

# A DEFENSE OF ORGANIZED CRIME?\*

*James M. Buchanan*

1974

... we should try to make the self-interest of cads a little more coincident with that of decent people.

Samuel Butler

## I. Organized Crime as Monopoly Enterprise

Monopoly in the sale of ordinary goods and services is socially inefficient because it restricts output or supply. The monopolist uses restriction as the means to increase market price which, in turn, provides a possible source of monopoly profit. This elementary argument provides the foundation for collective or governmental efforts to enforce competition. Somewhat surprisingly, the elementary argument has rarely been turned on its head. If monopoly in the supply of "goods" is socially undesirable, monopoly in the supply of "bads" should be socially desirable, precisely because of the output restriction.

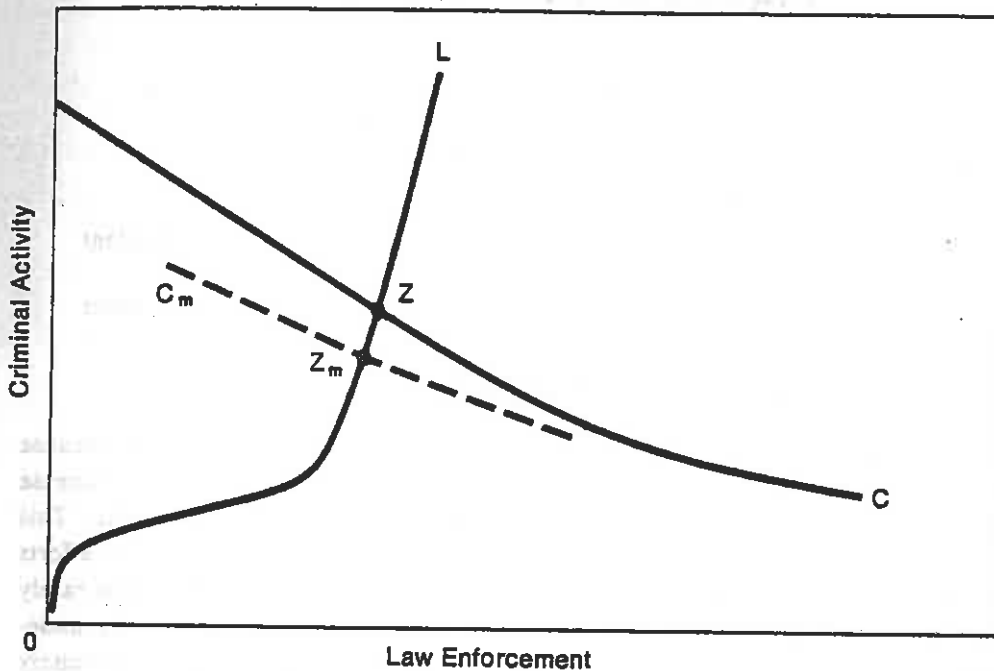
Consider prostitution. Presumably this is an activity that is a "bad" in some social sense, as witness the almost universal legal prohibitions. (Whether or not particular individuals consider this to be an ill-advised social judgment is neither here nor there.) For many potential buyers, however, the services of prostitutes are "goods" in the strict, economic sense of this term; these buyers are willing to pay for these services in ordinary market transactions. From this it follows that monopoly organization is socially preferable to competitive organization precisely because of the restriction on total output that it fosters. It is perhaps no institutional accident that we observe organized or syndicated controls of that set of illegal activities that most closely fits this pattern (prostitution, gambling, smuggling, drug traffic). In journalistic discussion, the concentration of organized crime's entrepreneurs in these activities is explained by the relatively high profit potential. The supplementary hypothesis suggested here is that monopoly is socially desirable and that this may be recognized implicitly by enforcement agencies who may encourage, or at least may not overtly and actively discourage, the organization of such industries.

The monopolization thesis can be extended and developed. Significantly, elements of the analysis can be applied to those criminal activities that involve

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\* I am indebted to Thomas Borcherding for helpful comments.

**Figure 1**  
**RELATIONSHIP OF RESOURCES DEVOTED TO**  
**CRIMINAL ACTIVITY AND LAW ENFORCEMENT**



nonvoluntary transfers. In this paper, I shall present first the simple geometry of the relationships between law enforcement and criminal effort. This allows me to discuss, in abstract and general terms, the social advantages that may be secured from effective monopolization of criminal activities. Following this, I shall discuss some of the possible objections to implications of the simple economic argument.

