

# PICJ

## Professional Issues in Criminal Justice: A Professional Journal

<http://www.picj.org>



<b>The Influence of Neighborhood Wealth on Police Decisions to Invoke the Law: An Empirical Assessment of Conflict Theory</b> John A. Eterno	1
<b>Understanding Drug Use Among Blacks in England: A View From Practitioners in the Drugs Field</b> Anita Kalunta-Crumpton	23
<b>Crimes of Illegal Immigrants</b> Michael T. Eskey	43
<b>The Effects of Parental Controls on Juvenile Gun Possession</b> Chris J. Keary & Phyllis E. Berry	63
<b>Legal Notes: Judicial and Legislative Update</b> Cliff Roberson	79



# Contents

<b>Highlights of Volume 3, Number 3</b>	<b>v</b>
<b>The Influence of Neighborhood Wealth on Police Decisions to Invoke the Law: An Empirical Assessment of Conflict Theory</b> John A. Eterno	<b>1</b>
<b>Understanding Drug Use Among Blacks in England: A View From Practitioners in the Drugs Field</b> Anita Kalunta-Crumpton	<b>23</b>
<b>Crimes of Illegal Immigrants</b> Michael T. Eskey	<b>43</b>
<b>The Effects of Parental Controls on Juvenile Gun Possession</b> Chris J. Keary & Phyllis E. Berry	<b>63</b>
<b>Legal Notes: Judicial and Legislative Update</b> Cliff Roberson	<b>79</b>
<b>Index</b>	<b>95</b>

# Professional Issues in Criminal Justice

Volume 3 Number 3 Fall 2008

## Executive Editor

Frank J. DiMarino, LL.M., JD  
Kaplan University  
[fdimarino@kaplan.edu](mailto:fdimarino@kaplan.edu)

## Editor-in-Chief

Cliff Roberson, LL.M., PhD  
713-703-6639  
[croberson@kaplan.edu](mailto:croberson@kaplan.edu)

## Associate Editor

Cloud H. Miller III, PhD  
Kaplan University  
[Cmiller@kaplan.edu](mailto:Cmiller@kaplan.edu)

## Copy Editor

Judy Plazyk

## Production & Design

Daniel T. Moore

## Editorial Office

Send submissions to  
Editor-in-Chief Cliff Roberson  
[croberson@kaplan.edu](mailto:croberson@kaplan.edu)  
<http://www.picj.org/>

## Executive Board

Karen Evans, PhD  
Kaplan University

Katherine Jean Bennett, PhD  
Armstrong Atlantic State University

Alejandro del Carmen, PhD  
Kaplan University & University of Texas

Thomas Jurkanin, PhD  
Kaplan University

William I. Weston, JD, PhD  
Kaplan University

Copyright © 2008 Professional Issues in Criminal Justice (PICJ)/Kaplan University

## Reviewers

Jose F. Anderson  
The University of Baltimore

Katherine Jean Bennett  
Armstrong Atlantic State University

Anita Neuberger Blowers  
University of North Carolina at  
Charlotte

Stephen A. Cernkovich  
Bowling Green State University

Mitchell Bart Chamlin  
University of Cincinnati

Adrian Derral Cheatwood  
The Ohio State University

John K. Cochran  
University of South Florida

Gordon Arthur Crews  
Washburn University

Walter S. DeKeseredy  
University of Ontario, Institute of  
Technology

Mary Dodge  
University of Colorado at Denver

William G. Doerner  
Florida State University

William Evans  
University of Nevada, Reno

David James Farabee  
University of California, Los Angeles

Randy R. Gainey  
Old Dominion University

Jill A. Gordon  
Virginia Commonwealth University

Michael K. Hooper  
California Commission on Peace  
Officer Standards & Training

Sung Joon Jang  
Louisiana State University

Paul Jesilow  
University of California, Irvine

Wesley W. Johnson  
University of Southern Mississippi

Paula M. Kautt  
University of Cambridge

William R. King  
Bowling Green State University

Jodi Lane  
University of Florida

Edward J. Latessa  
University of Cincinnati

Alan J. Lizotte  
The University at Albany

Daniel Mabrey  
Sam Houston State University

Cheryl Lee Maxson  
University of California, Irvine

David C. May  
Eastern Kentucky University

J. Mitchell Miller  
University of Texas at San Antonio

Kevin I. Minor  
Eastern Kentucky University

Scott M. Mire  
University of Louisiana at Lafayette

Godpower O. Okereke  
Texas A&M University-Texarkana

John L. Padgett  
Capella University

Susan E. Pease  
Central Connecticut State University

Mary E. Pelz  
University of Houston-Downtown

Jeffrey Ian Ross  
University of Baltimore

Reviewers

Eric L. Seigny  
University of Pittsburgh

Frank Shanty  
The Cobra Institute

Kathleen Marie Littwin Simon  
Appalachian State University

Barbara A. Sims  
Penn State Harrisburg

Risdon Nichols Slate  
Florida Southern College

Stephen G. Tibbetts  
California State University, San  
Bernardino

Sam Torres  
California State University,  
Long Beach

John E. Wade  
Southeast Missouri State University

Lorenn Walker  
University of Hawaii  
School of Business

Julia F. Weber  
Judicial Council of California

John L. Worrall  
California State University, San  
Bernardino

Jane A. Younglove  
California State University, Stanislaus

Marvin Zalman  
Wayne State University

## Highlights of Volume 3, Number 3

In the lead article, "The Influence of Neighborhood Wealth on Police Decisions to Invoke the Law: An Empirical Assessment of Conflict Theory," Dr. John Eterno, a retired New York City Police Captain and present Associate Dean and Director of Graduate Studies in the Department of Criminal Justice, Molloy College, Rockville Centre, New York, discusses conflict theorists' claim that police officers' decisions to use their discretionary legal authority is a form of social control whereby the ruling classes, operating through the police, attempt to force their will on the less powerful (i.e., the poor). His study examined empirically to what extent the wealth of a neighborhood influences officers in their search decisions. To gather and analyze data, the study used a factorial survey approach with a sample of 1,259 patrol officers in New York City. Results indicate that officers tend to base their search decisions on legal parameters, not neighborhood wealth. Eterno concludes that the conflict theorists' claim is not supported.

In the second article, "Understanding Drug Use Among Blacks in England: A View From Practitioners in the Drugs Field," Dr. Anita Kalunta-Crumpton, currently on the faculty of the Department of Administration of Justice, Texas Southern University, discusses the issues involved in understanding drug use among Blacks from the perspective of professionals in the drugs field in the United Kingdom. She derived the data for her paper from her observations and evaluations of a training course on the problem of substance misuse in the Black community and the effectiveness of mainstream drug treatment services in tackling drug use among Blacks. The training course was targeted at Black professionals who worked directly or indirectly in the drugs field in a London borough with a significant Black population and was sponsored by the borough's Drugs and Alcohol Action Team (DAAT). The views the professionals expressed in the course of the training moved beyond the narrow topic of substance misuse and treatment provisions to assess and understand drug use among Blacks from a socio-historical context, encapsulating *inter alia* issues of socioeconomic deprivation, crime, criminal justice, racial discrimination, and slavery. The practitioners' views incorporated suggestions on how to implement in their professional practice the lessons they learned from the training course toward effectively engaging Black drug users in drug treatment. Dr. Kalunta-Crumpton's purpose in writing this paper was to illuminate the interplay between socio-historical factors and Black drug misuse as narrated by the Black professionals.

In the article "Crimes of Illegal Immigrants," Dr. Michael T. Eskey examines the issues concerning crime and illegal immigrants. According to him, immigration in the United States has changed considerably over the last 150 years. The major congressional acts have resulted in an increase of immigrants entering the United States legally. The 112<sup>th</sup>

Congress heavily debated the key immigration issues, including the number of legal immigrants allowed to enter the country annually, the granting of legal status to millions of illegal immigrants that come forward, the issuance of fines to employers of illegal immigrants, and a guest worker program. The debate continues over the incidence of crime committed by illegal immigrants and the subsequent additional burden on the criminal justice and social systems of the United States. The article provides both a review of many of the crime-specific issues related to illegal immigration as well as the results of a survey the author conducted by using crime-related, illegal immigration-related-issue responses from college professors in the social science, public administration, and political science disciplines. The author compared the faculty responses with the views of the general public to formulate a consensus and conclusion.

Chris J. Keary and Phyllis E. Berry of Washburn University, in their article "The Effects of Parental Controls on Juvenile Gun Possession," examine the factors that influence a juvenile's choice to possess a gun. According to the authors, effective parenting is a critical factor. Parents play an important role in the socialization process of their children, including the development of prosocial and delinquent attitudes. Their research hypothesizes that parents who enforce control tactics and discipline on juveniles influence the juvenile's decision to carry a gun regularly. The hypothesis was tested by using secondary data collected originally from 343 juvenile traffic offenders in Little Rock, Arkansas, in 1992. The findings indicate that juveniles without curfews and those whose parents had threatened to throw them out of their house because of drug or alcohol use were more likely to carry a gun regularly.

The final article, and the only one that was not peer-reviewed, is a discussion by Cliff Roberson, a member of the Supreme Court Bar, on six recent significant U.S. Supreme Court decisions. We anticipate that future issues of the journal will present special non-peer-reviewed articles on significant issues in the criminal justice system. One non-peer-reviewed article planned for a future issue is on developing a textbook manuscript by noted author Frank Schmalleger.



## **Contributing Authors**

Volume 3 Number 3, Fall 2008

**Phyllis E. Berry**

*Washburn University*

**Michael T. Eskey**

*Park University*

**John A. Eterno**

*Molloy College*

**Anita Kalunta-Crumpton**

*Texas Southern University*

**Chris J. Keary**

*Washburn University*

**Cliff Roberson**

*Kaplan University*



# The Influence of Neighborhood Wealth on Police Decisions to Invoke the Law: An Empirical Assessment of Conflict Theory

John A. Eterno

Conflict theorists claim that police officers' decisions to use discretionary legal authority is a form of social control whereby the ruling classes, operating through the police, attempt to force their will on the less powerful (i.e., the poor). This study examines empirically to what extent the wealth of a neighborhood influences officers in their search decisions. To gather and analyze data, the study used a factorial survey approach with a sample of 1,259 patrol officers in New York City. Results indicate that officers tend to base their search decisions on legal parameters, not neighborhood wealth; conflict theory is not supported.

Government, what is its purpose? Some argue that the government represents and protects the rights of all. This is known as the consensus view of government. Others believe that the organized state does not represent the values of members of the society at large. Rather, it represents the values of groups with sufficient power to control the state. We refer to this as the conflict view of government. The view we hold influences how we perceive police. Those who take a consensus view see the police as protecting the rights of all citizens and defending society against criminals and their criminal acts. On the other hand, those who embrace the conflict view see the police as upholding the wishes of the ruling classes (i.e., the wealthy) by controlling the behavior of others—a "class-focus" of policing (Lynch & Groves, 1989, p. 94).

The consensus view, sometimes called *classical criminology*, is rooted in the idea of the *social contract*. Basically stated, one can define the social contract as individuals joining together to form a society; out of necessity, each member gives up something to gain something else. More specifically, Immerman (1996, n.p.) states,

The social-contract theory concerns the origin of organized society, holding that the state originally was created through a voluntary agreement entered into among individuals living in an anarchical state of nature. This contract defines and regulates the relations among the members of society and between the individual and the governing authority.

---

John A. Eterno is associate dean and director of graduate studies in the Department of Criminal Justice at Molloy College in Rockville Centre, New York.

The United States' government is founded on the idea that its power rests in the people. As one of our founding fathers, James Madison, writes in *The Federalist Papers* #39,

. . . we may define a republic to be . . . a government which derives all its power, directly or indirectly, from the great body of the people, and is administered by persons holding their offices during pleasure for a limited period, or during good behavior. It is *essential* to such a government that it be derived from the great body of the society, not from an inconsiderable proportion or a favored class of it . . . It is *sufficient* for such a government that the persons administering it be appointed, either directly or indirectly, by the people . . . (1778/1961, p. 241).

According to the consensus view, in a democracy, legislators who represent all of society make laws. People choose their representatives and consent to the government and the laws it makes. Hence, those who break laws violate the “social contract.”

Another school of thought we term *radical criminology* or *conflict criminology*. Many radical theories suggest that some sort of ruling class attempts to control others (not in the ruling class) through the legal system. In some of the most common schools of thought, the ruling class comprises wealthy, Whites, and/or men. Vold and Bernard (1986) have described radical approaches in what they call *theories of behavior of criminal law*. This school's focus is the creation and enforcement of criminal law. As this school sees it, those in power define certain people and actions as criminal, thus socially constructing the phenomenon of crime. Those defined as criminal, this school contends, are from the non-ruling classes.

Numerous theories appear under the title of conflict criminology (or radical criminology) such as Sellin's culture conflict theory, Vold's group conflict theory, Quinney's theory of the social reality of crime, Turk's theory of criminalization, and Chambliss and Seidman's analysis of the criminal justice system (Vold & Bernard, 1986, pp. 270–285). Vold and Bernard combined several of these theories and developed a unified conflict theory of crime, which effectively summarizes the radical point of view. Regarding the enactment of criminal laws, radical theories suggest that

Individual laws usually represent a combination of the values and interests of many groups, rather than the specific values and interests of any one particular group. Nevertheless, the greater a group's political and *economic power*, the more the criminal law in general tends to represent the values and interests of that group [*italics added*] (Vold & Bernard, 1986, p. 286).

Regarding the enforcement of criminal laws, radical theories state:

In general, the greater the political and economic power of individuals, the more difficult it is for official law enforcement agencies to process them when their behavior violates the criminal law . . . Therefore, in general, *law enforcement agencies tend to process individuals with less, rather than more, political and economic power* [italics added] (Vold & Bernard, 1986, p. 286).

Jeffrey Reiman, in his book *The Rich Get Richer and the Poor Get Prison* (1990), also suggests that those in lower socioeconomic status groups are more likely to go to prison due to police abuse of authority. Reiman writes:

One of the reasons that the offender 'at the end of the road in prison is likely to be a member of the lowest social and economic groups in the country' is that police officers who guard the access to the road to prison make sure that more poor people will make the trip than well-to-do people. The *weeding out of the wealthy* starts at the very entrance to the criminal justice system: The decision about whom to investigate, arrest, or charge is not made simply on the basis of the offense committed or the danger posed. It is a decision that is distorted by a systematic economic bias that works to the disadvantage of the poor [italics added] (pp. 88–89).

Similarly, Lynch and Groves state that "While policing appears to surface in response to crime, it actually surfaces in response to problems inherent in the economic sphere of society, such as the need to maintain class control" (1989, p. 96).<sup>1</sup>

Radical or conflict criminologists, therefore, believe that the police purposely base their law enforcement decisions on the wealth of individuals. In fact, a basic tenet of conflict criminology is that the ruling classes (i.e., the wealthy) control the criminal justice system—and, therefore, the government—such that those in less powerful groups (i.e., the poor) are subject to more enforcement by police officers (Lynch & Groves, 1989, pp. 82–96).

As it relates to this work, the conflict criminology point of view suggests that law enforcement will process those with less power more often (e.g., those in poor communities). Hence, from a conflict perspective, one would hypothesize that officers would be more likely to treat those with no power (i.e., the poor) illegally. For example, a conflict criminologist would suggest that police officers conduct illegal searches in poor neighborhoods more often because the poor do not have the resources (i.e., they have less political power) and are therefore more helpless and unable to control police abuse

than those with political power (i.e., the wealthy). The conflict criminologist would also add that the police, as agents of the ruling classes, attempt to control the poor by subjecting the poor to illegal searches and other abuses of authority.

Police, however, do not see their role as radical criminologists do. As Goldstein (1977, p. 13) writes, "The police are not only obligated to exercise their limited authority in conformity with the Constitution and legislatively enacted restrictions; they are obligated as well to see to it that others do not infringe on constitutionally guaranteed rights." Police departments in the United States do claim that their values are those Goldstein explicates. For example, the New York City Police Department's (1997, pp. 3–6) values state,

- (a) Protect the lives and property of our fellow citizens and impartially enforce the law.
- (b) Fight crime both by preventing it and by aggressively pursuing violators of the law.
- (c) Maintain a higher standard of integrity than is generally expected of others because so much is expected of us.
- (d) Value human life, respect the dignity of each individual, and render our services with courtesy and civility.

All New York City police officers must take an oath to uphold the U. S. Constitution. The Bill of Rights, in particular, demands that laws be enforced impartially and that officers respect the law while enforcing it. This means that officers *should* be guided by the government's restrictions on their power. However, the question remains: do empirical findings support this conclusion?

### **Literature Review**

Various works have been published on this issue. Bayley and Mendelsohn (1969, p. 89), for example, state that, "most discretionary situations occur in *poor* and minority areas" [italics added]. Manning (1978) also suggests that those officers who work in poor communities are less likely to follow the restrictions of the law. He writes,

- In some communities, largely suburban and middle-class, the police can carry out what their public demands and a degree of harmony exists. This consensus is absent in our inner cities . . . The problem of the police is, essentially, the problem of the democratic society . . . (pp. 26–29).

Other authors are even more critical of the police. A case in point is Skolnick's (1966) classic work entitled *Justice Without Trial: Law Enforcement in Democratic Society*. One pertinent argument Skolnick makes is that ghetto areas experience most strongly the impact of searching first and asking questions later (illegal search and seizures). Galliher

(1971) is also quite critical of the police. He states that the police are likely to react “oppressively” in poor neighborhoods. Specifically he writes,

. . . one might predict. . . that in heterogeneous communities with large numbers of *economic* and racial minorities police would behave in an oppressive fashion . . . It’s not that *class conflict* alone can help us better understand police behavior but only that it . . . is one element that must be considered [italics added] (p. 71).

Other works have tested the basic tenets of the radical perspective empirically. In summarizing the literature, Brooks (1993, pp. 150–155) states, “Police have a tendency to be and act suspicious of residents in lower-class neighborhoods . . . It is generally supported in the literature that individuals in the lower socioeconomic strata receive harsher treatment by the police.”

Riksheim and Chermak (1993) also summarize previous empirical research and they too suggest that some evidence indicates that the wealth of a community influences police behavior.

Another empirical work in this area is particularly noteworthy. Chambliss (1994) suggests that police abuse people in poor neighborhoods. Based on more than 100 hours of ride-alongs with the Rapid Deployment Unit (RDU) of the Washington, D.C. Metropolitan Police, he makes the following comments:

The RDU patrol the ghetto continuously looking for cars with young black men in them . . . There is a nod to legality in vehicular stops in that the officers look for a violation in order to justify the stop . . . The RDU does not patrol the predominantly white sections of Washington, D.C. Observations of policing in this area of the city reveal an entirely different approach by the police. There are . . . no vehicular stops unless there is a clear violation . . . In a class society, the powerless, the poor, and those who fit the public stereotype of ‘the criminal’ are the human resources needed by law enforcement agencies to maximize rewards and minimize strains (pp. 179–180, 192).

Others have examined empirically the conflict/consensus issue regarding police from a different perspective. For example, Brandl, Chamlin, and Frank (1995) examined the changing size of police departments and their constituent units over time to show that police attempt to control the less powerful and are thus agents of the ruling class. In their discussion, the authors’ main point is that overall department size may not be the key to understanding how departments work as others suggest. They claim that using sheer department size as

the dependent variable may hide results. They suggest that a better way to see how departments use their officers is to study the size of the individual units over time. Brandl, Chamlin, and Frank (1995, pp. 543–562) have suggested that

. . . crime control bureaucracies [i.e., police departments, as a whole] are relatively unresponsive to changes in the social and political environment . . . [Our] results are consistent with the view that racial conflict promotes increases in the size of the unit most directly responsible for controlling those groups which threaten the interests of the powerful. . . .

Thus, they believe that changes in the size of units within a department will show evidence supporting conflict theory.

Alternatively, classical criminologists argue that wealth, in and of itself, has little to do with the crime committed. To these theorists, criminals generally act of their own “free will” according to their own self-interest. From a consensus viewpoint (classical criminology), the wealth of a neighborhood should not influence searches by police. Police officers, as representatives of the government, should react to the legal situation (which is a consensus based on the social contract) and not the wealth of the community they work in. Ideally, officers should be guided by the restrictions on their behavior under the law, including the U. S. Constitution, regardless of what neighborhood they are in.

Some recent empirical work in this area contradicts previous research and suggests that neighborhood wealth has little to do with police intervention. For example, Fyfe, Klinger, and Flavin (1997, p. 466) write, “the nonsignificant area-poverty coefficient speaks against assertions that the social class composition of areas where police encounter citizens affects their decisions, at least in Chester, Pennsylvania.”

Another study conducted by Mastrofski, Worden, and Snipes (1995) similarly shows that legal variables are more important to officers’ decisions than are other variables. Their data were collected from ride-alongs with officers in Richmond, Virginia. In particular, their results indicate that legal variables such as evidence strength, offense seriousness, and the victim’s preference show positive effects on the probability of arrest; extralegal variables such as race, gender, wealth, and personal reputation have inconsistent findings.

The current research examines empirically police officers’ legal decisions in an effort to help explain these contradictory findings.



## Methods

A single method—systematic observation of police interactions—heavily influences previous research on the topic. This study complements previous research by examining the topic through the factorial survey method. Officers in New York City responded to specially designed surveys that allowed the researcher to determine the effect (if any) of the law compared with extralegal variables. This research uses an anonymous mail questionnaire design. This method assists in achieving valid responses to sensitive issues such as whether officers might violate the law. In particular, anonymity helps achieve a higher response rate and encourages truthful responses rather than socially desirable answers (see Babbie, 1989; Miller, 1991; and Bradburn, 1983). A mail survey allows maximum contact with respondents at a minimum expense. Officers are able to consider their answers, have a sense of privacy (where they might be more truthful), and are not influenced adversely by an interviewer or observer (see especially Dillman, 1983).

This questionnaire was tested extensively and revised in development. Additionally, reliability and validity of this instrument were measured and determined to be well within acceptable parameters.<sup>2</sup> A significant part of the questionnaire was based on the factorial survey method (see Rossi & Nock, 1982). The factorial survey approach is a research design that measures an individual's decision-making as the parameters of the decision-making context change. Simply put, this method allows us to measure how much influence a particular variable has on the judgments of officers.

For our purposes, the *dependent variable* is officers' judgments with respect to hypothetical drug and weapon situations. To construct the *vignettes* (hypothetical situations), it was necessary to identify those *concepts* likely to have an effect on officers' legal behavior. The *concepts* identified as critical to officers' legal behavior are the bureaucracy or organization of policing, the culture of policing, the community where officers work, and the legal situation. These were chosen based on extant knowledge in the subject area. These *concepts* were *operationalized* into *dimensions* (i.e., the independent variables) and then translated into specific *levels* such that they can be measured (see Table 1).

The author designed specific levels by using previous research that indicated what criteria would likely influence officer field behavior. For example, the community level uses a wealthy/poor dichotomy. This dichotomy is seen in other works such as Riksheim and Chermak (1993), Brooks (1993), and Wilson (1977). The police culture is operationalized in many ways, including what is known as the "attitude effect" (see especially Brown, 1981). The bureaucracy is also operationalized in numerous ways. One important method is using supervisors' comments, a method suggested in the works of Whisenand and Ferguson (1973), Bayley and Bittner (1984), and Rubinstein (1973). The law is operationalized by using eight

Eterno

hypothetical situations ranging from legal to illegal with two intermediate levels of ambiguity; namely, slightly ambiguous and highly ambiguous. Two New York State Court of Appeals (the state's highest court) cases were used for this purpose<sup>3</sup>: *People v. Jackson* (1992) and *People v. Gokey* (1983).<sup>4</sup>

Table 1. *Operationalization of Concepts*

Concepts	Police Bureaucracy	Police Culture	Community	Law
–	–	–	–	–
Dimensions (Variables)	NYPD Bureaucracy	NYPD Culture	NYC Community	NYC-Law
–	–	–	–	–
Levels*	1. Inspection is in 2. CCRB up 3. Safe tour 4. Down felonies 5. Go to bat	1. A cooperative 2. A skell 3. A mope 4. A dirt-bag	1. Poor 2. Wealthy	1. Legal 2. Slightly ambiguous 3. Highly ambiguous 4. Illegal

\* See Appendix for specific wording.

