effective.

The potential for purchase of protection from the private sector should eliminate or substantially reduce one source of government failure-bureaucratic inefficiency. However, government expenditures and therefore the output of either public or private sector police, will still reflect the demands of special interest groups. In order to completely overcome the problems arising from government failure, government must be eliminated from both the demand and supply side of the market. The free rider problem may prevent this. Of course, in this case the question is not one of market failure alone. The question becomes, Are the inefficiencies associated with underallocation due to the free rider problem in a purely private sector market for protection greater than or less than the inefficiencies associated with interest-group-induced misallocations arising from governmentally purchased protection?

It should be stressed that the free rider problem arises because of the existing systems of rights and liabilities. Externalities exist when property rights are unclearly or incompletely defined (or when they are communally assigned). Thus, with an appropriate and clearly delineated structure of rights and liabilities, the free rider problem could conceivably be overcome so private sector protection systems could provide the optimal amount of protection. For example, Anderson and Hill examined several private cooperative organizations that established private protection and enforcement systems in the western part of the United States during the period between 1830 and 1880, including land clubs, cattlemen's associations, and both wagon train and mining camp justice systems.¹⁰⁴ In order to internalize the benefits of each system, and thereby minimize costs and generate a sufficient level of protection, these organizations' justice applied to anyone within the community. In effect, entry into the community (e.g. wagon train, mining camp, etc.) required cooperation in the establishment of law enforcement and protection against crime. Anderson and Hill found the perception many of us have of the West as a wild society to be incorrect. Instead, private agencies saw to it that persons and property were protected and order prevailed. In the West, "competition rather than coercion insured justice," and many "voluntary, extra-legal associations provided protection and justice without apparent violence and developed rules consistent with the preferences, goals, and endowments of the participants."¹⁰⁵

Thus, the advocates of complete privatization may be right in their contentions, *if* appropriate property rights structures can be instituted. They may be right anyway, if the misallocation of governmentally controlled production is more significant than the underallocation that might arise with complete privatization. In any case, the benefits from increasing privatization, including greater gun

ownership for protection, can be substantial. Privatization of protection should be encouraged rather than discouraged through restrictions like gun controls.

So it seems that Archie Bunker was right, at least in part. The government has failed to control crime adequately. Furthermore, guns in the hands of private citizens may indeed be a deterrent to crime. However, increased government involvement that simply takes another form (i.e., gun control) does not appear to be the appropriate solution. Instead, increased private-sector production of protection should move us toward an efficient solution to the crime problem, and this private sector protection effort may involve considerable gun ownership.

