



Public Order Crime

To this point in the text, the discussion has focused on crimes against persons or property where there is an identifiable victim. Each of these crime types, ranging from homicide to burglary, fit under the heading of *malum in se* offenses. This Latin phrase translates to “inherently bad or evil” acts. As Samaha (1999, p. 9) observes, “The serious felonies—murder, rape, robbery, burglary, arson, larceny—are classified as evil by their very nature. Killing another without justification or excuse, raping, robbing, burglarizing, and stealing are bad even if they were not crimes under the law.” This chapter shifts the focus to those acts that fall under the heading of *malum prohibitum* offenses—acts that are deemed wrong by the law. These are the so-called victimless crimes that violate the norms or threaten the perceived moral well-being of society. Vice crime such as prostitution, drug abuse, and gambling tend to be consensual acts perpetrated by consenting adults and produce no immediate harm to anyone other than the active participants.

Clearly, conceptual schema such as vice crimes, public order crimes, or *malum prohibitum* offenses can include a broad and diverse array of law violations. Typologies scholars such as Miethe and McCorkle (2001) group drug abuse violations, prostitution, gambling, liquor-law violations, drunkenness, disorderly conduct, vandalism, and vagrancy together under the heading of public order crimes. Clinard, Quinney, and Wildeman (1994, p. 75) add homosexual acts, traffic offenses, and exhibitionism to their list. As was the case in the previous chapter, the current discussion assumes that there are more similarities than differences across these offenses. As such, this chapter provides a comprehensive treatment of

the behavioral, cognitive, cultural, and societal reaction aspects of a select few variations of public order crime namely drug offenses and prostitution. This decision was again shaped by the fact that these are the most pervasive and well documented of the public order crimes and thus have accumulated the best systematic documentation from criminal justice experts.

PUBLIC ORDER CRIMES DEFINED

It is difficult to pinpoint uniform legal definitions of a given form of public order crime. Miethe and McCorkle (2001, p. 210) observe that "public standards regarding the criminality of public order offenses exhibit enormous variation across geographic areas." These authors point to instances of legalized prostitution or drug use (medicinal or personal use in small quantities) that exist within the United States or in other countries as evidence to this effect. Moreover, a sampling of the criminal codes of jurisdictions that criminalize vice offenses reveals that there exists a great deal of disagreement over what physical (*actus reus*) and mental (*mens reus*) criteria should comprise the legal definitions. As such, we find that traditional sources such as the Model Penal Code (American Law Institute, 1962) or criminal law textbooks (Samaha, 1999) provide us little guidance in defining the parameters of the discussion. The Uniform Crime Reports (FBI, 2000) provide some relief in this regard.

The data collection instrument for the UCR affords public order offenses a **Part II offense** designation. There are twenty plus offenses, ranging from weapons violations to public order crimes such as vandalism that are afforded such a designation. These crimes are deemed less serious than the Part I offenses but still worthy of systematic inquiry. The FBI provides law enforcement authorities with a generic set of legal definitions to assist them when categorizing their crime data. The definitions are intentionally vague but provide us with a sound departure point from which to proceed. **Prostitution** or commercialized vice is defined as "sex offenses of a commercial nature, such as prostitution, keeping a bawdy house, procuring, or transporting women for immoral purposes. Attempts are included" (FBI, 2002, p. 447). This definition encompasses acts or attempted acts of solicitation on the part of the prostitute and client (i.e., john), as well as the acts of pandering, transporting, and facilitation on the part of the pimp or madam. These acts can manifest themselves in several generic forms including street prostitution, bar ("b-girls") or hotel prostitution, illicit massage parlors, escort services, or brothel prostitution.

The UCR defines **drug abuse violations** as "state and/or local offenses relating to the unlawful possession, sale, use, growing, and manufacture of narcotic drugs. The following categories are specified: opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics—manufactured narcotics that can cause true addiction (demerol, methadone);

and dangerous nonnarcotic drugs (barbiturates, benzedrine)" (FBI, 2002, p. 447). For the purposes of this textbook, discussions will focus on the behaviors of drug manufacturers/smugglers, drug dealers, and drug users.

TRENDS IN PUBLIC ORDER OFFENDING

Given their consensual nature (i.e., victimless crimes), we cannot rely on victim reports (i.e., National Crime Victimization Survey) for accurate data on the occurrence of public order crimes. The UCR represents the only national-level source of data on these crimes; and even this data source has its shortcomings. The UCR treats all public order crimes as Part II offenses. These offenses are viewed as less serious than the Part I offenses (murder, rape, etc.) and result in the collection and release of far less detailed information—we are left with data on arrests and have no insight on the large number of reported offenses that go unsolved. This issue is particularly problematic for public order crimes because their consensual nature makes them prone to underreporting in the first place. Matters are further complicated by the fact that drug offenses are processed at the federal level and thus beyond the reach of the UCR data. For data on federal offenses, we must turn to the Bureau of Justice Statistics's annual report entitled, *Compendium of Federal Justice Statistics* (BJS, 2001b).