In the factorial survey, officers rated the two different legal situations (each with four levels based on the two cases). One legal situation involves marijuana, the other a weapon. The survey asked officers to indicate how they would behave on the street on a scale of 1 through 8 (1 = definitely *not* search and 8 = definitely search) if they faced the conditions in the hypothetical situation. The hypothetical street situation was created by varying or changing the factorial survey variables (randomly) to create questions. Other questions regarding characteristics and attitudes appeared on a separate area of the questionnaire (i.e., not the factorial survey area).

There were 2,052 surveys distributed to police officers working in precincts for the New York City Police Department. Every precinct was represented. Twenty-seven officers were chosen randomly by a computer program with 27 alternates (in the event a prospective respondent was sick, on vacation, or otherwise unavailable for each of the city's 76 precincts). Of the 2,052 surveys sent, 1,259 were returned and deemed usable, for a return rate of 61%. This is extremely high for a mail survey with police (e.g., Canon [1979] had a 35% return rate with police) and helps to make the sample representative of the population studied. Also, those that returned the questionnaires have very similar characteristics compared with officers in the entire Department.<sup>5</sup> The sample, therefore, is quite representative of the population (i.e., New York City police officers). The collected information was then placed into a database for statistical analysis (see Table 2).

Table 2. *Variables*

Part of Survey	Variable	Explanation
Factorial	Judgments (dependent)	Judgments made by officers to the vignettes on a 1 to 8 scale: 1 = definitely do not act thru 8 = definitely do act
Factorial	Law	Weapon and drug scenarios: 1 = legal, 2 = slightly ambiguous, 3 = highly ambiguous, 4 = illegal Also, for certain analyses three dummy variables were created for levels 2, 3, and 4 with the left out category captured by the intercept.
Factorial	Culture	Police Culture measured on a scale of 1 to 4: 1 = weak culture thru 4 = strong culture Also, for certain analyses three dummy variables were created for levels 2, 3, and 4 with the left out category captured by the intercept.
Factorial	Community	Community measured as a dummy variable: wealthy (0) versus poor (1).
Factorial	Organization	Organization measured on a scale of 1 to 5: 1 = strong legal influence/weak illegal thru 5 = strong illegal influence/weak legal influence Also, for certain analyses four dummy variables were created for levels 2, 3, 4 and 5 with the left out category captured by the intercept.
Attitude	Aggressiveness	1 = strongly disagree (low aggression) thru 4 = strongly agree (high aggression)
Attitude	Selectiveness	1 = strongly disagree (low selectiveness) thru 4 = strongly agree (high selectiveness)
Attitude	Supervisory effectiveness	1 = never (weak supervision) thru 4 = often (strong supervision)
Attitude	Perception of community	1 = not favorable to police thru 4 = very favorable to police
Attitude	Perception of police culture	1 = poor influence thru 4 = excellent influence
Attitude	Perception of reward system	1 = poor influence thru 4 = excellent influence
Attitude	Scale of values 0 to 100 (no ties)	Honesty; community; law enforcement; quality of life; civil liberties
Characteristic	Sex	Female (0) or Male (1)
Characteristic	Age	To the nearest full year
Characteristic	Assignment (dummy vars)	Street, CPU (community policing) and nonenfo (non-enforcement)
Characteristic	Experience	To the nearest full year
Characteristic	Education	Level of formal education (not including Police Academy)
Characteristic	Borough assigned to	7 boroughs in NYCPD- each is a dummy: PBBX, PBMN, and so on

### Data Analysis

In the bivariate models, zero-order correlations (Pearson  $r$ ) indicate that of the factorial survey variables, both legal situations show a statistically significant inverse relationship to officers' judgments (see Table 3). That is, as the situation becomes illegal, officers are less likely to conduct a search. The strength of this relationship is stronger in the drug scenarios. Note, however, that neither the community wealth variable nor any of the other factorial survey variables reach the threshold of statistical significance.

Table 3. *Pearson Correlations*

Variable	Judgment
Judgment	-----
Organization	-.003 <i>n</i> = 7506
Community	-.010 <i>n</i> = 7506
Culture	-.006 <i>n</i> = 7506
Weapon	-.121* <i>n</i> = 3756
Drug	-.348* <i>n</i> = 3750

*Note.* The factorial survey research design results in correlations that are only meaningful between the dependent variable and each of the independent variables. Other correlations are created by the method. Additionally, for the organization, community, and culture variables, the results are pooled, including the responses to both the weapon and drug situations.

\* $p < .01$ , two-tailed

Two separate multivariate regression models were also constructed—one with the weapon situation and the other with the marijuana situation. The first model is an Ordinary Least Squares (OLS) regression selecting only those cases that were weapon scenarios. We placed all the independent variables into the model.

#### *Weapon Situation*

When explaining officers' judgments in situations that involved searching a car that may have a gun in it, we see that six variables reach the level of statistical significance: attitude of aggressiveness, attitude of selectiveness, tenure (years as a police officer), legal level 4 (the illegal situation), non-enforcement duty assignment, and working in the Bronx (a borough in New York City). Although all these variables are statistically significant

predictors of the officers' judgments in the weapon scenarios, there is very little explanatory power. Overall, this set of explanatory variables explained 4.7% of the variability in judgments (see Table 4).

Table 4. Summary of OLS Regression for Weapon Situation

Variable	B	SE B	β
Constant	2.942	.587	
Attitude on Aggressiveness	.252	.063	.075**
Attitude on Selectiveness	.278	.062	.082**
Attitude on Organizational Effectiveness	.122	.067	.034
Attitude on Community	-.099	.055	-.034
Attitude on Police Culture	.066	.073	-.034
Attitude on Rewards	-.021	.086	-.005
Age of Officer	-.023	.014	-.046
Years as Police Officer (Tenure)	.063	.016	.112**
Education Level	.017	.025	.013
Sex of Officer	-.025	.130	-.003
Culture Level 2	-.042	.138	-.007
Culture Level 3	.038	.137	.006
Culture Level 4	-.011	.138	-.002
Organization Level 2	.058	.154	.008
Organization Level 3	-.159	.153	-.023
Organization Level 4	-.024	.151	-.004
Organization Level 5	-.098	.152	-.014
Legal Level 2	-.074	.137	-.012
Legal Level 3	-.134	.137	-.021
Legal Level 4	-.811	.138	-.129**
Community Policing Unit	-.056	.197	-.005
Non-enforcement Duty	-.631	.184	-.064*
Manhattan South	.116	.191	.014
Manhattan North	.124	.186	.016
Bronx	.688	.188	.087**
Brooklyn South	.161	.172	.024
Brooklyn North	.198	.183	.026
Queens North	.099	.201	.011
Community	-.006	.097	-.001

Note. Dependent Variable – Judgment. Data is pooled reflecting factorial survey method.

R<sup>2</sup> = .047      \*p < .01      \*\*p < .0001

Two of the significant explanatory variables were officers' predisposed attitudes: attitude on aggressiveness and attitude on selectiveness. The aggressiveness coefficient shows that as officers became more aggressive (i.e., agree that officers should aggressively patrol his or her beat, stopping a number of cars, and so on), they tended to report that they would search more ( $B = .252, p < .0001$ ). Furthermore, the selectiveness coefficient indicates that as officers become more selective (i.e., agree that officers should *not* make a lot of arrests for minor violations or issue summonses for minor traffic violations), they tend to search the car for the weapon ( $B = .278, p < .0001$ ).

Other explanatory variables that reached the level of statistical significance included tenure, illegal situations, non-enforcement assignments, and working in the Bronx. Officers who had more experience tended to have higher judgments in searching the automobile ( $B = .063, p < .0001$ ) regardless of the other variables. One explanation for this may be that seasoned officers were not as rigidly trained in legal parameters compared with the training officers receive at police academies today. The illegal vignette (legal level 4) shows a negative and statistically significant relationship to the dependent variable, judgment. That is, officers tend to choose lower judgments (i.e., had less proclivity to search) in the illegal scenarios compared with the legal scenario. More specifically, the partial regression coefficient for the legal level 4 variable indicates that the difference in means between legal level 4 (the illegal situation) compared with the legal situation (level 1) is  $-.811$ , holding the other variables in the model constant ( $B = -.811, p < .0001$ ). Officers reduced their search decisions markedly when it was illegal to search.

Those officers who had non-enforcement assignments tended to choose lower judgments in searching the auto compared with other officers in the sample ( $B = -.631, p < .01$ ). Because these officers have relatively stable assignments and are generally not assigned to enforcement duties, one is not surprised by them searching less often for a gun. Those officers working in the Bronx, however, tend to be more willing to search the automobile for the gun ( $B = .688, p < .0001$ ). Given the numbers-driven Compstat process common to New York City police (which requires officers to search more often in crime-ridden areas), this result is also not surprising. During this time, crime in the Bronx tended to be high and searches would have been encouraged.

Importantly, community wealth—the critical independent variable that helps explain the operational hypothesis in this paper—did not pass the threshold of statistical significance. While aggressiveness, selectiveness, tenure, non-enforcement duty, working in the Bronx, and illegal situations all influenced officers' search decisions, community wealth did *not* have a significant influence.

*Marijuana (Drug) Situation*

For the drug situation we regressed officers' judgments onto the independent variables, explaining 17.4% of the variation in judgments by officers. Our previous model, using only the weapon scenarios, explained only 4.7% of the variation in judgments; certainly, we have much more explanatory power in the model by examining the drug searches. This finding suggests that officers' responses differ depending on the type of situation (i.e., an interaction effect).

Interestingly, in the marijuana model, all the legal levels were chosen as predictors of officers' judgments (see Table 5). The legal level 4 variable's partial regression coefficient indicates that the difference in means between legal level 4 (the illegal situation) and legal level 1 (the legal situation) is -2.465, holding the other variables constant ( $B = -2.436$ ,  $p < .0001$ ). This result indicates that there is a much lower likelihood of officers' searching in the illegal situations compared with the legal scenarios (a lower search propensity at level 4 compared with level 1). The legal level 3 (highly ambiguous scenario) also indicates that officers' judgments to search for the drugs are lower in the highly ambiguous situations compared with the legal scenarios. Specifically, the legal level 3 partial regression coefficient indicates that the difference in means between legal level 3 (the highly ambiguous situation) and legal level 1 (the legal situation) amounts to -.668, holding the other variables constant ( $B = -.668$ ,  $p < .0001$ ). Thus, in both the highly ambiguous and illegal scenarios, officers showed less of an inclination to search compared with the legal situation. Furthermore, the partial regression coefficient is greater for the illegal level compared with the highly ambiguous level, indicating that officers are less apt to conduct an illegal search.

The legal level 2 (slightly ambiguous situation) showed a positive and significant partial regression coefficient, indicating that the difference in means between legal level 2 (the slightly ambiguous situation) and legal level 1 (the legal situation) is .394, holding the other variables in the model constant ( $B = .394$ ,  $p < .01$ ). In the slightly ambiguous situations, officers tended to choose *higher* judgments compared with the legal level.

Two other variables were significant predictors of officers' judgments. These were working in Brooklyn North and working in Manhattan North. The partial regression coefficients for Brooklyn North and Manhattan North indicated that officers in both those locations are significantly *less* likely to choose a higher judgment in searching for the drugs compared with officers assigned to other areas of the city (Brooklyn North  $B = -.340$ ,  $p < .05$  and Manhattan North  $B = -.378$ ,  $p < .05$ ).

Table 5. Summary of OLS Regression for Drug Situation

Variable	B	SE B	_
Constant	6.161	.543	
Attitude on Aggressiveness	.109	.059	.033
Attitude on Selectiveness	-.091	.057	-.027
Attitude on Organizational Effectiveness	-.117	.062	-.032
Attitude on Community	-.066	.051	-.002
Attitude on Police Culture	.004	.068	.001
Attitude on Rewards	-.089	.079	-.020
Age of Officer	.007	.013	.014
Years as Police Officer (Tenure)	-.016	.015	-.029
Education Level	-.021	.023	-.015
Sex of Officer	.204	.121	-.029
Culture Level 2	-.033	.128	-.005
Culture Level 3	-.064	.129	-.010
Culture Level 4	.005	.128	.001
Organization Level 2	-.055	.145	-.008
Organization Level 3	-.009	.144	-.001
Organization Level 4	-.018	.143	-.003
Organization Level 5	.008	.141	.001
Legal Level 2	.394	.129	.063*
Legal Level 3	-.668	.127	-.109**
Legal Level 4	-2.465	.129	-.391**
Community Policing Unit	.295	.182	.027
Non-enforcement Duty	-.158	.171	-.016
Manhattan South	-.089	.177	-.011
Manhattan North	-.378	.173	-.049
Bronx	.112	.175	.014
Brooklyn South	-.311	.160	-.046
Brooklyn North	-.340	.171	-.045
Queens North	-.237	.187	-.027
Community	-.119	.090	-.022

Note. Dependent Variable – Judgment. Data is pooled reflecting factorial survey method.

$R^2 = .174$     \* $p < .01$     \*\* $p < .0001$



Importantly, community wealth does not reach the level of statistical significance in this as in the previous weapon situation. Another pattern that fits both the weapon and drug situations is that the legal variables have the greatest influence on officers' judgments. In the weapon situation, the legal level 4 variable's standardized beta coefficient has a value of  $-.129$ , making it, by far, the largest single coefficient in the model. Likewise, in the drug scenario, the legal 4 variable's standardized beta coefficient has a value of  $-.391$ , again, the largest single value by far in the model.<sup>6</sup> Additionally, the key independent variable, community wealth, did *not* pass the threshold of statistical significance for either model.

Overall, the data analyses for the weapon and drug scenarios indicate that officers respond differently depending on the type of scenario. It appears that legal variables are good predictors compared with any of the numerous extralegal variables, including community wealth. The data clearly indicate that officers were *not* significantly influenced by the wealth of the community in any of the bivariate or multivariate models. This null finding has theoretical implications.

### Discussion

Radical criminologists have suggested that police officers tend to treat people in lower socioeconomic class neighborhoods with increased use of discretionary police power (e.g., Reiman, 1990; Lynch & Groves, 1989; Vold & Bernard, 1986). Some anecdotal work on police has also suggested that police tend to treat those in poor areas more harshly (e.g., Manning, 1978; Galiher, 1971; Chevigny, 1969). Some empirical work has supported this position as well (see especially Brooks, 1993; Riksheim & Chermak, 1993).

The evidence from the current study (using the factorial survey method as opposed to observations) indicates that the wealth of the neighborhood, in and of itself, is not a significant factor in officers' decisions to search. It is precisely these types of high discretion and low supervision activities where we would expect officers to abuse their authority. Because there is little, if any, indication that officers use extralegal factors such as community wealth to decide whether they will search, these data do not support the conflict view. Some more recent studies (Fyfe, Klinger, & Flavin, 1997; Mastrofski, Worden, & Snipes, 1995) similarly show area poverty as not significant.

One possible explanation that helps explain why researchers have come to seemingly contradictory findings (i.e., some research shows community wealth affects officers and others show it does not) has to do with the influence of the law.<sup>7</sup> As the standardized beta coefficients in Tables 4 and 5 indicate, legal situations seem to influence officers markedly. It is possible that the due process revolution of the 1960s took some time to have an influence on street officers. Perhaps, hardened street officers are not likely to change their street search behaviors immediately after a court decision such as *Mapp v. Ohio* (1961).

That is, it takes time for the court to have an influence. It is possible that earlier studies such as Manning, 1977, Galliher, 1971, and Chevigny, 1969 accurately portray what occurred at the time of their studies. It may have taken many years for the effect to be felt on the street. That is, officers hired in the '50s and '60s first had to retire in the '80s and '90s. At this point, new officers were hired and trained in the new legal landscape and now follow legal guidelines of the earlier era. Note that the drug situations in which officers with greater tenure search more often regardless of the law offer evidence for this conclusion.

One weakness with the current study is that the research took place exclusively in New York City. While New York does have many cultures and could be considered a microcosm of the entire United States, it is also unique in many ways (e.g., very multicultural, international, etc.) It is, therefore, suggested that future research attempt to replicate these findings in other jurisdictions.

Overall, the data clearly indicate that the legal situation is a much more powerful influence in explaining officers' decisions to conduct a search compared with any of the extralegal variables. In particular, community wealth did not have a significant influence on officers' search decisions. Additionally, it may have taken many years for court cases to have an influence on the street. Because the radical perspective suggests that officers abuse their authority in poor neighborhoods more often, we can conclude that this study shows very little support for conflict theory.

### Notes

1. Lynch and Groves (1989, p. 96) do state that policing today may benefit the poor at times.

2. For those interested, the author has further information on the reliability and validity of the instrument, including the results of a pretest.

3. Officers were actually given eight situations; however, two of them were operationalized for other purposes and are not discussed in this work.

4. Contact author for more information about the specifics of the court cases. The wording of the legal situations appears in the Appendix.

5. Based on the self-reported characteristics of those returning the surveys, the sample certainly seems representative of precinct officers who work for the New York City Police Department. The average age of New York City police officers who work in precincts is 32.3 years of age; the average age of the sample is 31.7 years. The average tenure of New York City police officers who work in precincts is 7.1 years; the average tenure of the sample is 7.6 years. Education level is also examined. Of particular concern is achieving a representative sample of those officers who have no more than a high school education. The percentage of precinct officers with a high school education is 37.2%; the percentage

of officers with a high school education in the sample of officers is 31.7%. These statistics certainly suggest that the sample is highly representative of officers who work in precincts.

6. Standardized beta values allow direct comparison with other variables in the same model because they are not dependent on how the variable is measured.

7. Of course, many other aspects of a community this study did not measure could be influential as well, in particular, the amount of crime in an area, politics, and so on. See Klinger (1997) for an interesting discussion on these issues.

### Acknowledgments

The author would like to thank James Acker, David Bayley, M. Craig Brown, Fred Cohen, and Robert Worden for their assistance with this research. Also, graduate assistant Anthony Sciarabba was helpful in reading earlier versions of this paper. The author presented a previous version of this paper at the 44<sup>th</sup> Annual Meeting of the Academy of Criminal Justice Sciences, March 13–17, 2007 in Seattle, Washington.

### References

- Babbie, E. (1989). *The practice of social research* (5th ed.). Belmont, CA: Wordsworth.
- Bayley, D. H., & Bittner, E. (1984). Learning the skills of policing. In R. G. Dunham & G. P. Alpert, (Eds.). (1993). *Critical issues in policing* (2<sup>nd</sup> ed., pp. 106–129). Prospect Heights, IL: Waveland Press.
- Bayley, D. H., & Mendelsohn, H. (1969). *Minorities and the police*. New York: Free Press.
- Bradburn, N. M. (1983). Response effects. In P. Rossi, J. Wright, & A. Anderson, (Eds.), *Handbook of survey research* (pp. 289–328) New York: Academic Press.
- Brandl, S. G., Chamlin, M. B., & Frank, J. (1995). Aggregation bias and the capacity for formal crime control: The determinants of total and disaggregated police force size in Milwaukee, 1934–1987. *Justice Quarterly*, 12(3), 543–562.
- Brooks, L. W. (1993). Police discretionary behavior: A study of style. In R. G. Dunham, & G. P. Alpert (Eds.) (1993). *Critical issues in policing*, (pp. 140–164) (2nd ed.). Prospect Heights, IL: Waveland Press.
- Brown, M. K. (1981). *Working the street*. New York: Russell Sage Foundation.
- Canon, B. (1979). The exclusionary rule: Have critics proven that it doesn't deter police? *Judicature*, 62(8), 398–403.
- Chambliss, W. (1994). Policing the ghetto underclass: The politics of law and law enforcement. *Social Problems*, 41(2), 177–194.

Eterno

Chevigny, P. (1969). *Police power: Police abuses in New York City*. New York: Pantheon Books.

Dillman, D. A. (1983). Mail and other self-administered questionnaires. In P. Rossi, J. Wright, & A. Anderson (Eds.), *Handbook of survey research* (pp. 359–377) New York: Academic Press.

Eterno, J. (2003). *Policing within the law: A case study of the New York City Police Department*. Westport, CT: Praeger.

Fyfe, J. J., Klinger, D. A., & Flavin, J. M. (1997). Differential police treatment of male-on-female spousal violence, *Criminology*, 35(3), 455–473.

Galliher, J. F. (1971). Explanations of police behavior: A critical review and analysis. In A. S. Blumberg, & E. Niederhoffer, (Eds.). (1976). *The ambivalent force*, (2nd ed., pp. 64–71). New York: Holt, Rinehart and Winston.

Goldstein, H. (1977). *Policing a free society*. Cambridge, MA: Balinger.

Immerman, R. J. (1996). Social contract. In *The academic American encyclopedia* [CD]. Danbury, CT: Grolier Multimedia Encyclopedia.

Lynch, M. J., & Groves, W. B. (1989). *A primer in radical criminology*. New York: Harrow and Heston.

Madison, J. (1788). Federalist #39. In C. Rossiter (Ed.). (1961). *The Federalist Papers* (p. 241). New York: New American Library.

Manning, P. K. (1977). *Police work: The social organization of policing*. Cambridge, MA: Massachusetts Institute of Technology.

Manning, P. K. (1978). The police: Mandate, strategies, and appearances. In P. K. Manning, & J. Van Maanen (Eds.), *Policing: A view from the street* (pp. 7–31). Santa Monica, CA: Goodyear.

*Mapp v. Ohio*, 367 U.S. 643 (1961).

Mastrofski, S. D., Worden, R. E., & Snipes, J. B. (1995). Law enforcement in a time of community policing. *Criminology*, 33(4), 539–563.

Miller, D. C. (1991). *Handbook of research design and social measurement*. Newbury Park, CA: Sage Publications.

New York City Police Department. (1997). *Police student's guide, police science*. Unpublished NYCPD student guide.

- Paolucci, H. (1963). Introduction. In C. Beccaria. (1764/1963). *On crimes and punishments*. New York: Macmillan.
- People v. Gokey*, 469 NYS2d 618 (Ct. App. 1983)
- People v. Jackson*, 79 NY2d 907 (1992)
- Reiman, J. (1990). *The rich get richer and the poor get prison* (3<sup>rd</sup> ed.). New York: Macmillan.
- Riksheim, E. C., & Chermak, S. M. (1993). Causes of police behavior revisited. *Journal of Criminal Justice*, 21(4), 353–382.
- Rossi, P. H., & Nock, S. L. (1982). *Measuring social judgments*. Beverly Hills, CA: Sage Publications.
- Rubinstein, J. (1973). *City police*. New York: Ballantine Books.
- Skolnick, J. (1966). *Justice without trial: Law enforcement in democratic society*. New York: John Wiley and Sons.
- Vold, G. B., & Bernard, T. J. (1986). *Theoretical criminology*. New York: Oxford University Press.
- Whisenand, P., & Ferguson, R. F. (1973). The managing of police organizations. In T. R. Armstrong & K. M. Cinnamon (Eds.) (1976). *Power and authority in law enforcement* (pp. 56–74). Springfield, IL: Charles C. Thomas.
- Wilson, J. Q. (1977). *Varieties of police behavior*. Cambridge, MA: Harvard University Press.

## Appendix

### Wording of Questionnaire

#### *Dimension of Organization*

- Level 1 "Inspections is in the precinct today."
- Level 2 "Civilian complaints have increased."
- Level 3 "Have a safe tour."
- Level 4 "The precinct is down on felony arrests compared to last year's figures."
- Level 5 "Keep your sectors clean today; make arrests where possible. Overtime will be made available for all arrests. Don't be afraid to do your job. As long as your actions are not totally unreasonable, I personally will go to bat for you."

