

EDUCATION AGAINST CRIME:
Fostering Culture Supportive of the Rule of Law

by

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ONE OF THE outstanding problems facing our country, its quality of life, and America's global reputation is the lack of a strong culture of lawfulness. A significant portion of our fellow citizens have grown up believing that the rule of law does not benefit them, in whole or in part.¹ Hence they have little reason to follow its principles whenever they believe it is not in their interests to do so.

This belief system is not immutable. Culture matters and it can be changed.

There is an important role for the next President, as well as Congress and major sectors of society such as education, law enforcement, and the media, if we want to foster a culture much more supportive of the rule of law. After all, America has done this in the past, and other regions of the world, under much more difficult circumstances, have shown that with leadership their culture can be changed for the better, thus enhancing public security and economic and social development.

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THE PROBLEM

Every day, we come into contact with individuals—from all social classes—who feel and express little reason to follow the laws and institutions that we have created—and seek to enforce at considerable expense and even, sometimes, loss of life. We see this daily on television and other media. For many, this is also their daily experience on the speedways we call public highways and roads. For others, criminality is an all too common experience in their neighborhoods and in particular institutions—such as urban street corners, campus parties, in schools, and the darker side of the Internet. Many of those who violate the law seriously harm many thousands of others, or themselves, and have little respect for our laws or the institutions we have created to oversee and enforce them.

Some are raised in environments where their parents, even if they are present in their lives, know little about the rule of law, and have little faith in the justice system. These individuals may have been abused at home, on the streets, or in prison, and therefore are unlikely to pass on the norms of the rule of law. The schools, for those who attend and pay reasonable attention, have few teachers and curricula that discuss the principles and benefits of the rule of law, and that it is the rule of law and not majority rule that daily protects minorities and the weaker elements of society. They thus do not have an opportunity to learn that it is the rule of law that provides major mechanisms to reduce injustices in our society and evolving opportunities to enhance our quality of life. With some exceptions, there are also far too few discussions in school settings about how and why to resist illegal temptations and narratives that are so prevalent in the lives of young people throughout the country. This runs the gamut from obeying driving and traffic regulations, to cheating on exams, to stealing intellectual property (e.g. music), and selling drugs, committing sexual and other types of assault, or becoming white collar entrepreneurs who exploit illegal opportunities, such as cybercrime, frauds and scams.

Every day, they also see or hear about even well-paid sports figures, celebrities, as well as business and religious leaders who succumb to temptation and violate civil and criminal law.

Further, they personally experience or learn about the lawless acts of police and law enforcement personnel as well as elected and other government officials—all of whom either participated in making the law or are paid to uphold it.² Sometimes, those who have or are suspected of violating the law are mistreated and do not receive due process, which usually makes them increasingly hostile to the law in the future.³

This, of course, does not mean that all youngsters as adults have completely negative views about the rule of law. Many do not. They are aware that the laws provide many benefits. But when faced with the personal choice of following the law in particular circumstances or gaining what they perceive to be the benefits of not doing so, they all too often succumb to temptation. Unless they have been educated or trained to resist temptation many continue to slip. The culture is working against them.

This culture can be changed. We have been able to do this in the past, sometimes very slowly, as with the abolition of slavery, the drive to institutionalize women’s rights, to reduce smoking, and to promote environmentally-sensitive behavior.

It is past time to address the culture that too often tolerates and sometimes even fosters illegality. If we do, at a minimum this will help to reduce the many thousands of victims each year, and the large numbers of deaths and injuries, as well as the huge human and material costs of incarceration, hiring of more and more police, and the deployment of expensive police technologies. It will also increase the sense of fairness and the salience of dynamic opportunities in our society to oversee the performance of the law and to bring about requisite changes in the law and its procedures. This is a national as well as a local issue.

WHAT CAN BE DONE TO MINIMIZE THE PROBLEM AT LOW COST

Perhaps the single most important way that this can be accomplished is through national and local leadership that leads to formal and informal education about the culture supportive of the rule of law.

