

***Justice Without Trial: Law Enforcement in Democratic Society.* Jerome H. Skolnick (New York: John Wiley & Sons, Inc., 1966. 279 pp., \$7.95. Paperback edition, 1967, \$2.45.)**

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Professor Skolnick has produced a masterful account of the organization and operations of an American police department, an account which goes far beyond the pious platitudes and fiery denunciations usually heard on this subject. It also outdistances easily the ordinary administrative analysis, concentrating on the rewards and constraints policemen themselves see and respond to rather than those the efficiency experts think they ought to see and respond to. In this way, *Justice Without Trial* makes an important contribution to our knowledge of occupational organization, to our grasp of the conditions under which criminals and deviants operate, and to our understanding of the way law is enforced at the grass roots.

The method of participant observation, which Skolnick has used with great effectiveness, furnishes the kind of data necessary for such a contribution. Riding in squad cars with the detectives of a west coast urban police department, he observed them as they watched, investigated, and apprehended a wide variety of offenders: people who had failed to pay traffic tickets, prostitutes, burglars, narcotics users and peddlers. He heard them as they planned raids and arrests, watched them interact with suspects on the street and in the station, and, during quieter times, got their explanations of what they thought was happening and why they acted as they did. He clearly achieved remarkable rapport with them, participating intimately in many police operations and assisting them in minor ways. (His discussion of the ethical problems involved is a valuable addition to the field work literature.)

His analysis begins with the complex of conditions within which the police work: their work is dangerous; they have legal authority; they have great discretionary latitude in deciding which laws to enforce and when; they must take cognizance, even if they do not abide by, the procedural rules that have been deduced from the Bill of Rights; they

must produce evidence, in the form of arrests and other dispositions of crimes, when they are doing their job; many of the crimes they are called upon to control are victimless crimes, like prostitution and drug addiction, in which they must search out violations rather than wait for victimized citizens to make complaints, as in the case of assaults or burglaries.

What routine forms of collective activity do the police develop under these circumstances? In general, Skolnick tells us, they do those things for which they are rewarded. That bare statement is not very rewarding; it gets its substance and weight from his analysis of the specific systems of reward police are involved in and the specific activities built up around them.

One of the neatest examples is that of the effect of the "clearance rate" on the disposition of cases of homicide, assault, burglary, etc. In such cases, the public reports crimes to the police and one can calculate the proportion of these reported crimes that have been "cleared" by the arrest of the criminal. (In calculating the rate, one need not secure a conviction for every crime cleared or even bring every case to trial; it is enough that the police are satisfied, because of a confession or other evidence, that the man they have arrested for one crime has in fact committed others which can then be considered cleared.)

Superiors evaluate the efficiency of individuals and units by means of the clearance rate; prestige, promotion, and income may depend on it reaching a certain level. Not surprisingly, detectives become more concerned with achieving a high clearance rate than with thorough investigation in search of a conviction in every reported case. One of the means used to achieve a high rate is to report any ambiguous case under some category (such as "suspicious circumstance") not used in figuring the base of the rate, thus raising it. Another is to persuade someone they have apprehended for one crime to confess to others. In either case, raising the rate takes precedence over solving crimes.

The second means introduces another major theme. How do police persuade suspects to confess, as in the above instance, or to inform on others with whom they have been involved? Skolnick shows us that they do it by bargaining and that the commodities they use to bargain with are those created by the criminal law or those they can create within its provisions. Thus, in the instance of the clearance rate, police will reward an apprehended thief who helps them raise the rate by

confessing to other crimes, by processing his case so as to produce a minimal sentence, by concealing evidence of his other crimes from the court in order to influence sentencing, and by giving him virtual immunity from prosecution for the crimes he confesses. This produces the paradox that the more crimes you have committed, the easier you are likely to get off. A man who cannot trade a raising of the clearance rate for easier treatment will have the book thrown at him.

This introduces a third major theme: the use of informants. Victimless crimes are dealt with mainly by the development of an informant system, the informants being paid for their information in ways similar to the above. Informants have to be created, and the detectives do that by nailing them for something, then trading off lenient treatment for the names of others and for cooperation in apprehending others. Skolnick notes, perceptively, that high penalties constitute the capital assets of this kind of police work; stiff sentences for comparatively minor violations make good bargaining material.

Finally, Skolnick asks what all this means for a rule of law. The police, far from regarding it as their duty to abide by procedural safeguards, look on these as unwarranted and ignorant interference with their ability to maintain public order by making legal arrests of those they feel morally certain are factually guilty. The rule of law interferes with getting the job done in a way that will reflect credit on them. Police respond to the rule of law and to chastisement by the courts for violating it with indignation, and with attempts to manipulate circumstances to give the appearance of legality to actions that are clearly illegal. Skolnick suggests that a dialectic process may be involved: as the courts advance individual rights over police interests the public may become aroused in such a way as to provide police the means with which to overcome the judiciary; thus, the outlook for continued "containment" of the police may not be good.

This summary only hints at the wealth of interesting and informative material the book contains. For instance, the differential impact of law enforcement on Negroes is shown to be a result, not of prejudice, but of different ways that Negroes and whites affect getting the job done. To take one example, when the detectives serve warrants on traffic ticket evaders, they are much more likely to give whites a chance to pay the tickets and avoid a jail sentence. But this is because whites are more likely to own homes and hold steady jobs and thus less likely to skip out, leaving the officer with an unserved warrant.

Skolnick's account of the breakup of a "narcotics ring" also deserves mention. His meticulous and detailed description reveals that the ring in question was developed by the narcotics detectives themselves, as their undercover agents made bigger and bigger purchases in order to make a "good pinch." It is a lovely demonstration of the degree to which law enforcement can create crime.

All in all, *Justice Without Trial* is a model of the kind of research needed on law enforcement: thorough, detailed, taking into account the perspective of those studied, and informed by a keen awareness of the sociological and legal import of what has been found. It is, of course, only a beginning. Much comparative work remains to be done. Skolnick is well aware of this and frequently introduces references to other police systems, even including the results of a small study of his own of a much more corrupt department than the one he devoted most of his attention to. It should be made clear, however, that the focus of the book is not on the one department, in all its individuality, but rather on those underlying conditions that are likely to be found in the generic type. Nevertheless, for a start and with Skolnick's work to point the way, we need studies of corrupt departments, studies of rural and suburban police, studies of the constabulary (as opposed to the detective) function, and studies of those regional variations (such as in the South) that may affect the conditions under which the law is applied.