The UCR shows 80,854 prostitution arrests occurring in 2001 (FBI, 2002). Arrest trends reveal a sharp and steady increase from 1970 to 1983 (post WWII high of 125,600) and then steady decreases from that point through the end of the century. Given prostitution's folklore status as the "world's oldest profession," one must assume that the actual number of prostitution offenses is exponentially larger than indicated by arrests data. Reynolds (1986) estimates that there may be as many as 500,000 male and female prostitutes working in the United States in a given year. The actual number of offenses that are perpetrated by these sex workers is surely staggering given the fact that sexual exchanges represent a primary source of income for these individuals. This necessitates that they must engage in numerous sex acts each day to earn a livable wage. Lesieur and Welch's (1995) review of the prostitution literature leads them to conclude that as many as 1.5 million persons frequent prostitutes, spending an estimated \$7 to \$9 billion each year. There appears to be some hard data to support these figures. Survey research efforts show that 45% of non-college-educated men and 35% of college-educated males admit to paying for sex at least once in their lives (Hunt, 1974). Clearly, the prostitute and the client have a vested interest in avoiding law enforcement. By their own admission, law enforcement authorities often turn a blind eye to the problem (Janness, 1993; Miller, Romenesko, and Miller, 1989). Given the above facts and figures, it is entirely possible that tens of millions of acts of prostitution occur in this country each year.

The incidence numbers further balloon when one turns the attention to drug crime. In 2000, state and local law enforcement authorities recorded 1,579,600 arrests for the unlawful possession, sale, use, growth, and/or manufacture of illicit

drugs (FBI, 2002). That year, federal law enforcement authorities recorded in excess of 32,000 drug arrests (BJS, 2002). No other form of crime results in more arrests, as these figures account for better than 1 in 10 arrests occurring each year. What's more, we can turn to numerous systematic data collection efforts to substantiate the assertion that the actual number of annual offenses far surpasses the nearly 2 million arrests mentioned previously.

The first source of data is the **National Household Survey on Drug Abuse (NHSDA)**. This annual survey relies on sophisticated stratified, multi-stage area probability sample and door-to-door visits of tens of thousands of citizens. It provides population estimates of the nonmedicinal and/or illicit use of drugs, alcohol, and tobacco products for persons over the age of 12. The 2000 edition of the NHSDA estimates that 38.9% (nearly 87 million Americans) had engaged in at least one lifetime episode of illicit drug use.¹ Overall usage figures shrink to 11% (24.5 million) when the time interval is restricted to the past year and 6.3% (14 million) when it is restricted to the past month. In terms of marijuana use alone, the report estimates that 34.2%, or just under 77 million Americans, indicate at least one lifetime usage episode. What's more, 8.6% (19.1 million Americans) are estimated to have used marijuana at least once in 2000 and 4.8% or 10.7 million were said to have used it in the past month (NHSDA, 2001).

Drugs do not magically appear in the hands of wanton users. Instead, minor use and possession offenses are preceded by additional criminal acts (i.e., manufacturing, transporting, and sales offenses). This chapter's articles by Hafely and Lewksbury, Faupel and Klockars, and Inciardi, O'Connel, and Samm will provide readers with small-scale examples of how hyperactive the various transaction points (i.e., production, smuggling operations, street-level distribution, and usage patterns) in the illicit drug market can be. National estimates provide us a hint of how many illicit drug transactions take place on an annual basis. Take heroin, for example. The Office of National Drug Control Policy (ONDCP) estimates that there are roughly 977,000 hardcore heroin users in America.² The average street value of a "button" or bag (i.e., dose) of heroin is \$10 to \$20. The average hardcore user is said to spend \$200 a week on heroin (i.e., five to ten bags). It is estimated that these persons account for 70% to 80% of all street-level heroin purchases or 8.6 to 9.8 metric tons of pure heroin each year. It is staggering to think of the number of production, smuggling, dealing, and use-related crimes that must occur to maintain the heroin supply chain. The numbers grow exponentially when one examines the cocaine problem where we find estimates of roughly 3 million hardcore cocaine users and 300 metric tons of cocaine consumed in the United States each year (ONDCP, 2000a).

Given their status as consensual and victimless crimes, we often overlook the social consequences that go along with public order crimes. At first glance, it would appear that these crimes produce no real social costs. On the surface, the prostitute, john, pimp, drug smuggler, drug dealer, and/or drug user victimizes no one but him or herself; however, the matter is not so simple. In addition to representing moral transgressions, these crimes often generate significant public health concerns (i.e., the spread of injury/disease, addictions, and violent crime).

