

Law III: Crime

Public Economics

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ECON 410 – Public Economics
Spring 2018



- Son of Milton Friedman
- Law and economics (legal systems different from our own)
- Economics of anarchy
- *The Machinery of Freedom* (1971)



David D. Friedman
(1945–)

Background: Areas of Common Law

Three Primary Areas of Common Law

Property



Who rightfully owns what
Voluntary exchanges
Low T-costs

Contracts



Who may transfer property
Voluntary exchanges
Low T-costs
Advance promises made

Torts



Violation of rights/duties
Involuntary exchanges
High T-costs
No promises made
Damages from interactions

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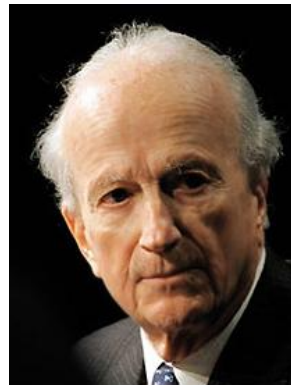
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 - Persons have a **duty of reasonable care**
- If Plaintiff wins, Defendant must pay the Plaintiff (*not the State*) enough to “make him whole”



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Becker, Gary S, (1968) "Crime and Punishment: an Economic Approach,"
Journal of Political Economy 76(2): 169-217



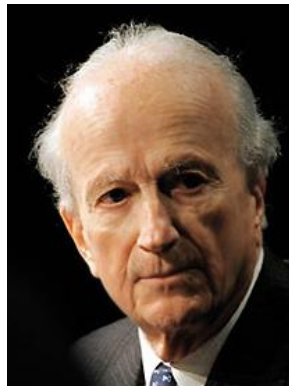
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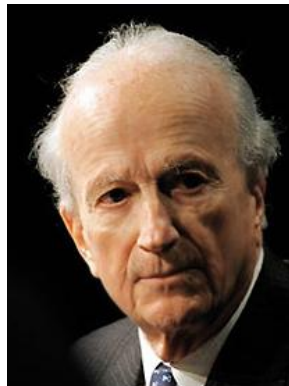
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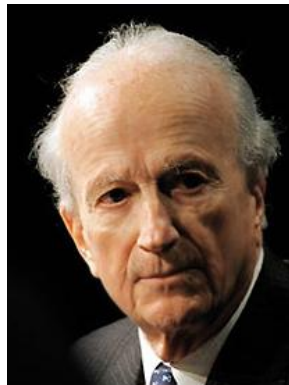
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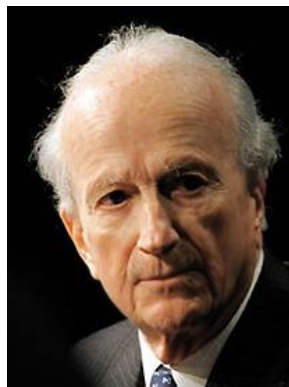
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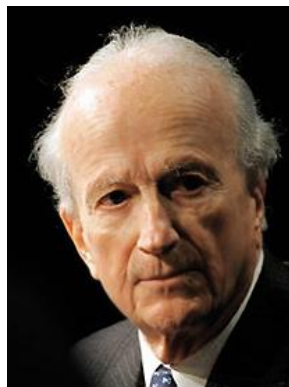
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- Friedman “if muggers are rational, we do not have to make mugging impossible in order to prevent it, merely unprofitable”

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- g : wages from criminal activity
- p : probability of getting caught
- f : fine
- t : jail time
- c : opportunity (dollar) cost of jail time



$$g > p(f + ct)$$

- Society can control: c (fines)
 - Basically “free”
 - Creates incentives for over-prosecution
- Friedman: “In a world of efficient punishments, somebody gets most of what the convicted defendant loses. It is in that somebody’s interest to convict defendants, whether or not they are guilty.”



$$g > p(f + ct)$$

- Society can control: t (jail time)
 - Requires cost of maintaining prisons



$$g > p(f + ct)$$

- Society can control: p (probability of apprehension)
 - Requires maintaining more police