NOTES

1. See also, for example, A. L. Stinchcombe et al., *Crime and Punishment—Changing Attitudes in America* (San Francisco: Jossey-Bass, 1980), pp. 16–22, for a discussion of rising crime rates.
2. Samuel Walker, "Reexamining the President's Crime Commission," *Crime and Delinquency* 24 (January 1978):2.
3. Michael Milakovich and Kurt Weis, "Politics and Measures of Success in the War on Crime," *Crime and Delinquency* 21 (January 1975):1.
4. Yankelovich, Skelly and White, Inc., *The Public Image of Courts: Highlights of a National Survey of the General Public, Judges, Lawyers and Community Leaders* (Williamsburg, Va.: National Center for State Courts, 1978), Table III.6, p. 25 and Table IV.1, p. 29.
5. Stinchcombe et al., *Crime and Punishment*, p. 31.
6. The private sector has actually responded in a number of ways in addition to increasing gun ownership for protection. Other private sector responses are examined in part III of this paper.
7. Joe Feagin, "Public Reaction to Crime in the Streets," *American Behavioral Scientist* 13(1970):797–814.
8. Albert Reiss and David Bordua, "Environment and Organization: A Perspective on the Police," in David Bordua, ed., *The Police: Six Sociological Essays* (New York: Wiley, 1967).
9. Alan Lizotte and David Bordua, "Firearms Ownership for Sport and Protection: Two Divergent Models," *American Sociological Review* 45 (April 1980):239.
10. Alan Lizotte, David Bordua, and Carolyn White, "Firearms Ownership for Sport and Protection: Two Not So Divergent Models," *American Sociological Review* 46(August 1981):499–503.
11. In addition to the above cited evidence, see the excellent paper by Gary Kleck, "The Relationship Between Gun Ownership Levels and Rates of Violent Crime in the United States," in Don B. Kates, Jr., ed., *Firearms and Violence* (Cambridge, Mass.: Ballinger Press, 1984) for a survey of other empirical support for the contention that violent crime leads to greater gun ownership, as well as additional evidence generated in Kleck's paper and in Joseph P. Maggiddino and Marshall H. Medoff, "An Empirical Analysis of Federal and State Firearm Control Laws," in the same volume.
12. Kates, "Handgun Banning in Light of the Prohibition Experience," in *Firearms and Violence*, note 11.
13. Magaddino and Medoff, "An Empirical Analysis of Federal and State Firearm Control Laws," and Kleck, "The Relationship Between Gun Ownership Levels and Rates of Violent Crime in the United States," both in *Firearms and Violence*, note 11.
14. Gary Becker, "Crime and Punishment: An Economic Analysis," *Journal of Political Economy* 78(March/April 1968):526–36.
15. Evidence of these claims is not presented here because of space constraints. However, for summaries of the relevant literature see the following literature surveys: Nicholas Elliot, "Economic Analysis of Crime and the Criminal Justice System," in John Gardiner, ed., *Public Law and Public Policy*, (New York: Praeger, 1977), pp. 68–89; J. M. Heineke, "Economic Models of Criminal Behavior: An Overview," in J. M. Heineke, ed., *Economic Models of Criminal Behavior* (Amsterdam: North Holland, 1978), pp. 1–34; Jan Palmer, "Economic