Vast resources of the U.S. criminal justice system are deployed each year to pursue, apprehend, and punish public order offenders. Thus, when assessing the "social costs" of these crimes, officials often draw upon figures from the U.S. Departments of State, Treasury, Education, Justice, Health and Human Services, Veterans Affairs, and Transportation to broaden the scope of the issues to include the financial costs associated with the enforcement of laws, prevention and treatment efforts, and lost income. It is estimated that the collective national drug control budget for the 2002 fiscal year exceeded \$19.2 billion. These figures only speak to government expenditures associated with the government's supply-reduction efforts ("war on drugs"). Additional estimates suggest that drugs cost the U.S. economy \$98.5 billion in lost earnings, \$88.9 billion in crime-related costs, and \$12.9 billion in healthcare costs (ONDCP, 2002). In addition, it is estimated that drug users spend \$60–70 billion on the purchase of illegal drugs each year (ONDCP, 2000a). An additional \$70–80 billion annual price tag has been affixed to the morbidity and mortality costs assumed by the healthcare system due to the inappropriate dispensing and use of prescription drugs (Johnson and Bootman, 1995).

There are other more alarming problems that stem from these offenses, most notably their tendency to generate violence and injuries. A recently released governmental fact sheet states: "Research has long shown that the abuse of alcohol, tobacco, and illicit drugs is the single most serious health problem in the United States . . . contributing to the health problems and deaths of millions of Americans each year" (Ericson, 2001). A longitudinal study of heroin addicts revealed that nearly half had died before reaching the age of 60 (National Institute of Drug Abuse, 2001); and a study of intravenous drug users found one in five to be infected with HIV (Chitwood et al., 1991).

In 1999, hospital emergency room personnel treated 554,932 persons for drug-related episodes (e.g. overdoses, suicide attempts, unexpected reactions). This figure translates into a drug-related emergency room admissions rate of 243 per 100,000 persons and represents a 49% increase over the 1990 data (Substance Abuse and Mental Health Services Administration [SAMHSA], 2001). During a 10-month period in 1999, 139 medical examiners from forty cities attributed a total of 11,651 deaths to drug overdoses (ONDCP, 2000b). Rand (1997) notes that one in seven violence-related injuries that are treated in U.S. hospitals involves a person who had been using drugs. When focusing more narrowly on violent crime victims, research shows that 40% of the persons admitted into the hospital claim that their attacker was high on drugs or alcohol when the crime took place (Simon et al., 2001).

The situation is no better for prostitutes. Studies indicate that the violent victimizations are commonplace for street walkers (McKegney and Barnard, 1996; Miller, 1993). Even prostitutes who do not walk the streets are subject to a high level of violent victimization—Kinnell (1993) found that nearly half of the 115 call girls she surveyed had been victimized while on the job.

An analysis of arrest statistics reveals that vice arrests nearly tripled over the last 20 years of the twentieth century. In 1999, the average arrest rate for drug offenses was 614.5 and the rate for prostitution was 42.0 (per 100,000 persons).

State-level arrest rates reveal that Illinois (1,938.3), Kentucky (1,396.6), South Carolina (969.2), Florida (937.9), Mississippi (887.5), and California (768.3) posted the highest arrest rates for drug offenses in 1999. Shifting to prostitution arrest rates, the authors note that Nevada (251.3), Illinois (236.2), Kentucky (99.8), Florida (96.8), and Missouri (63.9) made the most per capita arrests in 1999 (Morgan and Morgan, 2000).

The Uniform Crime Reports (FBI, 2002) reveals that public order arrest rates are much higher in urban areas than in suburban or rural locales. For example, in 2001, the urban arrest rate for drug crime was 629.1 per 100,000 inhabitants. This compares to rates of 446 in suburban areas and 390.8 in rural counties. The urban arrest rate for prostitution was 42.2 compared to 6.2 in suburban areas and 0.9 in rural counties in 2001.

SKILLS AND TECHNIQUES OF PUBLIC ORDER CRIMES

Most public order crimes require a baseline level of skill and organization. Upcoming articles by Faupel and Klockars as well as Inciardi and colleagues will depict street-level drug deals as simple, fast-hitting exchanges. Dealers and users develop simple routines such as keeping drugs separate from money, passing merchandise through slots in doors, or using pager/cell phones to help slow or hinder the efforts of law enforcement (Inciardi, 1993; Inciardi, Horowitz, and Pottieger, 1993; Jacobs, 1999; Murphy, Waldorf, and Reinerman, 1990; Sullivan, 1989; Williams, 1989). Growers and smugglers rely on a series of systematized practices (e.g. the use of chemistry and botany to refine purity levels at the production stage, disguising and moving large shipments at the smuggling stage, fronting drugs and money to a network of distributors) to minimize their risk of personal harm and maximize profits as they go about moving the drugs closer to their final street-level destinations (Adler, 1993; Jacobs, 1999). Drug dealers enlist the aid of scales, packaging materials, and substances with similar physical appearances as the drug to dilute (a.k.a. "cut" or "step on") the goods before they make them available for sale. Dealers also seek to maintain clear rules and sales schedules with a set of reliable users (Johnson et al., 1985; Murphy et al., 1990; Riley, 1997; Sullivan, 1989; Williams, 1989). Habitual drug users must become proficient in the use of drug paraphernalia and the skills that go along with preparing the drugs for use (e.g. cooking, cutting, copping) (Becker, 1953; Faupel, 1987, 1991; Inciardi et al., 1993; Preble and Casey, 1969; Taylor, 1993).