#### *Dimension of Community*

- Level 1 poor neighborhood
- Level 2 wealthy neighborhood

#### *Dimension of Police Culture*

- Level 1 a cooperative individual
- Level 2 a skell
- Level 3 a mope who calls you an "asshole"
- Level 4 a dirt-bag who, two months earlier, was arrested for attacking and severely injuring three fellow officers

#### *Dimension of Legality (Weapon Situations)*

- Level 1 who fits the description of a robbery suspect. He is now sitting in a double parked vehicle along a street known for criminal activity. As you are walking your footpost you approach the car from the passenger side (not the driver's side). No other individuals are in the car. Suddenly, you notice the outline of a gun apparently contained in a brown paper bag right next to the suspect. He seems very nervous and may well grab the gun at any moment. The passenger door is slightly open. Using all appropriate tactics, would you at this time grab the apparent gun in as cautious a manner as possible?
- Level 2 who is sitting in a double parked vehicle along a street known for criminal activity. You are walking your footpost and decide to approach the driver to ask him to move the car. No other individuals are in the car. Suddenly, you notice the outline of a gun apparently contained in a brown paper bag right next to the driver's seat. The driver begins to get out of the vehicle but stops upon seeing you. He is now standing with one foot on the pavement and the other in the car as you confront him. Would you at this time grab the apparent gun in as cautious and tactically appropriate manner as possible?

- Level 3 who is sitting in a double parked vehicle along a street known for criminal activity. You are walking your footpost and decide to approach the driver to ask him to move the car. No other individuals are in the car. Suddenly, you notice the outline of a gun apparently contained in a brown paper bag on the rear seat on the passenger side (not the driver's side) of the vehicle. The driver begins to get out of the vehicle but stops upon seeing you. He is now standing with one foot on the pavement and the other in the car as you confront him. Would you at this time grab the apparent gun in as cautious and tactically appropriate manner as possible?
- Level 4 who double parks a vehicle along a street you are walking on. The driver then gets out and casually walks to an apartment building to ring a doorbell. You are walking your footpost and as you approach the car you notice the outline of a gun apparently contained in a brown paper bag on the passenger seat of the locked car. No one is in the car. Assuming you know a way to get in the car quickly and without damaging it, would you at this time grab the apparent gun in as cautious and tactically appropriate manner as possible?

*Dimension of Legality (Drug Situations)*

- Level 1 who you know to be a drug dealer. He places what appears to be 100 marijuana cigarettes into an unlocked duffel bag. You immediately arrest the suspect who is holding the zippered shut duffel bag in his hand on a crowded streetcorner. You realize that the bag could easily be destroyed by throwing it into a nearby fire in a garbage can. Immediately, fearing destruction of the evidence, you take the bag from his hand. Would you without delay, at the arrest site, and in the presence of the arrestee, look inside the unlocked duffel bag?
- Level 2 who you know to be a drug dealer. He places what appears to be 100 marijuana cigarettes into a duffel bag. You immediately arrest the suspect who has the zippered shut duffel bag on the ground between his legs. Immediately, you seize the duffel bag. Would you at the arrest site and in the presence of the arrestee, look inside the duffel bag?
- Level 3 who you have never seen before. He places what appears to be 100 marijuana cigarettes into a locked duffel bag. You immediately arrest and handcuff the suspect with two other officers. The suspect has the duffel bag, which is now locked shut, on the ground between his legs. You find the key to the bag in the right pants pocket of the arrested individual. Would you at the arrest site and in the presence of the arrestee, open and look inside the duffel bag?
- Level 4 who you have never seen before. He places what appears to be 100 marijuana cigarettes into a securely locked briefcase. You immediately arrest the suspect who now has the locked shut briefcase on the ground between his legs. You frisk the suspect with several other officers present leaving the briefcase on

Eterno

the ground. No key is found for the briefcase. Would you, at the arrest site and in the presence of the arrestee, force open and look inside the briefcase?

#### Basic Outline of Vignette

At roll call the Captain states, [dimension of police organization].  
You then go on patrol with your partner in a [dimension of community].  
During your tour, and in your sector, you and your partner observe  
[dimension of police culture]  
[dimension of law].

#### Attitude Questions

Aggressiveness: (1) A good police officer is one who aggressively patrols his/her beat, stopping a number of cars, checking out people, running warrant checks on vehicles that look suspicious, and so forth.

Selectiveness: (2) A police officer should not make a lot of arrests for minor violations or issue a lot of summonses for minor traffic infractions.<sup>1</sup>

Organizational Effectiveness: (3) Police officers—fail to take necessary action due to a feeling that supervisors will disapprove of their actions

Community: (4) \_\_\_\_\_ people in the community you work in respect police officers.

Police Culture: (5) Officers in my precinct respect an officer who makes a lot of collars.

Rewards: (6) Making many arrests will \_\_\_\_\_ my chances to advance my career.

#### **Appendix Note**

1. Attitude Questions 1 and 2 are reproduced from Table A.1 in Brown, 1981.



# Understanding Drug Use Among Blacks in England: A View From Practitioners in the Drugs Field

**Anita Kalunta-Crumpton**

Data for this paper derive from the author's observation and evaluation of a training course on the problem of substance misuse in the Black<sup>1</sup> community and the effectiveness of mainstream drug treatment services in tackling drug use among Blacks. The training course was targeted at a wide range of Black professionals who worked directly or indirectly in the drugs field in the London borough with the highest Black population.<sup>2</sup> The views expressed by the Black professionals in the course of the training moved beyond the narrow topic of substance misuse and treatment provisions to assessment and understanding of drug use from a socio-historical context, encapsulating, among other topics, issues of socioeconomic deprivation, crime, criminal justice, racial discrimination, and slavery. Incorporated in the Black professionals' views were suggestions on how to implement lessons learned from the training course toward effectively engaging Black drug users in drug treatment. It is the intention of this paper to illuminate the interplay between socio-historical factors and Black drug misuse as narrated by the Black professionals.

It was not until the late 1980s that the Black community began to feature in concerns about drug use and its problematic consequence on the drug user and the wider society. Prior to this period, the 1980's heroin epidemic dominated discourse, research, policy, and practice. In these spheres, the center of interest with regards to heroin use and addiction was the White population. Race was insignificant in the debates surrounding the nature of the heroin epidemic and in the policy and practice response to the problem; no recognition was assigned to any influence that the heroin epidemic might have had on Black and minority ethnic (BME) groups at the individual and community levels. Indeed as Pearson and Patel state,

The "Whiteness" of Britain's heroin epidemic was so much taken for granted . . . that social researchers almost invariably did not even bother to use any system of ethnic monitoring when studying local populations (1998, p. 199).

---

Anita Kalunta-Crumpton has recently joined the faculty of the Department of Administration of Justice, Texas Southern University, Houston, Texas. She has published extensively on issues of race, drugs, and criminal justice.

Furthermore, despite the relationships drawn between heroin use and class in the discursive and evidential typifications of 1980's heroin users, race/ethnicity was unnoticed. Heroin use was concentrated in socioeconomically deprived urban areas in major cities of the country, and most of the heroin users experienced high levels of socioeconomic deprivation (Pearson 1987); they had to supplement welfare benefits with acquisitive crime to fund their drug habits (Burr 1987). But as far as race was concerned, Pearson observes that

. . . the heroin epidemic mainly affected White working-class communities . . . and that in spite of the higher levels of unemployment, educational disadvantage, housing deprivation, etc. experienced by Britain's Black communities, Black people were considerably underrepresented among known heroin users (1992, p. 286).

The issue of the underrepresentation of Blacks in the numbers of known heroin users came to light mainly as a result of the arrival of crack cocaine in the late 1980s and the popular association of the use and trafficking of this drug with the Black community (Murji, 1998). It has since been embraced within the general controversial explanations surrounding the disproportionate representation of BME communities in the numbers of drug users presenting to mainstream drug treatment services. Much of the explanation has pointed to the exclusionary nature of mainstream drug services toward drug users from BME communities. This is illustrated in observations that statutory drug services are run by Whites for White clientele (Awiah, Butt, & Dorn, 1990, 1992; Southwell, 1995); are not often ethnically representative in terms of staffing (Awiah et al., 1990, 1992; Perera, Power, & Gibson, 1997); and do not often operate culturally competent, responsive, and sensitive programs to address the needs (such as linguistic and religious) or related issues (such as racism and social exclusion) of drug users from BME communities (Chantler, 1998; Sangster, Shiner, Patel, & Sheikh, 2001).

Alongside these are a number of other notable factors that explain the underrepresentation of the Black community in particular in mainstream drug treatment services. For one, crack cocaine is identified as the primary problem drug used among Black drug users, and given that the majority of mainstream drug treatment services have focused on injecting opiate use, they have invariably tended to exclude Blacks whose use of crack as a primary drug and whose non-injecting mode of administration of this drug may require drug treatment interventions different from the traditional models these services offer (Sangster et al., 2001; National Treatment Agency, 2002; Home Office, 2002a; Turning Point, 2005). The relationship between Blacks, drug use, and institutions outside of conventional drug treatment services is another factor that is seemingly different in comparison with other racial groups of drug users. Attention has been drawn to

the relationship between drug use among Blacks and the criminal justice system. In Mirza, Pearson, and Philips' (1991) observation, Blacks arrested for a drug offense relating to crack cocaine form the majority of drug users known to criminal justice agencies. In contrast, this racial group is underrepresented as clients of mainstream drug treatment services. Underscoring this discrepancy is the fact that in the mental health area, a high proportion of Black users of cannabis and crack have been considered as mentally ill (Chantler, 1998; Sangster et al., 2001).

Amid the various narratives regarding BME persons' disproportionate presentations to drug treatment services have emerged government acknowledgement of this issue as a concern. In 1998, the government's ten-year drug strategy (The Stationery Office, 1998) made recommendations for drug service providers to give considerations to racial and ethnic diversity. In the *Updated Drug Strategy 2002*, concerns resurfaced surrounding drug use among BME individuals and the failure of services to meet their needs adequately (Home Office, 2002a). As the paper describes later, a range of drug treatment policy and practice developments—particularly within the criminal justice system—have aimed at accessing “hard-to-reach” groups of drug users, including BME groups.

While the Black professionals in this study appreciated the government drug strategies, they nevertheless reiterated some of the concerns discussed above about the underrepresentation of Black drug users in drug treatment services. Very importantly, their voiced concerns moved beyond such recurring themes to unveil socio-historical complexities that are useful in understanding drug use among Blacks and access to drug treatment and can also be useful in preventing the onset of drug use for this group. Some of the social issues the professionals raised recap issues that have received some attention in drug literature while others have received little to no recognition.

The following section provides a brief account of the research study on which this paper is based. A discussion of the relevant issues the Black professionals raised during the training course follows.

### **The Research Study**

The training course, which the author observed and evaluated, involved a series of sessions conducted over two days between November 2004 and December 2005 on behalf of one of the London borough's Drugs and Alcohol Action Teams (DAAT). The training course was targeted specifically at Black professionals who worked directly or indirectly in the drugs field in the London borough studied. Invariably, only Black professionals attended the course. Overall, the training course attracted a total of 81 Black professionals spread out across the sessions. Thirty-five (43%) of the professionals were drawn from the drug treatment service; 9 (11%) from the Drug Interventions Programme;

6 (7%) from the youth offending team; 3 (4%) from the probation service; 1 (1%) from the mental health service; 14 (17%) from the social service; 11 (14%) from the housing service; and 2 (3%) from the voluntary sector. Of the 81 Black professionals, 23 (28%) were male and 58 (72%) were female. It is worth noting at this point that the views the 81 Black professionals expressed are not meant to represent the generality of views of all Black professionals (nor those of their White counterparts) in the drugs field within and beyond the London borough studied. While one must exercise caution in making generalizations to all professionals in the drugs field in the studied borough and in other London boroughs, the qualitative content of the research findings do allow for an inquiry that addresses drug misuse among Blacks from a socio-historical perspective.

The training course aimed at providing a platform for Black professionals to explore, assess, and make recommendations in relation to the problem of drug misuse in the Black community and the effectiveness of existing mainstream drug treatment services in engaging Black drug users in drug treatment. The range of professions was meant to create and facilitate a partnership forum for the professionals to exchange and share their varying knowledge and experience of service provisions to drug users from the Black community. The course used a range of training tools to facilitate the respective sessions. These took the forms of presentations by guest speakers, use of facilitators, contributions from drug users and ex-drug users from the Black community, small group exercise, brainstorming exercise, and role-play. Through these training strategies, the course provided a site for constructively exploring and uncovering a wide variety of issues within the narrow and broader confines of the issue of drug use in the Black community. The exploration sought to reveal the professionals' views not only as professionals but also as members of the Black community.

The qualitative data this paper uses derive primarily from the small group and brainstorming exercises in which the Black professionals responded to facilitators' specific questions. The various questions, broadly speaking, centered on three related themes underpinning the training course: (1) drug treatment service provisions and delivery for Black drug users; (2) social context of drug misuse among Blacks; and (3) historical context of drug misuse among Blacks.

Each small group of professionals had written out the group's oral responses to the questions on flipcharts. Subsequently the professionals discussed these responses in an open forum involving all the professionals and, in this process, demonstrated a consensus on the issues. Collectively, the professionals' oral expressions of views—translated into written statements on flipcharts—produced similar lines of thinking in detailed qualitative data. In addition, the paper draws some data from the author's own records (recorded

manually in shorthand) of oral statements the professionals, facilitators, guest speakers, drugs users, and ex-drug users made.

On completion of the training course, the author analyzed the contents of the flipcharts (and the author's notes) under the aforementioned themes of the training course. As shown in subsequent sections, a sample of the qualitative contents of the flipcharts (and the author's notes) illustrates the professionals' views on these themes.

### **Setting the Scene: Drug Treatment Provisions and Delivery for Black Drug Users**

This topic lays the foundation for subsequent themes because the training course was determined by this issue. While the content of this theme significantly reiterates what we already know, it is noteworthy that it was on its basis that subsequent themes emerged. Invariably, the training course commenced with an introductory session, which included a presentation on the government's ten-year drug strategy (The Stationery Office, 1998) and the reflection of its recommendations in the borough's DAAT's strategic approach to tackling drug misuse in BME communities. As already noted, the government's drug strategy called for drug service providers to embrace racial and ethnic diversity in their treatment package to attract BME drug users. The extent to which this has been achieved was explored by the professionals who generally observed that mainstream drug treatment services were not engaging effectively with Black drug users. The following statements offer their explanations for the limited engagement with Black drug users:

"Need for culturally specific group work programs."

"Services do not cater for their needs."

"Communication used needs to be specific to needs."

"Services need workers that service users can relate to."

"Care plans are on European perspective."

"Not enough information/advertisement on drug issues and services available . . . amounting to lack of/limited awareness of services."

"Aims and objectives of funders do not meet needs of Black users."

"Inappropriate services."

"Day program is 'Eurocentric'."

"Services need to be needs-led rather than policy-led."

In the views of the professionals, these recurring issues also account for much of the difficulties in retaining Black drug users in drug treatment. The government's recognition of such problems for BME communities has culminated in some initiatives to improve

access to drug treatment. *Tackling Crack: A National Plan* is a notable example of the government's efforts to improve access to drug treatment for BME communities and, in particular, the Black community where crack is identified as the most favored drug among African-Caribbeans (Home Office, 2002b, 2004).

Such efforts are extended fundamentally through the criminal justice route to drug treatment aimed at "hard-to-reach" groups of drug users of which Black drug users constitute a notable group. The establishment of the Drug Interventions Programme in 2003 was meant to introduce a comprehensive monitoring of the journey of identified drug users through the criminal justice system with a view to direct class 'A' drug offenders into drug treatment (Home Office, 2004). Arrest referral schemes, the Drug Treatment and Testing Order (now part of the Drug Rehabilitation Requirements), and CARAT<sup>3</sup> services are key criminal justice avenues to drug treatment available at the points of arrests, sentencing, and imprisonment, respectively. Despite evidence that these criminal justice mechanisms can be effective in identifying and channeling class 'A' drug users into drug treatment, there have been concerns that their effectiveness is limited when it comes to certain categories of drug users. Sondhi and colleagues (2002) identify Black drug-using offenders as a group that fails to engage in drug treatment after an arrest referral. Evidence of the Drug Treatment and Testing Order's (DTTO) successful coercion of drug users into drug treatment (Turnbull et al., 2000) and reductions in drug use and drug-related acquisitive crime is known to be tempered with high levels of DTTO breach (Hough, Clancy, McSweeney, & Turnbull, 2003). Breach of the DTTO and the consequent threat of imprisonment as a result are more likely to occur among Black drug users given the limited drug treatment options available to them (Sangster et al., 2001). Within the prison establishment, Black prisoners are more likely to be dependent on crack than on any other drug, and they are less likely to access prison-based drug treatment services (Home Office, 2003), including the CARAT services (May, 2005).

The Black professionals were concerned that the coercive nature of the criminal justice drug treatment interventions has a knock-on effect on drug treatment retention and completion outcome for Black drug users who have been known to find mainstream services unfavorable to their needs for the reasons the professionals stated above. As their views illustrate, "coerced engagement," "involuntary access to drug treatment," and "coerced access to treatment" can benefit Black drug users significantly if these measures are balanced fundamentally against appropriate drug service provisions and delivery. But what sort of service would be appropriate for Black drug users? The professionals' collective response to this line of question brought together a wide range of issues, which to them offered a framework for understanding and responding to drug use among Blacks. To them, an appropriate drug treatment service for Black drug users must move beyond existing

policy and practice agendas for BME drug use and drug treatment to fully accommodate drug use among Blacks within wider social and historical contexts.

### **Social Context: Socioeconomic Deprivation, Crime, and Criminal Justice**

According to the Black professionals, various types of drugs are used in the Black community; however, crack and cannabis are the most popular, with the former posing the most threat. Their observation coincides with Home Office (2002b) concern about the damaging effect of primary crack use on the African-Caribbean community. This community, the Home Office notes, is “more likely to be located in the poorest and most deprived inner city neighborhoods where crack houses tend to be found” (2002b, p. 10). This association between drug use and areas of socioeconomic deprivation is not unfamiliar, as demonstrated in the discursive responses to the 1980’s heroin epidemic.

This link was apparently made in the professionals’ understanding of the use of crack in the Black community. According to them, Black localities suffer severe poverty in the forms of “unemployment,” “low income,” “insufficient/poor housing,” “lack of/limited educational facilities,” “limited number of businesses owned by Black people,” “lack of/limited community services,” “limited care facilities for the elderly,” and “limited recreational facilities for young people.” In the midst of these instances of area indicators of socioeconomic deprivation in the Black community, the professionals located criminal activities, notably “drug dealing and use,” “drug-/alcohol-related crime,” “gun crime,” and “mobile phone thefts.” The professionals’ analysis of Black localities invokes the Chicago School’s ecological approach to the comprehension of crime; herein crime is commonly found in areas characterized by transient populations and plagued by social ills (Shaw & McKay, 1942). These areas—referred to as “zone in transition”—experience social disorganization, a concept Elliott and Merrill define as “a breakdown in the equilibrium of forces, a decay in the social structure, so that old habits and forms of social control no longer function effectively” (1934, p. 20). The combination of the ecological factor and social disorganization is encapsulated in the professionals’ views that the ecological concentration of Black people in disadvantaged residential areas amounts to structural barriers (e.g., limited availability of good educational facilities and consequently limited educational attainment) and the resultant adaptation to crime—all of which render the protective mechanisms of social organization difficult to implement. The following statement demonstrates the professionals’ recognition of the relationship between the Black community, crime, and social disorganization:

“Far more young Black people are using class ‘A’ drugs than many years before, and more Black people are selling drugs to young Black

people in their own community, with the knock-on effect of a high crime rate in the Black community. The rate of Black-on-Black crime is soaring. Young people are carrying illegal weapons, and there is lack of respect amongst young people, thus rendering it difficult for parents to exercise control over their children.”

The professionals identified Black parental and community controls as crucial primary social controls for addressing part of the social problems in the Black community, particularly among Black youths.

There was a general agreement that the Black community experiences “family and relationship breakdown,” “breakdown of extended family system,” “loss of traditional and family values,” and “lack of strong community cohesion.” These elements of social disorganization were crucially correlated with two related factors identified as a cause for concern in the Black community. These were “one-parent families” and “father absenteeism in families.” Existing literature gives credence to these concerns. Black families are known to make up the highest percentage of lone-parent households in the United Kingdom (Office for National Statistics [ONS], 2005); more than half of Black families with dependent children are headed by a single parent (ONS, 2002; 2005); and Black men are more likely to cohabit than be married and, like single fathers in general, are likely to lose parental involvement once their relationship with the female partner is over (Speak, Cameron, & Gilroy, 1997). Related to these are findings that show a strong relationship between the two-parent family, father involvement, and socioeconomic advantage and child/youth social inclusion (Flouri, 2005) and findings that show that children from lone-mother families fare worse in relation to socioeconomic deprivation and social exclusion than their counterparts in two-parent families (O’Neil, 2002).

From a criminological point of view, references have been made to the supposed failure of the Black family to socialize their children adequately due principally to the high numbers of female-headed, single-parent families in the Black community, which produces Black youth criminality (Cashmore & Troyna, 1982; Agozino, 1997). In light of such family structure and its consequence on the wider Black community, the Black professionals claimed that young Black people face “a lack of direction in part due to a lack of positive role models.” They also noted the following: “An adverse effect of this on the community is high crime, antisocial behaviour, continual social exclusion, and a strong sense of fear and concerns of increasing drug use and crime”; and “Division in the Black community is illustrated by Black-on-Black crime.”

Juxtaposed with these observations were the professionals’ concerns about the role of “popular culture” on Black youth. They expressed a causal relationship between



popular culture and its promotion of material wealth and the involvement of young Black males in crime, particularly in relation to drugs and guns—a situation that they stated “causes conflicts between first and second generations.” While they recognized the influence popular culture might have on young people in general, they stated that it was more likely to affect young Black people negatively given the adverse experiences of socioeconomic deprivation in the Black community. According to the ONS (2002; 2005), unemployment rates for Africans and African-Caribbeans are approximately three times the rate of their White British counterparts; Black households are by far more likely to live on low incomes than White households; and in 2002 Black pupils achieved the lowest levels of GCSE grades A–C in England.

In a climate of popular cultural emphasis on material possessions amid restricted conventional routes to material success—consistent with Robert Merton’s (1938) notions of “cultural goal” and “institutional means” to achieve the cultural goal—Black people are likely to resort to crime. Merton recognizes the special position of Black people in his “strain” theory when he states that while African-Americans are committed to the American dream of economic success, they are also aware that they, unlike their lower class White counterparts, are restricted in terms of access to the legitimate avenues toward the American dream. Consequently, their aspirations are lowered toward lower levels of success—a scenario that contributes to strain, which ultimately leads some of them to “innovate” by engaging in economic-oriented criminal activity or “retreat” by alienating themselves from societal cultural goal and institutional means through escapist measures such as chronic drug and alcohol use. The “retreatist” approach to social strain is captured by the Black professionals’ claim that “social problems such as poverty and other forms of socioeconomic deprivation cause and exacerbate drug use.” As already indicated, the professionals’ assessment of the Black community and socioeconomic deprivation embraces the “innovatist” response to strain.

There are indications that the professionals’ understandings contained inculcated elements of the “blaming the victim” approach (Ryan, 1976) as illustrated in their critical review of the Black family and community where “healing Black men,” “addressing teenage pregnancy/births,” and “encouraging our children to be submissive at school” pointed to what they viewed as “the need for the Black community to take more responsibility in initiating positive change within the community.” Nevertheless, they did not lose sight of the relationship between Black socioeconomic deprivation and wider social structural forces—seemingly beyond the control of the Black community—that produce socioeconomic inequality and can lead invariably to criminality and subsequent encounters with the criminal justice system. Herein, the professionals prioritized racial discrimination as a key variable that works to the disadvantage of Black people at various

influential institutions. They argued that as a result of racially based injustice, Blacks have a high unemployment rate, and those who are employed are found mostly in unskilled and semi-skilled employment. They are also found in poorer quality and more overcrowded housing conditions in worse inner city localities, which are also worst served by the education system, thus introducing an element of educational disadvantage.