This education can take a number of different forms. One of the most important is through school-based education reinforced by other sectors of society. Next to parental influence, school systems, if committed and prepared, are in a position to influence the next generations of youngsters. “Committed” means that school leadership has been persuaded that they can make a difference if they use a limited but significant number of their personnel and school hours to affect the knowledge, skills, and attitudes of their students about the rule of law.⁴

“Prepared” means that the schools’ professional teachers themselves would have to be trained to pass on the requisite knowledge and skill sets to their students. This subject is not rocket science. But like other subjects taught in schools, it does require some specialized training—perhaps a week or two. Teachers would need to be able to teach about the rule of law and why it outweighs the perceived benefits of illegal behavior for students, their siblings, families, friends, communities—and for our country. These norms cannot be passed on by diktat or “just say no” campaigns that have been launched to reduce crime, drugs, and gangs—usually led by local police in schools or after-school programs.

It has to be taught by professional and properly prepared teachers in the classroom and other formal school settings. Ideally, children should be exposed to the subject for the first time in primary school, but it is in junior high school when most adolescents will be directly exposed to the dilemmas, temptations, and also the positive opportunities that will be with them for much of their lives. It is in the seventh or eighth grade that they will start to make these choices daily. And it is here—for twenty to forty hours—that we want to increase their knowledge about the rule of law and its benefits, and what happens when the rule of law breaks down. This is illustrated so well in William Golding’s famous novel *Lord of the Flies* and the movie “Goodfellas”—which children this age love to read, see, and discuss in classroom settings. We also need to prepare students to reason through the moral and legal dilemmas they will face, and to address them with critical thinking and decision-making skills. This includes, for example, when a poor person has no money and is hungry and steals food from a store, or steals an iPhone from a person in the subway, or on a more topical issue, whether they should cheat on an exam if they believe they will not get caught.

The skills to handle even more complex questions can be honed through multiple classroom scenarios and discussions. Hence the need for dedicated school time and for teachers prepared to handle the discussion that will ensue. We know from experience in the US and abroad that many students will welcome the opportunity to discuss the petty and more serious crime and corruption they see in the media, in the streets, or even in their own schools and homes. There will be debates in the classroom, in the school cafeteria, and at home about what was discussed in class. Not all students will agree—particularly with the disconnect and conflict between rule of law ideals and the reality they see in their daily lives. But for many youngsters, this will provide the first, and maybe the only opportunity to participate in a serious discussion of the subject before they are faced with real-life temptations. Where this approach has been tested, it has produced positive and measurable results.⁵

Fortunately, again if the schools are committed and prepared, there can be another opportunity to re-engage and reinforce the discussion in high school. Here students are at a stage where they can begin to understand that their personal behavior has implications for their community and their country. Again, some will not be convinced that following rule of law principles trumps criminality in almost all situations and dilemmas. No society has been able to achieve this level of moral and legal reasoning. But, particularly after the second round of formal education, it will be possible to measure a change in their knowledge and skills at handling the choices they will be facing over their lifetime.

REINFORCING SCHOOL-BASED EDUCATION

School-based education will likely be even more effective, however, if it is reinforced by education outside the classroom. It is particularly important that law enforcement set a good example and does not undermine the culture of legality. In addition to sanctions for their illegal behavior and incentives for following rule of law principles, the police too need rule of law education. Most training for police is heavily technical—how to drive safely, how and when to use force effectively and consistently with police rules of engagement. But with exceptions, there is very little education and training for police about a culture supportive of the rule of law. When crime goes up, or the police are condemned for improper or corrupt behavior, the “solution” all

too often is either hire more police, increase their powers and technological capabilities, or replace them with new recruits. Then there is very little education and training for the new recruits in fostering a culture of lawfulness. Few police have been exposed to these “resistance” techniques in their formal school or professional training. There is too little effort directed toward developing the skills that would enable them to connect with the dilemmas of youngsters growing up with substantial lawlessness in their neighborhoods.

