

LAW AND ORDER

Street Crime, Civil Unrest, and the
Crisis of Liberalism in the 1960s



MICHAEL W. FLAMM

Law and Order

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STREET CRIME, CIVIL UNREST,
AND THE CRISIS OF LIBERALISM
IN THE 1960S

Michael W. Flamm



COLUMBIA UNIVERSITY PRESS NEW YORK

Columbia University Press

Publishers Since 1893

New York, Chichester, West Sussex

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Library of Congress Cataloging-in-Publication Data

Flamm, Michael W.

Law and order : street crime, civil unrest, and the crisis of liberalism
in the 1960's / Michael W. Flamm

p. cm. (Columbia studies in contemporary American history)

Includes bibliographical references and index.

ISBN 0-231-11512-1 (cloth : alk. paper)

ISBN 0-231-50972-3 (electronic)

1. Crime—United States. 2. Demonstrations—United States.
3. Riots—United States. 4. Liberalism—United States.
5. Conservatism—United States. 6. United States—Politics and
government—1963-1969.

(Columbia studies in contemporary American history)

HV6789 .F573 2005

364.97/09/046 22

2004061853



Columbia University Press books are printed on
permanent and durable acid-free paper

Printed in the United States of America

c 10 9 8 7 6 5 4 3 2 1

References to Internet Web Sites (URLs) were accurate
at the time of writing. Neither the author nor Columbia
University Press is responsible for Web sites that may
have expired or changed since the book was prepared

For Jennifer and My Parents

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Acknowledgments

In the course of researching and writing this book, I have accumulated many personal and professional debts—far too many, in fact, to ever repay properly. Nevertheless, I would like to make a partial and belated effort to thank at least some of those to whom I am grateful, beginning with those professors at Harvard who inspired my love of history: Bernard Bailyn, David Donald, Bradford Lee, Drew McCoy, and, above all, Alan Brinkley.

I first met Alan in my senior year of college. Although I had never taken a course with him, he readily agreed to serve as my thesis advisor. Since then he has taught me virtually everything I know about history and the historical profession. As a teacher and mentor, first at Harvard and then at Columbia, he has shown me that it is possible to balance a commitment to scholarship with a commitment to students. As a friend and colleague, he has demonstrated loyalty and generosity, kindness and consideration. I could not have completed this book without his intellectual guidance and personal support.

Graduate school is often a lonely and frustrating experience. But at Columbia I had the benefit of an extraordinarily supportive group of friends and teachers. In workshops, my fellow graduate students challenged me to develop and clarify my ideas. In seminars, Elizabeth Blackmar, Richard Bushman, David Cannadine, Eric Foner, and Kenneth Jackson taught me to appreciate the myriad ironies and complexities of history. Special thanks must also go to Ira Katznelson and Daryl Scott, whose comments and criticisms vastly improved sections of this work. And I owe a huge debt

of gratitude to the members of the Probability Seminar, particularly Aaron Brenner, Eric Wakin, and Michael Zakim, whose good fellowship, intellectual insight, and generous collegiality led me to look forward with great anticipation to Thursday evenings in Fayerweather Hall.

Over the years, other friends have nurtured this author and sustained this project by offering kind thoughts and critical comments. Among those to whom I am especially grateful are Vincent Cannato, Matthew Dallek, Jonathan Engel, Charles Forcey, James Mabry, Tom Maguire, Lisa McGirr, Francesca Morgan, Wif Petersberger, Phil Prince, Jeff Roche, Jon Schoenwald, John Stoner, and Margaret Usdansky. I am also indebted to Eric Rothschild, the former chair of the Social Studies Department at Scarsdale High School. As a mentor and colleague, he taught me by example most of what I know about the teaching of history. As a friend, he encouraged me to pursue graduate studies even though it meant leaving a world that I knew and loved.

