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# Rational Choice, Deterrence, and Social Learning Theory in Criminology: The Path Not Taken\*

Ronald L. Akers

## I. INTRODUCTION AND OVERVIEW

“Rational choice” theory, which is derived mainly from the expected utility model in economics,<sup>1</sup> has become a “hot” topic in criminology, sociology, political science, and law. The evidence is compelling: respected journals have published a major collection of papers as well as several recent articles on the theory;<sup>2</sup> sociological treatises and articles have been published in the 1980s on both macro- and microrational choice models;<sup>3</sup> and finally, James S. Coleman launched a new interdisciplinary journal, *Rationality and Society*, in 1989 with the (perhaps overblown) claim that “[w]ork based

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<sup>1</sup> See, e.g., J. HEINEKE, *ECONOMIC MODELS OF CRIMINAL BEHAVIOR* (2d ed. 1978) [hereinafter J. HEINEKE]; M. REYNOLDS, *CRIME BY CHOICE: AN ECONOMIC ANALYSIS* (1985); Becker, *Crime and Punishment: An Economic Approach*, 76 J. POL. ECON. 169 (1968).

<sup>2</sup> THE REASONING CRIMINAL: RATIONAL CHOICE PERSPECTIVES ON OFFENDING (D. Cornish & R. Clarke eds. 1986) [hereinafter THE REASONING CRIMINAL]; Williams & Hawkins, *The Meaning of Arrest for Wife Assault*, 27 CRIMINOLOGY 721 (1989); Klepper & Nagin, *The Deterrent Effect of Perceived Certainty and Severity of Punishment Revisited*, 27 CRIMINOLOGY 721 (1989) [hereinafter Klepper & Nagin]; Paternoster, *Decisions to Participate In and Desist From Four Types of Common Delinquency: Deterrence and the Rational Choice Perspective*, 23 LAW & SOC. REV. 7 (1989) [hereinafter Paternoster, *Decisions to Participate*]; Paternoster, *Absolute and Restrictive Deterrence in a Panel of Youth: Explaining the Onset, Persistence/Desistance, and Frequency of Delinquent Offending*, 36 SOC. PROBS. 289 (1989) [hereinafter Paternoster, *Absolute and Restrictive Deterrence*]; Piliavin, Thornton, Gartner & Matsueda, *Crime, Deterrence and Rational Choice*, 51 AM. SOC. REV. 101 (1986) [hereinafter Piliavin].

<sup>3</sup> J. COLEMAN, *INDIVIDUAL INTERESTS AND COLLECTIVE ACTION: SELECTED ESSAYS* (1986) [hereinafter J. COLEMAN, *INDIVIDUAL INTERESTS*]; R. COOTER & T. ULEN, *LAW AND ECONOMICS* (1987); M. HECHTER, *PRINCIPLES OF GROUP SOLIDARITY* (1987); R. POSNER, *ECONOMIC ANALYSIS OF LAW* (3d ed. 1986); Donahue, *Law and Economics: The Road Not Taken*, 22 LAW & SOC. REV. 903 (1988) [hereinafter Donahue]; Opp, *What Can We Learn From The Utilitarian Tradition?*, 4 CONTEMP. SOC. 445 (1988) [hereinafter Opp]; Posner, *Comment on Donahue*, 22 LAW & SOC. REV. 927 (1988).

on a theory of rational action is the most rapidly developing of social theory and research."<sup>4</sup> Rational choice may be on the verge of becoming for the 1980s and 1990s what neo-Marxist perspectives were in the 1970s, as it spreads to virtually all social science disciplines and law.

The introduction of rational choice models into modern criminology as part of this general movement may prove to be valuable. Much of the rational choice literature takes a strong quantitative modeling approach derived from econometric modeling, which advances our ability to test complex models of criminal behavior and the criminal justice system. Rational choice also has inspired some empirical work on decision making in specific crime and crime events as well as in criminal justice policy, both of which were projects that might not otherwise have been done. This article posits, however, that thus far, no new general theoretical concepts or propositions have been added to criminological theory by rational choice studies.

#### A. DETERRENCE AND RATIONAL CHOICE

The utility premise of rational choice theory has an obvious affinity for the deterrence doctrine in criminology. Deterrence and the utilitarian view of rational human nature have been with us since at least the eighteenth century. The deterrence doctrine, which was at the heart of classical criminology, arguably has been the most researched topic in criminology since the latter part of the 1960s.<sup>5</sup>

Deterrence theory applies utilitarian philosophy to crime. "Rational choice" is based on economic theory derived from the same utilitarian tradition. Both theories assume that human actions are based on "rational" decisions—that is, they are informed by the probable consequences of that action. According to the deterrence theory, the rational calculus of the pain of legal punishment offsets the motivation for the crime (presumed to be constant across offenders but not across offenses), thereby deterring criminal activity. In comparison, the rational choice theory posits that one takes those actions, criminal or lawful, which maximize payoff and minimize costs.

Despite the long historical connection suggested by their common utilitarian source, rational choice did not enter criminology primarily as research or theory on deterrence; instead, it was first

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<sup>4</sup> SAGE Advertising Brochure (1989).

<sup>5</sup> See, e.g., J. GIBBS, CRIME, PUNISHMENT AND DETERRENCE (1975); G. VOLD & T. BERNARD, THEORETICAL CRIMINOLOGY (3d ed. 1986).

introduced through economic analysis of crime.<sup>6</sup> Later, criminologists involved in research on deterrence utilized the economic model of rational choice to modify or expand the deterrence doctrine. The link between deterrence and rational choice has since become well-established in the literature.<sup>7</sup>

#### B. DETERRENCE AND RATIONAL CHOICE AS SPECIAL CASES OF SOCIAL LEARNING PRINCIPLES

Neither deterrence nor rational choice theory is a general or complete model of criminal behavior. The central concepts and propositions in each—fear of legal punishment in deterrence theory and the reward/cost balance (or expected utility function) in rational choice theory—are subsumable under the more general differential reinforcement formula in social learning theory. Differential reinforcement refers to the overall balance of rewards and punishment for behavior. It encompasses a full range of behavioral inhibitors and facilitators: rewards/costs; past, present, and anticipated reinforcers and punishers; formal and informal sanctions; legal and extra-legal penalties; direct and indirect punishment; and positive and negative reinforcement, whether or not rationally calculated.<sup>8</sup> Some of the rational choice models of crime in the literature have been expanded beyond the basic expected utility proposition to include family and peer influences, moral judgments, and other variables.<sup>9</sup> These, too, are reiterations of concepts or variables derived from social learning theory,<sup>10</sup> and, to some extent, from other extant criminological theories such as social bonding.<sup>11</sup>

This article's principal thesis is that the primary concepts and valid postulates of deterrence and rational choice are subsumable under general social learning or behavioral principles. Further, I will show that the relevance of learning principles for deterrence has

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<sup>6</sup> See R. CROUCH, *HUMAN BEHAVIOR: AN ECONOMIC APPROACH* (1979) [hereinafter R. COUCH]; J. HEINEKE, *supra* note 1; Becker, *supra* note 1.

<sup>7</sup> See *supra* note 2.

<sup>8</sup> R. AKERS, *DEVIAN'T BEHAVIOR: A SOCIAL LEARNING APPROACH* (3d ed. 1985); Burgess & Akers, *A Differential Association-Reinforcement Theory of Criminal Behavior*, 14 *SOC. PROBS.* 128 (1966) [hereinafter Burgess & Akers]; Akers, Krohn, Lanza-Kaduce & Radosevich, *Social Learning and Deviant Behavior: A Specific Test of a General Theory*, 44 *AM. SOC. REV.* 635 (1979) [hereinafter Akers & Krohn, *Social Learning and Deviant Behavior*].

