

# Two approaches to the law enforcement crisis

by Mary Jane Freeman

Calling America the victim of "double-digit crime inflation," Chief Justice Warren Burger proposed a four-point program for combatting crime in his annual report to the American Bar Association this February. In line with the Reagan administration's policy of re-establishing violent crime, rather than so-called white-collar corruption as the main target of U.S. law enforcement, Burger told the ABA that "crime and the fear of crime have permeated the fabric of American life." The Chief Justice recommended changes in the criminal justice system he described as "a damage control program."

By "damage control," the Chief Justice means steps taken after the commission of a criminal act that may ensure prompt trial procedures, sure and swift punishment for convicted offenders, and attempts to curb recidivism. "When I speak of 'crime and punishment,'" Burger told the ABA, "I embrace the entire spectrum beginning with an individual's first contact with police authority through the stages of arrest, investigation, adjudication, and corrective confinement." Implicit in Burger's approach is that law enforcement's role in combatting crime is *ex post facto*, after the gun is smoking.

Some of the Burger proposals speak to crippling secondary weaknesses of the U.S. criminal justice system. But for a nation with a tidal wave of crime, increasingly virulent urban disorders, and terrorism—and which this week saw with horror an attempt on the life of the President—a law enforcement program which deals with crime only after the fact is totally insufficient.

A way out of the after-the-fact bind on law enforcement personnel was offered by former presidential candidate Lyndon H. LaRouche, Jr. in a recently released policy document issued by the National Democratic Policy Committee (NDPC), whose advisory committee LaRouche chairs. LaRouche takes aim at the *institution* of criminal activity, rather than mere punishment of specific crimes after the fact, as the proper object of law enforcement. The LaRouche document emphasizes that the twin pillars of the U.S. criminal infrastructure, dope traffic and domestic terrorism, can only be dealt with through the "approach of breaking the back of crime."

In his presentation to the ABA, Burger correctly noted that the judicial process is currently undermined by the magnitude of court caseloads, delay in trials, and opportunities for dilatory action by both prosecutors and defense. Punishment is distant and uncertain for the legally well-protected criminal, while freedom for the innocent or minor offender may be long delayed through inability to raise bail. To deal with this problem, Burger offers proposals which he believes will streamline the judicial system, or "control the damage":

- 1) Restore to all pretrial release laws the crucial element of danger to the community to be determined by available evidence and the defendant's record, to deter crimes committed while on bail;
- 2) Provide for trial within weeks of arrest for most cases, except for extraordinary cause shown;
- 3) Priority for review on appeal within eight weeks of a judgment of guilt;
- 4) Following exhaustion of appellate review, restricting a subsequent judicial review to claims of miscarriage of justice to halt what is often an endless round of appeals and retrials based on technicalities.

Following conviction, Burger offers six recommendations which he sees as a means to reduce the rate of criminal recidivism by giving prison inmates skills which they can use to re-enter society. For example, he proposes "a broad-scale program of physical rehabilitation of penal institutions to provide a decent setting for . . . educational and vocational training." He recommends that the programs should be mandatory, and credit for educational progress could be applied to reduce prisoners' sentences. His four additional recommended changes in prison procedures and functions are: "generous use of probation for first nonviolent offenders, with . . . swift revocation if probation terms are violated"; "generous family visitation . . . to maintain family ties, with rigid security to exclude drugs or weapons"; "counseling services after release"; and "encouraging religious groups to give counsel on ethical behavior and occupational adjustment."

In his first four proposals dealing with the crisis in judicial procedures, Burger is responding to the univer-

sally acknowledged near-breakdown of the court system. The cause of this problem, however, is not procedural. Rather, as the LaRouche memo emphasizes, it is the magnitude, the omnipresence of crime. The existing atmosphere of criminality, the LaRouche memo states, is the result of liberal law enforcement policies "which serve to protect the criminal infrastructure . . . [w]hich say, in effect, 'It is now the function of the law to defend the criminal from undue annoyance by the representatives of the criminal's victims.'"