Similar tricks of the trade are observed in the sex industry. The clients of prostitution, also known as **johns**, employ strategies aimed at minimizing public contact, avoiding suspicion, minimizing health risks, and identifying desirable sex partners (McKegney and Barnard, 1996; McNamara, 1994). Prostitutes refine their craft by frequenting the same stretch of road, bar, or hotel (McKegney and Barnard, 1996; Prus and Irini, 1980; Weidner, 2001; Whelehan, 2001). They specialize their sex acts and seek to develop a steady set of clients (Hoigard and Finstad, 1986; Maher, 1997; McNamara, 1994). They maintain

stashes of condoms, drugs, and weapons to help themselves cope with the job (Flowers, 2001; Inciardi, 1993; Maher, 1997). **Pimps** and **madams** (exploitive brokers located in between the prostitute and john) employ a series of techniques directed at the efficient recruitment and control of prostitutes and evading police intervention. Some of their favorite practices include the use of intimidation against rival sex brokers, false business fronts, bribes and payoffs, and total control over their employees' movements, appearance, and daily habits (Flowers, 2001; Hodson, 1997).

PUBLIC ORDER TRANSACTIONS

Most public order transactions take the form of one-on-one interactions between complete strangers or casual acquaintances. Prostitutes may recognize repeat customers and even be privy to their name and some personal details. However, these associations rarely progress beyond the business transaction. The same can be said about the relationships between actors in the illicit drug market (producers, smugglers, dealers, and users). These participants tacitly agree that a certain level of routinization and stable relations are good for business, but that too much of a good thing can and will produce problems. Getting too close to peers or clients exposes the individual to cognitive dissonance (i.e., psychological conflicts of interest), thus increasing the possibility that informant-based police practices will lead to brushes with the law (Adler, 1993; McKegney and Barnard, 1996; Phoenix, 1999a).

Most public order crimes occur in either open-air environments or private locales. In the case of prostitution, sex acts are generally performed by "call girls" or "house girls" in hotel rooms or private residences (Heyl, 1979; Inciardi, 1993). These crimes rarely see the light of day as the john solicits the prostitute via the phone or by dropping by the brothel in person. Street walkers, on the other hand, often negotiate their exchanges and even perform the sex acts in public places. Davis (1993) notes that street prostitutes used to be able to rely on cheap hotels or apartments for privacy. The popularity of urban renewal projects, however, has significantly reduced the prostitute's options in this regard. Where affordable shelter is not available, street walkers turn to secluded alleyways or automobiles as settings for their sex acts. The same pattern is observed with drug crime. Much of the actual drug dealing takes place on street corners, in seedy business establishments, or in alleyways. At the same time, some dealers work out of their homes. Most smugglers and midlevel distributors seek out private residences to conduct their more complex criminal exchanges (Adler, 1993; Jacobs, 1999; Williams, 1989).

It is difficult to accurately assess the age, sex, and racial composition of public order offenders, as the victimless/consensual nature of the offenses leaves us without reliable data sources in this regard. We are left with only arrest data at our disposal. The reliability of these data are dependent on the lofty assumption that police work is unbiased. This caveat aside, let us take a look at the demographic characteristics of public order arrestees. In 2001, state level drug

crime arrestees were disproportionately young, male, minority members. A full 48.8% of persons arrested on drug charges were under the age of 25, 82.2% were males, and 34.5% were black (FBI, 2002). Although Hispanic representation is not provided in state- and local-level UCR data, federal arrest data reveal that 46% of the persons arrested on drug charges in 1999 were of Hispanic origin (Scalia, 2001). A different demographic profile emerges for the crime of prostitution. While there continue to be disproportionate numbers of African Americans in the arrest population (48.8% of total), markedly different age (only 21.3% were under 25 while roughly 35% were 25 to 34) and sex (66.6% were females) patterns are observed (FBI, 2002).

CRIMINAL CAREER OF PUBLIC ORDER OFFENDERS

Public order offenders display some of the most pronounced criminal careers of any category of perpetrator. Drug crimes provide the best evidence to this effect. Hart and Reaves (1999) found that persons facing felony drug charges are likely to have long criminal histories. For example, 65% of the drug defendants in the sample had at least one prior felony arrest and 29% had a rap sheet containing five or more felony arrests. Shifting the focus to prior convictions, Hart and Reaves (1999) found that the 43% of drug defendants had at least one past felony conviction and nearly one in four (24%) had amassed a criminal resume that included five or more previous felony convictions. What's more, better than one in three (38%) were found to be in an active criminal justice status (i.e., out on pretrial release, probation, or parole) at the time of their arrest. Langan and Levin's (2002) longitudinal study of 272,000+ prison releasees further confirms the habitual nature of drug offenders' criminality; they found that two-thirds of the drug offenders were rearrested within 3 years.