<sup>9</sup> See *THE REASONING CRIMINAL*, *supra* note 2; Paternoster, *Decisions to Participate*, *supra* note 2; Paternoster, *Absolute and Restrictive Deterrence*, *supra* note 2.

<sup>10</sup> See R. AKERS, *DEVIAN'T BEHAVIOR: A SOCIAL LEARNING APPROACH* (1973); Burgess & Akers, *supra* note 8.

<sup>11</sup> See T. HIRSCHI, *THE CAUSES OF DELINQUENCY* (1969).

been largely overlooked, and their relevance to rational choice has been almost completely missed in the criminological literature.

Accordingly, I agree with Homans<sup>12</sup> and Opp,<sup>13</sup> both of whom contend that rational choice is a special case of general behavioral exchange or learning principles. Thus, leading theorists outside the criminology field have recognized, to some degree, the connection between rational choice and behavioral models.<sup>14</sup> At the same time, it is difficult to find any level of awareness in the rational choice literature in criminology. The introduction of behaviorist theory into criminology has resulted chiefly from the reformulation of

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<sup>12</sup> See G. HOMANS, CERTAINTIES AND DOUBTS: COLLECTED PAPERS, 1962-1985 (1987); Homans, *Collective Choice*, 16 CONTEMP. SOC. 769 (1987) [hereinafter Homans, *Collective Choice*].

<sup>13</sup> See Opp, *supra* note 3.

<sup>14</sup> Coleman initially referred to exchange theories as "broader social theories." J. COLEMAN, THE MATHEMATICS OF COLLECTIVE ACTION (1973) [hereinafter J. COLEMAN, MATHEMATICS]. He subsequently recognized that social exchange and behavioral sociologists, such as Homans, really pioneered the introduction of the basic principles applicable to rational choice into sociology. See J. COLEMAN, INDIVIDUAL INTERESTS, *supra* note 3. However, rather than drawing on the same behavioral principles that Homans did, Coleman developed a rational choice model that advocates an abstract, mathematical application of microeconomic analysis to non-economic behavior. See especially J. COLEMAN, INDIVIDUAL INTERESTS, *supra* note 3, at 85-136; see also J. COLEMAN, MATHEMATICS, this note, at 32-60. He explained, "[T]he direction I was pursuing lay in the paradigm of micro-economic theory, with the abstract conception of rational economic man as the central element in the theory." *Id.* at 5. Further, "[i]t is theory which rests upon the central postulate of economic theory, that of rational man attempting to pursue his selfish interests." *Id.* at 15. Finally, he concluded, "[t]he social system is thus conceived as a system of social exchange which functions like an economic market." *Id.* at 93.

In contrast, Homans viewed his original work on the elementary forms of social behavior as incorporating both "elementary psychology" and "elementary economics." See G. HOMANS, SOCIAL BEHAVIOR: ITS ELEMENTARY FORMS (1961). He still sees "behavioral psychology as the more general theory from which 'rational choice' may itself be derived." Homans, *Collective Choice*, *supra* note 12, at 770. In his review of Coleman, Homans states that while he supports rational choice theory, he also believes that it is too limited; it is only a special case of behavioral principles. *Id.* Opp agrees with Homans that there is little difference between rational choice and behavioral theorists. See Opp, *supra* note 3.

Economic theorists seem largely unaware of the fact that when their models are applied outside of economics and thereby allow for less than pristine, purely rational calculus, they become virtually indistinguishable from social exchange. "[R]ational choice theory is deficient in its almost total neglect of developments in social psychology." Opp, *supra* note 3, at 446. The neglect is not total, however. See R. HOGARTH & M. REDDER, RATIONAL CHOICE: THE CONTRAST BETWEEN ECONOMICS AND PSYCHOLOGY (1987) (comparing and contrasting rational choice models in economics and psychology). Heath, a British sociologist, also sees rational choice and social exchange theory as the same approach, although he is critical of Homans and Blau and prefers to use the former term. See A. HEATH, RATIONAL CHOICE AND SOCIAL EXCHANGE: A CRITIQUE OF EXCHANGE THEORY (1976) [hereinafter A. HEATH]. For a critical, comprehensive review of the applicability of behavioral principles in sociology and criminology, see J. GIBBS, CONTROL: SOCIOLOGY'S CENTRAL NOTION (1989) [hereinafter J. GIBBS, CONTROL] (treatise on "control" as the central notion in social and behavioral sciences).

Sutherland's differential association theory with behavioral principles ("differential association-reinforcement") beginning in the mid-1960s and continuing today.<sup>15</sup> Behaviorist theory long has been referred to as social learning theory, and it has been cited widely and tested in the research literature. Indeed, a discussion of social learning theory has become a standard feature in many criminology and delinquency textbooks. All of the theory's central concepts and propositions are accessible easily in the literature of the past twenty years. It is in no sense an obscure or esoteric perspective in criminology. Nonetheless, the literature on rational choice in crime has overlooked it.<sup>16</sup> Even though some earlier deterrence researchers had taken note of learning concepts, deterrence researchers today tend to skip over it when integrating deterrence and rational choice theories.

## II. DETERRENCE AND SOCIAL LEARNING

The relationship of deterrence concepts to social learning theory is not a recent discovery. Akers, who saw the research on deterrence to be partial tests of certain aspects of social learning, clearly proposed that a relationship existed many years ago. In 1977, he wrote:

Research done on the deterrence of criminal behavior through legal sanctions and threat of punishment is relevant and tends to be consistent with social learning. . . . The deterrence research does not provide a full test of social learning, however, because the reinforcement for criminal behavior that the threat of legal penalties must offset and other reinforcement contingencies surrounding the behavior are not measured in that research.<sup>17</sup>

He continued in 1985:

Deterrence researchers have not referred to or presented their findings as tests of social learning. . . . The importance of informal social sanctions and normative definitions of the acts has been largely ignored. Some of the more recent deterrence studies, however, take note of social learning theory and report findings that are consistent with the theory such as informal social and personal sanctions, moral

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<sup>15</sup> See AKERS, *DEVIAN'T BEHAVIOR: A SOCIAL LEARNING APPROACH* (1973); *id.* (3d ed. 1985); Burgess & Akers, *supra* note 8; Akers, Burgess & Johnson, *Opiate Use, Addiction and Relapse*, 15 Soc. PROBS. 459 (1968) [hereinafter Akers, *Opiate Use*]; see also Jeffery, *Criminal Behavior and Learning Theory*, 56 J. CRIM. L. & CRIMINOLOGY 294 (1965).

<sup>16</sup> Although I believe that I have located the major articles published on rational choice and crime, it is a burgeoning literature, and there could be some analysis which explicitly tries to show the connections between rational choice and social learning that I have missed.

<sup>17</sup> R. AKERS, *DEVIAN'T BEHAVIOR: A SOCIAL LEARNING APPROACH* 56 (2d ed. 1977).

condemnation and normative commitment.<sup>18</sup>

Many of the authors cited by Akers<sup>19</sup> did not refer specifically to social learning theory, however, and very few deterrence researchers in more recent years have commented on the relevance of social learning. One exception to this generalization is Lanza-Kaduce, who explicitly referred to social learning theory in his analysis of perceptual deterrence and drunk driving.<sup>20</sup> Most efforts to update or revise the deterrence doctrine, however, make no reference whatsoever to social learning.<sup>21</sup>

Threat of legal punishment is one source or indicator of aversive stimulus under the general concept of differential reinforcement (balance of rewarding and aversive stimuli). Empirical tests of social learning theory have long included measures of both "formal deterrence" (perceived probability of getting caught by the police) and "informal parental deterrence" (perceived probability of being caught by parents). In both variables, the term "deterrence" is used because the measures referred only to perception of the likelihood of punishment. Not surprisingly, neither variable has much direct effect because each refers only to variation in perceived likelihood of aversive consequences. Researchers using the general concept of differential reinforcement have included other variables which measure both rewarding and aversive consequences and the balance of positive and negative reactions from peers and parents; these variables, in contrast, have strong effects.<sup>22</sup> Similar measures of infor-

<sup>18</sup> R. AKERS, *DEVIAN'T BEHAVIOR* (3d ed.), *supra* note 8, at 54.