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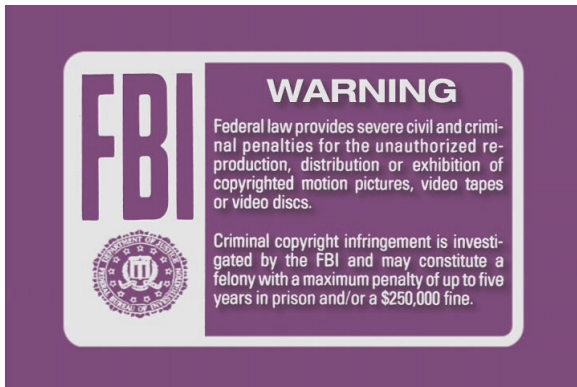
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- Create deterrence with combination of p and f , t that minimizes the sum of both costs



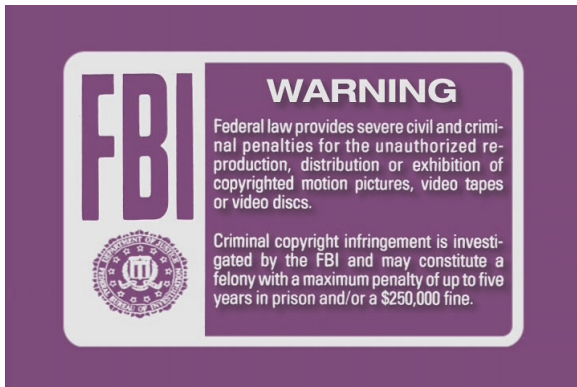
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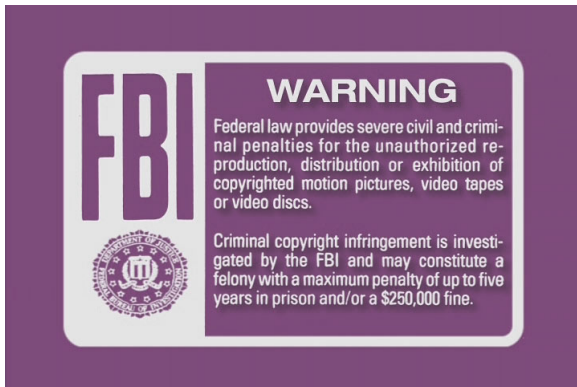
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- For low p cases, set f or t very high
- For high p cases, lower f or t



Law and Economics of Crime

- Enforcement side:



Becker, Gary S and George J Stigler, (1974), "Law Enforcement, Malfeasance, and Compensation of Enforcers," *Journal of Legal Studies* 3(1): 1-18

Law and Economics of Crime

- Enforcement side:
- What do police maximize as rational agents?



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- Suppose I am police with evidence, you committed a crime and face \$50,000 fine. If I convict you, I earn small commutation and raise my discounted lifetime earnings by \$10,000.



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- Economic gain from exchange: I sell you evidence for anything above \$10,000, you pay anything less than \$50,000!



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- Crime still gets caught, police have no incentive to be dirty, taxpayers save money

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- How to allocate law enforcement?
- Victim of a crime has a “property right” in redressing the crime. Can sell right to a law enforcement agent best able to capture criminal (and earn the fine)

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Do We Need Criminal Law?

- Sound radical? This is what we always have done!

Koyama, Mark, (2014), "The Law and Economics of Private Prosecutions in Industrial Revolution England," *Public Choice* 159(2): 277-298



Robert Peel
(1788-1850)

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- Furthermore: this is just tort law, we already have this! "Bribery" in crimes = out of court settlement in tort law!

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Do We Need Criminal Law?

Crimes



Plaintiff is the State
Compensation goes to State
Advocated by D. Attorney
Plea bargains
Defendant goes to jail

Torts



Plaintiff is the Victim
Compensation goes to Victim
Advocated by private lawyers
Settlement option
Defendant pays fines

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 - “Society” must prosecute rather than a victim