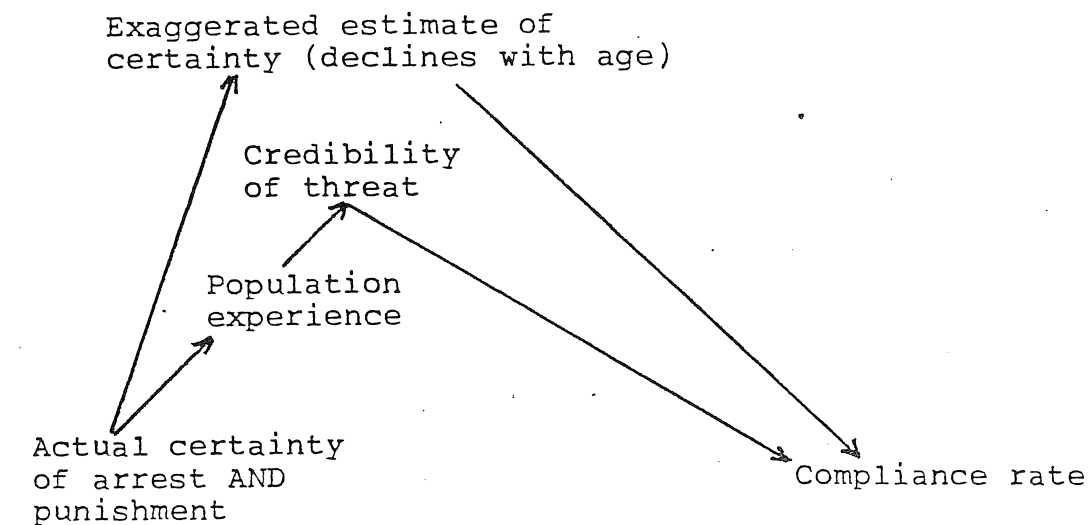


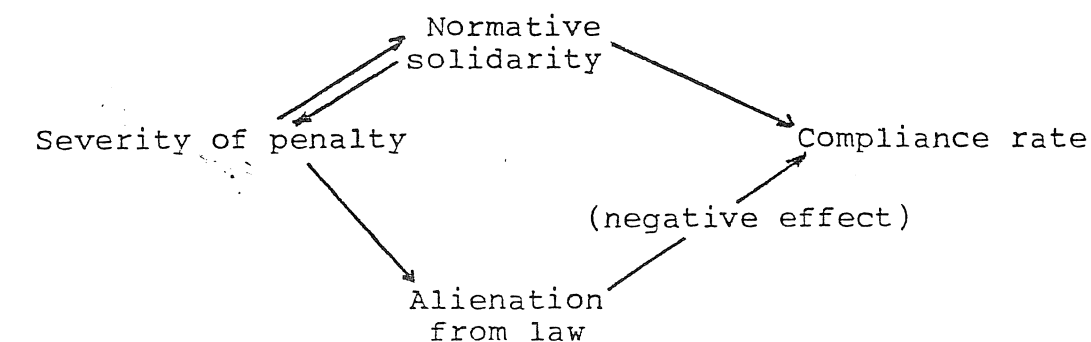
1. Beccaria/Bentham model:

Certainty x severity  $>$  value of violation----->compliance

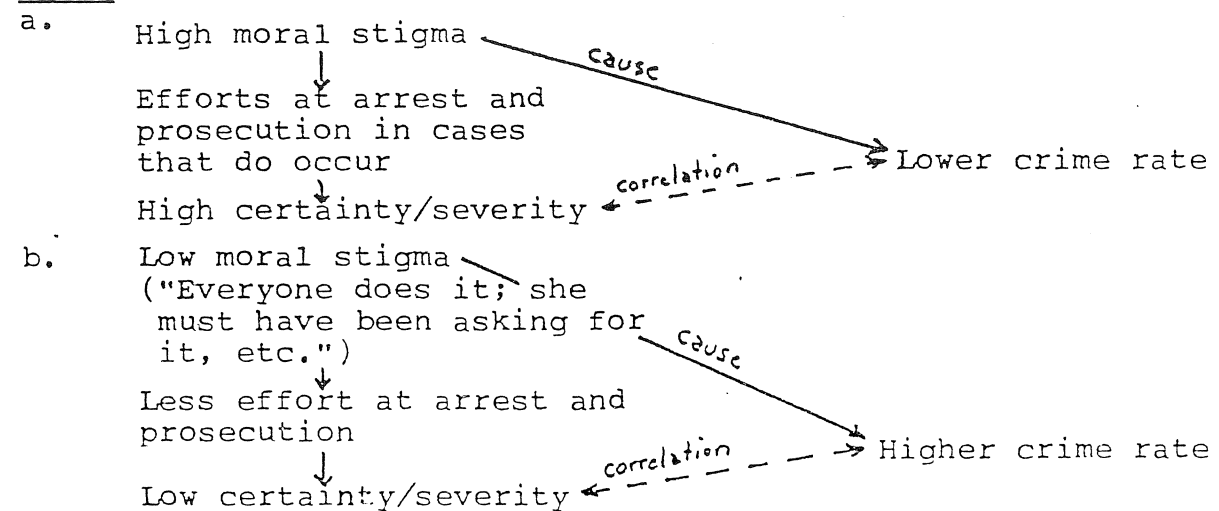
2. Bankston and Cramer, Toward a Macro-Sociological Interpretation of General Deterrence, 12 Criminology 251 (1974):