<sup>19</sup> Akers cited the following authors on the importance of social and personal sanctions. See Anderson, Chiricos & Waldo, *Formal and Informal Sanctions: A Comparison of Deterrent Effects*, 25 *SOC. PROB.* 103 (1977) [hereinafter Anderson, *Formal and Informal Sanctions*]; Grasmick & Green, *Legal Punishment, Social Disapproval, and Internalization as Inhibitors of Illegal Behavior*, 71 *J. CRIM. LAW & CRIMINOLOGY* 325 (1980) [hereinafter Grasmick & Green]; Paternoster, Saltzman, Waldo & Chiricos, *Perceived Risk and Social Control: Do Sanctions Really Deter?*, 17 *LAW & SOC. REV.* 457 (1983) [hereinafter Paterson, *Perceived Risks and Social Control*]. Akers also cited the following authors for the concepts of moral condemnation and normative commitment. See Erickson, Gibbs & Jensen, *The Deterrence Doctrine and the Perceived Certainty of Legal Punishments*, 42 *AM. SOC. REV.* 305 (1977); Jensen, Erickson & Gibbs, *Perceived Risk of Punishment and Self-Reported Delinquency*, 57 *SOC. FORCES* 57 (1978); Meier & Johnson, *Deterrence as Social Control: The Legal and Extralegal Production of Conformity*, 42 *AM. SOC. REV.* 292 (1977); C. TITTLE, *SANCTIONS AND DEVIANCE* (1980).

<sup>20</sup> Lanza-Kaduce, *Perceptual Deterrence and Drinking and Driving Among College Students*, 26 *CRIMINOLOGY* 321 (1988).

<sup>21</sup> See Klepper & Nagin, *supra* note 2; Miller & Anderson, *Updating the Deterrence Doctrine*, 77 *J. CRIM. L. & CRIMINOLOGY* 418 (1986); Piliavin, *supra* note 2; Williams & Hawkins, *The Meaning of Arrest for Wife Assault*, 27 *CRIMINOLOGY* 163 (1989); Paternoster, *Decisions to Participate*, *supra* note 2; Paternoster, *Absolute and Restrictive Deterrence*, *supra* note 2.

<sup>22</sup> See Akers & Cochran, *Adolescent Marijuana Use: A Test of Three Theories of Deviant*

mal sanctions have been included in other research reports.<sup>23</sup>

These findings underscore the fact that failure to locate a deterrent effect of the threat of legal punishment, while directly relevant to the deterrence doctrine, says little by itself about general social learning theory. Social learning subsumes deterrence, but only in the context of the larger picture of differential reinforcement. Without taking into account the other contingencies surrounding the behavior, fear of punishment by itself will be unrelated or weakly related to criminal acts. Since these other measures include punishing reactions (actual or perceived), they have sometimes been referred to as "informal deterrence." However, they are more than measures of informal deterrence; they are measures of an overall balance of perceived costs and rewards. Formal deterrence is only an incomplete indicator of differential reinforcement.

Social learning theory specifically incorporates both informal social rewards and punishments as well as the "formal application of sanctions by the legal and correctional system to control violation of norms."<sup>24</sup> It also includes "direct references to the specific deliberate efforts of the formal control system to deter deviance [and] to the deviance-preventing effects of formal and legal sanctions."<sup>25</sup> Akers further explains that:

'Effective social control' can easily be interpreted to mean that the social sanctions successfully reinforce conventional behavior and extinguish deviant behavior by rewarding conformity and punishing nonconformity. The structure of social control in society arranges contingencies of reinforcement in such a way that most people are kept in line most of the time. Conforming behavior is successively shaped over time (socialization) and becomes largely self-controlled. . . . Moreover, we remain liable to at least intermittent reinforcement for conformity and punishment for deviance. . . . Each person must also contend with the consequences (mainly punishment) which the formal and legal control agents attach to his or her behavior, but these consequences are often remote and uncertain and they therefore have less impact than the person's immediate primary groups.<sup>26</sup>

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*Behavior*, 6 DEVIANT BEHAV. 323 (1985) [hereinafter Akers & Cochran, *Adolescent Marijuana Use*]; Akers & Krohn, *Social Learning and Deviant Behavior*, *supra* note 8.

<sup>23</sup> See Krohn, Lanza-Kaduce & Akers, *Community Context and Theories of Deviant Behavior: An Examination of Social Learning and Social Bonding Theories*, 25 SOC. Q. 353 (1984) [hereinafter Krohn, *Community Context*]; Krohn, Skinner, Massey & Akers, *Social Learning Theory and Adolescent Cigarette Smoking: A Longitudinal Study*, 32 SOC. PROB. 455 (1985) [hereinafter Krohn, *Social Learning Theory and Smoking*]; Lanza-Kaduce, *Cessation of Alcohol and Drug Use Among Adolescents: A Social Learning Model*, 5 DEVIANT BEHAV. 79 (1984).

<sup>24</sup> R. AKERS, *DEVIANT BEHAVIOR* (3d ed.), *supra* note 8, at 34-35.

<sup>25</sup> R. AKERS, *DEVIANT BEHAVIOR* (2d ed.), *supra* note 17, at 38.

<sup>26</sup> *Id.* at 65.



He continued:

The concept of refraining from deviance because of the cost in lost stakes in conformity is one example of the more general concept of negative punishment—one refrains from doing something not because of the fear of direct punishment but because of actual or anticipated loss of the reward or investment connected with alternative behavior. [The concept of negative reinforcement refers to the other side of the coin—engaging in acts as a way of avoiding aversive consequences.] The differential reinforcement concept in social learning theory incorporates deterrence, reward-cost balance, positive and negative punishment, positive and negative reinforcement, and other *rational and non-rational cognitive and behavioral processes* of reward and punishment.<sup>27</sup>

Deterrence locates variation of criminal behavior in only one part (direct positive punishment of criminal behavior) of one side of the overall reinforcement equation, albeit including the three modalities of certainty, severity, and celerity. In its classical formulation, deterrence really includes only one specific indicator of positive punishment—namely, fear of legal penalties. As Gibbs states:

[T]he proper definition [of deterrence] . . . is narrow. In a legal context, the term 'deterrence' refers to any instance in which an individual contemplates a criminal act but refrains entirely from or curtails the commission of such an act because he or she perceives some risk of legal punishment and fears the consequence.<sup>28</sup>

The full behavioral formula in social learning theory includes both positive and negative punishment and positive and negative reinforcement. It also includes schedules of reinforcement, imitation, associations, normative definitions (attitudes and rationalizations), discriminative stimuli, and other variables in both criminal and conforming behavior. When the deterrence doctrine is expanded to encompass other variables beyond actual or perceived risk of legal sanction, such as formal and informal social sanctions and both rewards and punishment, it is no longer distinctively deterrence theory. It becomes something else: to some, it becomes rational choice theory; I would counter that it simply moves even closer to social learning theory.

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<sup>27</sup> Akers, *A Social Behaviorist's Perspective on Integration of Theories of Crime and Deviance*, in *THEORETICAL INTEGRATION IN THE STUDY OF DEVIANCE AND CRIME: PROBLEMS AND PROSPECTS* 23, 31 (S. Messner, M. Krohn & A. Liska eds. 1989) [hereinafter Akers, *A Social Behaviorist's Perspective*] (emphasis added).

