# An Economic Analysis of
# *The State of New Hampshire v. Cecile M. Allcock*

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## Summary of the Case

**Case Type:** Appeal

**Court:** Supreme Court of New Hampshire

**Defendant:** Cecile M. Allcock

**Plaintiff:** The State of New Hampshire

### Overview

- Allcock initially convicted of attempted possession of marijuana with intent to dispense by Cheshire County Superior Court of NH
- She appealed the ruling, claiming the lower court had insufficient evidence to convict her
- Allcock was arrested following an undercover investigation by Detective Carl Patten, Jr. of the Keene Police Department
- On August 24, 1989, Patten met with Allcock to sell her one pound of marijuana while wearing an electronic monitoring device
- Allcock refused to buy because it was brown instead of green
- She repeatedly refused the sale even as Patten lowered the price because she would not be able to sell brown marijuana
- Allcock said Patten should contact her if he found green marijuana
- Upon appeal, Allcock contended that it could not be proved that she intended to commit a crime beyond a reasonable doubt
- The Supreme Court affirmed the judgment of the lower court and upheld Allcock's conviction

## Major Legal Issues

### *Criminal Intent*

- Legal term is *mens rea*, Latin for "a guilty mind"
- Aim is to determine how culpable one is for his or her actions
- Boundary drawn between accidental and intentional harm (see Figure 1)
- An action must have intent to be considered a crime
- Allcock was found guilty of *intending* to purchase marijuana, not actually purchasing it
- Attempts to commit intentional crimes known as inchoate crimes
- Intent is a difficult and illusive concept in criminal law

### *Standard of Proof*

- In criminal law a high standard of proof is imposed upon the prosecution
- Guilt must be proven beyond a reasonable doubt
- Legal system is biased toward the defendant to prevent convicting innocent people (Type II Errors)
- Since Allcock's case was an appeal, she bore a high standard of proof to demonstrate that the lower court had insufficient evidence to convict her

## Major Economic Issues

### *Economic Goal of Criminal Law*

- The harm caused by crime is deemed to be both public and private
- Both the victim's harm and the criminal's gain impose social harm
- The goal of criminal law is to minimize the social cost of crime
- Crime prevention also imposes social costs (police, surveillance, courts, prosecutors, prisons, etc.)
- Allcock's conviction has the implied goal of minimizing the social harm caused by dealing marijuana
- There should necessarily be a net gain to the State in investigating and prosecuting Allcock