Another sector that could make a difference and reinforce a change in the overall culture is the media. There is an important place for the media to report on crime and corruption and to uncover “bad” behavior in society and the government of the day. But there are also ways for media professionals to contribute positively through creative reporting, narratives, and videos on those trying to overcome the obstacles and temptations that confront society. We have more than enough positive, exciting stories, events, and people, who are attempting to foster a culture of lawfulness. Youngsters could be helped to relate to these experiences and the opportunities available to them and not only to the negative narratives that tend to dominate in our modern day society. Such positive media stories can also be commercially profitable.

ILLUSTRATIONS OF CHANGE

If this had not already been done, then these educational efforts could be dismissed as unrealistic or overly idealistic. But it has been done to an impressive extent—even in cities and towns with high degrees of criminality and corruption in various parts of the world, such as Palermo, Sicily; Hong Kong; Botswana in Southern Africa; and in cities in Colombia such as Bogota, Medellin, and Pereira. There is a drive now underway in Mexico to replicate these experiences. These urban areas had never had a culture of legality. Organized crime was much more threatening than in the US. High and low levels of corruption were the order of the day. But these cities overcame many of these considerable obstacles and shifted the culture. It took leadership—mostly in the Executive agencies—to mobilize various sectors, and particularly schools, the media, and law enforcement.

WHAT THE PRESIDENT CAN DO

In the United States, school systems are more pluralistic and less centralized than in these countries. Education to foster the culture of lawfulness requires support of local school systems. But if we want to reach schools across the nation in the next few years, then only the bully pulpit can do so. The next President can lead, both through highlighting the importance of the subject and underlining the national importance of changing cultural attitudes about illegal behavior and the rule of law. The President can also introduce both educational and material incentives to do so. But the President can’t do it alone. He will need support from Congress and from state and local leadership in securing the commitment and preparation of the schools, law enforcement education, and media interest in the subject.

What is *not* being suggested here is that the President and next Administration seek to control either the content of education or the training of schoolteachers, students, policemen and women, and media professionals. There is an important distinction between leadership and control. What is being proposed here is that the President play a limited but important public role in addressing

a national problem—the missing dimension of culture strongly supportive of the rule of law. The President can raise the salience of the issue and the various ways in which it might be addressed in educational arenas. He can open a national discussion on ways to meliorate a problem that has frustrated us for many years.

Once, not so long ago, our Founders considered this age-old problem. They recognized that people by their nature were neither devils nor angels, and that we could begin to design practical ways to manage the problem of order and opportunity in our society. Their answer was self-government and the rule of law, accompanied by the habits of civic virtue, informed by education—for no one is born knowing or believing in the rule of law.

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ENDNOTES

1. **Culture of Lawfulness** is a culture in which the overwhelming majority is convinced that the rule of law offers the best long-term chance of securing their rights and attaining their goals. Citizens believe that the rule of law is achievable and recognize their individual responsibility to build and maintain a rule of law society. In a culture of lawfulness, most people believe that living according to the rule of law (respecting the rights protected by law, fulfilling the duties codified by law) is the best way to serve both their public and private interests.

Rule of Law: While there are many definitions of the rule of law, most contain the following elements: Every citizen has an opportunity to participate in making, overseeing, and modifying the laws and the legal system; the laws apply to everyone, including the rulers; and laws protect each individual as well as society as a whole. The laws provide a formal means of enforcing the law and sanctioning violators with established punishments.

The *U.S. interagency definition* (U.S. Agency for International Development, U.S. Department of Defense, and U.S. Department of State) reads: "Rule of Law is a principle under which all persons, institutions, and entities, public and private, including the state itself, are accountable to laws that are publicly promulgated, equally enforced, and independently adjudicated, and which are consistent with international human rights law." Supplemental Reference: Foreign Assistance Standardized Program Structure and Definitions, Program Area 2.1 "Rule of Law and Human Rights," U.S. Department of State, October 15, 2007.

For *the United Nations*, the rule of law refers to a principle of governance in which all persons, institutions and entities, private and public, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness, and procedural and legal transparency.