<sup>28</sup> Gibbs, *Punishment and Deterrence: Theory, Research and Penal Policy*, in *LAW AND THE SOCIAL SCIENCES* 319, 325-26 (L. Lipson & S. Wheeler eds. 1986) [hereinafter Gibbs, *Punishment and Deterrence*].

### III. SOCIAL LEARNING AND THE RATIONAL CHOICE MODEL OF CRIME

Although the link between deterrence and rational choice has been made in the literature, proponents of the rational choice perspective purport to offer much more than just an expansion of the deterrence theory. They propose to offer a new, integrative perspective to all of criminology—theory, research, and policy.<sup>29</sup> How credible are these claims? What does the “rational choice” model bring to criminology? To answer these questions, we need to review three main dimensions of the rational choice perspective as they relate to current theory in criminology. These dimensions are (a) the “rationality” of criminal acts and careers; (b) the actual or perceived balance of rewards and costs associated with committing crime or engaging in alternative behavior; and (c) the background and other relevant variables.

#### A. THE ASSUMPTION OF A RATIONAL COMPONENT IN CRIMINAL BEHAVIOR: DOES RATIONAL CHOICE THEORY DIFFER FROM OTHER THEORIES?

The key issue is whether the rational choice perspective proposes a purely “rational man” theory of criminal behavior. Does the model argue for a direct resurrection of classical criminology or an unmodified adoption of expected utility theory? Does it propose that each person approaches the commission of a crime with a highly rational calculus of pleasure and pain before acting? Does it propose that the person chooses, with full free will and knowledge, whether to commit a crime, taking into account only a carefully reasoned, objective or subjectively perceived set of costs and benefits? Is the model essentially free of all constraining, positivistic, or deterministic elements? If the answer to these questions is in the affirmative, such that adherence to a strict rationality model of behavior is truly the distinguishing feature of a rational choice model of criminal behavior, then it does offer something different to criminology. It is also patently false.

As presented in the literature, however, this is *not* the rationality assumption in actual rational choice models of crime. Regardless of the assumptions upon which rational choice is based in the classical economic model, the literature in criminology emphasizes limitations and constraints on rationality through lack of information, structural constraints, values, and other “non-rational” influences.<sup>30</sup>

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<sup>29</sup> See THE REASONING CRIMINAL, *supra* note 2.

<sup>30</sup> The notion of bounded rationality operating in voluntary action has been under-

Indeed, the rational choice models in the literature go well beyond this to paint a picture of partial rationality with various situational and cognitive constraints and deterministic notions of causes and motivations. In fact, some of the specific models are indistinguishable from current "etiological" or "positivistic" theories. Paradoxically, the assumption of a high level of rationality in behavior is not crucial to current rational choice models of crime.

Coleman, who is the chief proponent of rational choice models in sociology sees serious "deficiencies" in directly applying the economic model of rationality to "real players," even in very restricted social situations.<sup>31</sup> Donohue maintains that, as applied to law and society, the assumptions of rationality and individualism are "important but *not defining* characteristics of economic methodology."<sup>32</sup> Heath believes that the pure rational choice model of riskless choice, full knowledge, and no mistakes is untenable.<sup>33</sup> He argues, however, that these and other assumptions (such as the requirement that information be collected prior to a decision and that the decision must be made slowly) are fallaciously attributed to rational choice models and are not actually used by rational choice theorists.

Gibbs insists that the assumption of rationality and the question of free-will versus determinism are not really relevant to the deterrence doctrine, or, I would add, to rational choice models of crime.<sup>34</sup> According to Gibbs, deterrence can be construed as either free will or causation, without any difference in empirical predictions. The notion of rationality is very vague, and categorical assertions that all persons or all behavior are rational are indefensible.<sup>35</sup> Gibbs later proposes that the rationality argument is irrelevant for the general concept of social control and its efficacy. "[T]he notion of rationality is intolerably vague, and an empirically applicable definition of rational behavior is bound to be arbitrary . . . if rational behavior is defined as simply goal-oriented behavior . . . then virtually all of human behavior is rational and the rational-irrational distinction has no real consequences."<sup>36</sup>

Although the literature refers to "the reasoning criminal," and

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stood in sociology at least since Parson's classic statement of his theory of social action as socially structured voluntary choices in which the actor selects among socially structured means to achieve goals. See T. PARSONS & E. SHILS, *TOWARD A GENERAL THEORY OF ACTION* (1951); see also J. COLEMAN, *MATHEMATICS*, *supra* note 14, at 33-34.

<sup>31</sup> J. COLEMAN, *INDIVIDUAL INTERESTS*, *supra* note 3.

<sup>32</sup> Donahue, *supra* note 3, at 913 (emphasis added).

<sup>33</sup> A. HEATH, *supra* note 14.

<sup>34</sup> Gibbs, *Punishment and Deterrence*, *supra* note 28.

<sup>35</sup> *Id.*

<sup>36</sup> J. GIBBS, *CONTROL*, *supra* note 14, at 394.

the "rational component" in crime, there is great effort to show how limited, circumscribed, and partial that rationality is. The most frequently cited source on rational choice and crime is *The Reasoning Criminal*, edited by Cornish and Clarke.<sup>37</sup> Yet, Cornish and Clarke do not propose a pure rational choice model. Rather, the assumption in their model is simply that,

offenders seek to benefit themselves by their criminal behavior; that this involves the making of decisions and choices, however rudimentary on occasion these processes might be; and that these processes exhibit a measure of rationality, albeit constrained by limits of time and ability and the availability of relevant information . . . .<sup>38</sup>

They see offenders as "reasoning decision makers" because criminals "exercise *some* degree of planning and foresight and adapt their behavior to take account of proximal and distal contingencies."<sup>39</sup> The degree of planning does not have to be great to be considered rational by Cornish and Clarke, and they warn that "one must be wary of definitions of rationality that rely too much on evidence of planning."<sup>40</sup>

Thus, Cornish and Clarke assert a very minimal assumption of rationality, which does not seem to differ very much from the level of rationality assumed in most criminological theories. In fact, it really does not even differ much from the assertions by Katz in his analysis of the "seductions" of crime, which he views as the very antithesis of rational, utilitarian explanations of crime.<sup>41</sup> The empirical chapters in Cornish and Clarke provide support for limited, rather than pure, rationality in crime. This is in spite of the fact that Cornish and Clarke acknowledge that the empirical studies in the volume are mainly limited to economic offenses, which they presume to be the most rational of crimes. While a chapter on violent crimes is not included, a chapter on "opioid addiction" is.<sup>42</sup> The author of this chapter, Bennett, explains addiction as rational "decision-making" because he found some evidence that addicts were able to control opiate use at times and finds little evidence of "compulsion, irrationality . . . or mindlessness in the decision to take the drug."<sup>43</sup> This test of rationality is minimal indeed; virtually all extant criminological theory would pass it.

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<sup>37</sup> THE REASONING CRIMINAL, *supra* note 2.

<sup>38</sup> *Id.* at 1.

<sup>39</sup> *Id.* at 13 (emphasis added).

<sup>40</sup> *Id.* at 14.

<sup>41</sup> J. KATZ, SEDUCTIONS OF CRIME (1989).

<sup>42</sup> Bennett, *A Decision-Making Approach to Opioid Addiction*, in THE REASONING CRIMINAL, *supra* note 2, at 83 [hereinafter Bennett].

<sup>43</sup> *Id.* at 90.