- Analyses of the Deterrent Effect of Punishment: A Review," *Journal of Research in Crime and Delinquency* 12 (January 1977):4-21; John Taylor, "Econometric Models of Criminal Behavior: A Review," in J. M. Heineke, ed., *Economic Models of Criminal Behavior* (Amsterdam: North Holland, 1978), pp. 35-82; and Sharon Long and Ann Witte, "Current Economic Trends: Implications for Crime and Criminal Justice," in Kevin Wright, ed., *Crime and Criminal Justice in a Declining Economy* ed. (Cambridge, Mass.: Oelgeschlager, Gunn and Hain, 1981); pp. 69-143.
16. U.S. Department of Justice, *Uniform Crime Reports*, Federal Bureau of Investigation, 1961 and 1981. It is interesting to note, in this context, that the two countries most often cited by gun control advocates as having effectively held violent crime rates down through gun controls are Japan and Great Britain. However, these two countries solve 81 and 90 percent of their violent crimes respectively, as compared to our 45 percent (David Hardy, "Gun Control: Arm Yourself With Evidence," *Reason* 14 (November, 1982):39). The economic theory of regulation would predict relatively low crime rates with such high probabilities of being caught, regardless of what the gun laws might be.
 17. David Jones, *Crime Without Punishment* (Lexington, Mass.: Lexington Books, 1979), p. 83.
 18. *Ibid.*, pp. 73-75.
 19. U.S. Department of Justice, *Sourcebook of Criminal Justice Statistics*, Bureau of Justice Statistics, 1976.
 20. It must be stressed that the only purpose of the above discussion of the economic theory of crime was to offer an explanation of the rising crime rates that does not include the availability of firearms. The above discussion should not be interpreted as advocacy of more severe criminal sanctions or an expansion of the public sector's law enforcement bureaucracy in order to increase the probability of punishment (in fact, the opposite will be argued later). After all, as Ehrlich noted, "the results of the empirical investigation indicate that the rate of murder and other related crimes may also be reduced through increased employment and earning opportunities. The range of effective methods for defense against murder thus extends beyond conventional means of law enforcement and crime prevention" (I. Ehrlich, "The Deterrent Effect of Capital Punishment: A Question of Life and Death," *American Economic Review* 65 (June 1975):416-17). Some would make the normative judgment that the evidence of the deterrent effect of punishment and lack of the evidence supporting a crime reducing impact of rehabilitation efforts justifies more severe punishment, but we shall not.
 21. Roscoe Pound and Felix Frankfurter, eds., *Criminal Justice in Cleveland* (Cleveland: The Cleveland Foundation, 1922), p. 590.
 22. Special interest theories of government in general and criminal justice in particular come from such diverse sources as the libertarian right (see, for example, Robert McCormick and Robert Tollison, *Politicians, Legislation, and the Economy, An Inquiry into the Interest Group Theory of Government* [Boston: Martinus Nijhoff Publishing, 1981], and Bruce Benson, "Land Use Regulation: A Supply and Demand Analysis of Changing Property Rights," *Journal of Libertarian Studies* 5 [Fall 1981]:435-51; Ralph Nader-type muckrakers (for example, Ralph Nader, "Introduction" in Bruce Wasserstein and Mark Green, eds., *With Justice for Some: An Indictment of the Law by Young Advocates* [Boston: Beacon Press, 1970], p. ix); the liberal left concerned with government treatment of the poor and minorities (see, for example, Charles Reasons and Jack Kuykendall, eds., *Race, Crime, and Justice* [Pacific Palisades, Calif.: Goodyear Publishing, 1972], pp. 1-2, and Melvin Sikes, *The Administration of Injustice* [New York: Harper and Row, 1975], p. 119); and the radical or Marxian left (see, for example, Richard Quinney, *Crime and Justice in Society* [Boston: Little, Brown, 1969]). In addition, as Eisenstein observed, this special interest view is very compatible with the "legal realist" view of law (James Eisenstein, *Politics and the Legal Process* [New York: Harper and Row, 1973], pp. 9-10).
 23. See the references cited in note 22, as well as Richard Posner, "Theories of Economic Regulation," *Bell Journal of Economics and Management Science* 5 (Autumn 1974):335-58; George Stigler, "The Theory of Economic Regulation," *Bell Journal of Economics and Management Science* 2(Spring 1971):3-21; Sam Peltzman, "Toward a More General Theory of Regulation," *Journal of Law and Economics* 19(August 1976):211-40; and Bruce Benson,