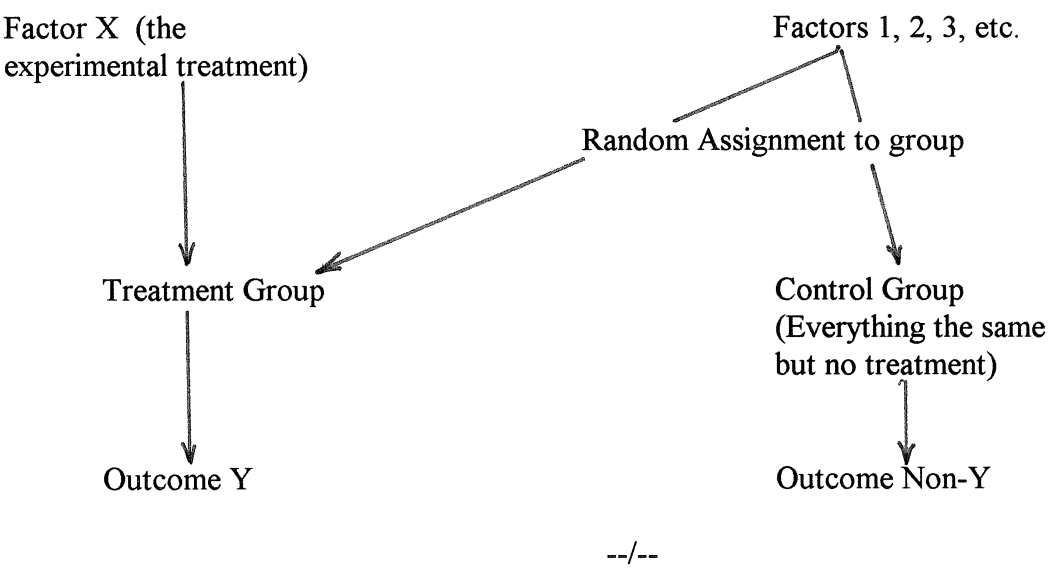
3. Durkheim:



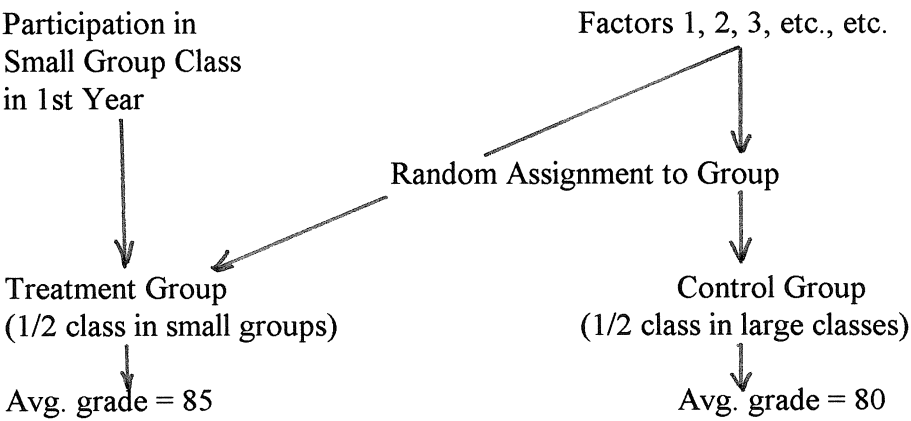
4. Gibbs



The Controlled Experiment *p. 440*



A Specific Example:  
The Law School Small Group Program



Questions:

1. Does the actual situation in the Law School reflect the assumptions of our hypothetical controlled experiment? What's different?
2. Insofar as it does not, could the situation be changed to do so?
3. Even if we were able to produce a controlled experiment, is something left out of our evaluation?
4. Suppose the average grades in both groups was 80. Could you still make an argument for continuing the small group program?

