# *From the Editor*

Karl Popper (1959) saw risky theoretical predictions as a crucial part of the scientific enterprise. He criticized psychoanalytic thinking as unscientific because, he claimed, it never made predictions that could be disconfirmed or falsified. Yet even if we believe that theoretical predictions can be falsified when data do not provide support, we rarely abandon a theory in the face of disconfirming evidence. Rather, the investigator "recognizes" that the procedures or measures were weak or inappropriate, requiring a new approach. On the one hand, we can interpret this persistence as permitting expansion and enrichment of our theories (e.g., each piece of new research allows modifications that specify the conditions under which the theory applies); alternatively, persistence may signal an unscientific reluctance to alter our view of the world in response to evidence.

In part, the tenacity with which many social scientists cling to their theories in the face of disconfirming evidence may stem from the intuitive plausibility of the theoretical propositions. For example, it is reasonable to expect that certainty and severity of punishment will influence the decision to engage in illegal behavior. Yet for many years and across numerous studies, investigators' search for evidence of a strong deterrence effect has revealed surprisingly little support. One explanation offered for this lack of support is that researchers have looked primarily at traditional crime, in which likely offenders engage in nonrational behavior. The missing test, therefore, has been examination of the rational offender who should be maximally sensitive to the likely outcomes associated with any act. In this issue of the *Review*, John Braithwaite and Toni Makkai explore the deterrent effects of governmental regulatory sanctions on the corporate staff of nursing homes. They choose the organizational arena where decisions are presumably rationally calculated, providing the first test of corporate as opposed to individual deterrence.

Despite the innovative focus on chief executives and the use of both interviews and officially recorded compliance, Braithwaite and Makkai's results are consistent with those of most previous studies of deterrence: they find no evidence that the threat of sanctions exerts a strong influence on behavior. As with any piece of research, the reader can suggest other ways the deterrence model could have been tested. But the lack of an apparent deterrence effect in a new context in which it would be expected to be observed also raises further questions about the power of deterrence theory to explain compliance with rules.

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Corporate actors receive further scrutiny in the second article of this issue. John Flood takes us inside legal negotiations to a corporate law firm to watch the behavior of corporate lawyers and their clients. His research shows the skill exercised by lawyers in managing both their clients and the other parties in negotiations by controlling and appearing to control access to information. Adding to the growing body of research on lawyer behavior, Flood's work also shows the influence of the subjective environment in which corporate actors make crucial decisions.

The interactions between private businesses negotiating deals are direct and intense. They contrast sharply with the loose coupling that typically characterizes criminal justice agencies which, despite their interdependence, rarely initiate interactions. Wayne Welsh and Henry Pontell explore what happens to this loose coupling in response to the substantial organizational pressures brought on by court-ordered jail reform. Their interviews and archival data reveal that the court orders facilitated shifts toward tighter coupling and more proactive responses in each of the three counties they examined, but that the specific legal, political, and organizational environments of each jurisdiction influenced both interagency relations and responses to the court orders. These contextual influences on organizational response highlight the difficulty of developing theories that can account for behaviors across organizations. They also show the crucial role to be played by studies in which behavior in multiple settings is investigated.

Donald Black's theory of law (1976) has attracted substantial attention since he proposed it. Its simplicity and risky predictions are appealing and make the theory susceptible to empirical test. Tests of the theory thus far have been confined primarily to criminal law and have yielded inconsistent results. In this issue of the *Review*, Daniel Doyle and David Luckenbill look beyond the criminal arena and examine the theory's ability to predict legal mobilization in response to neighborhood problems, some civil and some criminal. Their results provide little support for Black's theory, showing none of the predicted relations between mobilization of law and stratification, morphology, culture, and organization. The relationship they find between nonlegal social control and legal mobilization is positive, although the theory predicts it should be negative, and Doyle and Luckenbill suggest a potentially important distinction between personal and societal social control which may explain their result. Thus, while this test of Black's theory did not find support for its predictions, it produced insights made possible by the clarity and specificity of those predictions.

The final two articles in this issue of the *Review* both explore the prickly path of legal reform. Research on legal reforms often reveals that the planned reform is not actually implemented, that the implemented reform does not produce the intended effect, or that the system swiftly adjusts to and undermines the reform ef-

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fort. The articles by Julie Horney and Cassia Spohn on rape law reform and by J. Alexander Tanford on law reform regarding jury instructions show this typical pattern of limited reform effects. But because they both look at multiple jurisdictions and the responses of different legal institutions, they are able to specify some of the conditions under which legal reforms are able to produce change.

Horney and Spohn found that in one jurisdiction, Michigan, there were significant increases in reported rapes, the ratio of indicted to reported cases, and the maximum sentence for those incarcerated following the introduction of rape reform legislation. Yet there was almost no evidence of impact following legal reform in the other five states they examined. It is tempting to conclude that the Michigan reforms successfully produced change because that state had instituted the strongest set of rape reform laws, including the most restrictive rape shield law. It is also possible that the different results had more to do with the different environmental contexts of the reforms than the nature of the reforms themselves.

Tanford's research traces the influence of social scientific evidence on the legal rules governing jury instructions. Some empirical research suggests that jurors will understand and use jury instructions more effectively if they are instructed at the beginning of the trial and receive written copies of the instructions during their deliberations. By examining court decisions, legislative acts, and changes in commission rules, Tanford shows that the effects of this research in influencing reform are modest and that they are confined primarily to the rule-making commissions. Moreover, there is evidence that courts have tended to move *away* from the direction suggested by research. These striking results raise a number of important questions about the quality and credibility of information supplied by the adversary and legislative processes.

I cannot close this editor's introduction without an observation about the upcoming annual meeting in Amsterdam. This first meeting of the Association outside North America is a major event that promises to be the Association's first truly international conference. I hope that readers of the *Review*, both those who attend the conference and those who are not able to be there, will take the site as another signal that the *Review* welcomes the international community of our shrinking world to these pages.

Shari S. Diamond

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