Carroll and Weaver do not go as far as Bennett, but they do make a distinction between the "strong form" of rationality in the economists' expected utility model (which they find is empirically wrong) and the more valid "limited rationality" form which characterizes rational choice models in criminology.<sup>44</sup> Similarly, Lattimore and Witte describe the purely rational model of expected utility as lacking in empirical support from studies of both criminal and non-criminal behavior.<sup>45</sup> According to Lattimore and Witte, the axioms and assumptions of this strong rationality model do not hold due to cognitive limitations, short-cut decisions, inconsistent value preferences, and other constraints on rational action. They propose a "prospect theory model" based on limited rationality and utility functions. Other authors also start with a classical economic model, then go on to show the inappropriateness of that model for criminal behavior. They find that rational maximization of expected utility in the commission of crime is the exception rather than the rule and propose models of crime with limited rationality.<sup>46</sup>

Hirschi sees control theory and rational choice theory as essentially the same theory, but coming from different disciplinary backgrounds. He bases this connection mainly on the rational choice content in his social bonding theory.<sup>47</sup> In his original statement of the theory, Hirschi explicitly identifies the bond of "commitment" as rational; however he does not contend that this is a wholly rational calculation of consequences of deviance.<sup>48</sup> Indeed, he makes it clear that there are severe restrictions on the exercise of rationality.<sup>49</sup> Paternoster<sup>50</sup> presents what he labels a "deterrence/rational choice" model of delinquent behavior, in which he invokes Matza's

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<sup>44</sup> See Carroll & Weaver, *Shoplifters' Perceptions of Crime Opportunities: A Process-Tracing Study*, in *THE REASONING CRIMINAL*, *supra* note 2, at 20 [hereinafter Carroll & Weaver].

<sup>45</sup> See Lattimore & Witte, *Models of Decision Making Under Uncertainty: The Criminal Choice*, in *THE REASONING CRIMINAL*, *supra* note 2, at 130 [hereinafter Lattimore & Witte].

<sup>46</sup> See, e.g., Johnson & Payne, *The Decision to Commit a Crime: An Information-Processing Analysis*, in *THE REASONING CRIMINAL*, *supra* note 2, at 170; Tuck & Riley, *The Theory of Reasoned Action: A Decision Theory of Crime*, in *THE REASONING CRIMINAL*, *supra* note 2, at 156 [hereinafter Tuck & Riley]; Walsh, *Victim Selection Procedures Among Economic Criminals: The Rational Choice Perspective*, in *THE REASONING CRIMINAL*, *supra* note 2, at 40.

<sup>47</sup> Hirschi, *On the Compatibility of Rational Choice and Social Control Theories of Crime*, in *THE REASONING CRIMINAL*, *supra* note 2, at 106 [hereinafter Hirschi, *Compatibility*].

<sup>48</sup> *Id.* at 120-21.

<sup>49</sup> While I think he is wrong in claiming that no other major theory has a "rational choice content," *id.* at 110-11, Hirschi is justified in viewing rational choice and social bonding as highly compatible. However, he goes beyond this to claim that they are essentially the same theory, albeit coming from different disciplines.

Rational choice theory and social control theory share the same image of man, an image rather different from the image of sociological positivism. Rational choice theory and social control theory are therefore the same theory reared in different disciplinary contexts.

“soft determinism”<sup>51</sup> in order to stress that the model includes both rational free will and determinism. Rational choice models, according to Paternoster, recognize that there are “choice structuring” variables, and that the choices do not involve complete information or rational analytic methods. Although he states that the model is meant to explain the “decision” to participate, to continue, or to desist from delinquency, his measures of the dependent variable are the usual ones of self-reported delinquent behavior. Therefore, there is no way in his empirical model to separate the decision to act from the delinquent act itself. There is nothing in his model to distinguish it from any other theory of delinquency regarding assumptions of rationality. In fact, as I shall show below, his model is simply a combination of variables taken from social learning and social bonding theory.

It should be apparent from this review that rational choice theory does not assume that all or even most criminal acts result from well-informed calculated choices. The rational choice models in the literature leave room for all levels of rationality, except the most mindless, pathological, and irrational. In this regard, therefore, they do not differ from social learning, social bonding, or, contrary to what Hirschi argues, other sociological and social psychological

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*Id.* at 113.

If control and rational choice are the same theory, then there is no need to deal with them separately. If social bonding and social learning are compatible, then both are compatible with rational choice. See Akers, *A Social Behaviorist's Perspective*, *supra* note 27. Rational choice and social bonding are not, however, the same theory. Social bonding's element of commitment incorporates the notion of costs of criminal behavior, which is one variable at the heart of the rational choice theory. On the other hand, rational choice explicitly hypothesizes deterrent effects from both legal and extra-legal sanctions. Social bonding theory neither explicitly incorporates the deterrence doctrine nor analyzes the effects of rewards/punishment on conformity and deviant behavior.

While it would be incorrect to say that control theory has no room in it for the direct effects of sanctions, such effects are not explicitly included in the explanation of conformity/deviance. Social bonding theory directly includes neither deterrence concepts nor more general concepts of rewards/punishment through sanctions. Hirschi does not discuss deterrence, and apparently does not consider it part of the commitment or rational component in his theory. Similarly, although he does describe parental supervision, he does not analyze sanctioning of behavior by parents or others. Specific reference to direct parental and peer rewarding or punishing reactions to behavior is absent from both Hirschi's theory and empirical tests of his theory. Thus, the only way in which social bonding theory conceptualizes the reward/cost balance is with reference to costs through loss of investment in conformity (commitment). Control theory ignores variation in the rational (or non-rational) inducements to delinquency against which the cost is weighed.

<sup>50</sup> See Paternoster, *Absolute and Restrictive Deterrence*, *supra* note 2; Paternoster, *Decisions to Participate*, *supra* note 2.

<sup>51</sup> D. MATZA, *DELINQUENCY AND DRIFT* (1964).

models of crime.<sup>52</sup>

Yet does not social learning theory have a mechanistic view of humans as automatons whose behavior is operantly conditioned and shaped by forces of which they are no more aware than the rats, pigeons, and monkeys on which operant conditioning principles were first developed? Does not the social learning approach reject mental constructs, cognition, and the reasoning human being? The answer to both of these questions is "No." Social learning theory falls within the behaviorist tradition that makes "explicit theoretical use of notions about cognitive and symbolic processes."<sup>53</sup> Bandura has gone beyond the cognitive processes incorporated into his earlier version of social learning.<sup>54</sup> He developed a "social cognitive theory" without eliminating the behavioral elements from it. He views research on deterrence as providing support for his theory, which includes concepts such as "symbolizing," "forethought," and "self-reflective capabilities." Although Bandura does not comment directly on the issue, he apparently sees no contradiction between his social behaviorism and the presumed rationality in deterrence theory.<sup>55</sup>

As applied by Akers to crime and deviance, social learning is a behavioral approach to socialization which includes individuals' responses to rewards and punishments in the current situation, the learned patterns of responses they bring to that situation, and the anticipated consequences of actions taken now and in the future in the initiation, continuation, and cessation of those actions. It is a "soft behaviorism" that allows for choice and cognitive processes.<sup>56</sup> It views the individual's behavior as responding to and being conditioned by environmental feedback and consequences. It does not view the individual as unreasoning and only passively conditioned. Although the theory proposes that conditioning can take place without an awareness or knowledge of the connection between one's behavior and its consequences, it also views the individual as cognitively engaged, adapting to existing and anticipated consequences, exercising self-reinforcement, and learning to respond to environmental and internal cue stimuli.

While there is little difference in the minimal level of rationality

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<sup>52</sup> See Hirschi, *Compatibility*, *supra* note 47.

<sup>53</sup> R. AKERS, *DEVIANT BEHAVIOR* (3d ed.), *supra* note 8.