Drug offenders exhibit considerable variation in their criminal activities, generally involving themselves in a variety of offenses. While Langan and Levin (2002) found that 41.2% of those released on a drug charge were arrested on a similar offense within 3 years, these offenders showed the greatest propensity to branch out and find themselves in trouble for some other form of crime as well.

These criminal career trends appear to hold true regardless of the type of drug-related offending engaged in. Small-scale studies of drug users (Boyum and Rocheleau, 1994; Inciardi et al., 1993; Riley, 1997), drug dealers (Jacobs, 1999; Williams, 1989), and drug smugglers (Adler, 1993) reveal a tendency for players in the drug underworld to carry out long and highly active criminal careers that span a wide variety of offense categories. Much of this activity and versatility are bi-products of their chosen lifestyle. If you are going to smuggle or deal drugs, you are bound to come into contact with violent persons and will need to engage in a number of property and public order offenses to maintain your "business." Conversely, habitual drug users find themselves

drawn toward property and violent crimes as a means to feed their habits. Nearly one in five state prison inmates (17%) claim that they landed behind bars because they committed their chosen crime to get money to buy drugs (Beck et al., 1993). Interviews with known inner-city heroin (Boyum and Rocheleau, 1994) and cocaine users (Inciardi et al., 1993; Riley, 1997) also reveal that sizable portions, as many as one in four, rely entirely on illegal activities to fund their drug habits. This is startling when one considers that their drug habits can necessitate several hundreds or even thousands of dollars in funding each week.

COGNITIVE ASPECTS OF PUBLIC ORDER CRIME

The pleasure principle tends to dominate the mindset of the public order offender. These persons are usually driven by short-term gratification and thus possess a self-interested and shortsighted outlook at the time of the offense. This observation is perhaps best evidenced by the high levels of drug and alcohol use that exist at the time of the offending. Mumola's (1999) survey of state prison inmates reveals that 53.9% of persons serving time on drug possession charges and 50.9% of persons incarcerated on drug trafficking charges admit to being under the influence of drugs or alcohol when they committed their crimes. High levels of substance use and abuse have also been observed in studies of prostitutes (Hoigard and Finstad, 1986; Maher, 1997; McNamara, 1994), johns (McKegney and Barnard, 1996; Sharpe, 1998), and pimps (Flowers, 2001; Hodson, 1997).

Public order offenders are driven by a host of instrumental and expressive motives. More often than not, persons of the production/distribution side of the public order crime equation are motivated by the promise of financial returns. Many drug dealers see legitimate jobs as being unattainable or even "sucker's work" and thus choose their illicit trade as a means of easy and free-flowing cash. This theme was well evidenced in Jacobs's interviews with crack dealers. As one respondent put it: "It's better money than everything. Make twenty dollars in one second, two seconds. It's better than robbery, it's better than everything. I done made three \$100 sales in one minute one time" (Jacobs, 1999, p. 27).

Research on street pimps (Flowers, 2001; Hodson, 1997) and house madams (Heyl, 1979) indicates that these sex brokers are "in it for the money" and status (i.e., gender domination and "player" label) that goes with the job. Prostitutes, on the other hand, tend to exhibit a broader range of motivations. Most all prostitutes talk about the money that goes along with their trade; however, as we will see in the forthcoming article by Phoenix, prostitutes often use their involvements in the sex industry to fill an emotional (love) or psychological (pain, low self-esteem) void within themselves.

Persons who occupy the client role in public order offenses tend to be motivated by self-gratification or self-enrichment. These offenders seek the euphoria that comes

from getting high or having sex. For example, Monto (2000) found pleasure pursuits such as being with an exotic or aggressive woman or fulfilling sexual fantasies to be primary motivational factors for persons who solicit prostitutes. The problem, however, is that these hedonistic pursuits have a propensity to get out of hand. Over time, individuals may become so dependent upon their chosen vice that survival or maintenance replaces what used to be the pursuit of pleasure.