The workings of racial discrimination on the socioeconomic circumstances of the Black community are well acknowledged in existing literature (see, for instance, Brown, 1984; Pilkington, 2003). Among the professionals, words and statements such as “racial discrimination,” “institutional racism,” “negative stereotyping,” “institutionalized racism within services,” and “not empowered to challenge institutional racism” signified their concerns about how racial discrimination and stereotyping permeate societal institutions within and beyond education, employment, and housing, and their implications on the socioeconomic well-being of the Black community. With particular reference to the media, the Black professionals felt that

The overall popular perception of the Black community is very negative; for example, young Black men (Hoodies) are far more likely to be associated with violence, gangs, crime, and drugs in the community. “Bung Bung” (Crack), “Flash” (BMW), and fraud (credit card) are further examples of negative portrayals. And as a result of this, Black men tend to have low educational attainment and are less likely to gain employment.

Furthermore, relationships between the Black community and the criminal justice system featured significantly in the professionals’ narratives of the place of racial discrimination in the lives of Blacks. References were made to “police harassment” especially with regards to “stop and search and arrests,” and the “overrepresentation of Black people in prison establishments.” These concerns are synonymous with statistical evidence, which have continually shown that Blacks are disproportionately represented in stop and arrest figures as well as in penal institutions (see, for instance, Home Office, 2006). The overrepresentation of Blacks in crime figures is not confined to the adult population but also extends to young Blacks who come under the auspices of the youth justice system (Youth Justice Board, 2003).

Much of the professionals’ concern around Black community-criminal justice relations focused on Black males and the ramifications of their incarceration on the well-being of Black families and the wider Black community. In their views, Black male incarceration contributes to the situation of Black father absence—already noted above. The consequences of this scenario for Black families have been noted in research studies, notably U.S.-based. For example, Miller (2003) argues that the massive incarceration of

African-American males not only affects them negatively “emotionally, socially, and relationally” but also affects their spouses’ emotional, psychological, social, and financial well-being. Dependent children of the incarcerated men experience similar effects: a sizeable number are raised in one-parent families where the unconventional family setup is often merged with high unemployment rates, low income, substandard housing, educational underachievement, and poverty.

In a nutshell, the views held by the Black professionals manifested a vicious cycle of circumstances through which to understand drug use among Blacks within its narrow and broader frameworks. Their analyses narrated how socioeconomic deprivation and racism forge the links between race, poverty, marginalization, drug use, crime, and criminal justice. For a deeper understanding of their various narratives, the professionals took steps back through history in search of solutions to the concerns raised.

### **Historical Context: Slavery and Its Aftermath**

Situating drug use among Blacks and drug treatment provisions within a historical context represented what the training course described as a “journey of exploration, which encapsulated the past” in order to relate to the present and the future. The “journey of exploration” was meant to serve as a fundamental tool for assessing the background purpose of the training course with a view to construct a positive way forward to addressing drug use among Blacks. Statements such as “to gain deeper understanding of the difficulties that Black drug users face when accessing services within the given structures available,” “to learn how I can engage the Black community to use the services that are provided,” “how to get the attention of the Black community to make good use of services,” “why young people start to misuse and deal drugs,” “the reasons behind the Black community for their misuse of substances,” and “why drugs, youths, and gangs” instance the general framework of questions that the Black professionals wanted answers to.

Their responses to such questions amounted to the range of analyses described above under the two preceding headings. In addition, those narratives—which were seemingly presented as secondary causes of or correlates with drug use among Blacks—were viewed as offshoots of what the professionals considered to be a deeper historical experience with its origins in slavery and which now surfaces in what was described in the training course as “post-slavery trauma.” With reference to the African-Caribbean community, coming to grips with drug use and other social problems in this community requires addressing the negative ramifications of slavery, which to the professionals constitute the catalyst that has given rise to the social and psychological strain and the consequent social ills (see Agnew, 1992)<sup>4</sup> the African-Caribbean community experiences.

In the discussions, the focus of attention was the loss of African cultural heritage among generations of African-Caribbeans as a result of slavery and its destruction of African values, customs, and traditions through ideological, economic, and physical controls of African slaves during the period of slavery. The professionals noted that centuries after the abolition of the slave trade and colonialism, the myth of Black inferiority that was developed to justify the subjection of Africans to slave labor (Walvin, 1971, 1973; Fryer, 1984) and the subsequent colonization of countries in the Caribbean and Africa have continued to surface in the experiences of African-Caribbeans after their post-1945 immigration into Britain. In their observation, the negative language that was and is still used to describe people of African descent affects how they view themselves. This, they believe, culminates in a range of characteristics found within what they termed “Black British culture.” These include “negativity,” “loss of identity,” “lack of self-respect,” “individualism,” “betrayal,” “distrust,” “feeling of self-worthlessness and hopelessness,” “feeling patronized,” “feeling of inferiority to Whites,” “internalized prejudices,” “alienation,” and “anger.” The Black professionals added, “As a result of negative portrayals, the Black community does not feel valued as members of the wider community . . . they feel alienated.”

Tatum (1994, p. 38) defines alienation as “a feeling of psychological deprivation arising from the belief that one is not a part of society and that the values of a nation are not congruent with the individual’s own orientation.” Although Tatum’s definition arises from her analysis of the colonial model in interpretations of race and crime, it captures the thoughts professionals expressed on the characteristics of “Black British culture.” Included in Tatum’s five typologies of alienation are “self alienation,” “alienation against significant others (or racial group),” and “alienation against the general others.” The concept of “self alienation” is relevant to the professionals’ observations about the negative feelings of self among African-Caribbeans, which reveal themselves in various damaging forms, of which drug use is one. The professionals’ concerns about “Black-on-Black crime” and “lack of unity” in the Black community exemplify Tatum’s notion of “alienation against significant others (or racial group),” while anger, frustration, and resentment expressed toward the wider society—for example, in the form of violence—signifies “alienation against the general others.” As U.S.-based literature with reference to African-Americans acknowledges, alienation produces the sort of emotions and negative relationships identified above (Jeff, 1981; Wilson, 1990).

From the professionals’ standpoint, to address the feelings of alienation in the African-Caribbean community and the consequent negative actions that emerge as a result of such feelings requires re-discovering and re-engaging this community with their African cultural heritage. To this effect the training course introduced the concept of

“African-centered Framework” as a problem-solving approach to comprehending and tackling forms of strain, social ills, and the related problem of drug use in the Black community. Among the professionals, there was a lack or limited awareness of the “African-centered Framework” due to their limited knowledge of African history, culture, and philosophy. In effect, the training course allowed the professionals to explore what being African represented by examining the origins of their current beliefs about themselves within a historical realm of the African experience of slavery in particular. There was evidence among the professionals that their views were often not heard or understood in their work environments, and as such they also experienced feelings of isolation and a lack of confidence to advocate on behalf of the needs of their Black clients. Their exposure to what was referred to as “Eurocentric training and approaches” has served as a “comfort zone” from where some of them have exhibited “internalized racism,” and, like their White counterparts, have expressed “fear of Black clients” and “negative stereotyping of Black clients.” This scenario coincides with Miller’s view that

. . . subordinates absorb a large part of the untruths created by the dominants; there are a great many Blacks who feel inferior to Whites . . . This internalization of dominant beliefs is more likely to occur if there are few alternative concepts at hand (2004, p. 115).

It is also more likely that this scenario would occur among African-Caribbeans than among their African counterparts for the reasons Hiro outlines (1992, 65):

Unlike the Afro-Caribbean, the West African did not undergo a traumatic uprooting nor did he suffer the indignity of slavery. Hence he had not developed the feeling of ‘intimate enmity’ towards the British the Afro-Caribbean had. He did not suffer from the anxiety and neurosis about his colour that was part of the Afro-Caribbean subconscious. He did not wish to be White, nor was he a product of a ‘White-based’ society . . . He did not suffer from self-contempt, nor did he wish to run away from his past. Quite the contrary. West Africans were rooted in their past and their own socio-cultural tradition.

Through the exploration of the “African-centered” paradigm, the professionals were offered an alternative approach to re-engage with their African racial identity, and this allowed them to question their own self-identity and how it influenced how they engaged their Black clients. In line with the statements, “I want to understand myself in terms of identity” and “I want to gain an understanding of self,” the professionals agreed that they needed to understand who they were before they could work effectively with Black clients.

The “African-centered” approach purports to embrace African cultural perspectives in various spheres of the Black community, for example, in relation to the traditional family structure and its extended system, the role and responsibility of Black males in the family and the wider community, and community informal social control mechanisms. Ultimately, it aims to, among other goals, “break down stigma,” address the “historical journey of slavery which has amounted to fear of being institutionalized in mental health services and fear of losing children to social services,” tackle “fear of attracting stigma” and “cultural shame and denial of a problem due to fear of labeling,” and “deal with stereotyping and internalized prejudice.” An expected outcome is to build a “positive racial identity” and a “healthy self-ideal, self-image, self-esteem, and mindset” for the purpose of embracing and maintaining a commitment to conventional endeavors.

### **Concluding Comments**

While the key aim of the training course was to examine drug use and drug treatment provisions and delivery in the Black community, it was based on the sponsoring London borough’s DAAT’s strategic framework for local interagency partnerships and its implications for tackling drug misuse in BME communities. On a wider level, the Black professionals’ engagement with the training course invariably underlined the London borough’s partnerships and strategic objectives to strengthen differing communities in order to create a safer community in line with the borough’s Crime and Disorder strategy. Some of the key concerns the Crime and Disorder strategy outlines relate to the effects of serious and violent crime (such as gun and drug-related crime) on the Black community and how to engage more effectively with BME communities in addressing such crimes in their communities. Within the realm of local partnerships, the training course on drug misuse also provided a platform for the professionals to link to the borough’s objective to “strengthen communities” in order to tackle serious and violent crime.

From the standpoint of the professionals, strengthening Black communities entailed seeking greater understanding of the circumstances of this community by reflecting on wider socio-historical issues of disadvantage and marginalization the community experiences. Their views embodied aspects of the notion of “social exclusion.” Social exclusion, according to the Centre for Economic and Social Inclusion (2008), relates to isolation from mainstream social, economic, and cultural life as a result of the negative ramifications of multiple forms of disadvantage such as poverty, unemployment, educational underachievement, lack of educational qualifications, low skills, substandard housing, family disruption/breakdown, and high-crime environments. Causal influences of social exclusion are nevertheless wide-ranging and can be interrelated (Hills, Le Grand, &

Piachaud, 2002) as exemplified in the professionals' reference to slavery in their assessment of the Black community's contemporary experiences of social disadvantage.

The Black professionals' dedicated exploration encapsulated constructive ways to address the whole issue of social exclusion—of which problem drug use forms a part—in the Black community. For them, the “African-centered” strategy is a key way to address at least some of the difficulties in engaging Black drug users in drug treatment and also related wider problems in the Black community. The credence given to the “African-centered” approach drew strength from the professionals' own observations and acknowledgements of certain limitations of the “Black British culture.” From their perspective, to illustrate this approach in practice would require a drug treatment service modelled on an “African-centered Framework,” whereby “models of care would be adapted with more cultural specific models from around the African continent.” The practical implication of this approach as noted by the professionals is, broadly speaking, demonstrated in three related areas:

1. The framework will seek “self-ownership of a drug treatment service, developed for the community and by the community.” A drug treatment service that reflects the community that it serves in terms of sharing common values and principles will introduce a “sense of community ownership.” The drug treatment service will draw professionals from the community, and they will work in collaboration with the community to promote community cohesion. To access primarily “hard-to-reach” sections of the drug using population, the service and its framework will be widely publicized through a range of channels such as the media, local cultural events, social gatherings, flyers in public, private, and voluntary sector buildings, door-to-door leafleting, and help-lines.
2. The framework will initiate and facilitate a family-oriented drug treatment service. Herein, a drug treatment package for Black problem drug users will need to reflect the Black community as a whole by principally placing emphasis on the family and its support system. Through a family-oriented drug treatment service, issues such as the importance of family structure and family units that give support to the extended family system, the role and responsibility of Black men in the family and community, the negative implications of single-parenting, and the educational needs of young Black people will be addressed through the process of re-discovery and re-engagement with the African cultural heritage.
3. The framework advocates a self-owned drug treatment service that will deliver flexible “culturally appropriate therapeutic interventions” to meet all forms and needs of drug misuse such as dual diagnosis, crack- or cannabis-induced

psychosis, and sexual health. The interventions will center on an Afrocentric model involving individual and group sessions that explore past and present experiences of the Black community with a view to constructing a positive belief and attitude toward the future.

Whether the drug treatment service described above was to be pursued was not clearly determined by the professionals who presented funding limitations as the key obstacle, despite having the vision to seek funding from various avenues such as statutory funders, the National Lottery, and private investors. However, the Black professionals seemed to feel a sense of achievement inasmuch as they expressed immediate and long-term action plans for their various work environments based on what they learned. In sum they agreed to do the following:

Campaign for a Rights-based approach, which would involve more consultation with service users around what they want; it is not just about needs”;

“Promote awareness of what we have covered and bringing what we know to the forefront”;

“Increase self-awareness—being responsible for our own actions”;

“Write a session around African-centeredness, some of which will be implemented in service delivery”;

“Take professional information to share with colleagues in order to break down stereotypes among colleagues; offer training sessions for colleagues not to judge Black clients on face value; educate colleagues to be better practitioners when working with Black clients”;

“Keep pushing to break down barriers so people open up their thinking.”

There was a consensus that their White professional counterparts would benefit a great deal from such a training course in light of their managerial and frontline dealings with the Black community. For the Black professionals, what they learned provided worthwhile information for policy and practice.

### Notes

1. Refers to persons of African descent.

2. Data from the 2001 census show that Blacks make up 24 percent of the total population of the borough, which stands at approximately 250,000; Blacks make up 10



percent of the London population of more than 7 million. The borough is one of London's high-crime boroughs, and drug misuse constitutes a major problem in the borough.

3. Counselling, Assessment, Referral, Advice, and Throughcare

4. Robert Agnew's General Strain Theory sheds light on how psychological strain (for example, perceptions or experiences of racial discrimination and injustice) can lead to a deviant adaptation.

### References

- Agnew, R. (1992). Foundation for a general strain theory of crime and delinquency. *Criminology*, 30, 47–87.
- Agozino, B. (1997). *Black women and the criminal justice system*. Aldershot, England: Ashgate.
- Awiah, J., Butt, S., & Dorn, N. (1990). "The last place I would go": Black people and drug services in Britain. *Druglink*, 5(5), 14–15.
- Awiah, J., Butt, S., & Dorn, N. (1992). *Race, gender, and drug services*. ISDD Research Monograph 6. London: Institute for the Study of Drug Dependence.
- Brown, C. (1984). *Black and White Britain*. London: Heinemann.
- Burr, A. (1987). Chasing the dragon: Heroin use, delinquency, and crime in the context of South London culture. *British Journal of Criminology*, 27(4).
- Cashmore, E., & Troyna, B. (Eds.). (1982). *Black youth in crisis*. London: George Allen & Unwin.
- Centre for Economic and Social Exclusion. (2008). Home page. Retrieved April 13, 2008, from <http://www.cesi.org.uk/>
- Chantler, K. (1998). *An analysis of present drug service delivery to black communities in Greater Manchester* (Project Report March 1998). Manchester, England: Greater Manchester Drug Action Team and Black Drug Workers Forum.
- Elliott, M., & Merrill, F. (1934). *Social disorganization*. New York: Harper & Brothers.
- Flouri, E. (2005). *Fathering and child outcomes*. Chichester, England: John Wiley.
- Fryer, P. (1984). *Staying power*. London: Pluto.
- Hills, J., Le Grand, J., & Piachaud, D. (2002). *Understanding social exclusion*. Oxford, England: Oxford University Press.

Kalunta-Crumpton

Hiro, D. (1992). *Black British White British*. London: Paladin.

Home Office. (1998). *Tackling drugs to build a better Britain: The government's ten-year strategy for tackling drugs misuse*. London: HMSO. Retrieved April 13, 2008, from Department of Health Web site: <http://www.archive.official-documents.co.uk/document/cm39/3945/3945.htm>

Home Office. (2002a). *Updated drug strategy 2002*. London: HMSO. Retrieved April 13, 2008, from Home Office Web site: <http://drugs.homeoffice.gov.uk/publication-search/drug-strategy/updated-drug-strategy-2002.pdf>

Home Office. (2002b). *Tackling crack cocaine: A national plan*. London: HMSO. Retrieved April 13, 2008, from Home Office Web site: <http://www.homeoffice.gov.uk/materials/au-crack-main.pdf>

Home Office. (2003). *The substance misuse needs of minority prisoner groups: Women, young offenders and ethnic minorities*. Development and Practice Report No. 8. London: HMSO. Retrieved April 13, 2008, from Home Office Web site: <http://www.homeoffice.gov.uk/rds/pdfs2/dpr8.pdf>

Home Office. (2004). *Tackling drugs. Changing lives: Turning strategy into reality* [Drug strategy facts booklet]. London: HMSO.

Home Office. (2006). *Statistics on race and the criminal justice system—2005*. London: HMSO. Retrieved April 13, 2008, from Home Office Web site: <http://www.homeoffice.gov.uk/rds/pdfs06/s95race05.pdf>

Hough, M., Clancy, A., McSweeney, T., & Turnbull, P. J. (2003). *The impact of drug testing and treatment orders on offending: Two-year reconviction results* (Findings 184). London: Home Office. Retrieved April 13, 2008, from Home Office Web site: <http://www.homeoffice.gov.uk/rds/pdfs2/r184.pdf>

Jeff, M. (1981). Why Black-on-Black homicide? *The Urban League Review*, 6, 25–34.

May, C. (2005). *The CARAT drug service in prisons: Findings from the research database* (Findings 262). London: Home Office. Retrieved April 13, 2008, from Home Office Web site: <http://www.homeoffice.gov.uk/rds/pdfs05/r262.pdf>

Merton, R. (1938). Social structure and anomie. *American Sociological Review*, 3, 672–682.

Miller, J. (2004). Domination and subordination. In P. Rothenberg (Ed.), *Race, class, and gender in the United States* (6<sup>th</sup> ed.). New York: Worth.

Miller, R. (2003). Various implications of the 'race to incarcerate' on incarcerated African American men and their families. In O. Harris & R. Miller (Eds.), *Impacts of incarceration on the African American family*. New Brunswick, NJ: Transaction.

40 *Professional Issues in Criminal Justice* Vol 3(3), 2008

- Mirza, H., Pearson, G., & Philips, S. (1991). *Drugs, people, and services in Lewisham* (Final Report of the Drug Information Project). London: Goldsmiths College, University of London.
- Murji, K. (1998). *Policing drugs*. Aldershot, England: Ashgate.
- National Treatment Agency. (2002). *Commissioning cocaine/crack treatment*. London: NTA.
- Office for National Statistics. (2002). *Social focus in brief: Ethnicity 2002*. London: Author.
- Office for National Statistics. (2005). *Focus on ethnicity and identity*. London: Author.
- O'Neil, R. (2002). *Experiments in living the fatherless family*. London: The Institute for the Study of Civil Society.
- Pearson, G. (1987). *The new heroin users*. Oxford, England: Basil Blackwell.
- Pearson, G. (1992). Drug problems and criminal justice policy. *Contemporary Drug Problems*, 19, 279–301.
- Pearson, G., & Patel, K. (1998). Drugs, deprivation, and ethnicity: Outreach Among Asian drug users in a Northern English city. *Journal of Drug Issues*, 28(1).
- Perera, J., Power, R., & Gibson, N. (1997). *Assessing the needs of Black and minority ethnic drug users: A preliminary report*. Watford, England: Watford Drug Education Forum.
- Pilkington, A. (2003). *Racial disadvantage and ethnic diversity in Britain*. Hampshire, England: Palgrave.
- Ryan, W. (1976). *Blaming the victim*. New York: Vintage Books.
- Sangster, D., Shiner, M., Patel, K., & Sheikh, N. (2001). *Delivering drug services to Black and minority ethnic communities*. London: Home Office.
- Shaw, C., & McKay, H. (1942). *Juvenile delinquency in urban areas*. Chicago, IL: University of Chicago Press.
- Sondhi, A., O'Shea, J., & Williams, T. (2002). *Arrest referral: Emerging findings from the national monitoring and evaluation programme* (DPAS Briefing Paper 18). London: Home Office. Retrieved April 13, 2008, from [http://drugs.homeoffice.gov.uk/publication-search/dpas/DPAS\\_EM\\_Region\\_Business\\_PL1.pdf?view=Binary](http://drugs.homeoffice.gov.uk/publication-search/dpas/DPAS_EM_Region_Business_PL1.pdf?view=Binary)
- Southwell, M. (1995). Shape up or pay up. *Druglink*, 10(1).

Kalunta-Crumpton

Speak, S., Cameron, S., & Gilroy, R. (1997). *Young single fathers: Participation in fatherhood—barriers and bridges*. London: Family Policy Centre.

Tatum, B. (1994). The colonial model as a theoretical explanation of crime and delinquency. In A. Sutton, (Ed.), *African perspectives on crime causation, criminal justice administration and prevention*. Engelwood, CO: Sulton Books.

Turnbull, P., McSweeney, T., Webster, R., Edmunds, M., & Hough, M. (2000). *Drug treatment and testing orders: Final evaluation*. Home Office Research Study 212. London: Home Office.

Turning Point. (2005). *The crack report*. London: Author.

Walvin, J. (1971). *The Black presence*. London: Orbach & Chambers.

Walvin, J. (1973). *Black and White*. London: Penguin.

Wilson, A. (1990). *Black-on-Black violence*. New York: Afrikan World Infosystems.

Youth Justice Board. (2003). *Youth Justice Annual Statistics 2002/3*. London: Author.

# Crimes of Illegal Immigrants

**Michael T. Eskey**

Immigration in the United State has changed considerably over the last 150 years. The major congressional acts have resulted in an increase of immigrants entering the United States legally. The 112<sup>th</sup> Congress heavily debated the key immigration issues, including the number of legal immigrants allowed to enter the country annually, the granting of legal status to millions of illegal immigrants that come forward, the issuance of fines to employers of illegal immigrants, and a guest worker program. The debate continues over the incidence of crime committed by illegal immigrants and the subsequent additional burden on the criminal justice and social systems of the United States. This paper provides both a review of many of the crime-specific issues related to illegal immigration as well as the results of a survey the author conducted by using crime-related, illegal immigration-related-issue responses from college professors in the social science, public administration, and political science disciplines. The author compared the faculty responses with the views of the general public to formulate a consensus and conclusion.

In 1986, the United States Congress passed the Immigration Reform and Control Act of 1986 (8 USC 1101, 1986). The legislation was intended, among other objectives, to revise and reform the immigration laws. In an effort to reduce the number of illegal immigrants, the law criminalized the act of knowingly hiring an illegal immigrant and established fines and other penalties for those employing illegal immigrants/aliens. "Illegal alien" is the official term in legislation and the border patrol for a person who has entered the country illegally or is residing in the United States illegally after entering legally, for example, using a tourist visa and remaining after the visa expires.<sup>1</sup>

The 1986 legislation is viewed by opponents and critics of illegal immigration as a failure. Since its passage, the number of illegal aliens in the United States has grown to at least 12 million, with some estimates as high as 30 million (Rumbaut & Ewing, 2007; Camorata, 2004; Gilchrist & Corsi, 2006). Another assertion is that amnesty granted to immigrants meeting specified conditions as part of the 1986 legislation<sup>2</sup> has contributed to a quadrupling of illegal aliens in the United States (from 8 to 20 million since 1986). It is estimated that 2.7 million illegal aliens were legalized under the plan, and the current estimate of illegal aliens is more than 12 million; therefore, for each illegal alien granted amnesty under the plan, approximately four new illegal aliens have replaced him.

---

Michael T. Eskey is an associate professor of criminal justice administration at Park University in Parkville, Missouri.