To re-establish a genuine criminal justice system, as opposed to both the liberal "protect-the-criminal" view of law enforcement and the narrow "after-the-fact" damage-control outlook represented by the Burger reforms, the institutionalization of criminal activity, the environment of crime, must be reversed. The cause of the breakdown of the court system, quite simply, is the overwhelming amount of crime. In the same way, the inducement of the ex-convict to return to criminal activity results in large measure from the networks of criminal behavior which define that individual's social relations. Moreover, the threat of swift incarceration, crucial as it is to law enforcement, is not by itself enough to deter recidivists. The criminal mind, LaRouche writes, is "by nature rife with fantasy, is characterized by moral indifferentism," and lacks as a result any ability to comprehend reality. Consequently, the criminal does not believe that he will be caught no matter how great the likelihood of his apprehension is.

### **The problem of British criminology**

It is therefore necessary, says LaRouche, to "dispel the delusion that the arrest and conviction of discovered perpetrators represents in itself effective suppression of the institutions of crime." "The core of the issue," writes LaRouche, "is the British criminological policy which defines the primary objective of law enforcement to be the apprehension and conviction of the perpetrator *after the fact of the commission of the particular crime.*"

The U.S. criminal justice system must be premised on "the contrary policy [that] defines the apprehension of perpetrators after the fact of the crime as a necessary incidental feature of the much broader task of proper law enforcement . . . defined . . . to be the control of crime before the fact, the neutralization of the institutionalization of circumstances which engender the perpetrated individual criminal act."

LaRouche asks citizens to look through the eyes of the cop on the beat. "Elementary law enforcement," LaRouche writes, "conceived as control of crime, centers around the officer's trained eyes and ears for 'something queer.' The beat officer, who knows every nook and cranny of the beat, backed by roving patrol cars, and both backed by an intelligence-oriented detective force in the precinct, is the point man in effective

control of crime." What if, the memorandum asks, "instead of such queer occurrences in an otherwise orderly beat, the 'queerness' of the environment is extensive, and if the officer is constrained by policies which prevent him from enforcing ordinary standards of orderly conduct to keep the 'queerness' of the beat within manageable proportions?"

Thus, instead of crime-related disorders standing out as "queer" and threatening, "lack of efficient law enforcement action against drug usage as well as drug-distributing offenses means an environment so contaminated with unlawfulness that that condition in itself creates a condition of *crime out of control.*"