Public order transactions tend to be preceded by rudimentary exercises in planning and target selection. While many of these processes are streamlined by the existence of mutual benefits between the distributor and client, perpetrators of public order crime must still contend with the fact that their vices are deemed illegal. This means that the transactions must take on a somewhat covert quality so that the participants' intentions and behaviors are not clearly evident to the public and members of law enforcement. Criminal exchanges are generally modeled in one of three ways: (1) the client and distributor can maintain a steady and private relationship; (2) the distributor can make him or herself available in a public location and then wait for the client to intermittently "cruise" by; or (3) the client may wait for the distributor to contact him or her directly when goods or services become available. Each category is preceded by its own form of planning and target selection process. Drug dealing is typically characterized by the first transactional exchange, wherein a single dealer serves as a main source for a given user. A recent study of drug users in six U.S. cities found that nearly half of the powder cocaine and heroin users relied on a single dealer to supply them with their drugs. Crack users were found to be less selective in their behaviors with just more than one-third saying that they maintained a steady source (Riley, 1997). A drug user who has a go-to source can often predict the quality of product that he or she will receive as well as the hours of operations, predictable location, and choice of substances that will be available. For the dealer, a steady roster of users helps to maintain a regular intake of cash, impose more rigid rules of operation, and limit the possibility of apprehension (Murphy et al., 1990). These factors serve to streamline the planning and target selection processes and enable the participants to pattern their relationship.

Street prostitution is often organized around a "cruising" model of exchange. Male (Calhoun, 1992; Luckenbill, 1986; McNamara, 1994) and female (Hubbard, 1999; Sharpe, 1998; Weidner, 2001) prostitutes alike are known to frequent the same stretch of road, commonly known as a "track," and make themselves visible to oncoming motorists in hopes of getting a "date." All the prostitute has to do is look the part, be available to clients, and avoid the attention of police. The john, on the other hand, must identify a suitable sex partner, negotiate a price, and avoid apprehension from undercover and uniformed police officers. Similar patterns of exchange and target selection have been observed in groups of drug dealers (Jacobs, 1999; Williams, 1989) call girls (Lever and Dolnick, 2000), hotel and bar prostitutes (i.e., b-girls) (Calhoun, 1992; Prus and Irini, 1980), and brothel prostitutes, pimps, and madams (Flowers, 2001; Heyl, 1979; Hodson, 1997). In each of these cases, a seemingly never-ending source of would-be clients seek out these

service providers in a known location and then go about negotiating terms and consummating the exchange.

Much more rare are public order crime exchanges in which the distributor seeks out the would-be client. Drug producers (i.e., growers and manufacturers) and smugglers are prone to this model. Adler (1993) has documented scenarios in which a given drug smuggler will intermittently contact prospective dealers when he or she comes into possession of large quantities of a drug. This modality is also detailed in Hatley and Tewksbury's upcoming article on marijuana growers. On occasion, entrepreneurial pimps or prostitutes are known to drum up business by making their rounds at the local conventions or casinos (Hodson, 1997). Much of the planning and target selection that exists in these types of exchanges must come from the person in the distributor role.

Public order offenses get framed as relatively minor transgressions against the moral or righteous order of society. Drug use and prostitution are not framed so much as evil in their own right as they are indications of weak personal character. *This being the case, persons who engage in these acts usually invoke a series of normative neutralizations in an effort to protect or defend their moral standing.* Necessity is a common theme that emerges among public order offenders. Prostitutes, pimps, drug dealers, and other persons who occupy a distributor role in the public order equation tend to rely on these activities as a primary or secondary source of income. They involve themselves in the underground economy of vice because they see limited options in the legitimate economy. This gives way to a survivalist mentality in which conceptions of "right or wrong" take a backseat to making a livable wage.

Ironically, most of the proceeds from these illegal transactions do not go toward noble expenditures such as food and rent. Instead, the money tends to be spent on frivolous purchases (i.e., clothes or socializing) or gets used to finance some sort of addiction (i.e., drugs, alcohol, or gambling). When drug dealers and pimps spend foolishly and lavishly on leisure pursuits, they are apt to justify this spending (and the criminal activities that supported such spending) by protesting that they have earned it. In short, if the dealer has to put his or her life and freedom on the line to fill a void in the drug market, then surely, he or she is entitled to some just reward (Jacobs, 1999).

A somewhat different set of neutralizations are deployed by those who suffer from an addiction. This would include prostitutes, pimps, or drug dealers (i.e., distributors) who decide to spend their "hard earned" cash on drugs, alcohol, or other pleasure pursuits. This observation also extends to the clients (drug users or johns) who habitually purchase the illicit goods or services on the black market. These persons tend to distance themselves from responsibility and direct attention to the addictive state, not the crime itself. In short, they skirt personal responsibility by claiming that the addiction and/or "down and out" lifestyle that comes with long-term addiction left them without realistic options. This pattern is well evidenced in Phoenix's upcoming article on street prostitutes, as well as Faupel and Klockars's article on heroin users.

Regardless of their specific manifestations, public order criminals can become quite adept at deflecting blame and guilt for their actions. This is largely a by-product of offenders who tend to exhibit long, drawn out deviant histories that afford them plenty of practice and reinforcement for their criminal thoughts and behaviors.