The number of illegal aliens currently residing in the United States varies. The U.S. Census Bureau estimates 7.3 million illegal aliens were here in 2000, and immigration officials estimate that the illegal alien population grows by as many as 500,000 every year (FAIR, 2006/2007; Ohlemacher, 2005). According to Passel (2006), over the 10-year period of 1996 to 2005, the annual number of illegal immigrants exceeded those coming legally: 700,000 illegally compared with 610,000 legally and up to 850,000 per year from 2000 to 2005. By using the statistical residual method, Robbins (2006) estimates the number of illegal immigrants entering the U.S. annually and remaining in the US now ranges between 8 million and 20 million; however, he asserts that the 8 million mark was surpassed several years ago. The number most commonly cited is between 11 million and 12 million (Robbins, 2006).

Despite the widespread discussion and debate since the passage of the 1986 legislation, there is little majority agreement on the effects of illegal immigration on crime. A number of leading researchers in sociology, law, and crime studies, including Blumstein (2002), Schurman-Kauflin (2006), Sampson (2006, March & September-October), and Rumbaut and Ewing (2007), have conducted studies and compiled data from various regions to explore an illegal immigration and crime “hypothesis”; however, the evidence and opinions remain both mixed and controversial.

A number of researchers have compiled and analyzed data related to both illegal immigrant crime rates and incarceration rates. In 2006, Sampson examined violent acts of 3,000 males and females—White, Black, and Hispanic—between the ages of 8 and 25 years. Sampson found that first-generation immigrants were 45 percent less likely to commit violence than third-generation Americans. The key finding was that living in a neighborhood of concentrated immigrants was directly associated with lower violence (p. 5). Sampson’s findings, albeit focused on legal immigrants, stressed that first-generation Hispanic immigrants were less likely to commit violent crimes than White and Black natural-born citizens. Likewise, Rumbaut, Gonzales, Komaie, & Morgan (2006) found that U.S.-born individuals were incarcerated at four times the rate of foreign-born individuals, and the foreign-born incarceration rate was half that of White native-born individuals, and 13 times less than native-born Black persons. Similarly, Hagan and Palloni (1999) found a diminished relationship between immigrants and crime.

### **Scope of the Problem**

The true scope of the illegal alien population involvement in crime is not accurately known nor systematically calculated. More than 1,000,000 immigrants enter the United States legally each year; however, it is estimated that 850,000 enter the United States illegally each year. Many of these individuals stay in the United States after illegal entry. And

many legal immigrants “overstay” their legal immigration into the United States.<sup>3</sup> Although many would argue this point of law, all those that enter the United States illegally and those that overstay their “legal” stay are lawbreakers. And, unfortunately, a significant number of these individuals break laws, committing a large number of felonies (often violent crimes—murder, armed robbery, rape) while avoiding the law. Those who are caught may be deported or convicted and sentenced to United States prisons. Hagan and Palloni (1998) address the concern of illegal immigrant incarceration with estimates that 4 to 7 percent of the 1.5 million persons held in American jails and prisons are non-citizens, draining the system of \$1.8 to 3.5 billion annually. Further, a number of individual states incur costs in the tens and hundreds of millions of dollars to incarcerate illegal aliens in state prisons, reformatories, and local holding facilities. It was not until 1994 that appropriations for the reimbursal for states was authorized for a total of \$1.8 billion over six years for criminal justice costs associated with illegal aliens (Clark & Anderson, 2000).

Even though the overall crime rate of illegal aliens is less than that of comparative crimes and age groups—for example, U.S.-born Black males or U.S.-born White males as described above—the sheer number of crimes committed is daunting, especially in specific locations, such as cities and states. With an estimated 12 million illegal aliens living in the United States, even a 1 percent crime rate would be 120,000 crimes per year. And the number is much higher in cities and states with heavy concentrations of illegal immigrants (Pew Hispanic Center, 2006).

Joseph Farah (2006) reports that illegal aliens murder 12 Americans every day. Based on a number of sources, this estimate represents 4,380 Americans murdered annually by illegal aliens, or 25,550 since September 11, 2001 compared with 3,668 members of the U.S. military killed between September 11, 2001 and August 4, 2007. Representative Steve King (R-Iowa) reports that an additional 13 Americans are killed daily by drunk illegal alien drivers, for another annual death toll of 4,745 (Farah, 2006, p. 2), or 27,679 since September 11, 2001. Though this number is a source of contention by those who argue that the crime rate of illegal aliens is small compared with, for example, the 73,000 to 80,000 murders committed annually in the United States, the number of index crimes committed by illegal aliens is both serious and problematic to law enforcement, the courts, and the correctional system.

This paper examines the research findings of various individuals concerning criminal activity of illegal immigrants and the effectiveness of law enforcement in combatting crimes committed by illegal immigrants. The author explores and compares the perceptions of university professors and the general public regarding crime and illegal immigrants and the effectiveness of law enforcement in combatting the crimes of illegal immigrants. It is hypothesized that university professors, with somewhat more liberal

political stances and viewpoints, will provide somewhat more lenient and accepting viewpoints and reactions toward the crimes and status of illegal aliens.

### **Literature Review**

In a multiyear study, Sampson, Morenoff, and Raudenbush (2005) focused on crimes committed by immigrants and found that first-generation immigrants engaged in fewer risk behaviors than a comparison group of native non-Hispanic Whites. Harris (1999) and Bui and Thingniramol (2005) found that second-generation immigrant youths were more prone to engage in delinquency, violence, and substance abuse than were foreign-born youths. Butcher and Piehl (2005) viewed the illegal alien problem from a labor market viewpoint and determined that immigrants have very low incarceration rates compared with native-born Americans. Likewise, their findings reveal that the relative rates of immigrant institutionalization have fallen over the last three decades. A recent publication by Rumbaut et al. (2006) reports that immigration and crime are not connected. And in agreement with other similar studies, the IPC revealed that immigrant men between the ages of 18 and 39 were five times less likely to be incarcerated than their native-born counterparts in 2000. At least from the incarceration rate viewpoint, U.S.-born criminals have an incarceration rate of 3.51 percent, fully four times the rate of foreign-born inmates (0.86 percent). Key for many illegal alien opponents is the “number” in prison that are illegal, not the “percentage” nor the “rate” (Rumbaut et al., 2006).

These findings are similar to the findings of Hagan and Palloni (1998) who estimate that 4 to 7 percent of the more than 1.5 million persons held in American jails and prisons are non-citizens. While their concern is the drain of \$1.8 to \$3.15 billion annually (1998 dollars) to house these inmates, their findings provide additional support that immigrants have the lowest rates of imprisonment for criminal convictions in American society. While the “rate” of imprisonment is lower than other races, it still constitutes a considerable drain on criminal justice resources.

While the findings of researchers such as Sampson, Rumbaut and Ewing, Martinez, and others have disputed attempts by policymakers, media, and the public to connect immigration to major crime, others have disputed these findings. A study conducted in Hazelton, Pennsylvania, of 100 illegal immigrants arrested by local and state authorities in 2004 found that 73 of the 100 illegal immigrants were charged 429 times for violations ranging from traffic tickets to weapon possession (Driscoll & Langlois, 2007). In Los Angeles, McDonald (2004) found that 95 percent of all outstanding warrants for homicide target illegal aliens. A GAO briefing (2005) reports that according to a 2003 U.S. Census survey, although non-citizens account for 7.2 percent of the total U.S. population, their share of the incarcerated population that year was 12.9 percent. A finding by the



Federation for American Immigration (FAIR, 2006) concluded that while adult illegal aliens represented 2.94 percent of the total adult population of the country in 2003, the illegal alien prison population represented a bit more than 4.54 percent of the overall prison population. Therefore, deportable criminal aliens were nearly twice as likely to be incarcerated as their share of the population.

In July, 2007, 150 nationally renowned college professors sent a joint letter to the president of the United States, the members of Congress, and state governors with a strong message backed by the results of studies by independent researchers and government commissions over the past 100 years that repeatedly and consistently found that, in fact, immigrants are *less* likely to commit crimes or to be behind bars than are the native-born. The letter also validates the value of *immigrants* to the United States versus the crime threat of *illegal aliens* (*On Immigrants and Crime*, 2007). This latest affirmation by a group of our nation's scholars seemingly draws a line in the sand to the argument/hypothesis that correlates illegal immigration and violent crime. Conversely, a 2007 House Committee on Homeland Security report addressed the arrest of 1.2 million illegal aliens by Border Patrol agents in 2005. Of these, 650 were from special interest (read terror threat) countries (HCHS, 2007). The concern is that along our southern border, the threats of terrorist infiltration, drug smuggling, criminal fugitives, human smuggling, and violent gangs and cartels with unlimited resources have begun to outman and outgun our border patrol agents.

Dr. Deborah Schurman-Kauflin (2006) found rather conflicting results concerning illegal alien involvement in crime and the dangerous threat from illegal alien sex predators. The 1,500 cases she analyzed occurred over seven years (1999 to 2006) and included serial rapes, serial homicides, and child molestations committed by illegal aliens in California, Texas, Arizona, New Jersey, New York, and Florida. Schurman-Kauflin interpolated the data from 1,500 to the estimated 12,000,000 population of illegal immigrants, composed mainly of young males. The ICE reports and public records she reviewed revealed a consistent finding of sex offenders of 2 percent of illegal immigrants apprehended. "Based on this 2% figure, which is conservative, there are approximately 240,000 illegal immigrant sex offenders in the United States" (p. 1). According to Schurman-Kauflin,

This translates to 93 sex offenders and 12 serial sexual offenders coming across U.S. borders illegally per day. The 1500 offenders in this study had a total of 5,999 victims. Each sex offender averaged 4 victims. This placed the estimate for victimization numbers around 960,000 for the 88 months examined in this study (p. 1).

This startling, albeit refutable, finding raised major concerns regarding the violent crime capability of illegal aliens.

In a similar finding, MacDonald (2004) found that “[s]ome of the most violent criminals at large today are illegal aliens. Yet in cities where the crime committed by aliens is highest, the police cannot use the most obvious tool to apprehend them: their immigration status” (p. 1). MacDonald’s article focuses on Los Angeles, California, which represents the largest concentration of a foreign-born population at 9.4 million (27 percent); 2.2 million of the population are illegal residents. Gang life for many illegal aliens in cities such as Los Angeles leads to crime as the individual’s major occupation.

Once again, the number of illegal immigrants has reached an estimated 12 million or just less than 3 percent of the U. S. population. Yet, according to the FBI, between 1994 and 2005 the violent crime rate (murder, robbery, rape, and assault) fell 34.2 percent and the property crime rate (burglary, theft) dropped 26.4 percent. Cities with large immigrant and foreign-born populations, including Los Angeles, have actually experienced a downward trend in crime. If immigration—either legal or illegal—were associated with crime, one would expect crime rates to rise with the influx of illegal immigrants.

In contrast to the finding of reduced crime rates, Pennsylvania District Attorney John M. Morganeli, in a recent testimony, reported that more than 25 percent of today’s federal prison population is illegal aliens (*Clear Law Enforcement*, 2003). Though these data are not consistent nationwide, illegal aliens account for a significant percentage of felonies, burglaries, and thefts across the nation. Further, their apprehension, prosecution, and incarceration involve a significant cost. In 2004 the Federal government spent \$1.5 billion to incarcerate criminal aliens (Rubenstein, 2007–2008). The Bureau of Prison budget request for FY2008 is \$5.4 billion. The estimated 27 percent of prison populations is composed of foreign-born, non-citizens for an estimated cost of \$1.5 billion. Prison-capacity shortages allow approximately 80,000 to 100,000 illegal immigrants convicted of serious crimes to remain free. Further, the State Criminal Alien Assistance Program (SCAAP) covers less than 25 percent of the cost of confining criminally convicted illegal aliens in state and local facilities, leaving a tremendous burden on the cost of running state prisons and jails (Rubenstein, 2007–2008, p. 90). With the increasing number of illegal aliens in the United States, this deficit will continue to rise, forcing a burden on law enforcement and correctional services (Garay, 2007).

While non-criminal offenses are not the specific focus of this article, hundreds of cities across the U.S. expend hundreds of thousands of dollars defending themselves against lawsuits and other challenges to ordinances enacted to keep out illegal immigrants. In fact, state legislatures, grappling with the failure of the federal government to overhaul the immigration laws, considered 1,404 immigration measures in 2007. These measures

focused on a number of issues, including employing illegal aliens, providing housing for illegal aliens, and providing benefits for illegal aliens. There is both support and opposition for the enacted and proposed laws that affect the economy of a number of locations (Preston, 2007). In addition to their economic and social effects, the enactment of these proposed legislations will have a resounding effect on such aspects of society as employment, health services, driver's and other licenses, law enforcement, public benefits, human trafficking, and, undoubtedly, crime.

Unfortunately, much data on immigrant crime do not distinguish between legal and illegal immigrants. But an interesting, yet alarming, dynamic occurs in the analysis and prediction of crimes by illegal aliens (immigrants). As stated previously, Sampson, Morenoff, & Raudenbush (2005) found the rate of violent crimes among Mexican-Americans significantly lower than among both non-Hispanic Whites and Blacks, and the authors concluded that first-generation immigrants were less likely to commit violent crimes, a finding with which Hagan and Palloni (1999) and Martinez & Lee (2006) agree. However, when pressed for an explanation of why first-generation immigrants appear to make America safer but their influence is diluted by the crimes of second and third generations, Sampson responded that both questions represented the "\$64,000 question" (Press, 2006, pp. 4–6). The research findings suggest that crime rates will increase, both in overall number and overall rate, as the numbers of illegal immigrants increase and raise their families in the United States. If we subscribe to the finding that first-generation immigrants have a lower crime rate than the native-born population, the next question is, Is the lower crime rate of illegal aliens acceptable, especially when one might conclude that the crime rate will increase in future, larger populations?

### **Methods**

The author collected data between June 2007 and July 2007 by using a multistep process that included a survey (distributed by e-mail using Survey Share with survey link), a cover letter, and two follow-up e-mails to allow respondents off for summer break to have an opportunity to respond. Respondents were selected from the Web sites of a number of colleges and universities across the nation and comprised only full-time criminal justice, political science, and sociology professors from colleges and universities in 32 states. These 32 states included border states, as well as middle, southeastern, and northeastern states. The author summarized the data by using descriptive statistics.

### *Demographics*

More than two thirds (67.2%) of the faculty sample were criminal justice professors. Fifty-two percent described their political viewpoint as either liberal or very liberal, with 35.6

percent reporting themselves as “moderate.” Eighty-two percent of the respondents were White, 7.1 percent Black, and 6.6 percent Hispanic. Completed surveys were received from 202 college and university professors. The sample comprised 650 individuals, for a response rate of 30.9 percent.

The university faculty questionnaire in the present study consisted of 70 questions divided into six sections: Demographics (5 questions), General Immigration Issues (16 questions), English as the Official Language (8 questions), Socioeconomics Related to Illegal Immigration (18 questions), and Amnesty-related (8 questions). The questions in the author’s survey mirrored those asked in a number of national and regional surveys the following agencies and institutions conducted on the subject of immigration: Pew Research Center for the People and the Press, *Newsweek*, *New York Times*/CBS News, *LA Times*/Bloomberg, NBC News/*Wall Street Journal*, Fox News, ABC News/*Washington Post*; *USA Today*/Gallup, *Time Magazine*, Associated Press/Ipsos, Quinnipiac University, Roper ASW, and McLaughlin & Associates (for poll results, see NumberUSA.com, n.d.; Pew Hispanic Center, 2006; PollingReport.com, 2008; Quinnipiac University Polling Institute, 2006; Rasmussen Reports, 2007; RoperASW, 2007). The randomly generated surveys used samples ranging from 900 to 2,000 respondents with margins of error ranging from 2.3 to 3.5 (Table 1). The national surveys were completed between March, 2006, and April, 2007 (NumberUSA.com, n.d.; PollingReport.com, 2008; Quinnipiac University Polling Institute, 2006; Rasmussen Reports, 2007; RoperASW, 2007).

Tables 2 and 3 compare a sample of the survey questions to which the general public and the university faculty responded. Interestingly, 41 percent of the university faculty respondents reported that they were not familiar with either of two recent bills related to immigration introduced in the Senate—S.1368 and S. 1639.

The Comprehensive Immigration Reform Act of 2007 (S. 1368) was a bill providing legal status and an opportunity for legal citizenship for the 12 million illegal immigrants/aliens currently residing in the United States. The national controversy over the bill resulted in failure to agree on a compromise or a solution. Similarly, S. 1639 failed to pass. Immigration Bill S. 1639 created a new class of visa, the “Z visa,” that would have given everyone already living in the U.S. the capability to remain in the U.S. for the rest of their life, and the “Y” visa, which would have created a temporary guest worker program. Some opponents of the bill rejected the amnesty aspects while other opponents rejected the limitations of family reunification that were available only to “nuclear” family members of U.S. citizens. Major opponents included labor unions and human rights and Hispanic organizations. There was confusion over the bill’s contents and controversy over the complexity of enforcing the bill. These bills were attempts to compromise on and combine three previously failed immigration bills: the Secure America Orderly Act (S. 1058)—May,

2005; the Comprehensive and Immigration Reform Act of 2005 (S. 1438)—July, 2005; and the Comprehensive Immigration Reform Act of 2006 (S. 2611)—May, 2006. Though neither of these Senate bills passed, we may be assured that the immigration issue will remain a priority, and legislation of some sort will be passed in the near future.

Table 1. *Public Opinion Polls*

Survey	Date	Nationwide Sample
Pew Research Center for the People and the Press	May 2006	N = 1,000 adults, MoE $\pm$ 3.5
<i>Newsweek Magazine</i> Poll	May 2006	N = 1,007 adults, MoE $\pm$ 3.0
<i>New York Times</i> /CBS News Poll	May 2006	N = 1,241 adults, MoE $\pm$ 3.0
<i>Los Angeles Times</i> / Bloomberg Poll	April 2006	N = 1,399 registered voters, MoE $\pm$ 3.0
NBC News/ <i>Wall Street Journal</i> Poll	April 2006	N = 900 registered voters, MoE $\pm$ 3.1
Fox News/Opinion Dynamics Poll	April 2006	N = 900 registered voters, MoE $\pm$ 3.0
Pew Research Center for the People and the Press	April 2006	N = 1,501 adults, MoE $\pm$ 3.0
<i>USA Today</i> /Gallup Poll	April 2006	N = 1,004 adults, MoE $\pm$ 3.0
ABC News/ <i>Washington Post</i> Poll	April 2006	N = 1,027 adults, MoE $\pm$ 3.0
<i>Time Magazine</i> Poll	March 2006	N=1,005 adults, MoE $\pm$ 3.0
Associated Press/Ipsos Poll	March 2006	N=1,003 adults, MoE $\pm$ 3.1
Quinnipiac University Poll	February 2006	N=1,892 registered voters, MoE $\pm$ 2.3
Pew Research Center for the People and the Press	March 2006	N=2,000 adults, MoE $\pm$ 2.5
Roper ASW	April 2007	N = 1,004 adults, MoE $\pm$ 3.0
McLaughlin & Associates	April 2007	N=1,000 adults, MoE $\pm$ 3.1 202 Latino voters, MoE $\pm$ 5.6 –

*Note.* Sources: NumberUSA.com, Pew Hispanic Center, PollingReport.com, Quinnipiac University Polling Institute, Rasmussen Reports, Roper ASW.

–McLaughlin & Associates conducted a national survey of 1,000 likely general election voters between April 12 & 15, 2007. A subsequent over-sample of 202 Latino voters was conducted by bilingual interviewers. The survey of 1,000 likely general election voters has an accuracy of  $\pm$  3.1% at 95% confidence interval, while the sub-sample of Latino voters had an accuracy of  $\pm$  5.6% at a 95% confidence interval.

A hypothesis of the study is that the viewpoints of criminal justice, sociology, and other social science professors differ from those of the general public concerning law enforcement issues related to illegal aliens, with the somewhat more liberal political stances and viewpoints of college professors resulting in more lenient and accepting viewpoints and reactions toward the crimes and status of illegal aliens. The author compared the responses of the college professors in the survey with responses of respondents in 15 nationwide surveys conducted by various, reputable polling agencies (see Table 1). The individual responses from the 15 nationwide surveys were not available; thus, only aggregate comparisons are available from the surveys. The author compared these with the aggregate responses of the university faculty members to the same or very similar questions.

### Results

Overall, there was agreement among all poll respondents that it is important for the government to improve its enforcement of borders and reduce illegal immigration. Table 2 illustrates the general agreement among poll respondents about improved enforcement of U.S. borders; however, it also shows a significant difference in agreement with a need for increasing the number of border agents to 18,000. While only 4 in 10 university faculty respondents agreed with this increase, more than 7 in 10 respondents in the Quinnipiac, McLaughlin, and Fox surveys agreed with this increase, and more than 6 in 10 respondents in the *New York Times*/CBS News Poll agreed with a need to increase the number of border agents to 18,000. Additionally, in the same Fox poll, 63 percent of the respondents favored using thousands of National Guard troops temporarily to help border agents along the Mexican border.

Legislation was passed that would build a 700-mile fence and increase security along the Mexico-U.S. border. In the Quinnipiac University Poll (2006), 71 percent agreed with this legislation and thought Congress needed to do more to deal with illegal immigrants entering the country. An NBC News/*Wall Street Journal* poll found 44 percent of respondents strongly favoring and 21 percent somewhat favoring increasing border security by building a fence along part of the U.S. border with Mexico and hiring and training more border patrol agents. However, in a CNN Poll conducted by the Opinion Research Corporation in September 2006, a majority of only 54 percent favored building a fence along 700 miles of border with Mexico (NumbersUSA.com, n.d.), a figure that was very similar to the survey results of university faculty.

More than 65 percent of responding university professors agreed that businesses that hire illegal aliens should be fined or otherwise punished. This coincided with the responses of adults to this question in the Quinnipiac University Poll; however, 75 percent of the

respondents from the McLaughlin & Associates Poll and 74 percent of respondents in the NBC News/*Wall Street Journal* poll shared this response (Table 3).

Table 2. Responses of University Faculty to Questions About Border Enforcement Needs

Survey Question	Percentage of Respondents That Agree or Strongly Agree					
	University Faculty	Quinnipiac University Poll	McLaughlin & Assoc.	NBC News/ <i>Wall Street Journal</i> Poll	<i>New York Times</i> /CBS News Poll	Fox News/ <i>Opinion Dynamics</i> Poll
It is important that the federal government improve its enforcement of the borders and reduce illegal immigration.	65.5	65	75	74		
The U.S. needs to hire 6,000 new border patrol agents to bring the total force to 18,000 agents.	43	71	70		62	79

Table 3. Responses of University Faculty to Questions About Fines or Punishment for Employers of Illegal Aliens

Survey Question	Percentage of Respondents That Agree or Strongly Agree			
	University Faculty	Quinnipiac University Poll	McLaughlin & Associates	NBC News/ <i>Wall Street Journal</i> Poll
Businesses that employ illegal immigrants should be severely fined or punished.	65.5	65	75	74

Likewise, Table 4 shows that approximately two thirds of university faculty respondents (68%), Quinnipiac University poll respondents (65%), CNN poll respondents (66%), and Roper ASW poll respondents (68%) agreed that the federal government should strictly enforce present laws calling for criminal penalties for employers who knowingly hire illegal immigrants. Additionally, slightly more than three-fourths (76.6%) of the university faculty respondents believed companies that hire undocumented immigrants should receive more blame for illegal immigration.

Table 4. *Responses of University Faculty to Questions About Criminal Penalties for Employers of Illegal Aliens*

Survey Question	Percentage of Respondents That Agree or Strongly Agree			
	University Faculty	Quinnipiac University Poll	CNN Poll –	Roper ASW Poll
Laws calling for criminal penalties for employers that knowingly hire illegal immigrants should be strictly enforced.	68	65	66	68

– Source: Pew Hispanic Center (2006).

University faculty revealed a more liberal stance on the enactment of a new immigration policy of “zero tolerance” toward illegal immigrants where any illegal immigrant in the United States would be deported to their country of citizenship. Only 40 percent of faculty agreed with this policy versus 68 percent of those responding to a similar question in the McLaughlin poll.