- "Regulation—The Demand and Supply of Property Rights," *Appalachian Business Review* 8(1981):22-28, whence the predictions listed below are derived.
24. See, for example, Richard Quinney, *The Social Reality of Crime* (Boston: Little, Brown, 1970); William Chambliss and Robert Seidman, *Law, Order, and Power* (Reading, Mass.: Addison-Wesley Publishing, 1971); Chambliss, "A Sociological Analysis of the Law of Vagrancy," *Social Problems* 12(Summer 1964):69; Pamela Roby, "Politics and Criminal Law: Revision of the New York State Penal Law on Prostitution," *Social Problems* 17(Summer 1969):83-109; and others.
 25. Raymond Nimmer, *The Nature of System Change: Reform Impact on the Criminal Court* (Chicago: American Bar Foundation, 1978).
 26. National Advisory Commission on Criminal Justice Standards and Goals, *Report on Police*, (Washington, D.C.: Government Printing Office, 1973), p. 206. See also Fred Graham, *The Self-Inflicted Wound* (New York: Macmillan, 1970).
 27. Jones, *Crime Without Punishment*, note 17, p. 83. See citations in note 15 for evidence of higher crime rates resulting from reduced probability of punishment.
 28. Hugo Bedau, *The Courts, the Constitution and Capital Punishment* (Lexington, Mass.: Lexington Books, 1977), p. 76.
 29. Ehrlich, "The Deterrent Effect of Capital Punishment: A Question of Life and Death," note 20.
 30. H. Erskine, "The Polls: Capital Punishment," *Public Opinion Quarterly* 34(1970):290-301, and Public Opinion About Capital Punishment, *Gallup Opinion Index* (1978), pp. 20-25.
 31. Richard Berk, Harold Brackman, and Selma Lesser, *A Measure of Justice: An Empirical Study of Changes in the California Penal Code, 1955-1971* (New York: Academic Press, 1977).
 32. *Ibid.*, pp. 85-86.
 33. *Ibid.*, p. 11. In addition, see John Heinz, Robert Gettleman, and Morris Seeskin, "Legislative Politics and the Criminal Law," *Northwestern University Law Review* 64(July 1969):277-356, where it was also found that criminal justice legislation involved an agreed-bill process in which major lobbies negotiated along with a few legislators.
 34. Berk, Brackman, and Lesser, *A Measure of Justice*, note 31, p. 276.
 35. *Ibid.*, p. 299.
 36. George Cole, *Politics and the Administration of Justice* (Beverly Hills, Calif.: Sage, 1973), pp. 23-24.
 37. Staff Report to the National Commission on the Causes and Prevention of Violence, *Law and Order Reconsidered* (New York: Bantam Books, 1970), pp. 551-70.
 38. Abraham Goldstein and Joseph Goldstein, *Crime, Law, and Society* (New York: Free Press, 1971), p. 293. See also Abraham Blumberg, *Criminal Justice* (Chicago: Quadrangle, 1967); Norval Morris and Gordon Hawkins, "The Overreach of the Criminal Law," *Midway* 9(Winter 1969); Harry Jones, eds., *The Courts, the Police and the Law Explosion* (Englewood Cliffs, N.J.: Prentice-Hall, 1965); Sanford Kadish, "The Crisis of Overcriminalization," *Annals of the American Academy of Political and Social Science* 374(November 1967):157-70; and Herbert Packer, *The Limits of the Criminal Sanction* (Stanford: Stanford University Press, 1968).
 39. For theoretical derivation of such predictions, see William Niskanen, *Bureaucracy and Representative Governments* (Chicago: Aldine-Atherton, 1971); Niskanen, "Bureaucrats and Politicians," *Journal of Law and Economics* 18(December 1975):617-43; Niskanen, "The Peculiar Economics of Bureaucracy," *American Economic Review* 58(May 1968):293-305; and Benson and M. L. Greenhut, "Interest Groups, Bureaucrats and Antitrust," Ronald E. Grieson, ed. *Antitrust and Regulation* (Lexington, Mass.: Lexington Books, 1986), pp. 53-90.
 40. Berk, Brackman, and Lesser, *A Measure of Justice*, note 31, pp. 276 and 282.
 41. Jones, *Crime Without Punishment*, note 17, p. 201.
 42. Blumberg, *Criminal Justice*, note 38, pp. 184-85.
 43. Eisenstein, *Politics and the Legal Process*, note 22, p. 112.
 44. Jones, *Crime Without Punishment*, note 17, pp. 191-97.
 45. Alan Bent, *The Politics of Law Enforcement: Conflict and Power in Urban Communities* (Lexington, Mass.: Lexington Books, 1974), pp. 6-11.
 46. Eisenstein, *Politics and the Legal Process*, note 22, p. 120.
 47. Benson, "A Note on Corruption of Public Officials: The Black Market for Property Rights," *Journal of Libertarian Studies* 5(Summer 1981):305-11.