CULTURAL ASPECTS OF PUBLIC ORDER CRIME

Public order crime shares a nearly inextricable bond with what we know as the criminal subculture. Sex and drug violations are illicit pleasure pursuits that take place on the proverbial underbelly of society. Given their sensual attractions and victimless qualities, these crimes draw a healthy cadre of repeat customers. Over time, these widespread and routinized transactions become intertwined in the underground economy and criminal subculture. Cohen's (1980) research on street prostitutes, Prus and Irini's (1980) research on bar prostitutes, and Adler's (1993) study of upper-level drug smugglers reveal how isolated forms of public order crime (and their repeat offenders) are readily folded into the criminal subculture. These people share the same social space and go about their business with little concern for those around them.

Most all public order offending takes shape as what Best and Luckenbill (1994) call deviant exchanges. This entails two or more persons (usually a distributor and a client) engaging in illicit trades or sales as a means of exchanging goods or services. Often times, these exchanges become routinized to the point that we think of them as deviant markets. *The collective nature of this offending means that most offenders orient to one another as either peers, colleagues, or team members* (Best and Luckenbill, 1994). An example of a peer arrangement would be two drug users who share needles, dope, or a common "shooting gallery."

Still other public order offending gets organized along what Best and Luckenbill (1994) call a teamlike alignment. Routinized offending and a division of labor leads to set roles and cooperation among the offenders. Take, for example, drug dealers, pimps, or drug smugglers. These individuals will often work in concert with one another to maximize their profits and minimize risk of outside interference. Jacobs (1999) and Williams (1989) both have documented how small-time cocaine dealers prefer to operate in small collectives. One person might hold small, prepackaged units of the drugs on a street corner to perform the actual exchanges with drug users. Another serves as a street-level lookout who also holds the larger sums of money. A third person is located in a nearby apartment where he or she cuts and packages more drugs for sale. A fourth person serves as the runner who keeps a fresh supply of drugs moving from the apartment to the street corner.

There is a great deal of scripted interaction and socialization that takes place between the participants of public order crime. For example, prostitutes and their clients must develop and follow a scripted set of interactions that allow the participants to

identify one another and negotiate the terms of a transaction while somehow not arousing the suspicions of those around them. Calhoun (1992) shows how male street prostitutes and their clients enact a series of verbal and nonverbal exchanges en route to agreeing on the terms of a sexual transaction. In fact, numerous scholars have documented rudimentary forms of socialization or tutelage occurring among parties to the public order crime transaction. For example, Heyl (1979) and others (Flowers, 2001; Hodson, 1997; Winick and Kinsie, 1971) have documented how pimps and madams recruit and even train (i.e., turn out) prostitutes, while others (Cohen, 1980; Feucht, 1993; Inciardi, 1993; Miller, 1995; Poterat et al., 1998) have shown how prostitutes develop agreed-upon rules that dictate where and when to do business and often shepherd one another into drug use.

SOCIETAL REACTION TO PUBLIC ORDER CRIME

Public order crimes receive a mixed statutory response from the criminal justice system. Scalia (1999) observes that our nation's "war on drugs" has led criminal justice officials to reconsider their formal response to drug crimes. Crimes such as the possession of drugs or drug paraphernalia, possession with intent to distribute, and the manufacture or trafficking of illegal drugs were once afforded serious misdemeanor or minor felony distinctions under the law. Prior to the early 1980s, the vast majority of these offenses were dealt with by state or local authorities. This all changed under the Reagan administration, when the federal criminal code was revised. More severe, prescribed charges; and sentencing guidelines were enacted to allow for federal authorities to rigorously pursue and punish drug offenders. Crimes that used to be classified as state misdemeanors suddenly became class 1 felonies, subject to 20 years in federal prison. Moreover, broad, new criminal offenses such as "continuing criminal enterprise" and conspiracy offenses were added to the criminal code affording federal law enforcement officers and prosecutors a broader array of offense designations to direct toward drug offenders. Prosecutors began applying mandatory minimum sentencing and the principles of the Racketeer Influenced and Corrupt Organization Act (RICO) to drug offenders, further upping the statutory ante by treating drug dealers and smugglers as members of criminal syndicates. At present, drug dealers, as well as those who manufacture and smuggle the illicit drugs into and through the United States, face some of the most severe and vigilant criminal justice responses of modern times. For example, in 1999, the Federal Drug Control Budget was listed at \$17.7 billion, there were 1.5 million drug arrests recorded, and 2.6 million pounds of drugs (marijuana, hashish, cocaine, and heroin) seized, drug cases made up one-third of all criminal court filings, and drug violators comprised more than one-third of our nation's total prison population (BJS, 2001c).

At the same time, other broad forms of vice such as gambling and prostitution are afforded petty misdemeanor status and draw little or no formal

enforcement response from criminal justice officials at any jurisdictional level. For the most part, federal law enforcement and prosecutors refuse to be bothered by these "nuisance" offenses and direct the vast majority of their vice-related interdiction toward drug crime. In many cases, state and even local authorities adopt a similarly lukewarm response to these crimes. According to the *Compendium of Federal Criminal Justice Statistics* (BJS, 2002), there were a paltry 491 nonviolent sex offenses recorded by federal law enforcement authorities in 2000.