## II. The Geometry of Crime and Law Enforcement

The geometry of crime and law enforcement may be presented in a model that is familiar to economists. We may apply a reaction curve construction quite similar to those that have been developed in several applications such as international trade theory, duopoly theory, voting theory, or public-goods theory.<sup>1</sup> Consider Figure 1. On the horizontal axis we measure resources devoted to the enforcement of law. On the vertical axis we measure resources devoted to criminal activities. We want to develop two separate and independent functional relationships between these two variables. If there were no criminals, if no resources were devoted to

<sup>1</sup> For an application that perhaps comes closest to this paper, see my "Violence, Law, and Equilibrium in the University," *Public Policy*, vol. 19 (Winter 1971), pp. 1-18. Also see Gordon Tullock, "The Welfare Costs of Tariffs, Monopolies, and Theft," *Western Economic Journal*, vol. 5 (June 1967), pp. 224-232.

criminal activities, resources that might be devoted to law enforcement. If no one is trained instead as a policeman, it is a point for one of the "enforcement responses" in criminal activity organized political action in law enforcement. Quakers.<sup>3</sup> Further organizing law enforcement action.<sup>4</sup> We should sloping upward and indicated by the curve need not concern us public will desire the input of resources.

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<sup>2</sup> For a generalized approach with numerous applications

<sup>3</sup> At minimal levels of criminal activity. The formal properties of criminal activity are discussed in *Income Distribution in*

<sup>4</sup> Law enforcement quantities from joint, as opposed to public law enforcement for public organization. A collectivity may be a firm, as opposed to a household.

<sup>5</sup> For those who adopt a horizontal axis, criminal effort are not

criminal activities, society would not find it useful or advantageous to apply resources that might be used to produce goods of value in wasteful law enforcement effort. If no one breaks the law, there is no need for policemen, who could be trained instead as plumbers or carpenters.<sup>2</sup> This establishes the origin as the base point for one of the two functional relationships, the one that we may call the "enforcement response" or reaction curve. As resources are observed to be applied in criminal activity, society—that is, the collectivity of citizens acting through organized political units, governments—will find it advantageous to invest resources in law enforcement. Passive acquiescence to crime is rarely advocated, even among Quakers.<sup>3</sup> Furthermore, there are acknowledged to be major advantages from organizing law enforcement publicly rather than through private and independent action.<sup>4</sup> We should, therefore, expect to find the enforcement response curve sloping upward and to the right from the origin in geometrical representation, as indicated by the curve L in Figure 1. The precise shape of this curve or relationship need not concern us at this point. The general upward slope indicates only that the public will desire to devote more resources to law enforcement as the observed input of resources into criminality increases.

A second relationship, independent of the first, exists between criminal activity and law enforcement effort, with the first now being the dependent and the second the independent variable. To derive the L curve, we made the enforcement response depend upon the observed level of resources in criminality. To develop the separate "criminal response" relationship, drawn as the C curve in Figure 1, we make criminal resource input depend on the level of law enforcement that is observed. It is reasonable to hypothesize that the C curve slopes downward and to the right throughout the range of enforcement effort. If no resources were devoted to enforcement, if there were no policemen, we should predict a relatively large investment in criminal activity. This locates the left-hand intercept high on the vertical axis. As more resources enter enforcement, investment in crime becomes less and less profitable.<sup>5</sup> At some relatively high enforcement levels, it

<sup>2</sup> For a generalized account of the "social dilemma" that law enforcement represents, along with numerous applications, see Gordon Tullock, *The Social Dilemma* (forthcoming).

<sup>3</sup> At minimal levels of criminal activity, acquiescence may be the efficient course of action. The formal properties of an efficient or optimal position will take into account both the amounts of criminal activity and the costs of enforcement activity. See Winston Bush, *Income Distribution in Anarchy* (forthcoming) for an attempt to specify these formal properties.

<sup>4</sup> Law enforcement qualifies as a genuine "public good" in that there are major efficiency gains from joint, as opposed to individual, provision. All persons secure benefits from the same policeman on the beat simultaneously. This need not, of course, imply that private supplements to public law enforcement may not also be advantageous. And there is nothing in the argument for public organization of law enforcement that suggests explicit governmental production. A collectivity may well secure efficiency gains from hiring the services of a private policing firm, as opposed to hiring its own municipal policemen.

