



EXPERIMENTS IN CRIMINAL JUSTICE REFORM

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It is one of the happy incidents of the federal system that a **single courageous state** may, if its citizens choose, serve as a **laboratory**; and try novel **social and economic experiments** without risk to the rest of the country." dissent
— Justice Louis D. Brandeis's in *New State Ice Co. v. Liebman*, 285 U.S. 262, 280 (1932)

Purpose

Investigate and evaluate pieces of state-level and federal legislation that offered a pioneering or novel approach to solving longstanding criminal law issues. This research was compiled into memos that will serve as the basis for the Fall 2024 Penn Carey Law Seminar, LAW9480: Criminal Law Theory: Experiments in Criminal Justice Reform.

Understanding the Problem

Investigated Existing Problems and Concerns: Research was conducted to understand how a particular criminal law issue (e.g., organized crime) affected both state and national well-being factors. Source materials included news reports, data sets, and law review articles.

Describing the Experiment

Each memo had a section dedicated to describing the state legislation in terms of its proposed changes to the existing criminal justice system. Research involved analyses of statutory language and secondary sources that interpret ambiguities and legal relationships. The individual memos detailing these experiments were then edited by most members of the research team and prepared for use.

A2. Alcohol Prohibition (Fed 1920)

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- II. The Problem
 - A. Alcoholism Amongst Workers Decreased Industry Efficiency and Productivity
 - B. Drunkenness Destroyed Families
 - C. Illustrative Case: Carrie Nation
 - D. Drinking Worsened People's Health
 - E. Saloon Culture Facilitated Political Corruption
 - F. Some Viewed Alcohol as Immoral and Foreign
 - G. What Could Go Wrong? Prohibiting Alcohol Might Result in Illegal Markets Emerging
- III. The Experiment: The Eighteenth Amendment and the Volstead Act
- IV. The Results
 - A. Industry Efficiency Improved, But It Was Unclear If That Was Due to Prohibition
 - B. Drunkenness Generally Decreased, Contributing to Safer Families
 - C. Prohibition Was Somewhat Successful in Improving Public Health
 - D. Corruption Continued and Worsened During Prohibition
 - E. Illustrative Case: Lucky Luciano
 - F. The Experiment Failed to Provide Moral and Institutional Reform
 - G. Alcohol's Black Market Erupted
- V. Epilogue
- VI. Overall Assessment: Should Other Jurisdictions Adopt This Reform?
- VII. Conclusion
- Appendix. Related Experiments
- Questions

Pictured above is an example of one of the topics we researched over the course of this project. We also researched Progressive Prosecutors, Safe Injection Sites, Gun Control, Restorative Justice, Three Strikes Laws, Decriminalizing Hard Drugs, RICO, and Sentencing Guidelines among other topics.

Evaluating Outcomes

The "Results" section of the memo analyzed both short-term and longitudinal studies to assess whether the experiment was a success. Efforts were made to avoid simply deferring to mainstream narratives.

The "Epilogue" portion of the paper described the current state of the legislation and how other jurisdictions reacted to the experiment.

Making Policy Recommendations

The final section was dedicated to evaluating whether the problems that prompted the pioneering legislation were grounded in criminal justice or some ulterior purpose (e.g., public health or social activism).

This section also included a determination of whether other states should adopt legislation similar to the experiment. If the investigation suggested that other jurisdictions would benefit from only some aspects of the proposal, the author of the memo made recommendations proposing specific alterations.

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