There is *relatively little data* on Americans' contemporary belief in a culture supportive of the rule of law. Limited survey data does indicate that many Americans have a stronger commitment to the rule of law than some other liberal democracies. However, it should be noted that when following the law is juxtaposed with some other values, or there is a cost to following the law, it is not clear that Americans will so readily choose the law. It should also be noted that there appears to be more support for legal constraints on government as opposed to constraints on the behavior of individuals. Gibson, James L. "Changes in American Veneration for the Rule of Law." *DePaul L. Rev.* 56 (2006): 593.

2. See, for example, studies by the US Department of Justice and by academics which document which states and which branches and sectors of public officials are perceived to be most corrupt based on convictions and other indicators. In the last two decades more than 20,000 public and private officials have been convicted of crimes relating to corruption and 5,000 more are awaiting trial. Oguzhan Dincer and Michael Johnston, "Measuring Illegal and Legal Corruption in American States: Some Results from the Corruption in America Survey." *Safra Center for*

Ethics, Harvard University, March 16, 2015. There does not appear to be a similar overall national study of police misconduct. However, the Cato Institute has a National Police Misconduct Reporting Project which compiles statistics. See their 2010 Annual Report, <http://www.policemisconduct.net/statistics/2010-annual-report/>.

3. One of the best empirical studies of why procedural justice is important to rule of law legitimacy is Tyler, Tom R. *Why People Obey The Law*. Princeton University Press, 2006.

4. There is a considerable literature in traditional legal scholarship and more contemporary theoretical and empirical social science on the effectiveness both of cognitive learning and school-based education, as well as on environmental factors, in influencing behavior in developed democracies. In the more contemporary literature, see for example, Cohn, Ellen S., and Susan O. White *Legal Socialization: A Study of Norms and Rules*. Springer, 1990; Finckenaue, James O. "Legal Socialization: Concepts and Practices." *Trends in Organized Crime* 4, no. 2 (1998): 30-40; Grant, Heath B. *Building a Culture of Lawfulness: Law Enforcement, Legal Reasoning, and Delinquency Among Mexican Youth*. LFB Scholarly Pub. LLC, 2006.

5. Since the 1990s, there have been promising efforts to introduce this school-based approach in Palermo, Sicily; Hong Kong; and major Colombian cities. To determine if these efforts could be replicated, faculty in criminal justice, anthropology, and political science at John Jay College of Criminal Justice, Rutgers School of Criminal Justice, and Georgetown University's Government Department, all under the umbrella of the nonprofit National Strategy Information Center, teamed up with Sicilian, Colombian, and Mexican educators to introduce educational initiatives on school-based culture of lawfulness in their respective countries. They developed detailed curricula and prepared junior and senior high school teachers to teach 20 to 40 hour pilot courses.

Following the pilot courses, various instruments were used to ascertain if the curricula had been taught as designed, and to see what effect the course had on student knowledge, attitudes, and skills. With the exception of San Diego County, few US school systems were willing to devote time and resources to the project. After they received the results of evaluations of pilot programs, Colombian and Mexican educators adopted the approach. Since then, it has spread and become institutionalized in a number of cities and regions in the Caribbean Basin.

For several of these evaluations, see, Godson, Roy, and D. Kenney. "Fostering a Culture of Lawfulness on the Mexico-US Border: Evaluation of a Pilot School-Based Program." *Transnational Crime and Public Security: Challenges to Mexico and the United States*, John Bailey and Jorge Shabat, eds. (La Jolla, CA: Center for US-Mexican Studies, University of California, San Diego, 2002); Grant, Heath B. *Building A Culture Of Lawfulness: Law Enforcement, Legal Reasoning, and Delinquency Among Mexican Youth*. LFB Scholarly Pub. LLC, 2006, pp. 103-126; Marco Antonio Carrillo Meza and Martín Manuel Martínez Gastélum, *Programa de Cultura de la Legalidad: Revisión, Análisis y Resultados de Evaluación en Alumno de Tercer Grado de Secundaria en B.C. – Reporte de investigación 2006* (Baja California, México: CETYS Universidad and Gobierno del Estado Baja California, 2006).