<sup>5</sup> For those who adopt a pathological interpretation and explanation of crime, the C curve would be horizontal. This would indicate that the number of criminals and the amount of criminal effort are not influenced by enforcement at all.

seems reasonable to think that a minimal level of criminality would be realized and that further enforcement would have little or no effect. This is indicated by the flattened portion of the C curve in its rightward extremities in Figure 1.

Some care must be taken to define just what the C curve represents. For any observed level of law enforcement effort, a level of investment in criminality will be generated. This will be the result or outcome of the private and independent behavior of many persons, potential criminals all, and there is no implication that the response is deliberately controlled by anyone or by any group. Hence, we may qualify or restrict the C curve by the adjective "competitive" if we assume that entry into criminality is open and that the industry is not centrally controlled, not cartelized or monopolized.

Given the two independent relationships as depicted, we can readily demonstrate convergence of the system to a stable equilibrium position at Z, provided that the L curve exhibits a steeper absolute slope value over relevant adjustment ranges than the C curve.<sup>6</sup> Given any starting point, under these conditions the two response or reaction patterns will lead through a succession of adjustments to Z. At such point, no further responses will be forthcoming unless the system is shocked by external forces. At Z, the public demand for inputs into law enforcement is adjusted properly to the level of input into criminality that is being observed, while at the same time, the criminal industry finds itself in equilibrium under the law enforcement effort that it confronts. There is no observed net entry into or net egress of resources from either criminality or law enforcement. Furthermore, as noted, the equilibrium is stable; if an external force shifts the system from Z, a response mechanism will come into play to return the system to a new equilibrium.

### III. The Predicted Effects of Criminal Monopoly

We may now move beyond this elementary adjustment model and consider the effects to be predicted from the effective replacement of a fully competitive criminal industry by a monopolized industry. For this purpose, it will be necessary to distinguish two types of activity. The first, referred to initially in the introduction, covers those activities that are deemed "socially bad," but which involve the sale of goods and services that are considered to be economic "goods" by some potential buyers. Prostitution is the example used before, and it may be taken as a typical case. In the absence of legal prohibition, activities of this sort would amount to nothing more than ordinary exchange or trade, with mutual agreement among contracting

<sup>6</sup> If the society's law enforcement reaction to changes in the level of criminality should be highly elastic relative to the converse reaction of criminal effort to enforcement, the simple system depicted in Figure 1 would generate an explosive cycle. One implication of this suggests that the enforcement response, that which is under society's collective control, should not be overly sensitive. On this, see my paper, "Violence, Law, and Equilibrium in the University."

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The second type of criminal activity involves no such mutual agreement, even in the complete absence of legal prohibition. We may think of burglary as an example of these so-called "crimes with victims." Here the legal structure proscribes involuntary transfers of "goods" among persons rather than the voluntary transfers proscribed under activities of the first type. As the analysis below will indicate, there are three possible sources of an argument for monopolization or cartelization of criminal industries fitting the first category, but only two of these remain applicable to those criminal industries falling within the second category.

Consider a "Type I" industry, exemplified here by prostitution. Initially, we may assume that inputs are available to this industry at an invariant supply price that is determined by the resource returns in alternative employment. Under competitive organization of the industry, there will be a tendency for each productive service to be employed so long as this exogenously fixed input price (or wage) falls below marginal value product, MVP, of this input. The necessary condition for competitive equilibrium in the employment of a particular input,  $I$ , is:

$$W_I = MVP_I = MPP_I \cdot P_0. \quad (1)$$

As noted in equation (1), the marginal value <sup>of</sup> product is made up of two components, the value of the output, represented by the price,  $P_0$ , and the actual change in total quantity of output consequent on the change in the supply of inputs,  $MPP_I$ . Elementary price theory suggests that when we replace competition by monopoly, the necessary conditions become:

$$W_I = MVP_I = MPP_I \cdot MR_0. \quad (2)$$

Marginal revenue replaces output price as a component of marginal value product of input. The reason for the change is that, under monopoly, rational decision-making (profit-maximizing behavior) will take into account the fact that price varies with total output placed on the market. Even if the monopolist acts as a pure price-taker in the market for inputs, as he does under our assumptions, he cannot assume the role of price-taker in the output market. In setting output, he also sets price. Hence, he will take into account not only the actual price that an incremental unit of output can command but also the effects that this addition to supply will exert on the potential selling price of all inframarginal units. Total revenues are a multiple of price times quantity, and it is the change in this total that is relevant to the monopolist's decisions. \*