While exact figures are not available, scholars agree that the clearance rates for public order crimes are woefully low. Miethe and McCorkle (2001) identify several factors that contribute to low arrest numbers and clearance rates for prostitution and drug offenses. First, most of these crimes occur in private settings, outside of police and public view. Second, police must conduct clandestine investigations without the benefit of complaining witnesses due to the victimless nature of these offenses. Third, these crimes are viewed as minor offenses, meaning that beat cops are not pressured internally by their superiors or externally by the public to crack down on their occurrence in the same way that they are with more heinous offenses. Fourth, public opinion tends to be supportive or neutral toward these crimes, thus undermining potential deterrent effects.

*Court officials clearly take drug offenses seriously.*³ An analysis of federal justice statistics reveals that, in 2001, nearly one-third (28.5%) of all U.S. attorney investigations were directed toward drug offenses. In addition, these federal prosecutors declined prosecution on only 17% of these cases—no other form of offense was pursued with this level of tenacity. Drug cases thus comprised 37% of the federal prosecutorial caseload that year (BJS, 2003). Hart and Reaves (1999) found that 37% of the felony cases that were processed in their state courts were drug cases. These researchers also found that nearly three in four state-level drug cases yielded a conviction of some sort, more often than not it was a felony conviction obtained through a plea arrangement. A similar trend is observed among federal drug defendants—89.3% of these cases produce convictions with 84.6% coming as the result of a plea bargain.

The available data suggest that sentencing hearings provide more bad news for convicted drug offenders. A full 72% of state-level convictions and 89% of federal convictions led to a term of incarceration for the guilty party. State-level convictions yielded an average prison sentence of 47 months while persons convicted in the federal system faced an average prison term of 74 months (Hart and Reeves, 1999; Scalia, 2001). Scalia (2001) found that the type and quantity of drug involved, the presence of an injured party, the use of a weapon, and the defendant's criminal history were all factors that contributed to longer federal prison sentences. Strict sentencing guidelines at the federal level means that offenders will end up serving better than 90% of these prescribed prison terms. Things are a bit more relaxed at the state level, where Durose et al. (2001) observe that, on average, drug offenders serve 49% of their original sentences behind bars.

At year end 2001, there were a total of 246,100 persons serving time in state prisons and 78,501 in federal prisons on drug charges. These figures

represent 20% of the state inmate population and 55% of the federal inmate population and do not include the nearly 100,000 individuals housed in U.S. jails (Harrison and Beck, 2003). Drug offenders accounted for 14% of the growth in state inmate populations and 61% of the federal inmate population growth that occurred during the 1990s (Beck, 2001).

Society adopts a mixed message when it comes to the informal social control of public order crime. In the case of drug crime, it appears that we are mobilized in a broad antidrug initiative that approaches drug use and its accompanying criminal activities as a public health concern. Such an approach emphasizes the addiction issue and orients to the behaviors from an informal treatment and education perspective as opposed to a punishment one. For example, there were a total of 13,316 drug treatment facilities in operation on October 1, 1998, and these facilities were providing service to over 500,000 persons suffering from some form of drug abuse (Maguire and Pastore, 2000). These efforts are due, in large part, to \$3.1 billion in health-related funding from the 1998 Federal Drug Control Budget. Moreover, local school districts working with justice officials converted \$1.65 billion from the 1998 Federal Drug Control Budget into educational programs aimed at reducing demand among the future generations of potential users. Innovative school-based programs such as Drug Abuse Resistance Education (DARE) expose children in kindergarten through high school to a healthy dose of drug use prevention. These collaborative efforts between school administrators and local law enforcement personnel seek to instill school kids with the skills that they will need to resist the temptations of drug use and drug dealing. In 1995 alone, more than 5.5 million students in 250,000 classrooms nationwide received the core curriculum of the DARE program (BJS, 1995). This program serves to supplement other prevention programs such as "McGruff the Crime Dog."

At the same time, the public often takes an advocating position regarding vice crimes. There is a growing grassroots effort to legalize all or certain forms of drug use (Trebach and Inciardi, 1993). Several states have recently included referenda on their ballots to consider the medicinal use or limited recreational use of marijuana. Similarly, there is a well-organized effort underway to legalize prostitution. Since the 1970s, an organization named COYOTE (Call Off Your Tired Old Ethics) has been lobbying for a public health approach to prostitution, one that treats it as a legitimate occupation and injects a strong dose of regulation and disease prevention into the equation (Janness, 1993).

NOTES

1. This figure includes "any use of marijuana/hashish; cocaine, including crack; inhalants, hallucinogens, including LSD and PCP; heroin; and the nonmedical use of psychotherapeutics [prescription drugs], i.e., stimulants, sedatives,

tranquilizers, and analgesics" (NHSDA, 2001, p. 7).

2. These data come from usage estimates for the years 1995–1998. Hardcore users are persons who use the drug at least once a week and occasional users are those who use less than once a week.