An Incomplete Civil Rights Chronology<sup>1</sup> p. 574

1942. Congress of Racial Equality (CORE) was formed to work for black equality.

In June, a race riot in Detroit killed nine whites, 25 blacks. In part, the violence was caused by blacks and whites moving from the south to work in war plants in the area. Race riots also occurred in Mobile, Alabama, Los Angeles, California, Beaumont, Texas and Harlem in New

Rosa Parks, a Montgomery, Alabama black woman, was arrested for refusing to move to the back of a bus. Blacks staged a bus boycott to protest.

Dr. Martin Luther King, Jr. helped organize the bus boycott in Montgomery.

In November, racial segregation on interstate trains and buses was banned by the Interstate Commerce Commission.

**1957:** In February, a federal district court in New Orleans ruled unconstitutional all Louisiana laws calling for segregation in public schools.

Congress passed the Civil Rights Act of 1957, creating a Commission on Civil Rights to study racial conditions in the U.S.

The Southern Christian Leadership Conference (SCLC), led by Rev. King, dedicated itself to nonviolent protest of discrimination.

On August 30th, Senator Strom Thurmond, Democrat of South Carolina, held the floor of the Senate, arguing against civil rights legislation for 24 hours, 27 minutes as part of a filibuster to block a vote. This was a new record.

On September 24th, President Eisenhower sent about 1,000 U.S. Army paratroopers to enforce the court ordered desegregation of Central High School in Little Rock, Arkansas.

**1959:** The U.S. Civil Rights Commission asked President Eisenhower to appoint federal assistants to supervise voting in areas where local officials had prevented blacks from voting

**1962:** The application of James H. Meredith, a black, for admission to the University of Mississippi was denied by Governor Ross R. Barnett in defiance of a federal court order.

Federal troops were sent to the University of Mississippi to force the school to enroll James Meredith. Two men were killed in the mob violence that followed.

The Council of Federated Organizations was formed to register black people to vote.

**1965:** Malcolm X was assassinated in February.

A march supporting black voting rights led to violence in Selma, Alabama.

In March, President Johnson addressed a joint session of Congress, calling for passage of civil rights legislation. Congress passed the *Voting Rights Act*, outlawing literacy and other voter registration tests. Also the law empowers the Attorney General to assign federal registration

Riots in the Watts section of Los Angeles resulted in 34 deaths.

**1966:** Stokely Carmichael became the leader of SNCC and advocated "black power."

4,200 National Guard troops stop riots in Chicago.

Alabama Gov. George Wallace signs bill forbidding the state's schools to desegregate.

James Meredith marched in Mississippi to support voting rights for blacks. He is shot and wounded. 26 groups from across the country joined Meredith to complete his march.

In September, white mobs assaulted black children and their parents at two newly integrated public schools in Grenada, Mississippi. 40 were injured.

The Congressional Black Caucus was formed.

Black Panther leaders were killed in a police raid in Chicago.

1973: Congress passed the Equal Employment Opportunity Act

1973: AT&T agreed to take action to settle an employment discrimination case. It was to pay



American Apartheid  
A historian examines the effects of a famous Supreme Court decision.  
New York Times Book Review, February 25, 2001 at 17.

BROWN V. BOARD OF EDUCATION  
A Civil Rights Milestone and Its Troubled Legacy.  
By James T. Patterson.  
Illustrated. 285 pp. New York: .  
Oxford University Press. \$27.50.

By Laura Kalman

OPEN almost any American history textbook and you will find a triumphal narrative of the Supreme Court's 1954 decision in Brown v. Board of Education. In this absorbing book, James T. Patterson, the Ford Foundation professor of history at Brown University, observes that at the time many African-Americans considered the decision their greatest victory since Emancipation.

Yet Brown, which found school segregation laws unconstitutional, and Brown II (1955), demanding only that desegregation proceed with "all deliberate speed," have always been controversial. Recently, detractors have emerged in droves. Some African-Americans find Brown racist. Its suggestion that "black students suffer an unspecified psychological harm from segregation." Justice Clarence Thomas says, reflects "an assumption of black inferiority."

Skeptical about the value of racial mixing, the critical race theorist Derrick A. Bell laments Brown's irrelevance. Elizabeth Eckford, who braved white mobs to desegregate Little Rock's

Surely Chief Justice Earl Warren is spinning in his grave.

Still, for all their criticisms, legal scholars and judges consider his handiwork sacred. No theory of constitutional interpretation labeling Brown incorrectly decided passes academic muster. Conservatives critical of an activist court's "social engineering" carefully insulate Brown from their imprecations. Confirmation hearings feature Supreme Court nominees ritualistically swearing fealty to Brown.