From this element alone it is clear that a monopolist will find it profitable to reduce total output in the industry to some level below that which would be observed under competition. This straightforward, price-induced output effect may be identified as the first of the three parts of an argument for the effective

monopolization or cartelization of a Type I criminal industry,<sup>7</sup> provided, of course, that the legal prohibition of this type of activity is itself a welfare-increasing policy rule.<sup>8</sup>

This effect is not directly applicable to industries embodying the second type of criminal activity, that which involves no potential contractual agreements or arrangements among willing buyers and sellers. Monopoly control in these "Type II" industries, exemplified by burglary, could not exploit a price-induced, output effect. This requires us to look more carefully at the basic economic model for a Type II activity, again taking burglary as our example.

Output here is presumably measured by the value of the loot that is stolen. Since, however, this material is not different in kind from that which remains in the possession of legal owners, modifications in the rate of supply of loot by the burglary industry will not affect price significantly. In this respect, a potential monopolist of this industry would remain in the same position as the single member among the many members in an openly competitive structure. This point can be seen clearly if we treat the theft of money as an illustration. Units of money are indistinguishable, and the price of a dollar is invariant at a dollar.<sup>9</sup>

In this initial model, there is no incentive for the monopolist to restrict output in a Type II activity because of the effects on output price. But there may exist an *input-price effect*, applicable for both Type I and Type II activities, that would offer the monopolist an incentive to restrict total supply below that which would be observed under open competition. Initially, we assumed that resource inputs were available to the industry in question at constant supply prices. This amounts to assuming that the resources are unspecialized, that criminality generates no

<sup>7</sup> The argument holds so long as anything less than perfect discrimination is available to the monopolist. If perfect discrimination were possible, the output under monopoly would be identical to that under competition. Note particularly that the complete absence of discrimination is not required for the argument, and, in fact, some less-than-perfect discrimination might be expected to take place in industries of Type I. Buyers' information about alternatives would presumably be less than with noncriminal industries, and transaction costs involved in retrading would probably be significantly higher.

<sup>8</sup> The welfare of participants in the voluntary exchanges, considered as a subset of the total population, would be maximized by an absence of legal prohibitions. In the presence of such proscriptive rules, furthermore, restrictions on industry output would be welfare-reducing. Hence, for this subset of the population, monopoly control is less desirable than competition. For the inclusive community, this welfare-decreasing effect of monopolization must be more than offset by welfare gains of nonparticipants if the legal proscriptions are, themselves, socially desirable. There is, of course, no means of determining by simple observation whether or not this condition is fulfilled. For purposes of analysis here, I shall assume that it is.

<sup>9</sup> When we consider the theft of real goods, such as items of clothing, jewelry, plate, and automobiles, some elements identified as characteristic of Type I industries may enter. The value of stolen items here is determined by the ability to market them through indirect and illegal channels. To the extent that the supply of "fence" services is not, itself, highly elastic, the monopolist might face a downsloping curve of effective "demand price." In this case, the argument developed above would, of course, hold and marginal revenue would fall below price. My purpose is not to deny the real-world relevance of this situation, but to develop a pure Type II-model in which, by assumption, final purchasers do not distinguish stolen from nonstolen goods and in which there are no institutional or supply barriers to resale.

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differential rents. If we drop this assumption and allow for this possibility, then an expansion in output of the industry may increase the prices of inputs. If a monopolist (monopsonist) is unable to discriminate among different owners of specialized inputs, he will have an incentive to reduce total inputs hired (and hence total output produced) below that generated under competitive organization.<sup>10</sup>

There remains the third source of the argument for monopolization, and this part also carries over for both Type I and Type II criminal activities. Note that in our discussion of either the output-price or input-price effect, we did not find it necessary to introduce law enforcement effort or investment as a determining variable. Regardless of the public's attitudes toward law enforcement and the total investment in enforcement determined by such attitudes, if the conditions described are present, monopolization will tend to reduce total social investment in criminality below that which would be forthcoming under competitive structure. This conclusion holds when society does nothing at all toward law enforcement as well as when society expends a major share of its annual treasure to this end. Furthermore, the shape of the relationship between law enforcement and the level of criminal activity, the enforcement response, or L curve, in Figure 1, is not relevant. Indeed, we could have dispensed entirely with any L curve to this point in the analysis.