48. Bent, *The Politics of Law Enforcement*, note 45, pp. 3-6.
49. Lawrence Sherman, "Watching and Crime Prevention: New Directions for Police," *Journal of Contemporary Studies* 88(Fall 1982):87.
50. Christopher Dobson and Ronald Payne, "Private Enterprise Takes On Terrorism," *Across the Board*, (January 1983):36.
51. Robert Hair, "Private Security and Police Relations," in John O'Brien and Marvin Marous, eds., *Crime and Justice in America: Critical Issues for the Future* (New York: Pergamon Press, 1979), pp. 113-14.
52. Dobson and Payne, "Private Enterprise Takes On Terrorism," note 50, p. 36.
53. In addition, some local governments have opted to purchase police services from private firms rather than produce such services themselves. This phenomenon is discussed later.
54. Kleck, "The Relationship Between Gun Ownership Levels and Rates of Violence in the U.S.," note 11; and Lizotte, Bordua, and White, "Firearm Ownership for Sport and Protection," note 10.
55. Dobson and Payne, "Private Enterprise Takes On Terrorism," note 50, p. 36.
56. *Ibid.*, pp. 34-41.
57. Sherman, "Watching and Crime Prevention," note 49, p. 37.
58. Norman Rushforth, et al., "Violent Death in a Metropolitan County," *New England Journal of Medicine* 297(September 1977):537.
59. Blumberg, *Criminal Justice*, note 38, p. 185.
60. William Wooldridge, *Uncle Sam, The Monopoly Man* (New Rochelle, N.Y.: Arlington House, 1970), p. 116.
61. *Ibid.*, p. 117.
62. *Ibid.*, p. 121.
63. Timothy Hannan, "Bank Robberies and Bank Security Precautions," *Journal of Legal Studies* 11(January 1982):83-92.
64. *Ibid.*, p. 91.
65. G. M. Camp, "Nothing to Lose: A Study of Bank Robbery in America" (Ph.D. Dissertation, Yale University, 1968).
66. John Sneed, "Order Without Law: Where will the Anarchists Keep the Madmen?" *Journal of Libertarian Studies* 1(1977):17.
67. California Department of Justice, *Homicide in California, 1981* (Sacramento: Bureau of Criminal Statistics and Special Services, 1981).
68. Gary Kleck, "Handgun-Only Gun Control: A Policy Disaster in the Making," in Kates, *Firearms and Violence*, note 11.
69. Kates, unpublished tables, no date.
70. Carol Silver and Don Kates, Jr., "Self-Defense, Handgun Ownership and the Independence of Women in a Violent, Sexist Society," in Don Kates, Jr., ed., *Restricting Handguns: The Liberal Skeptics Speak Out* (New York: North River Press, 1977), p. 158.
71. Philip Cook, "The Effect of Gun Availability on Robbery and Robbery Murder: A Cross-Section Study of 50 cities," in *Policy Studies Review Annual* 3(1979):743-81.
72. Silver and Kates, "Self-Defense, Handgun Ownership and the Independence of Women in a Violent, Sexist Society," note 7, p. 151. Such surveys include Van den Haag, "Banning Handguns: Helping the Criminal Hurt You," *New Woman* 5(November-December 1975):80.
73. Cook, "The Effect on Gun Availability on Robbery and Robbery Murder," note 71, p. 755.
74. Gary Kleck and David Bordua, "The Factual Foundation for Certain Key Assumptions of Gun Control," *Law and Policy Quarterly* 5(Spring 1983):271-298.
75. *Ibid.*
76. *Ibid.*
77. California Department of Justice, *Homicide in California, 1981*, note 67, p. 74.
78. Kates, "Handgun Banning in Light of the Prohibition Experience," in *Firearms and Violence*, note 11.
79. "Kennesaw's Crime Down 74 Percent," *Gun Week*, January 28, 1983, p. 3.
80. Kleck and Bordua, "The Factual Foundation for Certain Key Assumptions of Gun Control," note 74.
81. *Ibid.*