The collaborative nature of the historical profession has significantly improved this work. David Farber, Laura Kalman, and Michael Kazin generously offered perceptive criticisms of all or part of the manuscript. At various conferences, Robert Goldberg, David Greenberg, Leo Ribuffo, and Bruce Schulman also commented extensively on papers which emerged from this project. And at various times, Rick Perlstein graciously shared his thoughts and insights. In addition, this book has benefited greatly from the careful critiques of anonymous reviewers as well as the astute analysis of David Stebenne, whose friendship I treasure.

Research assistance came from many quarters, including the Arizona Historical Foundation, the Minnesota Historical Society, the Herbert Hoover Institution, the George Meany Memorial Archives, the Rockefeller Archive Center, the Museum of Television and Radio, the Television News Archive, the Political Commercial Archive, the New York Municipal Reference Library, the National Archives, the Library of Congress, and the Richard M. Nixon Library, where Susan Naulty was extremely helpful and courteous. Financial support came from Columbia University as well as the John Fitzgerald Kennedy Presidential Library and the Lyndon Baines Johnson Presidential Library, whose wonderful staff merits special praise. In particular, I want to thank Claudia Anderson, Allen Fisher, and Michael Parrish, whose invaluable suggestions led me to a wealth of materials that I might otherwise have overlooked. Their professionalism made it a pleasure to visit Austin and is a tribute to archivists everywhere. Thanks are also due to those individuals who allowed me to conduct interviews

with them: Joseph Califano, Douglass Cater, Lloyd Cutler, James Gaither, Nicholas Katzenbach, Matthew Nimetz, Norbert Schlei, James Vorenberg, Ben Wattenberg, Lee White, and Adam Yarmolinsky. I only regret that I could not complete this book in time for all of them to read it.

I feel honored to be a member of the faculty at Ohio Wesleyan University, where my colleagues have provided a supportive and congenial environment. I also feel fortunate to have had two gifted editors at Columbia University Press in Peter Dimock and Anne Routon. Their good sense and wise contributions—as well as the keen eye of copy editor Leslie Bialler—have made this book far better than it was when it first arrived in their capable hands. Of course, any and all mistakes or omissions remain entirely my own.

Lastly, I am profoundly grateful for the love and support of my parents and my wife. As a child, my mother and father filled me with a respect for, and devotion to, knowledge and learning. As an adult, they provided encouragement and reassurance when I most needed it. For her part, Jennifer McNally has brought more joy and happiness to my life than any person could possibly expect. At times words are inadequate. This is one of those times.

Law and Order

Introduction

In June 1968 a white father of five from North Carolina expressed his view of the state of the nation with these words:

I'm sick of crime everywhere. I'm sick of riots. I'm sick of "poor" people demonstrations (black, white, red, yellow, purple, green or any other color!) I'm sick of the U.S. Supreme Court ruling for the good of a very small part rather than the whole of our society. . . . I'm sick of the lack of law enforcement. . . . I'm sick of Vietnam. . . . I'm sick of hippies, LSD, drugs, and all the promotion the news media give them. . . . But most of all, I'm sick of constantly being kicked in the teeth for staying home, minding my own business, working steadily, paying my bills and taxes, raising my children to be decent citizens, managing my financial affairs so I will not become a ward of the City, County, or State, and footing the bill for all the minuses mentioned herein.¹

By the late 1960s, many whites, affluent and nonaffluent, liberal and conservative, urban and nonurban, had already experienced similar sentiments. Their fear, anger, resentment, and disgust, while genuine, was also part of a complicated nexus of racial, gender, class, and generational anxieties. Amid a pervasive sense that American society was coming apart at the seams, a new issue known as law and order emerged at the forefront of political discourse.² The issue first moved from the margins to the mainstream of

national politics in 1964, when Barry Goldwater made it a central campaign theme in his challenge to Lyndon Johnson. As street crime, urban riots, and political demonstrations mounted over the next four years, it grew in intensity despite the desperate—and, in the end, doomed—efforts of the Johnson administration to contain it. By 1968 law and order was the most important domestic issue in the presidential election and arguably the decisive factor in Richard Nixon's narrow triumph over Hubert Humphrey. Almost 12 million voters had deserted the Democratic banner since the Johnson landslide four years earlier, many because they had come to believe that personal safety was now of necessity a political priority.