With admirable balance, Patterson synthesizes much of the debate in "Brown v. Board of Education: A Civil Rights Milestone and Its Troubled Legacy." In this season of overwrought doubts about the court's legitimacy, his streamlined rendition reminds us that justices have always considered the social, political and legal consequences of their decisions. On all those counts, Patterson believes Brown was right. Drawing on Richard Kluger's pathbreaking history, "Simple Justice," he suggests that Brown provided "considerable, though incalculable, symbolic value" for white liberals and many African-Americans by permitting "a 'reconsecration of ideals'

--ideals of justice and equality." Having searched in vain for "evidence of significant change in Southern racial practices" before the 1960's, Patterson doubts that Brown or Brown II set back race relations. He seems sure that the coolness of white Northerners and Congress, along with

understandably blame whites for the persistence of racially segregated and unequal schools.."

Would race relations in this country have been better and African-Americans better off if

the Supreme Court had not handed down Brown? Despite Patterson's level-headed defense of the decision, this controversy will probably outlive, us all.

Laura Kalman, a professor of history at the University of California, Santa Barbara, is the author, most recently, of "The Strange Career of Legal Liberalism."

Table 2: U.S. district court appointees compared by administration

|                                | W. Bush |      | Clinton |       | Bush  |      | Reagan |       | Carter |       |
|--------------------------------|---------|------|---------|-------|-------|------|--------|-------|--------|-------|
|                                | %       | (N)  | %       | (N)   | %     | (N)  | %      | (N)   | %      | (N)   |
| <b>Occupation</b>              |         |      |         |       |       |      |        |       |        |       |
| Politics/government            | 8.4%    | (7)  | 11.5%   | (35)  | 10.8% | (16) | 13.4%  | (39)  | 5.0%   | (10)  |
| Judiciary                      | 48.2%   | (40) | 48.2%   | (147) | 41.9% | (62) | 36.9%  | (107) | 44.6%  | (90)  |
| Large law firm                 |         |      |         |       |       |      |        |       |        |       |
| 100+ members                   | 9.6%    | (8)  | 6.6%    | (20)  | 10.8% | (16) | 6.2%   | (18)  | 2.0%   | (4)   |
| 50-99                          | 6.0%    | (5)  | 5.2%    | (16)  | 7.4%  | (11) | 4.8%   | (14)  | 6.0%   | (12)  |
| 25-49                          | 8.4%    | (7)  | 4.3%    | (13)  | 7.4%  | (11) | 6.9%   | (20)  | 6.0%   | (12)  |
| Medium size firm               |         |      |         |       |       |      |        |       |        |       |
| 10-24 members                  | 4.8%    | (4)  | 7.2%    | (22)  | 8.8%  | (13) | 10.0%  | (29)  | 9.4%   | (19)  |
| 5-9                            | 4.8%    | (4)  | 6.2%    | (19)  | 6.1%  | (9)  | 9.0%   | (26)  | 9.9%   | (20)  |
| Small firm                     |         |      |         |       |       |      |        |       |        |       |
| 2-4                            | 2.4%    | (2)  | 4.6%    | (14)  | 3.4%  | (5)  | 7.2%   | (21)  | 11.4%  | (23)  |
| solo                           | 2.4%    | (2)  | 3.6%    | (11)  | 1.4%  | (2)  | 2.8%   | (8)   | 2.5%   | (5)   |
| Professor of law               | 2.4%    | (2)  | 1.6%    | (5)   | 0.7%  | (1)  | 2.1%   | (6)   | 3.0%   | (6)   |
| Other                          | 2.4%    | (2)  | 1.0%    | (3)   | 1.4%  | (2)  | 0.7%   | (2)   | 0.5%   | (1)   |
| <b>Experience</b>              |         |      |         |       |       |      |        |       |        |       |
| Judicial                       | 53.0%   | (44) | 52.1%   | (159) | 46.6% | (69) | 46.2%  | (134) | 54.0%  | (109) |
| Prosecutorial                  | 50.6%   | (42) | 41.3%   | (126) | 39.2% | (58) | 44.1%  | (128) | 38.1%  | (77)  |
| Neither                        | 22.9%   | (19) | 28.9%   | (88)  | 31.8% | (47) | 28.6%  | (83)  | 31.2%  | (63)  |
| <b>Undergraduate education</b> |         |      |         |       |       |      |        |       |        |       |
| Public                         | 42.2%   | (35) | 44.3%   | (135) | 46.0% | (68) | 37.9%  | (110) | 55.9%  | (113) |
| Private                        | 51.8%   | (43) | 42.0%   | (128) | 39.9% | (59) | 48.6%  | (141) | 34.2%  | (69)  |
| Ivy League                     | 6.0%    | (5)  | 13.8%   | (42)  | 14.2% | (21) | 13.4%  | (39)  | 9.9%   | (20)  |
| <b>Law school education</b>    |         |      |         |       |       |      |        |       |        |       |
| Public                         | 53.0%   | (44) | 39.7%   | (121) | 52.7% | (78) | 44.8%  | (130) | 52.0%  | (105) |