Things become different when we examine the third part of the monopolization argument. Here the ability of a potential monopolist to observe the *shape* of the enforcement-response relationship distinguishes the monopoly outcome from the competitive one. If the L curve should be vertical, indicating that there is no enforcement response to changes in the level of investment in criminality, the monopoly situation becomes identical to the competitive. For almost all other configurations, however, strategic behavior by the monopolist in recognition of anticipated enforcement response will generate lower levels of criminality than those predicted under competitive organization.

In order to isolate this effect, which we may call the "internalization of externality" effect, we shall assume that the output of the criminal industry is marketed in a fully competitive setting, and, furthermore, that inputs are available to the industry at constant supply prices.<sup>11</sup> This means that producers must remain price-takers in both output and input markets whether the industry is organized along competitive or monopolistic lines. Despite the invariance in input prices, however, average costs of engaging in criminality would increase with an expansion in the output of the industry. This increase in the costs would be directly caused by the shape of the L curve in Figure 1, that is, by society's expressed response

<sup>10</sup> Discrimination among suppliers of inputs may be considerably easier to accomplish than discrimination among purchasers of outputs. See Footnote 7 above.

<sup>11</sup> These assumptions are not fully consistent with a general equilibrium setting. They may be made plausible by assuming that the industry is small relative to the total economy. They are made here, however, solely for purposes of exposition.

to the aggregate level of criminality. The effect is to increase the average cost of a unit of criminal output, or, to state the same thing differently, to decrease the marginal (and average) productivity of an input into criminality. The supply curve for the criminal industry would slope upward, despite our assumption that input prices are invariant.

The individual firms in a competitive organization of the industry will not recognize the effects of expanded industry output on average costs. The enforcement response generated by expanded industry output acts to place such firms in a position of imposing reciprocal external diseconomies, one on the other. In considering its own output decisions, the individual firm will act as if it has no influence on total industry output and, hence, on the change in costs as industry expands. In making a decision to produce an additional unit, the competitive firm will impose costs on other firms in the industry.

It is precisely the existence of this enforcement-induced external diseconomy that provides the third argument for monopolization. The replacement of competition by monopoly has the effect of internalizing the diseconomy. The monopolist can take into account the relationship between aggregate industry output and the predicted enforcement response, and he can control total industry output so as to increase profits above those forthcoming under competition.

Both the price-induced and the enforcement-induced effects work in the same direction; both provide opportunities for the rational monopolist to secure gains from reducing output below competitive levels. For any given enforcement level, we could, therefore, predict that monopoly output would fall short of the competitive. We may return to Figure 1 and depict monopoly output as a function of enforcement effort, as indicated by the curve  $C_m$  in the diagram. This curve falls below  $C$  at all points. The equilibrium toward which the system converges under monopoly or cartel control of the industry is shown at  $Z_m$ .

If the enforcement-response depicted in Figure 1 is assumed to be socially efficient, then a position at  $Z_m$  is clearly preferable to one at  $Z$ . The level of criminality is lower, and this must be evaluated positively unless crime itself is somehow considered to be "good." Furthermore, at  $Z_m$ , the total amount of enforcement effort is lower than that at  $Z$ . Resources involved in enforcement may be freed for the production of alternative goods and services that are positively valued; the taxpayer has additional funds that he may spend on alternative publicly provided or privately marketed goods and services.

#### IV. Possible Objections to Criminal Monopolies

We should examine possible counterarguments or objections to the monopolistic organization of criminal industries. Are there effects of monopolization that are socially undesirable and which have been obscured or neglected in our analysis?

Distribution offers opportunities for competition, and, however, that criminal activity profits do not competition, in returns that are noncriminal act share of these rents may be received by other distributional objectives.

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Distributional objections may be considered at the outset. Monopolization offers opportunities for profits in crime over and above those forthcoming under competition, and this, in itself, may be deemed socially "bad." It must be noted, however, that profits are made possible only because of the reduction in total criminal activity below fully competitive levels. Furthermore, the possible monopoly profits do not represent transfers from "poor deserving criminals." Under open competition, in the absence of specialization, owners of inputs into crime secure returns that are roughly equivalent to those that could be earned in legitimate, noncriminal activities. Monopolization has the effect of shifting a somewhat larger share of these inputs into noncriminal pursuits. For some of these services, transfer rents may be reduced, but these reductions are offset by increased transfer rents received by other owners of services. It seems difficult to adduce strictly distributional objections to the monopolization of crime.