82. Theodore Gage, "Cops, Inc.," *Reason* 14 (November 1982):23-28.
83. *Ibid.*, p. 25.
84. *Ibid.*, p. 26.
85. *Ibid.*, p. 26.
86. Gustave de Molinari, "De la production de la sécurité," *Journal des Economistes* (February 1849): 277-90. This article has been translated into English and published as Gustave de Molinari, *The Production of Security*, trans. J. Huston McCulloch (New York: The Center for Libertarian Studies, 1977), and this citation comes from that translation, p. 13.
87. Frederick Kaiser, "Federal Law Enforcement: Structure and Reorganization," *Criminal Justice Review* 5(Fall 1980):101-18.
88. Sherman, "Watching and Crime Prevention," note 49, p. 91.
89. Nassad F. Ayoob, *The Experts Speak Out: The Police View of Gun Control* (Bellevue, Wash.: Second Amendment Foundation, 1981), p. 4.
90. *Ibid.*, p. 7.
91. *Ibid.*, pp. 7-8.
92. For example, if rising gun ownership does lead to more crime, it is likely to be a very insignificant factor at best, in light of all the other changes that have taken place over the last few decades. The economic theory of crime, for example, indicates that crime rates rise if the deterrents to crime such as the chances of capture and conviction, and/or the severity of punishment are diminished. As noted in the introduction to this paper, there have, over the last few decades at least, been substantial reductions both in the chances of capture and conviction when violent crimes are committed and in the severity of punishment. The impact of these changes has been shown to be significant.
93. Marshall Clinnard, *Cities With Little Crime: The Case of Switzerland* (Cambridge: Cambridge University Press, 1978).
94. Gage, "Cops, Inc.," note 82, p. 26.
95. Clinnard, *Cities With Little Crime*, note 93, p. 156. Clinnard's findings concerning the benefits of decentralization and use of small police forces are supported by several studies of the United States, as well. For example, Elinor Ostrom, et al. report that "smaller, community-controlled police departments are able to provide consistently higher levels of service to smaller neighborhoods," "Community Organization and the Provision of Police Services," *Administrative and Policy Studies Series* 1(1973):66. See also Ostrom and Parks, "Suburban Police Departments: Too Many and Too Small?" *Urban Affairs Annual Reviews* 7(1973):367-402; and Ostrom and Whitaker, "Does Local Community Control of Police Make a Difference? Some Preliminary Findings," *Midwest Journal of Political Science* 17(1973):48-76.
96. Raymond Kessler, "The Ideology of Gun Control," paper presented at the 1981 Annual Meeting of the American Society of Criminology, Washington, D.C., November 1981.
97. Roy A. Medvedev, *On Socialist Democracy*, trans. and ed. Ellen de Kalt (New York: Alfred A. Knopf, 1975), pp. 339 and 25.
98. Andrei D. Sakharov, *My Country and the World*, trans. Guy V. Daniels (New York: Vintage Books, 1975), p. 25.
99. Peter H. Juwiler, *Revolutionary Law and Order: Politics and Social Change in the USSR* (New York: Free Press, 1976), p. 140.
100. *Ibid.*, pp. 136-37.
101. A few examples of exponents of total privatization are Murray Rothbard, *For a New Liberty* (New York: Macmillan, 1973); David Friedman, *The Machinery of Freedom: Guide to a Radical Capitalism* (New Rochelle, N.Y.: Arlington House, 1970); Sneed, "Order Without Law," note 66; George Smith, "Justice Entrepreneurship in a Free Market," *Journal of Libertarian Studies* 3(Winter 1979):405-26; Randy Barnett, "Justice Entrepreneurship in a Free Market: Comment," *Journal of Libertarian Studies* 3(Winter 1979):439-51; and Wooldridge, *Uncle Sam, The Monopoly Man*, note 60.
102. Wooldridge, *Uncle Sam, The Monopoly Man*, note 60, p. 122.
103. *Ibid.*, p. 123.
104. Terry Anderson and P. J. Hill, "An American Experiment in Anarcho-Capitalism: The Not So Wild, Wild West," *Journal of Libertarian Studies* 3(1979):9-29.
105. *Ibid.*, pp. 25 and 17.