Table 4: U.S. appeals court appointees compared by administration

|                     | W. Bush |      | Clinton |      | Bush  |      | Reagan |      | Carter |      |
|---------------------|---------|------|---------|------|-------|------|--------|------|--------|------|
|                     | %       | (N)  | %       | (N)  | %     | (N)  | %      | (N)  | %      | (N)  |
| Occupation          |         |      |         |      |       |      |        |      |        |      |
| Politics/government | 6.2%    | (1)  | 6.6%    | (4)  | 10.8% | (4)  | 6.4%   | (5)  | 5.4%   | (3)  |
| Judiciary           | 50.0%   | (8)  | 52.5%   | (32) | 59.5% | (22) | 55.1%  | (43) | 46.4%  | (26) |
| Large law firm      |         |      |         |      |       |      |        |      |        |      |
| 100+ members        | —       | —    | 11.5%   | (7)  | 8.1%  | (3)  | 5.1%   | (4)  | 1.8%   | (1)  |
| 50-99               | 6.2%    | (1)  | 3.3%    | (2)  | 8.1%  | (3)  | 2.6%   | (2)  | 5.4%   | (3)  |
| 25-49               | —       | —    | 3.3%    | (2)  | —     | —    | 6.4%   | (5)  | 3.6%   | (2)  |
| Medium size firm    |         |      |         |      |       |      |        |      |        |      |
| 10-24 members       | 12.5%   | (2)  | 9.8%    | (6)  | 8.1%  | (3)  | 3.9%   | (3)  | 14.3%  | (8)  |
| 5-9                 | —       | —    | 3.3%    | (2)  | 2.7%  | (1)  | 5.1%   | (4)  | 1.8%   | (1)  |
| Small firm          |         |      |         |      |       |      |        |      |        |      |
| 2-4                 | —       | —    | 1.6%    | (1)  | —     | —    | 1.3%   | (1)  | 3.6%   | (2)  |
| solo                | 6.2%    | (1)  | —       | —    | —     | —    | —      | —    | 1.8%   | (1)  |
| Professor           | 12.5%   | (2)  | 8.2%    | (5)  | 2.7%  | (1)  | 12.8%  | (10) | 14.3%  | (8)  |
| Other               | 6.2%    | (1)  | —       | —    | —     | —    | 1.3%   | (1)  | 1.8%   | (1)  |
| Experience          |         |      |         |      |       |      |        |      |        |      |
| Judicial            | 68.8%   | (11) | 59.0%   | (36) | 62.2% | (23) | 60.3%  | (47) | 53.6%  | (30) |
| Prosecutorial       | 25.0%   | (4)  | 37.7%   | (23) | 29.7% | (11) | 28.2%  | (22) | 30.4%  | (17) |
|                     | 6.2%    | (1)  | 3.3%    | (2)  | 32.4% | (12) | 34.6%  | (27) | 39.3%  | (22) |

# Payday for the Famous ...

**Peter Jackson**  
\$37 million  
For 12 months ended June 2003,  
from share of movie profits  
*Director, "Lord of the Rings"*



**David Letterman**  
\$33 million  
*Talk show host*

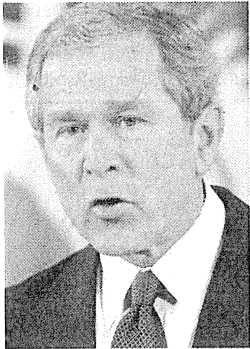


CBS

Scale is logarithmic ▶



# The Powerful ... 2003 SALARIES

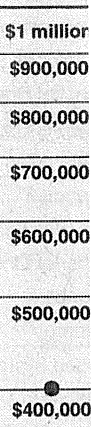


Doug Mills/ The New York Times

**William H. Rehnquist**  
\$203,000



◀ **President Bush**  
\$400,000



Lawyer-Client Interaction:

Marsha Kline Pruett & Tamara D. Jackson. The Lawyer's Role During the Divorce

Updating Hagan & Co. p. 808

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