A second possible objection may be based on the presumed interdependence of the several types of criminal activities. In the analysis above, I have implicitly assumed that the separate criminal industries are independent one from another. If we should assume that potential criminals constitute a noncompeting group of persons, distinct and apart from the rest of society, monopolization of one or a few areas of criminality may actually increase the supply of resources going into remaining and nonorganized activities. This sort of supply interdependence provides an argument for the extension of monopolization to all criminal activities. It does not, however, offer an argument against monopolization per se. Under full monopolization or effective cartelization, the allocation of resources among the separate criminal activities may not be equivalent, in the proportional sense, to that which would prevail under competition. The crime syndicate that effectively controls all criminal activities will equalize the marginal return on its resources in all categories, but the returns captured will include portions of "buyers' surplus" not capturable under effective competition. The mix among crimes will probably be different in the two cases; there may be more burglars relative to bank robbers under one model than under the other. There will, however, be fewer of both under monopoly except under exceptional circumstances.

A third possible objection to the whole analysis must be considered more seriously and discussed in more detail. To this point, I have implicitly assumed that resource inputs are transformed into criminal output with equal efficiency in competitive organization and in monopoly. This assumption may not be empirically appropriate. It seems plausible to argue, at least under some circumstances, that a monopolized or cartelized criminal industry can be more efficient than competition. For any given output, the monopoly may require fewer resource inputs. If this is the case, the C curve of Figure 1 cannot be allowed to represent resource input and/or criminal output interchangeably as we have implicitly done in the discussion. The nonstrategic monopoly-response curve will not be coincident with the com-

petitive C curve if the former is defined in terms of output. The nonstrategic monopoly-response curve will lie above that which describes competitive criminal response. The strategic monopoly-response function will lie below the nonstrategic function, as depicted, but there is no assurance that it need lie below the competitive-response function as shown in Figure 1. To the extent that there are significant economies of large scale in crime, monopoly organization will tend to be relatively more efficient. Even if this hypothesis is accepted, however, the advantages of competitive criminal organization are not clear. Consider an example in which a fully strategic monopoly response, given a predicted enforcement-response function, generates a criminal output valued at X dollars, which is the same as the output that would be generated under competition. Assume, however, that the latter industrial organization uses resources valued at X dollars in alternative uses, whereas the monopoly uses up only X/2 dollars in generating X. The social "bad" represented by crime is identical in the two forms; law enforcement investment is the same. But resources valued at X/2 are freed for the production of valued "goods" under monopoly whereas these "goods" cannot be produced under competition.<sup>12</sup>

A possible misunderstanding of the whole analysis rather than an explicit objection to it may well emerge. Emotions may be aroused by the thought that one implication of the whole analysis is that governments should "deal with the syndicate," that law enforcement agencies should work out "accommodations" or "arrangements" with those who might organize central control over criminal effort. I should emphasize that there is nothing of this sort implied in the analysis to this point. In its strictest interpretation, the analysis carries no policy implications at all. It merely suggests that there may be social benefits from the monopoly organization of crime. Policy implications emerge only when we go beyond this with a suggestion that governments adopt a passive role when they observe attempts made by entrepreneurs to reduce the effective competitiveness of criminal industries. In practice, this suggestion reduces to an admonition against the much-publicized crusades against organized crime at the expense of enforcement effort aimed at ordinary, competitive criminality.

I do not propose that explicit "arrangements" be made with existing or potential criminal syndicates. If this approach were taken, the solution to the system depicted in Figure 1 would not be at  $Z_m$ , but would, instead, be located to the southwest of  $Z_m$ , embodying even less criminal output and less enforcement effort. At  $Z_m$ , "gains from trade" between a monopoly syndicate and the com-

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<sup>12</sup> The media sometimes become confused in assessing the comparative efficiency of organized and unorganized crime. In June 1971, attention was focused on the theft of stock certificates from brokerages. On consecutive evening news broadcasts, one TV network reported (1) organized crime *exploits* the actual thieves by giving them only 5 percent of the face value of the stolen certificates, and (2) the increase in theft is facilitated because organized crime provides a *ready market* for the securities.

