

Force and the Law

CRIME IN AMERICA by Ramsey Clark.
346 pages. Simon & Schuster. \$6.95.

If you have just been mugged or had your car stolen, Ramsey Clark may incense you. He insists that coping with crime requires compassion for the criminal as well as the victim. Worried that U.S. lawmen may be putting too much trust in the club and the gun as instruments of order, he suggests they learn from states like Sweden—which far outmatches the U.S. in curbing crime (but also has a homogeneous society and hence far fewer problems). As Lyndon Johnson's Attorney General, Clark ranked among the ablest yet fairest crime fighters in U.S. history. His new book is too rational to compete with the law-and-order rhetoric of today. But it talks humane sense about crime and punishment.

Clark argues that excessively harsh anticrime tactics are doomed to long-term failure in the U.S. Though they often pay it mere lip service, Clark admits, Americans still cherish the ideal of equal justice for all citizens. They seem unlikely to accept the kind of force that would stamp out all crime—and freedom as well. Such force, he adds, can only incite more anger and violence.

Inefficiency. Instead of getting tougher, says Clark, U.S. lawmen should get smarter. The present system is so inefficient that most crimes are never even reported; of those known to the police, barely one in nine results in a conviction. The odds against a burglar's being convicted are roughly 12 to 1; even for murder the odds are better than 4 to 1. Clark's description of American prisons, which he calls "factories of crime," suggests that the greatest service they could perform would be to free most of their inmates tomorrow.

Clark believes that the \$5 billion the U.S. now spends each year on law enforcement is not enough but warns that spending more, without reform, will only make things worse. As he sees it, most of the Nixon Administration's anticrime moves point in that direction.

He deplors wiretapping, which Attorney General John Mitchell has sharply expanded, as a license for political harassment and an invasion of privacy. But he also presents it as a paradigm of police inefficiency. It may take 20 men to install one tap, often by breaking and entering the suspect's home, plus as many as six more men to monitor the tap, often for months and months in which they could be gathering solid evidence instead of recording mostly innocent chatter. Clark's Justice Department shunned bugging—but in 1968 somehow managed to indict 1,166 figures from organized crime, a record-breaking total for the decade.

Tragedy. Clark sees no virtue in Mitchell's invitation to police to ignore the Supreme Court's *Miranda* rule requiring that suspects in custody be

warned of their right to silence and counsel. Such evasion, says Clark, encourages third-degree-style interrogations—a practice that scares off tipsters while impeding scientific detection that might yield better evidence. He has no use for another Mitchell priority—jailing dangerous suspects before trial without bail—in part because the required pre-trial hearings on the "dangerousness" of such defendants are likely to clog the already overwhelmed courts. Moreover, he regards the scheme as a blow to the traditional presumption that a man is innocent until proved guilty.

As Attorney General, Clark was innovative in setting up policing devices like the specially coordinated strike forces now used to move against the Mafia en masse. He was, and is, a strong advocate of tougher regulation for the country's 90 million guns, and the need to invent effective nonlethal weapons for policemen.

Clark treats the law as an organic part of the nation's painfully slow-moving but necessary social engineering. "Crime is an individual tragedy," he says. "Neglect, not permissiveness, is the culprit . . . Our reflex to violence can be conditioned out of the American character."

The view that legal and social justice are inseparable, long a standard liberal concept, has now fallen into disrepute. That concept has not yet worked very well in the U.S., but it has never really been adequately tested; serious money, good planning and continuity of policy have always been wanting. Clark is compelling when he restates the familiar argument that the cure for crime is not only a matter of tough law enforcement but of social reform and economic progress. "America's passion," Clark urges, "must be justice."

■ Robert Shnayerson