Another Response to Gordon Tullock
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*Journal of Theoretical Politics* 1995 7: 97
DOI: 10.1177/0951692895007001006

The online version of this article can be found at:
http://jtp.sagepub.com/content/7/1/97
RESEARCH NOTE

ANOTHER RESPONSE TO GORDON TULLOCK

George Tsethlis

In a previous comment on my work on the relation between penalty and crime (Tullock, 1991), Professor Tullock argued that my thesis is 'perfectly irrelevant,' now (1995) he concedes reluctantly that 'legislative changes in the official legal penalty for various crimes do not, by and of themselves, have all that much effect.' This is an important change, but he is still missing the main point of my argument. Since he is a prominent representative of the economic approach to crime, and since in his comment he demonstrates exactly what I think is wrong with this approach, I am happy to examine his argument.

Tullock argues that penalty is not the legal sentence specified by the legislature, but it should be discounted by the behavior of judges, prosecutors, etc. I agree with this part of the argument, and I argue that even when the expected number of years in jail increases (once a criminal is caught), crime remains the same (Tsethlis, 1993: 361). However, Tullock goes one step further, and wants to discount the actual penalty by the probability that the police will enforce the law. And here is our difference: if the police were automata, this probability would be determined exogenously (for example, we would set surveillance cameras to operate around the clock, or randomly for some hours a day). If however the police are composed of rational agents, the probability of monitoring is determined endogenously in the game between the criminals and the police. This is the point which is common to all game-theoretic models that I discuss in my article (whether they agree with my conclusions or not) and this is the point that Tullock misses completely. For him, if the police reduce monitoring, it demonstrates 'sabotage' of the legislature, or some 'own goal for the number of crimes,' or of some 'ideal volume of violations,' but not an equilibrium strategy in the monitoring game. In fact, he does not see a game at all: as he confesses, it is unclear to him why I treat the police differently from prosecutors, judges etc.

What is the difference between seeing the game or not? In the model I use for the monitoring game (Tsethlis, 1989, 1990), because neither of the two players (the police and the public) have a dominant strategy, there is no pure strategy equilibrium; the only equilibrium is in mixed strategies. The consequence is that a change in

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1. Incidentally, I consider that judges, prosecutors, etc. are also involved in a game (Tsethlis, 1991: 87) which I do not have to study, since I can use its equilibrium (the expected penalty when one is caught) as an input for my model.

2. Condition for the absence of pure strategy equilibrium in my model is that there is a deterrent effect of penalty, that is, that criminals prefer not to commit crimes if they are to be arrested. Hirshleifer and Rasmussen (1992) have presented a game where there is a deterrent effect of penalty but there are pure strategy equilibria. For my answer to their point, see Tsethlis (1993).
one player’s payoff (say the penalty for the public) affects the other player’s behavior (police monitoring). Conversely, a change in the payoffs of the police (such as an increase in police agents or better equipment) has a deterrent effect on crime.

Let me take two specific examples. The first is the mandatory minimum sentences which Professor Tullock seems to endorse. Such sentences by all accounts eliminate the lenience of judges, prosecutors, juries, parole boards, etc. and increase penalties. According to Tullock’s argument, they should therefore decrease crime. According to mine, they do not have any effect on the crime they are supposed to deter, because they affect adversely the behavior of the police. In addition, because of overcrowding of prisons, they may reduce the actual penalties of other crimes below the deterrent level (which according to both Tullock’s argument and mine increases these other crimes). This would be a good case for empirical investigation; do minimum sentences for drug use work? I would very much doubt it.

The second example is the difference in the primary approach between the current and the previous US Presidents. George Bush asked in his Crime Bill (11 March 1992) for ‘...stiff new penalties ... federal death penalty ... The American people are demanding action on these core commonsense proposals ...’. In his campaign, Bill Clinton promised 100,000 more police on the streets. According to Tullock the two measures should be equivalent (assuming no changes in the behavior of judges, juries, etc.). According to my model, the first one does not reduce crime, while the second does.

There are two more points that Professor Tullock raises, on which I would like to comment. The first is that police can be supervised and forced to patrol more frequently. It is a point discussed in my article. The essence of the problem is that police supervision itself is a monitoring game. In the simple crime game, the public prefers to commit crime if there are no police officers around and to comply otherwise; and the police prefer to patrol if there is crime and not to patrol otherwise. In the police supervision game, the supervisor prefers to supervise if his agents do not comply with instructions and not to supervise otherwise; and the police prefer to monitor when supervised and not to monitor otherwise. These are very crude models that assume all agents identical; but the models can be refined for different ‘types’ of public, police agents, etc. (Tsebelis, 1993). As I argue in the article, if the police can be forced to patrol with some particular frequency, then my results do not hold. But can they? Or is it the case that some agents will shirk if they are not supervised, in which case the internal (inside the police) monitoring game will produce similar perverse results?

The second point is Professor Tullock’s parting shot: why do we have this expensive apparatus of police and prisons at a time of financial troubles? He actually thinks that this question is an argument against my thesis! I have argued that according to my model more police deters crime (since it modifies the payoffs of the police). It is however true that I cannot provide an instrumental answer as to why build more prisons, particularly when we crowd the existing ones with first time non-violent offenders serving mandatory minimum sentences. Canceling mandatory sentence laws would be a good first step. Also, lots of people have argued (and my model would, under certain conditions, concur) that it is better to build schools (or improve the existing ones) than jails. Nor can I provide an instrumental answer as to why we have the death penalty. It has been argued
on empirical grounds that it does not work. Nor can I understand why we do not have severe gun control laws (which according to my model would reduce crime since they make police work easier). Again, most police officers argue that it would help their work. All these behaviors are puzzling to me on instrumental grounds, that is, if reducing crime is the issue. It may be that we observe these behaviors because the predominant beliefs on these issues agree with Professor Tullock. However, agreement with Tullock is not a guarantee of correctness.

REFERENCES


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Paper submitted and accepted for publication 26 September 1993.