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munity may be exploited only by moves in the general southwesterly direction.<sup>13</sup> There are compelling arguments against this approach. In the first place, even if the persons in potential control of criminal activity could be identified in advance and a bargain struck with them, the governmental agency involved would find that the "trading" solution lies off the community's enforcement response, or L, curve. This would bring pressure on politicians to break the agreement. A government agency, precisely because it acts on behalf of, and is thereby subject to review by, the whole community, cannot readily behave monolithically, whether this behavior is unilateral strategic response to, or explicit bilateral dealing with, a syndicate. The community enforcement-response function necessarily describes outcomes generated by the interaction of many behavioral components; in many respects such responses are more closely analogous to competitive, than to monopoly, behavior.

Perhaps an equally important technical difficulty with this approach involves the question of identification itself. Even if the enforcement agencies could act monolithically, independent from community political pressures, the question would remain: If the criminal syndicate could be identified with sufficient predictability to allow bargains to be struck, why should "trade" be necessary? The community's preferred position is the reduction of criminal activity to zero, allowing for a comparable reduction in enforcement effort. The enforcement-response function, shown by the L curve in Figure 1, is based on the implicit assumption that there are technological limits to the productivity of police effort. These limits may rule out the full identification of the organizers of crime, even if monopoly is known to exist and to be effective. Passive acquiescence in the syndication of crime is a wholly different policy stance from active negotiations with identified leaders.

If "arrangements" are ruled out on technological, ethical, or contractual bases, however, a subsidiary question arises concerning appropriate policy norms to be followed when and if positive identification of the monopolists becomes possible, either fortuitously or as a result of search effort. Suppose, for example, that a municipality that is initially in a  $Z_m$  equilibrium finds it possible to identify leaders of the local syndicate. Should the community prosecute these leaders and break up the monopoly? Failure to prosecute here is quite different from the arrangement of explicit trades or deals. Breakdown of an existing control group may loose a flood of entrants and the competitive adjustment process might converge toward a new equilibrium at Z. If such a pattern is predicted, attempts at breaking up even those criminal monopolies whose leaders are positively identified should be made with caution.

<sup>13</sup> Economists familiar with ridge-line or reaction-curve constructions will recognize that the  $C_m$  curve depicts the locus of vertical points on the series of indifference contours representing the preferences of the monopolist. Similarly, the L curve is the locus of horizontal positions on the community's set of indifference curves, assuming away all difficulties in interpersonal amalgamation. The preferred position of the monopolist lies high along the ordinate, and the preferred position of the community lies at the origin.

The law enforcement response that this analysis implies is no different in detail from that which might be followed under competitive organization of the criminal industries. Enforcement units and agencies are presumed to make normal efforts to apprehend criminals of all sorts, and community or public pressures will insure that these efforts are bounded from both sides. Indeed, the monopolist's response function has been presumed to be based on the expectation that community response would be as noted. The analysis does nothing toward suggesting that enforcement agencies should not take maximum advantage of all technological developments in crime prevention, detection, and control. To the extent that new technology increases the cost of criminal output, the relevant C curve, competitive or monopolistic, is shifted downward. To the extent that court rulings increase the expected productivity of investment in criminality and/or reduce the productivity of enforcement effort, the relevant C curve is shifted upward. The whole analysis has been presented on the assumption that the public's "tastes" for enforcement remain unchanged. This is merely a convenient expository device, and there is no difficulty in incorporating shifts toward the right or left in the L function.<sup>14</sup>

#### V. Criminal Self-interest as a Social "Good"

The genius of the eighteenth century social philosophers, notably Bernard Mandeville, David Hume, and Adam Smith, is to be found in their recognition that the self-interests of men can be made to serve social purpose under the appropriate institutional arrangements. The sought reform in the organization or the institutions of society as an instrumental means of accomplishing more specific social objectives. The philosophical foundations of competitive economic organization are contained in Adam Smith's famous statement about the butcher whose self-interest, rather than benevolence, puts meat on the consumer's supper table. So long as attention is confined to the production, supply, and marketing of pure "goods," both as evaluated by direct purchasers, and by the members of the community in their "public" capacities, competition among freely contracting traders, with entry into and egress from industry open, furthers the "public interest" in a meaningful sense of this term. There is no argument for monopolistic restriction in this setting, whether this be done via governmental agencies, as in Smith's era (and, alas, all too commonly in our own) or by profit-seeking private entrepreneurs. The preservation of free entry and egress, the prohibition of output-restricting, price-increasing agreements among sellers, the control of industries or groups of industries by one or a small number of persons and/or firms—all of these are genuinely "public goods" and, as such, their provision warrants the possible investment of governmental resources.