<sup>54</sup> See A. BANDURA, *SOCIAL FOUNDATIONS OF THOUGHT AND ACTION: A SOCIAL COGNITIVE THEORY* (1986) [hereinafter A. BANDURA, *SOCIAL FOUNDATIONS*]; A. BANDURA, *SOCIAL LEARNING THEORY* (1977).

<sup>55</sup> See A. BANDURA, *SOCIAL FOUNDATIONS*, *supra* note 54.

<sup>56</sup> See R. AKERS, *DEVIANT BEHAVIOR* (3d ed.), *supra* note 8.

assumed by the theories, do rational choice models lean more toward the rationality end of the continuum, while social learning and other theories lean toward the non-rationality end? Perhaps, but if proponents of rational choice theory maintain that their models contain a larger element of rationality than can be found in social learning or other current theories, then they need to do at least two things. First, they must contrast carefully the amount of rationality assumed in their models with that assumed in the principal theories in criminology. Second, they must show clearly how that difference in assumed rationality increases our understanding of crime and deviance beyond the understanding gained from other theories.

Thus far, the rational choice theorists do neither of these. Indeed, in the few places where "wider criminological theories" are discussed, the emphasis is on the compatibility, not the differences in assumptions, of rational choice with the other theories. Pains are taken to show how limited the rational choice perspective is if it leans too far toward pure rationality and does not take into account the variables stipulated in these other theories.<sup>57</sup> No attempt is made to demonstrate that there is a crucial difference in the assumption of rationality or propositions about rationality in crime between rational choice models and any other coherent theory, let alone to demonstrate that the difference results in a superior explanation of crime and deviance.

Instead, whenever a sharp contrast is drawn, it is likely to be drawn between rational choice models and something vaguely referred to as "traditional criminology." Traditional criminology<sup>58</sup> is usually depicted in these comparisons as emphasizing "irrational" or "pathological" elements in crime.<sup>59</sup> However, what constitutes

<sup>57</sup> See Tuck & Riley, *supra* note 46.

<sup>58</sup> THE REASONING CRIMINAL, *supra* note 2; R. CROUCH, *supra* note 6; Bennett, *supra* note 42.

<sup>59</sup> Our deeply held and abiding fears about crime depict it as irredeemably alien to ordinary behavior—driven by abnormal motivations, irrational, purposeless, unpredictable, potentially violent, and evil. . . . In the past, repeated attempts by criminologists to identify differences between criminal and noncriminal groups that could explain offending have reinforced assumptions that offenders are similar to each other and different from everybody else . . . .

. . . .  
 . . . By contrast, the present volume . . . develops an *alternative approach*, termed the "rational choice perspective" to the *explanation* of criminal behavior. . . . While it does not deny the existence of irrational and pathological components in some crimes, it suggests we examine more closely the rational and adaptive aspects of offending.

Cornish & Clarke, *Introduction* to THE REASONING CRIMINAL, *supra* note 2, at v-vi (emphasis added).

Since Cornish and Clarke do not give references and specific theories are not discussed, we do not know either to which repeated past efforts and criminologists they refer, or to which theories rational choice is offered as an alternative.



traditional criminology is not identified. If "traditional" means all perspectives other than rational choice, then the portrayal is wrong and the comparison meaningless. Aside from Freudian psychoanalytic theory which views virtually all deviant acts (and many conforming acts) as the outcome of irrational, unconscious motivation or early biological explanations, which view the criminal acting from uncontrollable genetic forces,<sup>60</sup> what major theories of crime rely on the irrational or pathological factors mentioned by Cornish and Clarke as characterizing all of criminology? The answer is, "None."

Similarly, Crouch contrasts the rational choice model with what he thinks is prevailing criminological theory, namely one that views the criminal as a:

[U]niquely motivated individual with a flawed character structure—which drives him or her to engage in so-called deviant behavior, regardless of the consequences. According to this view, criminal behavior is unique, special, and deviant; hence there is an identifiable group of persons possessed of a criminal mentality, which they will indulge, impulsively or compulsively, without regard to the consequences of their activities.<sup>61</sup>

This is obviously a highly distorted and uninformed appraisal of criminological theory. Crouch made no effort whatsoever to compare his economic model with either the real criminological theories current at the time of his writing or the theories of earlier times. If he had undertaken this comparison, he would have discovered that the rejection in his model of the assumption that most criminals behave impulsively without regard to consequences does not distinguish it in the least from any other major contemporary criminological theory.

We have known at least since Cressey showed us thirty-five years ago that offenses labelled as "compulsive," "totally senseless," or "impulsive" can be understood with the same explanation as other seemingly more rational crime.<sup>62</sup> The categorization of some act or series of acts as kleptomania, pyromania, or senseless violence reflects the explanatory predisposition of the one making the characterization (and the social characteristics of the offender) more than it reflects the mental state of the offender. Building on Cressey, Akers offered a social learning explanation of supposedly compulsive, irrational crime, violent and nonviolent, in which such behavior is depicted as not totally unplanned or unpredictable. Far

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<sup>60</sup> G. VOLD & T. BERNARD, *THEORETICAL CRIMINOLOGY* (3d ed. 1986); J. WILSON & R. HERRSTEIN, *CRIME AND HUMAN NATURE* (1985).

<sup>61</sup> See R. CROUCH, *supra* note 6, at 117.

<sup>62</sup> Cressey, *The Differential Association Theory and Compulsive Crimes*, 45 *J. CRIM. L. & CRIMINOLOGY* 29 (1954).

from being senseless, totally irrational, or compulsive, such behavior is usually quite understandable with knowledge of the person's past learning, perceptions of current situations, and anticipation of the consequences. If the person believes the acts are justified or excusable and will not result in receiving more violence than given (or alternatively that the acts are worth the risk in some other way) then the more likely he or she will be to commit them.<sup>63</sup> Therefore, no new element of rationality is added to existing theory when Cornish and Clarke argue that "even in the case of offenses that seemed to be pathologically motivated or impulsively executed, it was felt that rational components were also often present . . . ."<sup>64</sup>

#### B. REWARDS AND COSTS IN CRIMINAL BEHAVIOR

As previously noted, at the center of the rational choice model is an objective (or subjective) utility proposition that the decision to commit crime is a function of the balance of rewards and costs for crime and its alternatives.<sup>65</sup> In this regard, rational choice theory does propose something that is either absent or only implicit in biological, personality, strain, labelling, conflict, Marxist, or Sutherland's original differential association theories. It expands on the deterrence doctrine, with which it is most often linked, and goes beyond control theory with which it is increasingly linked.<sup>66</sup> However, the explicit reference to rewards and punishments in rational choice explanations of criminal behavior, does not take rational choice theory beyond that which is already present in social learning theory.

In social learning, instrumental or operant learning is the basic

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<sup>63</sup> R. AKERS, *DEVIAN'T BEHAVIOR*, *supra* note 10, at 209-15.

<sup>64</sup> THE RATIONAL CRIMINAL, *supra* note 2, at 2.

<sup>65</sup> In a sentence, the models of economic choice theory, of which the criminal choice is a special case, hypothesizes that all individuals, criminal and non-criminal alike, respond to incentives; and if the costs and benefits associated with an action change, the agent's choices are also likely to change.

J. HEINEKE, *supra* note 1, at 2. Similarly,

[t]his approach assumes that the individual contemplating a criminal act will decide to commit the crime only if he or she expects that committing the crime will lead to a more satisfactory outcome than not doing so.

Lattimore & Witte, *supra* note 45, at 130. Finally,

[t]he central assumption of a rational choice model of offending is that persons make conscious decisions to offend based upon information about offenses, decisions whose outcomes they believe will be beneficial or profitable to them.