### *Economics of Drug Policy*

- Enforcing drug policy is a massive expenditure in the United States
- Enormous social costs of enforcement: Police, DEA, prosecution, incarceration, net widening of criminal class
- Drug interdiction does little to curtain supply
    - Reduction in supply raises street prices (see Figure 3)
    - Increased prices incentivize those who are willing to take the risk to supply the market
- The huge costs of drug enforcement should lead to a net reduction in the social harm caused by addictive substances
- Dubious prospects for drug policy beg question of economic efficiency
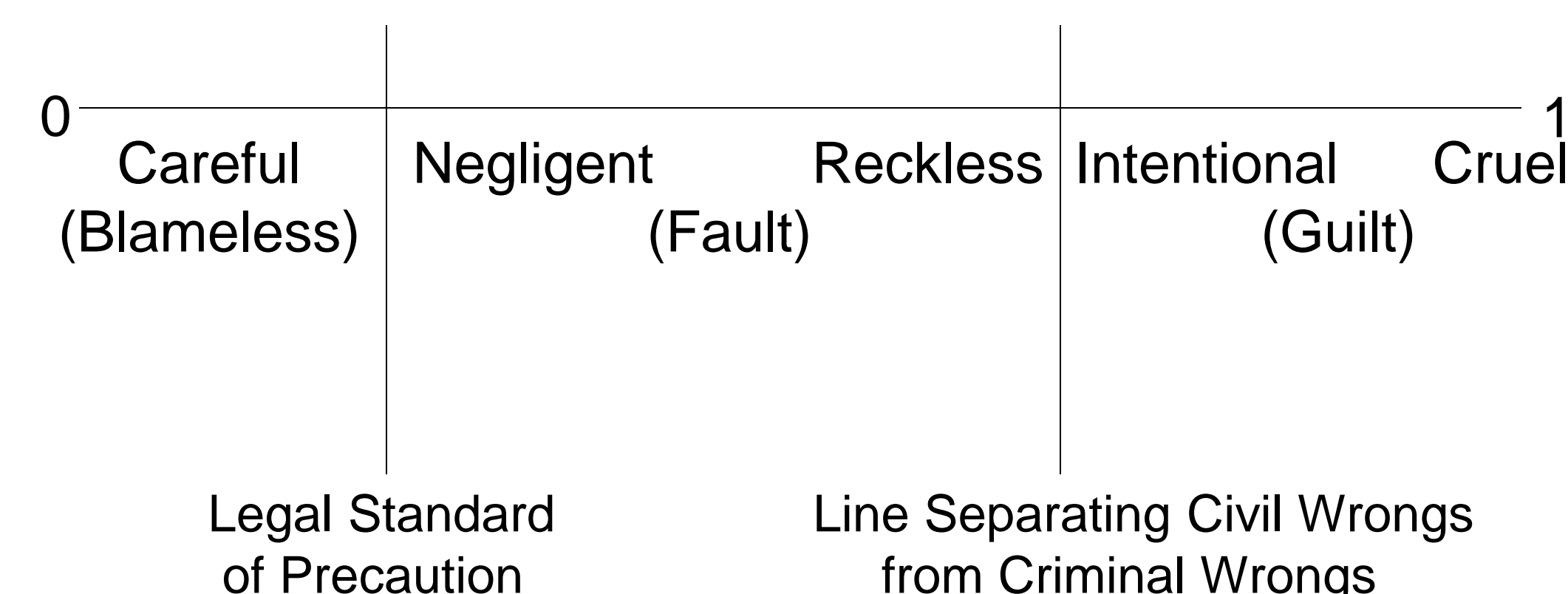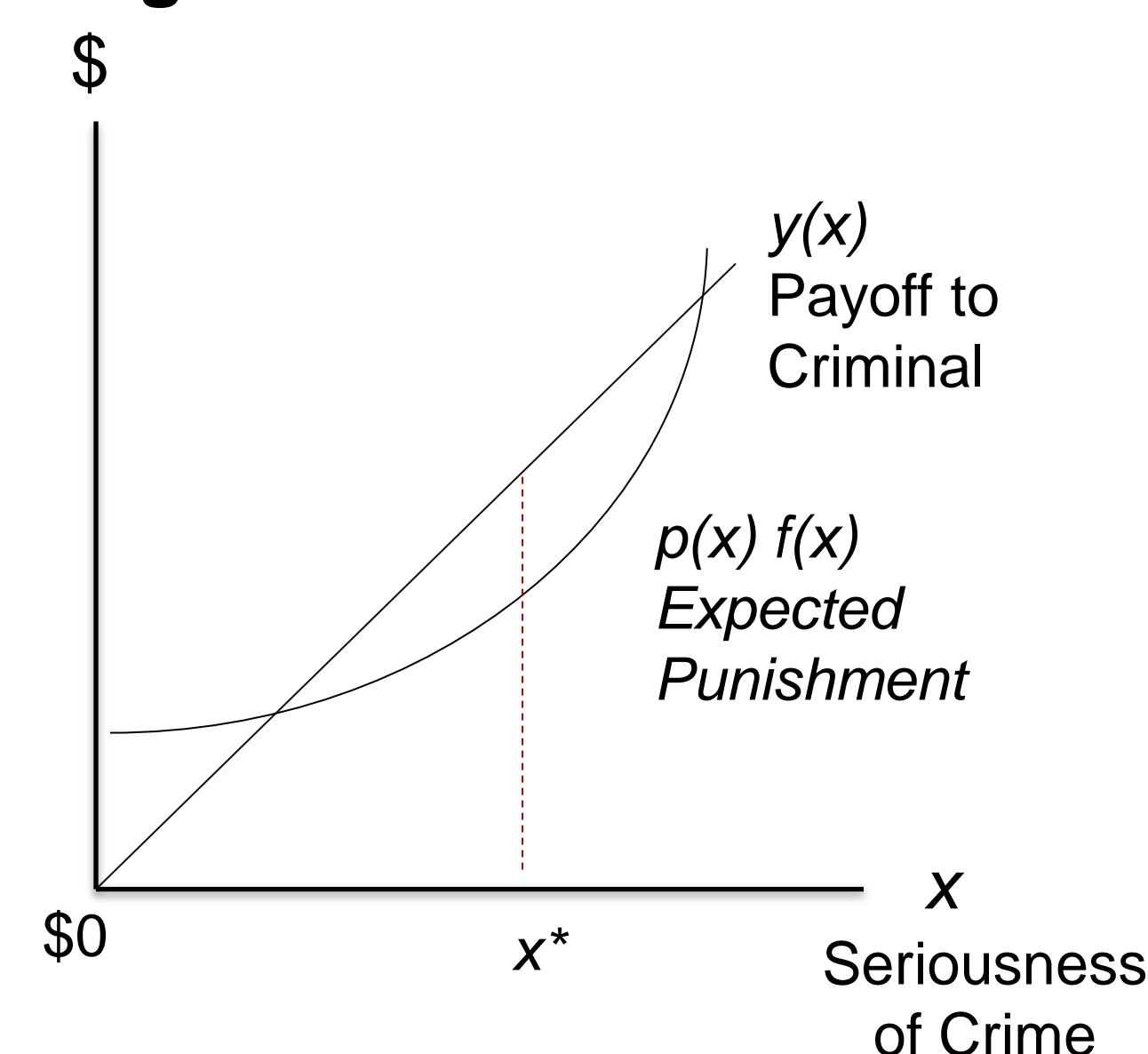
## Figures