Approximately one fourth (26.8%) of the university faculty respondents agreed that immigrants committed crimes at higher rates than native-born Americans. This was in line with the AP/Ipsos poll response of 19 percent. There was not an overwhelming agreement that immigrants (legal and illegal) commit more crimes or that they have a higher crime rate than native-born Americans. The concern is that they are in America illegally and that “any” crime they commit would not be committed in the United States if they were not in the United States.

This response is validated by the response of university faculty who agreed that entering the country illegally is a crime, which should be punished progressively and more severely for repeat offenders (70%), and respondents from the Roper ASW poll (83%), who said that entering this country illegally is a crime and should be punished. Fifty-three percent of respondents to the Roper ASW survey also agreed with the enforcement of more and severe punishment, beginning with mandatory detention and forfeiture of property,



followed by deportation for anyone in the United States illegally. The survey respondents also agreed (63%) that a "practical way" of halting illegal immigration would be to make penalties for illegal presence here so severe that no illegal immigrants would come here or remain here out of fear of being caught.

### **Conclusions**

Since the passage of the last major Immigration Legislation in the United States in 1986, the legal immigration population has continued to grow from 800,000 to 1,000,000 per year. Of particular concern is the large number of illegal immigrants who have entered and stayed in the United States, working in occupations where labor shortages exist and benefiting various industries in the United States. Both legal and illegal immigrants are associated with high rates of crime and incarceration. The framing of these unauthorized entrants and visa overstayers as an assault against the "rule of law" by pundits and politicians (most notoriously by a House of Representatives bill, passed in December 2005, which would make felons of all "illegal" immigrants and criminalize those who assist them) reinforces the stereotypical association of immigration and criminality in much public discourse. Yet there remains a disconnect between the actual rate of crime and the fear of crime committed by illegal immigrants. There is also a division of opinion in the public at large over the enforcement of immigration laws. For the most part, college faculty did not take a clear stance on the immigration issue, and the faculty responses differed from the general public's on very few issues related to illegal immigration. There is a perceived need for the labor force provided by illegal immigrants, and there is agreement on the responsibilities of employers that hire illegal immigrants; yet, there is reluctance to enforce the letter of the law. As the presidential election nears, both sides will place various points of emphasis on the problem, addressing enforcement, employment, and amnesty. Finally, the economy will loom as a major factor. In recent months, the combination of stricter enforcement of immigration laws, local and federal enforcement, and a slowing economy may result in a number of illegal immigrants going south.

In June, 2006, Congress failed to pass Immigration Bills that would have actually encouraged more, not less, immigration. If passed, federal, state, and local governments would have taken on a devastating financial burden while the bills' passage would have denigrated the value of U.S. citizenship. While the immigration issue remains at the forefront in the current political campaign, it has lost some attention with the focus on the economy, fuel costs, and the Iraq War. There are still not definitive answers to the issues, although there have been definitive lines drawn on the issues. As the current survey results reveal, there is some agreement on the issue of the future population growth as a result of immigration, legal and illegal.

We are at a crossroads with immigration that demands decisions. Truly, personal feelings toward illegal immigrants must be placed aside. The argument is not whether most are hard-working and productive, the dissension is on their right to be in the U.S, to stay in the U.S., and receive benefits in the U.S. A decision either way will result in an enormous cost to the taxpayer: the cost of blocking the borders, deporting those here illegally, and replacing them in the work force; or, the cost of allowing them across the borders, providing eligibility for numerous benefits as U.S. citizens. Certainly, this area warrants more research. The current research solidifies the division of opinions on the illegal immigration issue. The upcoming national elections are forging dividing lines between those opposing illegal immigration, the issue of amnesty, the benefits versus detractors of the influx of illegal immigrants into the United States from a number of standpoints. By November, 2008, many questions will be answered concerning the stance of America on the issue, and the door may be open for many new questions on the issue.

### Notes

1. The term *illegal aliens* is used interchangeably with *illegal immigrants*. Other terms are *unauthorized*, *paperless*, *undocumented*, *criminal immigrants/aliens*, *without immigration status*, *foreign national*, and *illegal migrant*.

2. The 1986 legislation stipulated several conditions: immigrants had to pay application fees, learn to speak English, understand American civics, pass a medical exam, and register for military selective service. Those with a felony conviction or three misdemeanors were ineligible. Congress delivered on the amnesty it promised; there was a lapse in the enforcement of employer sanctions. This lapse of the 1986 legislation contributed to 12 million new illegal aliens by 2006.

3. INS considers the pool of unrecorded departure forms to represent two groups of persons—true overstays and uncounted departures. For true overstays, no departure forms were turned in because these visitors never left the United States. Uncounted departures indicate a paperwork error of some sort. There are a number of visa types: J1, F1, M1, H2-B, R1, and temporary worker-visas typically have a one-year maximum stay.

## References

- Blumstein, A. (2002, March). Why is crime falling—or is it? [Presentation]. In National Institute of Justice *Perspectives on Crime and Justice: 2000–2001 Lecture Series* (NCJ 187100), Vol. 5. Washington, D.C.: NCJ. Retrieved September 5, 2008, from <http://www.ncjrs.gov/pdffiles1/nij/187100.pdf>
- Bui, H. N., & Thingniramol, O. (2005). Immigration and self-reported delinquency: The interplay of immigrant generations, gender, race, and ethnicity. *Journal of Crime and Justice*, 28(2), 79–100.
- Butcher, K. F., & Piehl, A. M. (2005, November). Why are immigrants' incarceration rates so low? Evidence on selective immigration, deterrence, and deportation" *FRB Chicago Working Paper*, No. 2005-19. Retrieved July 28, 2008, from <http://ssrn.com/abstract=871071> [Select a download location to download the article to your computer.]
- Camorata, S. A. (2004, August). *The high cost of cheap labor: Illegal immigration and the federal budget* [executive summary]. Retrieved September 5, 2008, from Center for Immigration Studies Web site: <http://www.cis.org/articles/2004/fiscalexec.html> [Full text available at <http://www.cis.org/articles/2004/fiscal.html> ]
- Camorata, S. A. (2007, November). *Immigrants in the United States, 2007: A profile of America's foreign-born population*. Retrieved September 5, 2008, from Center for Immigration Studies Web site: <http://www.cis.org/articles/2007/back1007.html>
- Cosman, M. (2005, May 29). Violent sexual predators who are illegal aliens. *NewsWithViews.com*. Retrieved August 5, 2007, from <http://www.newswithviews.com/Cosman/madeleine5.htm>
- Clark, R. L., & Anderson, S. A. (2000, June 30). *Illegal aliens in federal, state, and local criminal justice systems: Summary*. Retrieved September 5, 2008, from Urban Institute Web site: <http://www.urban.org/url.cfm?ID=410366> [html] or [http://www.urban.org/UploadedPDF/410366\\_alien\\_justice\\_sum.pdf](http://www.urban.org/UploadedPDF/410366_alien_justice_sum.pdf) [pdf]
- Clear law enforcement for criminal alien removal act of 2003 (Clear Act). Testimony of Northampton, PA, before the Subcommittee on Immigration, Border, Security and Claims.* (2003, October 1). Statement of District Attorney John M. Morganelli. Retrieved September 5, 2008, from Immigration Daily Web site: <http://www.ilw.com/immigdaily/News/2003,1007-morganelli.shtm>
- Driscoll, E., & Langlois, M. (2007, February 27). Immigrant-crime link a myth. *The News-Times*. Retrieved August 5, 2007, from LibertyPost.org Web site: <http://www.libertypost.org/cgi-bin/readart.cgi?ArtNum=178487&Disp=3>

Eskey

Ewing, W. (2007, February 22). 'Immigrants bring crime' is a myth. *New America Media*. Retrieved July 8, 2007, from [http://news.newamericamedia.org/news/view\\_article.html?article\\_id=7ecbebe51c9cceb709b61141dcde56](http://news.newamericamedia.org/news/view_article.html?article_id=7ecbebe51c9cceb709b61141dcde56)

Farah, J. (2006, November 28). Illegal aliens murder 12 Americans daily. *WorldNetDaily.com*. Retrieved September 5, 2008, from [http://www.worldnetdaily.com/news/article.asp?ARTICLE\\_ID=53103](http://www.worldnetdaily.com/news/article.asp?ARTICLE_ID=53103)

Federation for American Immigration Reform (FAIR). (2006, June/2007, October). *How many illegal aliens?* Retrieved July 17, 2007, from [http://www.fairus.org/site/PageServer?pagename=iic\\_immigrationissuecentersb8ca](http://www.fairus.org/site/PageServer?pagename=iic_immigrationissuecentersb8ca)

Garay, A. (2007, May 5). Local immigration laws bring high costs. *The Washington Post*. Retrieved August 23, 2007, from <http://www.washingtonpost.com/wp-dyn/content/article/2007/05/05/AR2007050500523.html>

Gilchrist, J., & Corsi, J. R. (2006). *Minutemen: The battle to secure America's borders*. Los Angeles, CA: World Ahead Publishing.

Hagan, J., & Palloni, A. (1998). Immigration and crime in the United States. In J. Smith & B. Edmonston (Eds.), *The immigration debate: Studies on the economic, demographic, and fiscal effects of immigration* (pp. 367–387). Washington, D.C.: National Academy Press. Retrieved July 28, 2008, from [http://books.nap.edu/openbook.php?record\\_id=5985&page=367](http://books.nap.edu/openbook.php?record_id=5985&page=367)

Hagan, J., & Palloni, A. (1999). Sociological criminology and the mythology of Hispanic immigration and crime. *Social Problems*, 46: 617–632.

Harris, K. M. (1999). The health status and risk behavior of adolescents in immigrant families. In D. Hernandez (Ed.), *Children of immigrants: Health, adjustment, and public assistance*. Washington, DC: National Academy of Sciences Press.

Hoan, N., & Ornuma, T. (2005). Immigration and self-reported delinquency: The interplay of immigrant generations, gender, race, and ethnicity. *Journal of Crime and Justice*, 28(2), 79–100.

House Committee on Homeland Security (HCHS). (2007). *A line in the sand: Confronting the threat at the southwest border*. Retrieved July 28, 2008, from <http://www.house.gov/mcca/pdf/Investigaions-Border-Report.pdf> [sic]

Immigration Reform and Control Act of 1986, 8 USC 1101 (1986).

Justich, R., & Ng, B. (2005, January 3). *The underground labor force is rising to the surface*. Retrieved September 8, 2008, from Bear Stearns Asset Management Web site: <http://www.bearstearns.com/bscportal/pdfs/underground.pdf>

- Knickerbocker, B. (2006, May 16). Illegal immigrants in the US: How many are there? *Christian Science Monitor*. Retrieved August 6, 2007, from <http://www.csmonitor.com/2006/0516/p01s02-ussc.html>
- Lee, M. T., Martínez, R. Jr., & Rosenfeld, R. B. (2001). Does immigration increase homicide? Negative evidence from three border cities. *Sociological Quarterly*, 42(4):559–580. [Abstract is available online at <http://www.blackwell-synergy.com/doi/abs/10.1111/j.1533-8525.2001.tb01780.x?cookieSet=1&journalCode=tsq>]
- MacDonald, H. (2004, Winter). The illegal-alien crime wave. *City Journal*. Retrieved September 5, 2008, from [http://www.city-journal/html/14\\_1\\_the\\_illegal-alien.html](http://www.city-journal/html/14_1_the_illegal-alien.html)
- MacDonald, H. (2005, Autumn). Mexico's undiplomatic diplomats. *City Journal*. Retrieved September 5, 2008, from [http://www.city-journal.org/html/15\\_4\\_mexico.html](http://www.city-journal.org/html/15_4_mexico.html)
- Martinez, R., & Lee, M. (2000). On immigration and crime. In The nature of crime: Continuity and change. *Criminal Justice 2000*, 1: 486–524. Retrieved July 28, 2008, from [http://www.ncjrs.org/criminal\\_justice2000/vol\\_1/02j.pdf](http://www.ncjrs.org/criminal_justice2000/vol_1/02j.pdf)
- Martinez, R., & Lee, M. (2006). *Immigration and crime: Race, ethnicity, and violence*. New York, NY: NYU Press.
- Martínez, R., Jr., Lee, M. T., & Nielsen, A. L. (2004). Segmented assimilation, local context and determinants of drug violence in Miami and San Diego: Does ethnicity and immigration matter? *International Migration Review*, 38(1): 131–157.
- Massey, D. S. (2005). Five myths about immigration: Common misconceptions underlying U.S. border-enforcement policy. *Immigration Policy in Focus*, 4(6). Retrieved July 28, 2008, from <http://www.ilw.com/articles/2005,1207-massey.shtm>
- NumbersUSA. com. (n.d). *Public opinion*. Retrieved September 5, 2008, from <http://www.numbersusa.com/interests/publicop.html> [Source of public opinion poll results.]
- Ohlemacher, R. (2005, September 27). Report: Illegal immigration has increased. *Associated Press*.
- On immigrants and crime: An open letter to the Nation's policymakers*. (2007, July 2). Retrieved July 28, 2008, from Immigration Policy Web site: <http://www.immigrationpolicy.org/images/File/misc/Open%20Letter%20on%20Crime%20for%20Web%2011-6-07.pdf>
- Passel, J. S. (2005, June 14). Unauthorized migrants: Numbers and characteristics [briefing paper]. Retrieved September 5, 2008, from PEW Hispanic Center Web site: <http://pewhispanic.org/files/reports/46.pdf>

Eskey

Passel, J. S. (2006, March 7). *The size and characteristics of the unauthorized migrant population in the U.S: Estimates based on the March 2005 current population survey*. Retrieved September 5, 2008, from PEW Hispanic Center Web site:  
<http://pewhispanic.org/files/reports/61.pdf>

Pew Hispanic Center. (2006, May 17). *The state of American public opinion on immigration in spring 2006: A review of major surveys*. Retrieved September 5, 2008, from <http://pewhispanic.org/files/factsheets/18.pdf>

PollingReport.Com. (2008). *Problems and priorities*. Retrieved September 5, 2008, from <http://www.pollingreport.com/prioriti.htm>

Press, E. (2006, December 3). Do immigrants make us safer? *New York Times Magazine*. Retrieved June 19, 2006, from The Real Cost of Prisons Weblog:  
[http://realcostofprisons.org/blog/archives/2006/12/do\\_immigrants\\_m.html](http://realcostofprisons.org/blog/archives/2006/12/do_immigrants_m.html)

Preston, J. (2007, August 6). Immigration is at center of new laws around U.S. *BlueRidgeNow.com*. Retrieved August 23, 2007, from  
<http://www.hendersonvillenews.com/article/20070806/ZNYT02/708060361/-1/RSS&source=RSS>

Quinnipiac University Polling Institute. (2006, March 3). *Illegal immigration worries immigrant descendants, Quinnipiac University national poll finds most U.S. voters say cut benefits*. Retrieved September 5, 2008, from  
<http://www.quinnipiac.edu/x1295.xml?ReleaseID=882>

Rasmussen Reports. (2007, May 30). *Just 16% believe Senate bill will reduce illegal immigration*. Retrieved September 5, 2008, from  
[http://www.rasmussenreports.com/public\\_content/politics/current\\_events/immigration/just\\_16\\_believe\\_senate\\_bill\\_will\\_reduce\\_illegal\\_immigration](http://www.rasmussenreports.com/public_content/politics/current_events/immigration/just_16_believe_senate_bill_will_reduce_illegal_immigration)

Robbins, T. (2006, April 24). Getting a handle on 'fuzzy' immigration numbers. *NPR.Org*. Retrieved August 26, 2007, from  
<http://www.npr.org/templates/story/story.php?storyId=5385707>

Roper ASW. (2006, April). *Americans talk about illegal immigration*. Retrieved September 5, 2008, from Negative Population Growth Web site:  
<http://www.npg.org/poll0406/poll0406.html>

Rubenstein, E. S. (2007, July 9). *Linda Chavez stops smearing, substitutes statistics. It doesn't work*. Retrieved July 16, 2007, from VDARE.com.  
[http://www.vdare.com/rubenstein/070709\\_nd.htm](http://www.vdare.com/rubenstein/070709_nd.htm)

- Rubenstein, E. S. (2007–2008, Winter). The economic and fiscal impact of immigration: A new analysis. *The Social Contract*, 18(2), 90–92. Retrieved September 5, 2008, from [http://www.thesocialcontract.com/artman2/publish/tsc\\_18\\_2/tsc\\_18\\_2\\_rubenstein\\_prologue.shtml](http://www.thesocialcontract.com/artman2/publish/tsc_18_2/tsc_18_2_rubenstein_prologue.shtml)
- Rumbaut, R., & Ewing, W. (2007, Spring). The myth of immigrant criminality and the paradox of assimilation: Incarceration rates among native and foreign-born men. *Immigration Policy Center Special Report*. Retrieved July 28, 2008, from [http://www.immigrationpolicy.org/images/File/specialreport/Imm%20Criminality%20\(I PC\).pdf](http://www.immigrationpolicy.org/images/File/specialreport/Imm%20Criminality%20(I PC).pdf)
- Rumbaut, R. G., & Portes, A. (Eds.). (2001). *Ethnicities: Children of immigrants in America*. Berkeley, CA: University of California Press.
- Rumbaut, R. G., Gonzales, R. G., Komaie, G., & Morgan, C. V. (2006, June). *Debunking the myth of immigrant criminality: Imprisonment among first- and second-generation young men*. Retrieved June 19, 2007, from Migration Policy Institute Web site: <http://www.migrationinformation.org/Feature/display.cfm?id=403>
- Sampson, R. J. (2006, March 11). Open doors don't invite criminals. *New York Times*, Retrieved June 30, 2007, from <http://www.nytimes.com/2006/03/11/opinion/11sampson.html?ex=1299733200&en=b e13bc1a15648c8d&ei=5090&partner=rssuserland&emc=rss>
- Sampson, R. J. (2006, September-October). Immigrant effects: Latinos nix violence. *Harvard Magazine*. Retrieved June 30, 2007, from [http://www.wjh.harvard.edu/soc/faculty/sampson/2006\\_HarvardMagazine\\_LatinosNix.pdf](http://www.wjh.harvard.edu/soc/faculty/sampson/2006_HarvardMagazine_LatinosNix.pdf)
- Sampson, R. Morenoff, J., & Raudenbush, S. (2005, February). Social anatomy of racial and ethnic disparities in violence. *American Journal of Public Health*, 95(2):224–232. Retrieved June 20, 2007, from [http://www.wjh.harvard.edu/soc/faculty/sampson/articles/2005\\_AJPH.pdf](http://www.wjh.harvard.edu/soc/faculty/sampson/articles/2005_AJPH.pdf)
- Schurman-Kauflin, D. (2006). *The dark side of illegal immigration: Nearly one million sex crimes committed by illegal immigrants in the United States*. Retrieved July 28, 2008, from Violent Crimes Institute Web site: <http://www.drds.com/articles.html#Illegals>
- Skogan, W. G., Steiner, L., DuBois, J., Gudell, J. E., & Fagan, A. (2002). *Community policing and "the new immigrants": Latinos in Chicago*. U.S. Department of Justice, National Institute of Justice. Retrieved July 28, 2008, from <http://www.ojp.usdoj.gov/nij/pubs-sum/189908.htm> or <http://www.ncjrs.gov/pdffiles1/nij/189908.pdf>

Eskey

*Strengthening border security between ports of entry: The use of technology to protect our borders: Joint Hearing before the Subcommittee on Immigration, Border Security, and Citizenship and the Subcommittee on Terrorism, Technology, and Homeland Security, Senate, 109th Cong., 1 (2005).* Statement of David Aguilar, Chief, Office of Border Patrol, Customs and Border Protection, Department of Homeland Security, pp 7 – 8. Retrieved July 28, 2008, from <http://www.loc.gov/law/find/hearings/pdf/00174845189.pdf>

U.S. Department of Justice, Bureau of Justice Statistics. (2005). *Adult correctional populations in the United States, 1980–2006*. Retrieved June 19, 2007, from <http://www.ojp.usdoj.gov/bjs/correct.htm>

United States Government Accountability Office (GAO). (2005, March 29). Information on criminal aliens incarcerated in federal and state prisons and local jails. *Briefing for Congressional Requesters*. Retrieved August 21, 2007, from <http://www.gao.gov/new.items/d05337r.pdf#31>



# The Effects of Parental Controls on Juvenile Gun Possession

Chris J. Keary and Phyllis E. Berry

Many factors influence a juvenile's choice to possess a gun, one being effective parenting. Parents play an important role in the socialization process of their children, including the development of prosocial and delinquent attitudes. This research hypothesizes that parents who enforce control tactics and discipline on juveniles influence the juvenile's decision to carry a gun regularly. The hypothesis was tested by using secondary data collected originally from 343 juvenile traffic offenders in Little Rock, Arkansas, in 1992. The findings indicate that juveniles without curfews and those whose parents had threatened to throw them out of their house because of drug or alcohol use were more likely to carry a gun regularly.

In the United States, where guns are a part of our history and gun possession by adults is a constitutionally protected right, the struggle to prevent the use of guns by juveniles is an ongoing problem. Guns are readily available and juveniles seem to have no trouble getting their hands on them. Several research studies conducted in the 1990s showed that between 5 and 35 percent of juveniles carry guns (Wilkinson & Fagan, 2000) and take them to school. While conducting a study in an inner-city high school, researchers actually observed a student removing a gun from his jacket to examine it while participating in the survey (Sheley, McGee, & Wright, 1995).

The possession of a gun by a juvenile, a person younger than 18 years of age, is more than just a violation of law. It can also be a precursor to violence and violent crimes. One out of four deaths of adolescents between 15 and 19 years old in 1990 were from firearms (Wilkinson & Fagan, 2000). Juveniles increase their chance of becoming victims of a violent encounter just by being around friends or relatives who carry guns (Sheley & Wright, 1995). These data may lead us to question what the parents of these juveniles are doing to control this problem, because supposedly every unemancipated juvenile has a parental figure who is responsible, under contemporary rules of society, for the safety and welfare of that juvenile.

---

Chris J. Keary is an adjunct professor of criminal justice at Washburn University in Topeka, Kansas, and the Assistant Chief of Police at the University of Kansas in Lawrence, Kansas. Phyllis E. Berry is an associate professor of criminal justice at Washburn University and the director of the Master in Criminal Justice degree for the Criminal Justice Department.

This study examined existing data in an attempt to determine the influence that certain types of parental controls and discipline have on the decision of a juvenile to carry a gun on a regular basis. Parental control issues in relation to juvenile delinquency in general have been studied numerous times in the past. This research paper explores the value of some parental controls based on research and uses statistical analysis of existing data in an attempt to draw some conclusions about whether effective parental controls help reduce the likelihood that a juvenile will carry a gun regularly.

### **Literature Review**

A review of the available literature indicates that the role of parental controls on juvenile delinquency is a very broad topic. One may also discuss the definition of *delinquency* in both legal and social terms. The legal definition varies from state to state, but the U.S. Code defines delinquency as a violation of a law committed by someone who is not yet 18 years of age that would be a crime if committed by an adult (Simonsen, 1991). The social definition is much less precise. It includes such variables as the seriousness of the crime, the frequency of the act, and the attitude of the juvenile (Simonsen, 1991). While some may argue that the mere possession of a gun may not be very serious, regularly carrying a gun and the attitude that indicates a need to have it would both seem to meet the basis of the social definition of delinquency.

A juvenile's parents or parental figures can influence a juvenile's decision to participate in delinquent behavior through their use of indirect, internalized, and direct controls (Demuth & Brown, 2004). The use of these controls begins in early childhood and continues throughout adolescence. Indirect control involves the development of affection and psychological attachment a juvenile has toward his or her parents. Internalized control involves the creation of the juvenile's conscience by various means throughout the juvenile's life. Direct control by parents includes restriction, supervision, and punishment (Demuth & Brown, 2004) and is the focus of this research. In Demuth & Brown's research of family processes and delinquency, they determined that the direct controls of "parental involvement, supervision, monitoring, and closeness are all negatively associated with delinquency" (2004, p. 71). Their research considered several measures of direct parental controls, such as requiring the juvenile to be home at certain times on weekend nights, and several measures of delinquency, including the use of or threatened use of a weapon by the juvenile.