Paternoster, *Decisions to Participate*, *supra* note 2, at 10.

<sup>66</sup> See Hawkins & Williams, *Acts, Arrests and the Deterrence Process: The Case of Wife Assault* (Aug. 1989) (unpublished paper presented to the Society for the Study of Social Problems, Berkeley, CA); Hirschi, *Compatibility*, *supra* note 46; Paternoster, *Absolute and Restrictive Deterrence*, *supra* note 2; Paternoster, *Decisions to Participate*, *supra* note 2; Williams & Hawkins, *The Meaning of Arrest for Wife Assault*, 27 *CRIMINOLOGY* 163 (1989).

process by which "behavior is acquired or conditioned by the effects, outcome, or consequences it has on the person's environment."<sup>67</sup> The process involves both reward (pleasant, desirable consequences) and punishment (aversive, costly, or unpleasant consequences). Reinforcement refers to the process of strengthening behavior through reward, and the differential reinforcement principle in social learning refers, in its simplest form, to the process whereby the acts with the greatest amount, probability, and frequency of reinforcement will be the ones most likely to occur. It also refers to the overall balance of both reward and punishment for particular acts or their alternatives:

In a sense the one [behavior] that has been more successful in obtaining the desired payoffs will become dominant. . . . One can be continued strongly and the other discontinued even more quickly and effectively if while the first is rewarded the other is punished, even mildly.<sup>68</sup>

Furthermore,

[s]ocial behavior is learned by conditioning, primarily instrumental or operant, in which behavior is shaped by the stimuli that follow or are consequences of the behavior and by imitation or modeling of others' behavior. . . . Whether deviant or conforming behavior persists depends on the past and present rewards and punishments and the rewards and punishments attached to alternative behavior—differential reinforcement.<sup>69</sup>

Thus, social learning incorporates reward and punishment in the explanation of crime, and the concept of differential reinforcement applies to the balance of the full range of formal and informal rewards and punishment, from the most "rational" calculation of this balance to the most irrational responses to it. Rational choice does not add more; indeed, it is more limited.

### C. BACKGROUND AND OTHER VARIABLES

To the extent that rational choice theory proposes that only expected utility affects actions, it disregards the key issue of values or moral judgments. In contrast, the social learning theory includes the moral condemnation or acceptance dimension of action under its "definitions" concept. Even when the perceived material or situational rewards of taking a particular action outweigh the perceived costs, if the person has learned "definitions unfavorable" to the act, he or she is less likely to perform that act. Moral objection to an act

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<sup>67</sup> R. AKERS, *DEVIAN'T BEHAVIOR* (3d ed.), *supra* note 8, at 42.

<sup>68</sup> *Id.* at 47.

<sup>69</sup> *Id.* at 57.

is one type of definition unfavorable to the commission of a crime. On the other hand, to the extent that one defines an act as desirable, justified, or excusable, the more likely he or she is to commit the act. However, he or she is not as likely to commit the act if anticipated punishment outweighs anticipated rewards. Social learning does not propose that deviants must hold beliefs that require violation (although this may occur for certain offenses and ideologically committed groups), only that there is variation in the extent to which people believe that they should or should not obey the rule or can justify its violation. The variation may be in general moral beliefs or in negative, positive, and justifying definitions of specific acts of crime and deviance.<sup>70</sup>

Some of the empirical rational choice models do include, in addition to reward/cost, a "moral costs" dimension—conscience, religious beliefs and commitment, and other moral attitudes and commitment. These models also lists a range of other variables, such as social background, upbringing, parental crime, previous learning, and the influence of friends and other groups.<sup>71</sup> In so doing, these models have broadened the rational choice perspective beyond the utility function, but they have not gone beyond what is already proposed by social learning theory. As noted above, the moral costs dimension is conceptually indistinguishable from the definitions concept in social learning. Other major variables in the expanded rational choice models are fairly easily identified as specific instances of differential association, modeling, definitions, discriminative stimuli, or other social learning concepts.

#### IV. LACK OF RECOGNITION OF THE RELEVANCE OF SOCIAL LEARNING THEORY IN RATIONAL CHOICE AND DETERRENCE LITERATURE

Once stated, most of the foregoing seems self-evident. It also seems obvious to Pearson and Weiner that deterrence and rationality concepts are partial theories capable of being integrated with broader perspectives.<sup>72</sup> In their scheme for integrating several theories, Pearson and Weiner subsume formal and informal deterrence and "utility functions" from economic theory under general differential reinforcement concepts taken from social learning theory.

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<sup>70</sup> See *id.*

<sup>71</sup> See THE REASONING CRIMINAL, *supra* note 2; Paternoster, *Absolute and Restrictive Deterrence*, *supra* note 2; Paternoster, *Decisions to Participate*, *supra* note 2; Tuck & Riley, *supra* note 46.

<sup>72</sup> Pearson & Weiner, *Toward an Integration of Criminological Theories*, 76 J. CRIM. L. & CRIMINOLOGY 116 (1985).

Apparently, this has not been so obvious to others. A large body of literature has developed around deterrence with only some attention being given to the relevance of general social learning theory. A rapidly developing body of literature on rational choice, while recognizing links to deterrence theory and proposing links to social control theory, has largely ignored the social behavioral perspective in general, and the social learning approach to criminal and deviant behavior in particular.

In the introductory essay to *The Reasoning Criminal*, Cornish and Clarke make brief reference to the fact that the rational choice perspective "recognizes as do economic and behaviorist theories, the importance of incentives—that is rewards and punishments—and hence the role of learning in the criminal career."<sup>73</sup> In the chapter by Carroll and Weaver,<sup>74</sup> one reference is made to Bandura<sup>75</sup> regarding cognitive determinants of behavior, but there is no other reference to social learning theory. Tuck and Riley<sup>76</sup> in their section on "wider criminological theories" make a reference to Akers,<sup>77</sup> and Elliott,<sup>78</sup> and argue that any model of criminal decision making must include social learning and normative factors. In his review of the compatibility of rational choice and control theory, Hirschi states there might be merit in combining compatible theories developed separately. "A list of such theories would certainly include rational choice, social control, routine activities, socialization, and at least some varieties of social learning theory."<sup>79</sup> These brief and passing remarks pretty much exhaust the attention paid to social learning in this key volume on the rational choice perspective. Except for Hirschi, himself, the editors and authors show a noticeable lack of knowledge of Hirschi's social bonding theory as well.

The inattention by Cornish and Clarke and their contributors to social learning theory, in spite of its longstanding emphasis on the rewards/costs dimension in crime (and to some extent their inattention to social bonding), characterizes other recent literature on rational choice as well. The same year as the Cornish and Clarke book appeared, Piliavin, Thorton, Gartner, & Matsueda published an *American Sociological Review* article on crime, deterrence, and rational

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<sup>73</sup> THE REASONING CRIMINAL, *supra* note 2, at 6.

<sup>74</sup> See Carroll & Weaver, *supra* note 44.

<sup>75</sup> A. BANDURA, SOCIAL LEARNING THEORY (1977).

<sup>76</sup> See Tuck & Riley, *supra* note 46.

<sup>77</sup> Akers & Krohn, *Social Learning*, *supra* note 8.

<sup>78</sup> D. ELLIOTT, D. HUIZINGA & S. AGEON, EXPLAINING DELINQUENCY AND DRUG USE (1985) [hereinafter D. ELLIOTT, EXPLAINING DELINQUENCY].