<sup>14</sup> The situation in the United States in the early 1970s may be interpreted in terms of the analysis of this paper. Adverse court rulings since the middle 1950s have continually shifted the relevant C curves upward. This has created a disequilibrium in the whole system that is reflected in the observed increases in enforcement effort.

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Things become somewhat different, however, when it is recognized that "goods," which individuals value positively in their private capacities, may be mixed variously with "bads," which individuals value negatively in their capacities as members of the community. To the extent that the "goods" element is isolated, restrictions on competitive supply are socially undesirable. If the "bads" necessarily accompany the production-sale of the "goods," however, some balance must be struck and some reductions in the output of "goods" below openly competitive levels may be in the social interest. If the "bads" are internal to an industry, monopolization will cause these to be internalized and taken into account in decision making. In this case, profit-seeking behavior of the monopolist will reduce the output of "goods" below socially optimal levels. In this case, it becomes impossible to determine, a priori, which of the two organizational forms, competition or monopoly, is socially more efficient. If the "bads" are external to an industry, wholly or partially, monopolization will at least shift the total supply of "goods" in the direction indicated by social optimality criteria, but profit-induced restriction may fall short of or overshoot the mark. Aside from this, there may also be highly undesirable distributional consequences of monopolization. In general, no straightforward organizational or institutional principles can be deduced for the cases where "goods" and "bads" are mixed. The choice between competitive and monopoly organization, if these are the only effective alternatives, must be made on the basis of pragmatic considerations in each case.<sup>15</sup>

Unambiguous organizational-institutional guidelines re-emerge, however, when we examine activities that are unambiguously "bads" in the social or public sense. Here the argument advanced by Mandeville and Smith becomes applicable in reverse. If it lies within the self-interest of men to produce "bads" without accompanying and compensating "goods," this same self-interest may be channeled in a socially desired direction by encouraging the exploitation of the additional private profit opportunities offered in explicit restraint of trade. Freedom of entry, the hallmark of competition, is of negative social value here, and competitiveness is to be discouraged rather than encouraged. These principles become self-evident once we recognize, with the eighteenth century philosophers, that institutional structures are variables that may be used as instruments for achieving social purpose,

<sup>15</sup> Economists, in their roles as social reformers, constantly search for alternatives that will accomplish the explicit objectives more directly, without basic modifications in organizational structure. For example, witness the current popularity of schemes to correct for "public bads" exemplified in air and water pollution by placing charges or fees on the production and sale of marketable goods and services, while maintaining competitive structure as the organizational form.

It will be recognized that the content of this paragraph covers, in extremely brief form, many parts of modern welfare economics. Earlier works of my own have discussed some of the points made. See my "Private Ownership and Common Usage: The Road Case Re-examined," *Southern Economic Journal*, vol. 22 (January 1956), pp. 305-16; "External Diseconomies, Corrective Taxes, and Market Structure," *American Economic Review*, vol. 59 (March 1969), pp. 174-76; and "Public Goods and Public Bads," in *Financing the Metropolis*, ed. John P. Crecine (Beverly Hills: Sage Publications, 1970), pp. 51-71.

in this case, the reduction in the aggregate level of criminality along with the reduction in resource commitment to law enforcement. It is not from the public-spiritedness of the leaders of the Cosa Nostra that we should expect to get a reduction in the crime rate but from their regard for their own self-interests.<sup>16</sup>

<sup>16</sup> Only upon reading another paper delivered at the conference did I see the reference to the paper by Thomas Schelling on the economics of organized crime. Upon subsequent examination, I find that Schelling explored some of the issues touched on in my paper, but that he did not explicitly discuss the central principle that I have emphasized. See Thomas C. Schelling, "Economic Analysis of Organized Crime," Appendix D in *Task Force Report: Organized Crime, Annotations and Consultants' Papers*, Task Force on Organized Crime, The President's Commission on Law Enforcement and the Administration of Justice (Washington, D. C.: Government Printing Office, 1967).

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