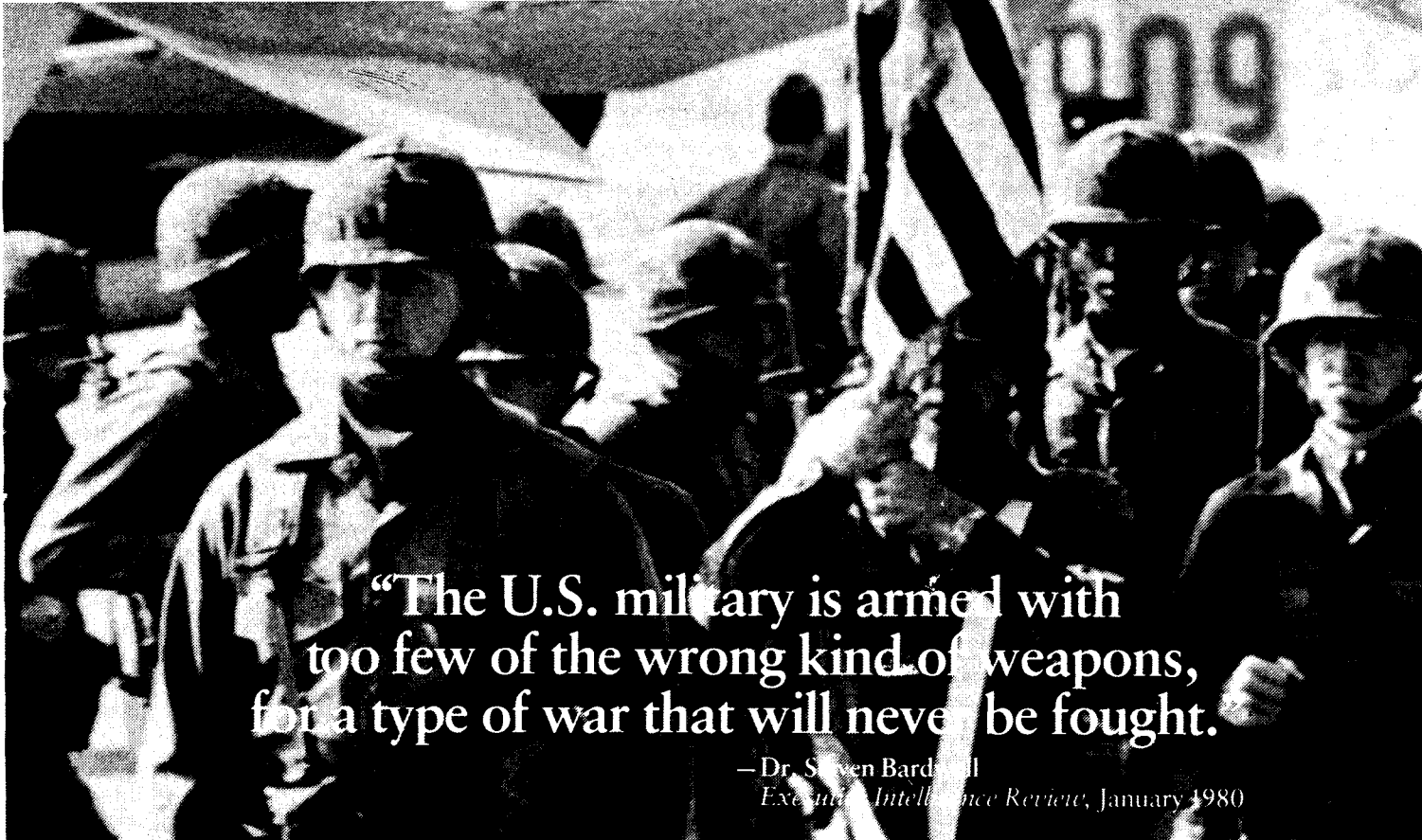
LaRouche examines two crucial cases of the institutionalized forms of criminal activity that feed the "environment of crime": drugs and terrorism. Citing a notorious example from New York City, which liberal law enforcement policies have transformed into "the crime capital of the U.S.," LaRouche comments on the nightly congregation of dope dealers—whom New York police officers are forbidden to arrest under the libertarian Koch administration—that meet openly in midtown Manhattan. This pushers' conclave determines which city neighborhoods will be targeted for drug dealing. Spinoffs will be other crimes—burglaries, muggings, drug use and disorderly incidents which establish the institutionalized, criminal environment.

Law enforcement must attack this environment all together. LaRouche notes that "without sweeping up the drug users, it is impossible to isolate significantly the drug pushers.

"The problem of law enforcement practice here is related to the nonsense-doctrine of 'victimless crimes.' Whoever contributes to the institutionalization of the drug traffic, by supporting the market on which the drug traffic depends, is complicit in the death of every person who dies from drug usage, and complicit in every case of burglary, mugging and so forth which flows from drug usage."

Likewise, a competent attack on international terrorism focuses on dismantling the "control-apparatus" of political machines, lawyers, support fronts and the like which sustain the actual "bomb throwers" themselves.

"The fundamental policy for law enforcement," LaRouche concludes, "must not start from the problem of apprehension and conviction of particular perpetrators after the fact of the commission of a particular crime. The fundamental policy for law enforcement *and related enactment of statutes* is to shape the interrelationship between law enforcement and criminal statutes such that we define an efficient means under due process and related considerations of probable cause to deploy law enforcement professional institutions in a *winning war against the infrastructure of criminality.*"



**“The U.S. military is armed with too few of the wrong kind of weapons, for a type of war that will never be fought.**

— Dr. Steven Bard  
*Executive Intelligence Review*, January 1980

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