### Figure 1: The Culpability Scale



### Figure 2: Rational Crime



### Figure 3: Drug Interdiction



## Economic Analysis

### *Punishing Inchoate Crime*

- Do Allcock's actions actually constitute criminal behavior?
- Law covers *intent* to possess and distribute illicit substances
- A rational observer could prove guilt beyond a reasonable doubt
- Crime was committed despite sale not being consummated
- Such standards exist to prevent crime and reduce social costs
- Punishing Allcock possibly deterred her from future drug dealing

### *Reducing Social Harm*

- Crime reduction is obviously beneficial for society
- Deterring and preventing crime impose costs as well as benefits (see Figure 2)
- The costs of preventing crime should produce a net benefit
- Drugs sales are so-called "victimless crimes," so harm is difficult to measure
- Aggressive drug curtailment policy should necessarily produce a social gain, but this is unlikely

### *Inefficiency of Drug Enforcement*

- Drug enforcement is hugely expensive
- Resources used to arrest and convict Allcock include the costs of Patten's time, electronic monitoring equipment and court fees
- Substantial amount of money spent to punish one person in a massive drug market for *intending* to dispense marijuana
- Allcock could sell one pound of marijuana for $1500
- Cost of recreational drug suppression is $88 billion per year
- Drug market consistently proves resilient to interdiction

## Conclusions

- Allcock could not prove that the Cheshire County Court had insufficient evidence to convict her
- Evidence upon appeal is viewed in the light most favorable to the State, which imposes a heavy burden of proof upon the defendant
- Intent alone can constitute a crime if the person's actions corroborate criminal behavior beyond a reasonable doubt
- Court's ruling is favorable in a legal light
- Outcome is economically inefficient
    - High social costs of enforcement
    - Insignificant effect on overall drug supply
    - Negligible benefit gained from prevention
- Case highlights need to reevaluate drug policy in terms of effective cost-benefit analyses