Anxious whites received little solace from liberals, who failed to take the matter seriously until it was too late.³ In the face of the rise in crime (the murder rate alone almost doubled between 1963 and 1968), they initially maintained that the statistics were faulty—a response that if not incorrect was insensitive to the victims of crime as well as their friends and family, co-workers and neighbors.⁴ They also tended to dismiss those who pleaded for law and order as racists, ignoring blacks who were victimized more often than any other group and insulting Jews who had steadfastly supported the civil rights movement. Finally, liberals insisted with some merit that the only truly effective way to fight crime was through an attack on root causes like poverty and unemployment. The argument helped to justify the War on Poverty in 1964, but soon left the Johnson administration vulnerable to conservative claims that the Great Society had worsened the epidemic of urban violence.

Above all, liberals routinely and consistently defined crime control as a local problem. Constitutionally and logistically, it was—in 1968 state and municipal governments still employed more than ten times as many full-time law enforcement officers as the federal government.⁵ But the definition seemed rather convenient when liberals had already classified virtually every other social ill, most notably public education, as a national imperative. “Somehow, in the minds of most Americans the breakdown of local authority became the fault of the federal government,” wrote a somewhat baffled Johnson in his memoirs.⁶ Implicit in the statement was his rueful acknowledgment that after four years in office, his administration had failed to convince many whites, particularly urban ethnic Democrats, that it understood their fears and frustrations.⁷ The loss of law and order eroded faith in government, leaving liberals unable to find a compelling “moral voice” on the issue.

By contrast, conservatives spoke with a cogent “moral voice” on law

and order. In the wake of the Goldwater debacle, the issue helped to unify them. In constructing a popular message with visceral appeal, conservatives maintained that the breakdown in public order was the result of three developments aided and abetted by liberals. First, the civil rights movement had popularized the doctrine of civil disobedience, which promoted disrespect for law and authority. To make matters worse, President Johnson, in a crass and cynical bid for African-American votes, had condoned and even applauded demonstrators when they violated what they viewed as unjust and immoral laws. Second, the Supreme Court, in a series of decisions such as *Escobedo* and *Miranda*, had enhanced the rights of criminal defendants at the expense of law enforcement.⁸ Finally, the Great Society trumpeted by the White House had directly or indirectly rewarded undeserving minorities for their criminal behavior during urban riots.

Conservatives also offered a positive program for the restoration of what they saw as a society of decency and security. Inverting their traditional stance on federalism, they maintained that the national government should assume a major role in the local fight against violence and disorder. The president should exert moral leadership from Washington, reinforcing respect for the law and promoting contempt for those who violated it. The Congress should curtail the liberal welfare state, which promoted paternalism and dependency at the expense of opportunity and responsibility. The Supreme Court should overturn recent rulings and ease excessive restraints on the police, allowing them to collect evidence and conduct interrogations as they saw fit within broad limits. And the federal courts should set a positive example by imposing harsher sentences on convicted criminals. In short, extremism in pursuit of law and order was no vice.

At a theoretical level, conservatives presented a dual vision of order. On the one hand, they repudiated the progressive ideal of a planned society administered by distant experts. Reasserting a conservative variant of American populism, they expressed hostility to social engineering as practiced by Supreme Court justices and Great Society bureaucrats who represented disembodied authority. Defending local institutions and individuals, conservatives praised in particular the neighborhood policeman who protected local values—political, moral, and property—and kept the civil peace despite outside interference. On the other hand, they contended that the community's right to order—to public safety as they saw it—took precedence over the individual's right to freedom. Rejecting the claim of radicals that public space was where demonstrators could assert such rights as free speech and free assembly, conservatives maintained that it was where