The possession of guns by juveniles and its connection to youth violence has been a frequent topic of previous research. Wilkinson and Fagan (2001) examined 10 high-profile school shootings that occurred during a relatively short period of time from February 1997 through May 1999. Eleven suspects perpetrated these 10 attacks at both middle schools and high schools by using rifles, handguns, and knives. The motive for the attacks ran from

being spurned by members of the opposite sex to feeling ostracized, bullied, and hated. High profile, multi-victim school shootings differ from the adolescent gun homicides of the inner city, which have become depressingly regular features of the urban setting. These researchers found that many of the urban shootings involve the use of drugs or alcohol, but they differ most notably in the fact that these young, male juveniles did not plan to commit a homicide but instead were carrying guns when the situation escalated into a lethal event. This combination of multivictim school shootings and regular urban youth violence led Wilkinson and Fagan to conclude that gun use by youths is an epidemic that leads to a contagious dynamic of violence (2001).

Wright and Fitzpatrick (2006) agree, declaring that youth violence is now a national social and public health problem. They found that 17 percent of youths between the ages of 10 and 19 years old reported carrying a weapon, usually a firearm, in the past 30 days. Their research examined violent behavior by adolescents within the context of what they called "Family Social Capital," which they determined through the use of a survey that measured how adolescents thought their parents cared about and understood them. The authors surveyed parents about how much they knew about their children's friends and the friends' parents. The authors determined instances of violent behavior through adolescents' self-reports of aggression and weapon use. They found that parents accumulated social capital when they were involved with and connected to their children, and this social capital investment then lessened the likelihood of violent behavior.

Patchin, Huebner, McCluskey, Varano, and Bynum (2006) considered the effects of parental supervision in their study of exposure to community violence and the resulting delinquency, which included weapon possession. Community violence included youths' personal exposure to violence in the community and their self-reports of weapon possession and personal assaults. The authors conducted personal interviews with 187 youth aged 9 to 15 years; however, the youth were not randomly selected and the study sample comprised a disproportionately large number of youth who had prior experience with the criminal justice system. The results, therefore, could be generalized only to the study sample, but they do relate to this current research. These researchers found only one significant predictor to weapon possession by youth and that was peer delinquency. Parental supervision in their study was not directly related to the delinquent behaviors of children.

The relationship of peer delinquency and parental supervision was also central to research of Wasserman, Miller, Pinner, and Jaramillo (1996), who surveyed the younger brothers and parents of convicted juveniles in New York City in an attempt to determine whether inadequate parenting increased the potential for delinquency. Even though the research did not specifically examine gun possession, it did focus on parental influence on delinquency in general, and therefore is germane to the hypothesis of this research. They

found parental monitoring and supervision to be the most powerful predictors of juveniles' delinquent behavior. Not only does effective parental monitoring influence the decisions of a juvenile, it also influences the juvenile's selection of friends and activities, which influences any peer delinquency the juvenile may experience.

Effective parenting was also a key element in research Burt, Simons, and Simons conducted in 2006. They examined Gottfredson and Hirschi's theory of self-control, which states that crime (including juvenile delinquency) can be traced to the perpetrator's low self-control. Their theory maintains that effective parenting fosters a child's self-control and needs to occur when a child is between the ages of 6 and 8 years of age. Gottfredson and Hirschi define effective parenting as "monitoring or tracking the child's behavior, recognizing deviant behavior when it occurs, and consistently punishing deviant behavior" and state that those "three conditions are necessary and sufficient to socialize children and instill self-control" (cited in Burt et al., 2006, p. 357). Burt et al. (2006) found that appropriate intervention and social experiences can improve low self-control, and it's not based solely on parental control or social influences after the age of 10. One appropriate intervention the study identified, but left undefined, was improvements in authoritative parenting.

Akers (1998) also regards parental discipline, parental control, and cohesive family relationships as an integral part of the socialization of children. He maintains that self-control theory is a part of the broader social learning theory and states,

As the main conventional socializer against delinquency and crime, the family provides anti-criminal definitions, conforming models, and reinforcement through parental discipline. Parents who do not apply consistent or effective discipline fail in producing conforming social skills or in extinguishing troublesome behavior (p. 165).

This present article examines a sampling of some direct parental controls and discipline techniques and their effect on the "troublesome behavior" of juveniles who regularly carry a gun. For this research, the authors measured direct parental control by whether the juveniles had curfews and/or other times they were required to be at home. We measured threatened discipline by whether their parents had threatened to throw the juveniles out of the house for using drugs or alcohol and/or parents had disciplined the juveniles (specifically, grounded them) because of drug or alcohol use. These variables are by no means the only types of control and discipline parents exerted; however, these variables were available in the data set and were thought appropriate to use in the testing of the research hypothesis. The research hypothesis tested for this study was as follows: curfews and other certain parental time restrictions of juveniles along with applied and threatened discipline influences the decision of juveniles to carry a gun regularly.

## Methods

Numerous studies relate to juvenile risk factors for gun possession and violence (see, for example, Coggeshall & Kingery (1999); Hemenway, Prothrow-Smith, Bergstein, Adner, & Kennedy (1996); and Wilkinson & Fagan (2000)). Many of these studies contain information related to respondents' weapon possession and the presence of parental controls. For this study, the authors used data that Walker, Watt, and White (1995) had collected previously in their research on gang activity and delinquent youth in Little Rock, Arkansas (Walker, 1999; Walker & Maddan, 2005). The authors applied secondary data analysis to the data to test the hypothesis that application of certain parental controls along with applied and threatened discipline affect whether juveniles will regularly carry a gun.

### *Subjects*

Walker et al. (1995) used a sample frame of juvenile drivers in Little Rock, Arkansas. They drew their sampling unit from those juvenile drivers who

1. committed a traffic violation,
2. were younger than 18 years old at the time of the violation,
3. were stopped and cited by the police, and
4. were given a court date from February to August 1992.

Juveniles charged with a traffic offense were required to appear with their parents in the Little Rock Municipal Court. Each juvenile was required to complete the survey, which asked questions related to their delinquent, deviant, and routine activities.

The researchers also asked these juveniles about their parents' control and disciplinary measures. The definition of "parent" varies based on each juvenile's situation: "parent" for some juveniles may mean one or both biological parents, while for others it may mean a grandparent who has taken on the parental role. The data collected were limited somewhat by the definition of "parent" that each juvenile decided for themselves; however, the data still yields value as the juveniles considered the adult figure who acted in a particular parental role.

One can best describe the sampling method Walker et al. (1995) used as purposive sampling, which is a non-probability sampling technique where the researcher chooses a sample based on the researcher's belief that the sample representatives will provide the information necessary for the study. Males were overrepresented in the sample by almost 2 to 1—the sample comprised 235 males and 107 females—which was due likely to the decision to take the sample from juvenile traffic violators, who are more likely to be male. The racial demographic of the sample was relatively proportional to the racial mix of Little Rock in 1992 (Walker et al., 1995), with 68% identifying themselves as White and 32%

identifying themselves as a minority. The ages of the survey respondents were predominantly 16 and 17 years old, which is also likely a result of the decision to take the sample from traffic violators. About 84% of the juvenile respondents were between the ages of 16 and 17 years and 7% were aged 15 years. Juveniles younger than 14 years of age are less likely to drive a vehicle, although the sample did include a juvenile aged 11 years, two juveniles aged 12, four who were aged 13, and 10 who were aged 14. Thirteen respondents indicated that they were 18 years old. Since the sample was taken from only juvenile traffic violators, the authors can only surmise that the respondents were 17 at the time of the traffic infraction and had turned 18 by the time the case was adjudicated and they completed the survey.

### *Materials*

The authors used four questions within the Walker et al. (2005) data set to measure parental controls or threats of discipline of a juvenile. These questions follow:

1. Do you have a curfew? (1–Yes, 2–No)
2. Are there times when you are required to be at home? (1–Yes, 2–No)
3. Have your parents ever threatened to throw you out of the house because of drugs or alcohol? (1–Yes, 2–No)
4. Have you ever been grounded because of drugs or alcohol? (1–Yes, 2–No).

The question in the existing data set the authors used to measure the dependent variable was Do you regularly carry a gun with you? (1–Yes, 2–No)

### *Procedure*

Secondary data analysis re-examines data another researcher has collected, but the time and money the authors saved by using previously collected data comes with a price—the authors must be willing to accept the procedure used and questions asked by the researcher who collected the data. Even though the authors would have asked more specific questions relative to parental controls and gun possession, the authors believe the data Walker et al. collected appeared sufficient to test this current research hypothesis.

Walker et al. (1995) indicated that all 343 juveniles who came through the Little Rock Municipal Court system during the collection time frame were required to fill out the survey, which indicates a 100% response rate; however, this does not mean that all respondents answered all questions on the survey. The data set contained some missing data in nearly all variables this research used, so not all the totals for the variables equal 343.

An examination of the data set also revealed five instances of obvious data entry errors involving the data relevant to this study. These errors appeared as data values that were not within the expected range. The data appeared to have been transposed in one case and just not valid values in four other cases. Because it is not possible to know the correct data, the authors deleted the questionable data and treated them as missing data.

All the variables except for race were already dichotomized (1–Yes, 2–No). In the original research on this data set, Walker et al. (1995) acknowledged that the data collected are categorical and nominal in nature, but the dichotomized nature of the data allows for the data to approximate higher order data, thus allowing for the use of higher analytical methods of analysis. The variable Race was recoded to either White (value = 1, N = 232) or Minority (value = 2, N = 107) to perform analysis at the scale level. The age of respondents was also dichotomized to “over 15, N = 299” and “15 and younger, N = 41” for use in the multiple regression analysis.

The authors analyzed data by using SPSS 13.0 statistical analysis software. They performed univariate analysis on all variables to determine the frequency and other descriptive indicators. Next, they conducted a bivariate analysis on the demographic, independent, and dependent variables to determine whether there were any interactions. Finally, the authors performed multiple regression analysis on the independent and dependent variables to determine whether the regression model is significant and any significant interactions exist between the variables. They also performed a test for multicollinearity to ensure that the independent variables were not interrelated. Too much interrelation between independent variables can influence the multiple regression and cause distorted results.

## Results

Table 1 shows the frequencies of age, sex, and race of the juveniles. The table also includes frequencies of the independent variables and the dependent variables the analysis used. Most of the juveniles surveyed were either 16 or 17 years old, with the mean age 16.37 years old. As noted previously, the mean age was not surprising, given that the data were drawn from juvenile traffic offenders. Most of the respondents were male (69%) and White (68%).

Tables 2 and 3 provide the cross tabulations of the dependent variable (Do you regularly carry a gun?) with the three demographic variables (race, sex, and age). Six percent of the juveniles in Little Rock who responded to the question reported that they carried a gun regularly. This result is similar to what other researchers have found (see Wilkinson & Fagan, 2000). Sixteen- and 17-year-old white males were shown to have the greatest propensity to carry a gun regularly. Of those who carried a gun, 60% were White, 87% were male, and 80% were either 16 or 17 years of age.

Table 1. *Descriptive Statistics of the Sample*

Variable	# of Responses (# Missing)
Age	340 (3)
11	1
12	2
13	4
14	10
15	24
16	117
17	169
18	13
Sex	342 (1)
Male	235
Female	107
Race	339 (4)
White	232
Minority	107
Do you have a curfew at home?	335 (8)
Yes	255
No	80
Are there times when you are required to be at home?	331 (12)
Yes	280
No	51
Have you ever been grounded because of drugs or alcohol?	282 (61)
Yes	29
No	253
Have your parents ever threatened to throw you out of the house because of drugs or alcohol?	280 (63)
Yes	10
No	270
Do you regularly carry a gun?	257 (86)
Yes	15
No	242

*Note.* Survey sample = 343 juveniles.



Table 2. Crosstab of Gun Possession by Race and Sex

Gun Possession	Race			Sex		
	White (%)	Minority (%)	Total (%)	Male (%)	Female (%)	Total (%)
Do you regularly carry a gun?						
Yes	9 (3.5)	6 (2.4)	15 (5.9)	13 (5.0)	2 (0.8)	15 (5.8)
No	175 (68.9)	64 (25.2)	239 (94.1)	157 (61.1)	85 (33.1)	242 (94.2)
Total	184 (72.4)	70 (27.6)	254 (100)	170 (66.1)	87 (33.9)	257 (100)

Note. While 343 juveniles were surveyed, some chose not to answer the question "Do you regularly carry a gun with you?"

Table 3. Crosstab of Gun Possession by Age

Gun Possession	Age (%)								
	11 (%)	12 (%)	13 (%)	14 (%)	15 (%)	16 (%)	17 (%)	18 (%)	Total (%)
Do you regularly carry a gun?									
Yes	0 (0)	0 (0)	0 (0)	0 (0)	3 (1.2)	6 (2.4)	6 (2.4)	0 (0)	15 (5.9)
No	1 (0.4)	0 (0)	4 (1.6)	9 (3.5)	17 (6.7)	86 (33.7)	114 (44.7)	9 (3.5)	240 (94.1)
Total	1 (0.4)	0 (0)	4 (1.6)	9 (3.5)	20 (7.8)	92 (36.1)	120 (47.1)	9 (3.5)	255 (100)

Note. Mean age = 16.7; median = 17.00; standard deviation = .989; variance = .977.

While 343 juveniles were surveyed, some chose not to answer the question "Do you regularly carry a gun with you?"

Tables 4 and 5 provide the cross tabulations for the independent variables and the dependent variable. Seven juveniles (2.8%) who responded that they carried a gun regularly also revealed that they were not required to be home at certain times. Five (2%) of the respondents who said they carried a gun with them regularly also stated that their parents had threatened to throw them out of the house because of drug or alcohol use.

Table 4. Crosstab of Gun Possession by Parental Control Independent Variables

Gun Possession	Parental Controls					
	Do you have a curfew?			Are there times you are required to be at home?		
Do you regularly carry a gun?	Yes (%)	No (%)	Total (%)	Yes (%)	No (%)	Total (%)
Yes	8 (3.2)	7 (2.8)	15 (6.0)	8 (3.2)	7 (2.8)	15 (6.0)
No	187 (74.2)	50 (19.8)	237 (94.0)	203 (81.5)	31 (12.4)	234 (94.0)
Total	195 (77.4)	57 (22.6)	252 (100)	211 (84.7)	38 (15.3)	249 (100)

Note. While 343 juveniles were surveyed, some chose not to answer the question "Do you regularly carry a gun with you?"

Table 5. Crosstab of Gun Possession by Parental Discipline Independent Variables

Gun Possession	Parental Controls					
	Have you been grounded for drugs or alcohol?			Have your parents ever threatened to throw you out of the house because of drugs?		
Do you regularly carry a gun?	Yes (%)	No (%)	Total (%)	Yes (%)	No (%)	Total (%)
Yes	4 (1.6)	11 (4.3)	15 (5.9)	5 (2.0)	10 (4.0)	15 (6.0)
No	22 (8.7)	217 (85.4)	239 (94.1)	3 (1.2)	234 (92.8)	237 (94.0)
Total	26 (10.3)	228 (89.7)	254 (100)	8 (3.2)	244 (96.8)	252 (100)

Note. While 343 juveniles were surveyed, some chose not to answer the question "Do you regularly carry a gun with you?"

To determine whether parental controls have a combined effect on juveniles regularly carrying a gun, the authors calculated a multiple linear regression by using the juveniles' self-reports of demographics data concerning curfew, time restrictions, and threatened and imposed discipline by their parents or parental figure. The collinearity statistics confirm that the independent variables were not too interrelated to conduct multiple regression. Tables 6, 7, and 8 summarize the results of the multiple regression equation.

Table 6. *Model Summary*

Model	R	R <sup>2</sup>	Adjusted R <sup>2</sup>	Std. Error of the Estimate
1	.495	.245	.222	.216

– Predictors: (Constant), over 15, Sex of juvenile, Are there times when you are required to be at home?, Have you ever been grounded because of drugs or alcohol?, Have your parents ever threatened to throw you out of the house because of drugs or alcohol?, White or Minority, Do you have a curfew at home?

Table 7. *ANOVA*

	Model	Sum of Squares	df	Mean Square	F	Sig.
1	Regression	3.441	7	.492	10.567	.000
	Residual	10.606	228	.047		
	Total	14.047	235			

– Predictors: (Constant), over 15, Sex of juvenile, Are there times when you are required to be at home?, Have you ever been grounded because of drugs or alcohol?, Have your parents ever threatened to throw you out of the house because of drugs or alcohol?, White or Minority, Do you have a curfew at home?

*Note.* Dependent Variable: Do you regularly carry a gun with you?

These tables indicate a significant regression equation ( $F(7,235) = 10.567, p < .001$ ), with an adjusted  $R^2$  of .222. None of the demographic variables were significant. Two of the four independent variables were found to be significant in determining whether a juvenile was likely to carry a gun regularly. Juveniles who were not required to be at home at certain times and juveniles whose parents had threatened to throw them out of the house due to their involvement with drugs or alcohol were found to be more likely to carry a gun regularly.

### Discussion

The analysis of the data these juveniles in Little Rock, Arkansas, provided in 1992 has produced some interesting results. The discussion of these results must be tempered with the understanding that correlation does not imply causation. The purpose of the study was to make a determination regarding correlations between the independent and dependent variables. Additional inquiry is needed to establish a direct, temporal-ordered link while controlling for other rival causal factors. Correlation just furthers our goal to establish causation. In this research, a requirement to be at home during certain times

Table 8. *Coefficients* –

Model	B <sup>b</sup>	Std. Error <sup>b</sup>	β <sup>c</sup>	t	Sig.	Tolerance <sup>d</sup>	VIF <sup>d</sup>
1	(Constant)	.863	.203	4.260	.000		
	Do you have a curfew at home?	-.063	.037	-1.707	.089	.878	1.138
	Are there times when you are required to be at home?	-.097	.043	-2.268	.024	.875	1.143
	Have you ever been grounded because of drugs or alcohol?	.084	.047	1.784	.076	.964	1.038
	Have your parents ever threatened to throw you out of the house because of drugs or alcohol?	.528	.081	6.557	.000	.928	1.077
	Sex of juvenile	.026	.031	.845	.399	.945	1.058
	White or Minority	-.012	.034	-.351	.726	.917	1.090
	Over 15	.048	.042	1.136	.257	.936	1.068

–Dependent Variable: Do you regularly carry a gun with you? <sup>b</sup>Unstandardized coefficients.

<sup>c</sup>Standardized coefficients. <sup>d</sup>Collinearity statistics.

shows a negative correlation (-.097) with regular gun possession, meaning that juveniles who were required to be at home at certain times were less likely to carry a gun regularly. This is similar to the findings of Wasserman et al. (1996), who found that parental monitoring, evidenced through requiring juveniles to be home at certain times, is associated negatively with juvenile delinquent behavior.

Also a positive correlation (0.528) was found between juveniles whose parents had threatened to throw them out of their house because of drug or alcohol use and carrying a gun regularly. One explanation for this result may be the link in this society between drug

use and weapons possession. The intent of including this particular variable in this research was an attempt to get a sense of the parental discipline imposed on the juvenile. The discipline parents meted out was not for general misbehavior but for specific reasons, namely because of drugs. This is an important point because the likelihood of gun possession increases for youths involved in drug-related activity (Sheley & Wright, 1998; Coggeshall & Kingery, 1999). It could be that drug use is a rival, causal factor. Juveniles may be more likely to carry a gun because of their drug involvement and not necessarily because of the influence of parental controls. Also, it must be considered that there were 61 missing responses to the question "Have you ever been grounded because of drugs or alcohol?"; the question "Have your parents ever threatened to throw you out of the house because of drugs or alcohol?" had 63 missing responses; and 86 responses were missing to the question, "Do you regularly carry a gun?" These important, but sensitive, questions may have yielded more positive responses had the respondents been more forthright in their responses.

Another possibility for the positive relationship between gun possession and threatened expulsion from the home due to drugs is that it might be an example of parental surrender, not an example of parental discipline. Threatening to throw a child out of the home, in violation of society's expectation of a parent, may actually be a clear sign that the parent has given up trying to affect the child's conduct through accepted and traditional parental disciplinary methods. It, therefore, would not be surprising that a positive correlation would exist between the threat of expulsion from the family home and carrying a gun regularly. If a parent has reached that level of frustration, the juvenile may be beyond the control of the parents.

This ability to look at what constitutes parental control from two different perspectives underscores the conclusion of this research that the issue of parental influence on juveniles is complicated. Previous research has attempted appropriate measure of the factors for predicting delinquency. Parental control and discipline must be a compilation of factors that combine to determine the risk of delinquent behavior. This field of inquiry would benefit from longitudinal research that uses the list of delinquency predictor factors Akers (1998) suggests such as deviant peers, problem behavior and aggression, lying, criminal behavior in the family, and discipline.

Until then, parents and the courts can benefit by taking into account the five major variables that have been shown consistently to predict delinquent behavior:

1. Prior problem, antisocial, or deviant behavior
2. Deviant peer associations

3. Parental and family factors, including parental control, discipline, and management deficiencies
4. Deviant attitudes and beliefs
5. School factors, such as low achievement (Akers, 1998).

Even though this research looked at just one part of one factor, we can keep in mind the perception Akers (1998) shares, attributing it to John Monahan:

Selecting possible predictive factors and intervention techniques is more a matter of public policy than of science. We probably have good enough knowledge to justify and support positive, voluntary pre-emptive intervention, but probably not knowledge good enough for coercive, involuntary intervention (p. 130).

The courts may not be able to force coercive, involuntary intervention on parents, but they should do everything in their power to encourage active, positive parental influences before a juvenile becomes impossible to control. Parents can also consider these predictive factors as they attempt to control the delinquent behavior of their children. At a minimum, they should maintain an active dialogue with their children. As Hemenway et al. (1996) found, "Children who have discussed guns with their parents are significantly less likely to carry them than those who have not" (p. 51). Having an open, honest, and positive relationship with a non-delinquent child should be the goal of every parent.

### References

- Akers, R. L. (1998). *Social learning theory and social structure: A general theory of crime and deviance*. Boston: Northeastern University Press.
- Burt, C. H., Simons, R. L., & Simons, L. G. (2006). A longitudinal test of the effects of parenting and the stability of self-control: Negative evidence for the general theory of crime. *Criminology*, 44(2), 353–396.
- Coggeshall, M. B., & Kingery, P. M. (1999). Weapon carrying, gun carrying, and fighting among U.S. high school students. Paper presented at American Society of Criminology Annual Conference, November 19, 1999, Toronto, Canada [need date]. Retrieved July 27, 2008, from <http://www.hamfish.org/factors/wcgcpf.pdf>
- Demuth, S., & Brown, S. L. (2004). Family structure, Family processes, and adolescent delinquency: The significance of parental absence versus parental gender. *Journal of Research in Crime and Delinquency*, 41(1), 58–81.