<sup>79</sup> Hirschi, *Compatibility*, *supra* note 46, at 117.

choice.<sup>80</sup> They found that the rational choice model tested was only partially supported, and that rewards related to criminal behavior more often than did "risk components." They equate rational choice with deterrence theory plus a "return component."<sup>81</sup> Piliavin *et al* concluded by calling for a more complex model going beyond just the reward/cost balance of crime. However, they did not refer at all to the social learning theory of crime, which already offers a more complex model incorporating reward/cost balance.<sup>82</sup> Later, Williams and Hawkins report findings on arrests for wife assaults, arguing for an expanded model of deterrence to include both direct and indirect costs of formal sanctions.<sup>83</sup> They link their findings to deterrence, rational choice, and Hirschi's social control theory in a clear and persuasive way, but make no reference to social learning. In a footnote in a later paper, the same authors do note that social control theory is not the only place to find ways of expanding the deterrence concept and refer specifically to social learning theory.<sup>84</sup> This is the extent to which the literature on rational choice and crime has acknowledged social learning theory.

Even in those cases where a "rational choice" model draws directly on social learning concepts and empirical indicators, the authors are silent about the connection. This is seen most clearly in a pair of articles by Paternoster, who purports to integrate deterrence and rational choice into a general social control model applied to delinquent behavior.<sup>85</sup> Although his model, like Cornish and Clark's model,<sup>86</sup> includes "background characteristics," he really focuses on six concepts in his "deterrence/rational choice" model: (1) affective ties; (2) cost of material deprivation and investments made in conformity; (3) supportive social groups and opportunities; (4) informal social costs and informal sanctions; (5) perceptions of formal legal sanctions; and (6) moral beliefs about specific actions.

What makes this a distinctively rational choice model? Nothing. Paternoster's rational choice model is nothing more than a model

<sup>80</sup> Piliavin, *supra* note 2.

<sup>81</sup> *Id.* Klepper and Nagin agreed, and later added "incentives for lawbreaking" into their deterrence/rational choice model of tax cheating. See Klepper & Nagin, *supra* note 2.

<sup>82</sup> Piliavin, *supra* note 2.

<sup>83</sup> Williams & Hawkins, *The Meaning of Arrest for Wife Assault*, 27 *CRIMINOLOGY* 163 (1989).

<sup>84</sup> Hawkins & Williams, *Acts, Arrests, and the Deterrence Process: The Case of Wife Assault*, (Aug. 1989) (unpublished paper presented to the Society for the Study of Social Problems, Berkley, CA).

<sup>85</sup> Paternoster, *Decisions to Participate*, *supra* note 2; Paternoster, *Absolute and Restrictive Deterrence*, *supra* note 2.

<sup>86</sup> See *THE REASONING CRIMINAL*, *supra* note 2.

combining the deterrence doctrine with some social bonding and social learning concepts. The first concept, affective ties, is simply attachment taken from social bonding theory.<sup>87</sup> Costs of investments in conformity, the second concept in the model, is a direct application of both the concept of commitment from social bonding theory and the concept of differential reinforcement from social learning theory. The rest of the concepts are taken directly from social learning theory. The third concept, supportive groups and opportunities, is simply a restatement of the differential association concept in social learning. The fourth and fifth concepts, informal costs and sanctions and formal legal sanctions, are both differential reinforcement. Moral beliefs about specific actions, the last concept, is the same as the concept of definitions favorable and unfavorable to delinquent actions in social learning theory.

The conclusion that Paternoster's deterrence/rational choice model is really a learning/bonding model becomes even clearer when we examine the measures of these concepts used in the research to test the model. They are mostly measures used in previous tests of social bonding and social learning theory.<sup>88</sup> For instance, his measure of informal social sanctions (reactions of friends and parents) are almost exactly the same as the items Akers and others have used to measure differential social reinforcement published in a series of articles over the past decade.<sup>89</sup> His measures of moral beliefs also are nearly identical to those that social learning theorists use to measure definitions favorable and unfavorable to criminal behavior. What Paternoster labels "illegal opportunities" is simply the traditional measure of differential peer association (reported proportion of friends committing the delinquent acts) that has been used in delinquency research since the 1950s. Simply taking such measures and re-christening them as rational choice variables does not make them so; they are still social learning concepts and measures.

Paternoster did make a brief reference to Akers<sup>90</sup> during a discussion of deterrence in one of the articles<sup>91</sup> but he did not recognize any of the social learning concepts and measures from Akers' article. Furthermore, there is no reference to social learning theory

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<sup>87</sup> See Hirschi, *Compatibility*, *supra* note 47.

<sup>88</sup> See, e.g., D. ELLIOTT, *EXPLAINING DELINQUENCY*, *supra* note 78; Akers & Cochran, *Adolescent Marijuana Use*, *supra* note 22; Krohn, *Community Context*, *supra* note 23.

<sup>89</sup> Akers & Krohn, *Social Learning and Deviant Behavior*, *supra* note 7; Akers & Cochran, *supra* note 22; Krohn, *Community Context*, *supra* note 23; Krohn, *Social Learning Theory and Smoking*, *supra* note 23.

<sup>90</sup> Akers & Krohn, *Social Learning and Deviant Behavior*, *supra* note 8.

<sup>91</sup> Paternoster, *Absolute and Restrictive Deterrence*, *supra* note 2.

in either Paternoster article. Hirschi's social bonding theory<sup>92</sup> fares only slightly better in the two Pasternoster articles. Paternoster found that the threat of formal legal sanctions is less important than the informal social sanctions and "nonlegal consequences." The strongest independent variables in his research are differential peer association and moral beliefs. These are exactly the kind of findings predicted by social learning. Paternoster had earlier reported very similar findings for a very similar model.<sup>93</sup> At that time the authors made no reference to either the rational choice or economic models, but they did discuss the relevance of social learning and social bonding theories to deterrence. The data, measures, and findings are basically the same in the earlier and later articles. What happened in six years to transform the same variables from a deterrence model explicitly related to social learning and social bonding theory into a rational choice model for which bonding has little, and learning has no relevance?

#### V. CONCLUSIONS

Assumptions about the level of rationality in criminal acts do not distinguish rational choice from current criminological theories. The basic ideas and central propositions of deterrence and rational choice theory as currently applied in criminology have already been captured in the social learning approach to deviant and criminal behavior. Specific measures and application of these principles in research on rational choice models may be different; the concepts are not. In some of the most recent rational choice literature, such as Paternoster's, even the empirical measures do not differ. Social learning theory incorporates concepts and processes which the narrow rational choice models do not. When broader models of rational choice have been developed, they begin to take on the appearance of social learning models.

By the time that rational choice models began to take hold in criminology, there already had developed a rich body of theory and research on crime and deviance within the social behaviorist tradition, a tradition which already had incorporated the central proposition of rational choice theory. Yet, none of that tradition was consulted by proponents of rational choice theory. Rather, economic theory was imported and modified as rational choice models of crime. These models then were referred to in modifying the de-

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<sup>92</sup> Hirschi, *Compatibility*, *supra* note 47.

<sup>93</sup> Paternoster, *Perceived Risk and Social Control*, *supra* note 19.



terrence doctrine in criminology, as if none of the behavioral tradition existed.

One may wish to propose that what seem to be obvious theoretical links disappear upon closer examination, and that rational choice offers a brand new approach with concepts and propositions that differ significantly from anything in social learning or other extant criminological theory. Such an argument would be difficult to sustain however, and no one has yet attempted it. Instead, the issue is simply ignored. The links of deterrence and rational choice explanations to social learning principles are clear and cannot be explained away. Social learning is an established, well developed, and well researched theory widely known in criminology. Therefore, it is incumbent upon rational choice theorists to show how their "new" models do or not relate to it. They should also examine carefully other existing criminological theories instead of relying on blanket characterizations of "traditional criminology." Reinvention of the wheel should be avoided even in criminological theory.