- Hemenway, D., Prothrow-Smith, D., Bergstein, J. M., Ander, R., & Kennedy, B. P. (1996, Winter). Gun carrying among adolescents. *Law and Contemporary Problems*, 59, 39–53.
- Patchin, J. W., Huebner, B. M., McCluskey, J. D., Varano, S. P., & Bynum, T. S. (2006). Exposure to community violence and childhood delinquency. *Crime & Delinquency*, 52(2), 307–332.
- Sheley, J. F., McGee, Z. T., & Wright, J. D. (1995). *Weapon-related victimization in selected inner-city high school samples*. (National Institute of Justice Publication No. NCJ151526). Washington, D.C.: U.S. Government Printing Office.
- Sheley, J. F., & Wright, J. D. (1995). *In the line of fire: Youths, guns, and violence in urban America*. New York: Aldine De Gruyter.
- Sheley, J. F., & Wright, J. D. (1998). High school youths, weapons, and violence: A national survey. *National Institute of Justice Research in Brief*. Retrieved October 18, 2006, from <http://www.ncjrs.gov/pdffiles/172857.pdf>
- Simonsen, C. E. (1991). *Juvenile justice in America*. Upper Saddle River, NJ: Prentice-Hall.
- Walker, J. T. (1999). *Statistics in criminal justice: Analysis and interpretation*. Gaithersburg, MD: Aspen Publishers.
- Walker, J. T., & Maddan, S. (2005). *Statistics in criminology and criminal justice: Analysis and interpretation* (2<sup>nd</sup> ed.). Sudbury, MA: Jones and Bartlett.
- Walker, J. T., Watt, B., & White, E. A. (1995). The evolution of gang formation: Potentially delinquent activity and gang involvement. *Journal of Gang Research*, 2(2), 39–50.
- Wasserman, G. A., Miller, L. S., Pinner, E., & Jaramillo, F. (1996). Parenting predictors of early conduct problems in urban, high-risk boys. *Journal of the American Academy of Child and Adolescent Psychiatry*, 35(9), 1227–1236.
- Wilkinson, D., & Fagan, J. (2000). *Situational contexts of gun use by young males in inner cities*. (U.S. Department of Justice Publication No. 194120). Retrieved October 23, 2006, from <http://www.ncjrs.gov/pdffiles1/nij/grants/194120.pdf>
- Wilkinson, D., & Fagan, J. (2001). What we know about gun use among adolescents. *Clinical Child and Family Psychology Review*, 4(3), 109–132.
- Wright, D. R., & Fitzpatrick, K. M. (2006). Social capital and adolescent violent behavior: Correlates of fighting and weapon use among secondary school students. *Social Forces*, 84(3), 1435–1453





# Legal Notes: Judicial and Legislative Update<sup>1</sup>

## Cliff Roberson

“Legal Notes: Judicial and Legislative Update” discusses recent judicial and legislative decisions that affect the criminal justice system. This issue reviews six recent U.S. Supreme Court decisions involving criminal justice.

In the final days of the recent U.S. Supreme Court term, the Court issued six significant decisions that affect the criminal justice system. Briefly the six decisions addressed the following issues:

- At what point must the state appoint an indigent defendant counsel? [*Rothgery v. Gillespie County TX*, No. 07-440, 128 S. Ct. 2578, 2008 U.S. LEXIS 5057 (2008)]
- Do the detainees in Guantanamo Bay have the right to contest their confinement in federal court by use of the writ of habeas corpus? [*Boumediene v. Bush*, No. 06-1195, 128 S. Ct. 2955, 2008 U.S. LEXIS 5141 (2008) ]
- Is the death penalty for rape of a child constitutional? [*Kennedy v. Louisiana*, No. 07-343, 128 S. Ct. 2641, 2008 U.S. LEXIS 5262 (2008)]
- Does the District of Columbia have the right to ban handguns? [*District of Columbia v. Heller*, No. 07-290, 128 S. Ct. 2783, 2008 U.S. LEXIS 5268 (2008)]
- When the defendant murders a witness, has he forfeited the right of self-confrontation regarding a note written by the witness/victim? [*Giles v. California*, No. 07-6053, 128 S. Ct. 2678, 2008 U.S. LEXIS 5264 (2008)]
- Is it constitutional for a state to establish a higher standard of mental capacity when deciding whether a defendant is mentally competent than the standard it uses to determine whether the defendant has sufficient mental capacity to be prosecuted? [*Indiana v. Edwards*, No. 07-208, 128 S. Ct. 2379, \*; 171 L. Ed. 2d 345, \*\*; 2008 U.S. LEXIS 5031, \*\*\*; 76 U.S.L.W. 4512 (2008)].

---

Cliff Roberson is editor-in-chief of *Professional Issues in Criminal Justice* and the author of more than 40 books. He is a member of the core faculty of Kaplan University's School of Criminal Justice and professor emeritus at Washburn University in Topeka, Kansas.

**At what point must the state appoint an indigent defendant counsel?**

In *Rothgery v. Gillespie County TX*, No. 07-440, 128 S. Ct. 2578, 2008 U.S. LEXIS 5057 (2008), Justice David Souter delivered the majority opinion in which the Court held that Rothgery had been denied his right to appointed counsel at the initial hearing of the trial court.

In Rothgery, a criminal background check wrongly disclosed that Rothgery had a record of a felony conviction. The local police officers relied on this record to arrest him as a felon in possession of a firearm. "The officers lacked a warrant, and so promptly brought Rothgery before a magistrate judge, as required by Tex. Crim. Proc. Code Ann., Art. 14.06(a)" (*Rothgery v. Gillespie County TX*, 2008, p. 2)<sup>2</sup>. Texas law has no formal label for this initial appearance before a magistrate, but it is commonly known as the "article 15.17 hearing" (p. 2).

[Texas] combines the Fourth Amendment's required probable-cause determination with the setting of bail, and is the point at which the arrestee is formally apprised of the accusation against him, see Tex. Crim. Proc. Code Ann., Art. 15.17(a)" . . .

Rothgery's article 15.17 hearing followed routine. The arresting officer submitted a sworn "Affidavit Of Probable Cause" that described the facts supporting the arrest and 'charge[d] that . . . Rothgery . . . commit[ted] the offense of unlawful possession of a firearm by a felon—3rd degree felony [Tex. Penal Code Ann. § 46.04]' . . . After reviewing the affidavit, the magistrate judge 'determined that probable cause existed for the arrest' . . . The magistrate judge informed Rothgery of the accusation, set his bail at \$5,000, and committed him to jail, from which he was released after posting a surety bond. . . .

Rothgery had no money for a lawyer and made several oral and written requests for appointed counsel, which went unheeded. The following January, he was indicted by a Texas grand jury for unlawful possession of a firearm by a felon, resulting in his rearrest the next day, and an order increasing bail to \$15,000. When he could not post it, he was put in jail and remained there for three weeks.

On January 23, 2003, six months after the article 15.17 hearing, Rothgery was finally assigned a lawyer, who promptly obtained a bail reduction (so Rothgery could get out of jail), and assembled the paperwork confirming that Rothgery had never been convicted of a felony. Counsel relayed this information to the district attorney, who in

turn filed a motion to dismiss the indictment, which was granted”  
(*Rothgery v. Gillespie County TX*, 2008, pp. 2–3).

In his opinion, Justice Souter notes that the Sixth Amendment right of the "accused" to assistance of counsel in "all criminal prosecutions" is limited by its terms: "it does not attach until a prosecution is commenced" (p. 5). He states that the Court has, "for purposes of the right to counsel, pegged commencement to 'the initiation of adversary judicial criminal proceedings—whether by way of formal charge, preliminary hearing, indictment, information, or arraignment' . . ." (p. 5). He continues as follows:

[T]he rule is not 'mere formalism,' but recognition of the point at which 'the government has committed itself to prosecute,' 'the adverse positions of government and defendant have solidified,' and the accused 'finds himself faced with the prosecutorial forces of organized society, and immersed in the intricacies of substantive and procedural criminal law' (p. 5).

The Court holds that Texas's article 15.17 hearing marks that point, with the consequent state obligation to appoint counsel within a reasonable time once a request for assistance is made. The Court states that it is irrelevant that the presence of counsel at a Tex. Code Crim. Proc. Ann. art. 15.17 hearing, say, may not be critical, just as it is irrelevant that counsel's presence may not be critical when a prosecutor walks over to the trial court to file an information. The question whether arraignment signals the initiation of adversary judicial proceedings is distinct from the question whether the arraignment itself is a critical stage requiring the presence of counsel. Texas's article 15.17 hearing plainly signals attachment, even if it is not itself a critical stage. "[A] criminal defendant's initial appearance before a judicial officer, where he learns the charge against him and his liberty is subject to restriction, marks the start of adversary judicial proceedings that trigger attachment of the Sixth Amendment right to counsel" (*Rothgery v. Gillespie County TX*, 2008, p. 20). The Court concluded that the county had violated Rothgery's right to appointed counsel at the initial hearing.

**Do the detainees in Guantanamo Bay have the right to contest their confinement in federal court by use of the writ of habeas corpus?**

This issue was examined in the case of *Boumediene v. Bush*, No. 06-1195, 128 S. Ct. 2955, 2008 U.S. LEXIS 5141 (2008). Justice Kennedy delivered the opinion of the Court in which Justices Stevens, Souter, Ginsburg, and Breyer joined. Chief Justice Roberts filed a dissenting opinion, in which Justices Scalia, Thomas, and Alito joined. The Court was bitterly divided in this decision. Justice Scalia, in an opinion concurring with Chief Justice Roberts's dissent, states, "The Nation will live to regret what the Court has done today. I dissent."

"Petitioners are aliens designated as enemy combatants and detained at the United States Naval Station at Guantanamo Bay, Cuba" (*Boumediene v. Bush*, 2008, p. 1). The issue before the Court was whether petitioners have the constitutional privilege of habeas corpus. The Court, in a 5-4 decision, held that they do have the habeas corpus privilege. The Court notes that "Congress had enacted the Detainee Treatment Act of 2005 (DTA), 119 Stat. 2739, that provides certain procedures for review of the detainees' status" (pp. 1-2). The Court holds that "those procedures are not an adequate and effective substitute for habeas corpus" (p. 2).

The Court notes that some of the individuals were apprehended on the battlefield in Afghanistan, others in places as far away from there as Bosnia and Gambia. All are foreign nationals, but none is a citizen of a nation now at war with the United States. Each denies he is a member of the al Qaeda terrorist network that carried out the September 11 attacks or of the Taliban regime that provided sanctuary for al Qaeda. Each petitioner . . . was determined to be an enemy combatant; and has sought a writ of habeas corpus in the United States District Court for the District of Columbia (p. 2).

In the first actions commenced in February 2002, the "District Court ordered the cases dismissed for lack of jurisdiction because the naval station is outside the sovereign territory of the United States" (p. 2). The Supreme Court "granted certiorari and reversed, holding that 28 U.S.C. § 2241 extended statutory habeas corpus jurisdiction to Guantanamo" (p. 2).

The Court concludes that "Art. I, § 9, cl. 2, of the Constitution has full effect at Guantanamo Bay" (p. 42). And if "the privilege of habeas corpus is to be denied to the detainees, Congress must act in accordance with the requirements of the Suspension Clause" (p. 42). The Court states:

This Court may not impose a *de facto* suspension by abstaining from these controversies . . . ‘[A]bstention is not appropriate in cases . . . in which the legal challenge “turn[s] on the status of the persons as to whom the military asserted its power” . . . Petitioners, therefore, are entitled to the privilege of habeas corpus to challenge the legality of their detention . . . (p. 42).

The opinion continues:

Where a person is detained by executive order, rather than, say, after being tried and convicted in a court, the need for collateral review is most pressing. A criminal conviction in the usual course occurs after a judicial hearing before a tribunal disinterested in the outcome and committed to procedures designed to ensure its own independence. These dynamics are not inherent in executive detention orders or executive review procedures. In this context the need for habeas corpus is more urgent. The intended duration of the detention and the reasons for it bear upon the precise scope of the inquiry. Habeas corpus proceedings need not resemble a criminal trial, even when the detention is by executive order. But the writ must be effective. The habeas court must have sufficient authority to conduct a meaningful review of both the cause for detention and the Executive's power to detain (pp. 53–54).

And finally:

The laws and Constitution are designed to survive, and remain in force, in extraordinary times. Liberty and security can be reconciled; and in our system they are reconciled within the framework of the law. The Framers decided that habeas corpus, a right of first importance, must be a part of that framework, a part of that law (p. 70).

### **Is the death penalty for rape of a child constitutional?**

*Kennedy v. Louisiana*, No. 07-343, 128 S. Ct. 2641, 2008 U.S. LEXIS 5262 (2008) examined this question. In this 5-4 decision by the Supreme Court, Justice Kennedy delivered the opinion of the Court, in which Justices Stevens, Souter, Ginsburg, and Breyer joined. Justice Alito filed a dissenting opinion, in which Chief Justice Roberts and Justices Scalia and Thomas joined. An error of fact in the Court's decision will probably be discussed for years. In the opinion, the Court indicates that rape is not punishable by death in the federal

Roberson

system. The Court did not realize that rape under certain circumstances is punishable by death in the military justice system, a federal court system.

Patrick Kennedy, the petitioner, sought to set aside his death sentence under the cruel and unusual punishment clause of the Eighth Amendment. He was convicted by the State of Louisiana of the aggravated rape of his then-8-year-old stepdaughter. He was sentenced to death under a Louisiana statute authorizing capital punishment for the rape of a child younger than 12 years of age (La. Stat. Ann. § 14:42). The question before the Court was whether the Constitution bars a state from imposing the death penalty for the rape of a child where the crime did not result, and was not intended to result, in death of the victim. The Court holds that the Eighth Amendment prohibits the death penalty for this offense, and the Louisiana statute is unconstitutional. The Court states that as it relates to crimes against individuals, the death penalty should not be expanded to instances where the victim's life was not taken. Justice Kennedy states,

Consistent with evolving standards of decency and the teachings of [the U. S. Supreme Court's] precedents we conclude that, in determining whether the death penalty is excessive, there is a distinction between intentional first-degree murder on the one hand and nonhomicide crimes against individual persons, even including child rape, on the other. The latter crimes may be devastating in their harm, as here, but 'in terms of moral depravity and of the injury to the person and to the public' . . . they cannot be compared to murder in their 'severity and irrevocability' (Kennedy v. Louisiana, 2008, p. 27).

The opinion continues:

[*Gregg v. Georgia*] instructs that capital punishment is excessive when it is grossly out of proportion to the crime or it does not fulfill the two distinct social purposes served by the death penalty: retribution and deterrence of capital crimes. . . . In considering whether retribution is served, among other factors [the U. S. Supreme Court has] looked to whether capital punishment 'has the potential . . . to allow the community as a whole, including the surviving family and friends of the victim, to affirm its own judgment that the culpability of the prisoner is so serious that the ultimate penalty must be sought and imposed' (pp. 31–32).

### **Does the District of Columbia have the right to ban handguns?**

The most controversial case decided by the Supreme Court during the last term was probably *District of Columbia v. Heller*, No. 07-290, 128 S. Ct. 2783, 2008 U.S. LEXIS 5268 (2008). The decision was a 5-4 decision holding that the D.C. gun restrictions were unconstitutional and that Heller had a constitutional right to possess a gun for self-defense. Justice Scalia delivered the opinion of the Court, in which Chief Justice Roberts and Justices Kennedy, Thomas, and Alito joined. Justice Stevens filed a dissenting opinion, in which Justices Souter, Ginsburg, and Breyer joined. The Heller decision was the first case in which the Supreme Court directly addressed the issue of whether an individual has a Second Amendment right to possess firearms for a purpose other than to secure the right of self-defense. The D.C. statute on handguns was 32 years old before the Court found it unconstitutional.

The District of Columbia statute generally prohibited the possession of handguns. It was a crime to carry an unregistered firearm, and the registration of handguns was strictly regulated. Apart from that prohibition, no person could legally carry a handgun without a license issued by the chief of police. The District also required “residents to keep their lawfully owned firearms, such as registered long guns, ‘unloaded and disassembled or bound by a trigger lock or similar device’” unless their location was a place of business or they were in use for lawful recreational activities (*District of Columbia v. Heller*, 2008, p. 1).

“Dick Heller is a D. C. special police officer authorized to carry a handgun while on duty at the Federal Judicial Center. He applied for a registration certificate for a handgun that he wished to keep at home, but the District refused. He thereafter filed a lawsuit in the Federal District Court for the District of Columbia seeking, on Second Amendment grounds, to enjoin the city from enforcing the bar on the registration of handguns, the licensing requirement insofar as it prohibits the carrying of a firearm in the home without a license, and the trigger-lock requirement insofar as it prohibits the use of ‘functional firearms within the home’” (p. 2).

The District Court dismissed his complaint.

“The Court of Appeals for the District of Columbia Circuit, construing his complaint as seeking the right to render a firearm operable and carry it about his home in that condition only when necessary for self-defense, reversed . . . [and] held that the Second Amendment protects an individual right to possess firearms and that the city’s total ban on handguns, as well

Roberson

as its requirement that firearms in the home be kept nonfunctional even when necessary for self-defense, violated that right" (p. 2).

The Supreme Court granted review.

The Court notes that the Second Amendment provides: "A well regulated Militia, being necessary to the security of a free state, the right of the people to keep and bear Arms, shall not be infringed" (pp. 2–3). In interpreting this text, the Court stated that it was "guided by the principle that '[t]he Constitution was written to be understood by the voters; its words and phrases were used in their normal and ordinary as distinguished from technical meaning'" (p. 3) And while the normal meaning may "include an idiomatic meaning, but it excludes secret or technical meanings that would not have been known to ordinary citizens in the founding generation" (p. 3).

Justice Scalia notes in the decision that "[T]he Second Amendment is divided into two parts: its prefatory clause and its operative clause. The former does not limit the latter grammatically, but rather announces a purpose. The Amendment could be rephrased, 'Because a well regulated Militia is necessary to the security of a free State, the right of the people to keep and bear Arms shall not be infringed'" (p. 3).

The Court held that the amendment guarantees the individual right to possess and carry weapons, and "[t]his meaning is strongly confirmed by the historical background of the Second Amendment" (p. 19).

Justice Scalia states,

We look to this because it has always been widely understood that the Second Amendment, like the First and Fourth Amendments, codified a *pre-existing* right. The very text of the Second Amendment implicitly recognizes the pre-existence of the right and declares only that it 'shall not be infringed.' As we said in *United States v. Cruikshank*, 92 U.S. 542, 553, 23 L. Ed. 588 (1876), '[t]his is not a right granted by the Constitution. Neither is it in any manner dependent upon that instrument for its existence. The Second Amendment declares that it shall not be infringed. . . .' (p. 19).

In concluding he writes,

In sum, we hold that the District's ban on handgun possession in the home violates the Second Amendment, as does its prohibition against rendering any lawful firearm in the home operable for the purpose of immediate self-defense. Assuming that *Heller* is not disqualified from the



exercise of Second Amendment rights, the District must permit him to register his handgun and must issue him a license to carry it in the home.

We are aware of the problem of handgun violence in this country, and we take seriously the concerns raised by the many *amici* who believe that prohibition of handgun ownership is a solution. The Constitution leaves the District of Columbia a variety of tools for combating that problem, including some measures regulating handguns. . . . But the enshrinement of constitutional rights necessarily takes certain policy choices off the table. These include the absolute prohibition of handguns held and used for self-defense in the home. Undoubtedly some think that the Second Amendment is outmoded in a society where our standing army is the pride of our Nation, where well-trained police forces provide personal security, and where gun violence is a serious problem. That is perhaps debatable, but what is not debatable is that it is not the role of this Court to pronounce the Second Amendment extinct (p. 64).

**When the defendant murders a witness has he forfeited the right of self-confrontation regarding a note written by the witness/victim?**

*Giles v. California*, No. 07-6053, 128 S. Ct. 2678, 2008 U.S. LEXIS 5264 (2008) discussed the issue of whether the defendant had forfeited his right of confrontation when evidence established that he had killed the witness/victim. This was a 6-3 decision of the Court. Justice Scalia delivered the opinion of the Court. He was joined by Chief Justice Roberts and Justices Thomas and Alito. Justices Souter and Ginsburg filed concurring opinions. Justice Breyer, Stevens and Kennedy dissented.

Dwayne Giles shot his ex-girlfriend, Brenda Avie, outside his grandmother's house. When he was apprehended about two weeks later, he was charged with murder.

At trial, Giles testified that he had acted in self-defense. Giles described Avie as jealous, and said he knew that she had once shot a man, that he had seen her threaten people with a knife, and that she had vandalized his home and car on prior occasions. He said that on the day of the shooting, Avie came to his grandmother's house and threatened to kill him and his new girlfriend, who had been at the house earlier. He said that Avie had also threatened to kill his new girlfriend when Giles and Avie spoke on the phone earlier that day. Giles testified

that after Avie threatened him at the house, he went into the garage and retrieved a gun, took the safety off, and started walking toward the back door of the house. He said that Avie charged at him, and that he was afraid she had something in her hand. According to Giles, he closed his eyes and fired several shots, but did not intend to kill Avie.

Prosecutors sought to introduce statements that Avie had made to a police officer responding to a domestic-violence report about three weeks before the shooting. Avie, who was crying when she spoke, told the officer that Giles had accused her of having an affair, and that after the two began to argue, Giles grabbed her by the shirt, lifted her off the floor, and began to choke her. According to Avie, when she broke free and fell to the floor, Giles punched her in the face and head, and after she broke free again, he opened a folding knife, held it about three feet away from her, and threatened to kill her if he found her cheating on him. Over Giles' objection, the trial court admitted these statements into evidence under a provision of California law that permits admission of out-of-court statements describing the infliction or threat of physical injury on a declarant when the declarant is unavailable to testify at trial and the prior statements are deemed trustworthy. Cal. Evid. Code Ann. § 1370.

A jury convicted Giles of first-degree murder. He appealed. While his appeal was pending, this Court decided in *Crawford v. Washington*, 541 U.S. 36, 53–54, (2004) that the Confrontation Clause requires that a defendant have the opportunity to confront the witnesses who give testimony against him, except in cases where an exception to the confrontation right was recognized at the time of the founding. The California Court of Appeal held that the admission of Avie's unconfounded statements at Giles' trial did not violate the Confrontation Clause as construed by *Crawford* because *Crawford* recognized a doctrine of forfeiture by wrongdoing. . . . [The appellate court] concluded that Giles had forfeited his right to confront Avie because he had committed the murder for which he was on trial, and because his intentional criminal act made Avie unavailable to testify. The California Supreme Court affirmed on the same ground (*Giles v. California*, 2008, pp. 2–3).

Justice Scalia points out in the majority opinion that the Court has “previously acknowledged that two forms of testimonial statements were admitted at common law even though they were unconfounded. . . . The first of these were declarations made by a

speaker who was both on the brink of death and aware that he was dying” (p. 4). Scalia notes that “Avie did not make the unfronted statements admitted at Giles' trial when she was dying, so her statements do not fall within this historic exception” (p. 4).

The second common-law doctrine Scalia notes is forfeiture by wrongdoing, which “permitted the introduction of statements of a witness who was ‘detained’ or ‘kept away’ by the ‘means or procurement’ of the defendant” (p. 4). He notes that this “doctrine has roots in the 1666 decision in *Lord Morley's Case*, at which judges concluded that a witness's having been ‘detained by the means or procurement of the prisoner,’ provided a basis to read testimony previously given at a coroner's inquest” (p. 5). In discussing that case, courts and commentators

concluded that wrongful procurement of a witness's absence was among the grounds for admission of statements made at bail and committal hearings conducted under the Marian statutes, which directed justices of the peace to take the statements of felony suspects and the persons bringing the suspects before the magistrate, and to certify those statements to the court. . . . This class of confronted statements was also admissible if the witness who made them was dead or unable to travel (p. 5).

The opinion concludes that “the terms used to define the scope of the forfeiture rule suggest that the exception applied only when the defendant engaged in conduct *designed* to prevent the witness from testifying. The rule required the witness to have been ‘kept back’ or ‘detained’ by ‘means or procurement’ of the defendant” (p. 5).

As to the Giles case, Scalia notes that the defendant did not kill the witness for the purpose of keeping her from testifying. Scalia writes:

[A] legislature may not ‘punish’ a defendant for his evil acts by stripping him of the right to have his guilt in a criminal proceeding determined *by a jury*, and on the basis of evidence the Constitution deems reliable and admissible. . . . We decline to approve an exception to the Confrontation Clause unheard of at the time of the founding or for 200 years thereafter. The judgment of the California Supreme Court is vacated, and the case is remanded for further proceedings not inconsistent with this opinion (pp. 23–24).

**Is it constitutional for a state to establish a higher standard of mental capacity when deciding whether a defendant is mentally competent than the standard it uses to determine whether the defendant has sufficient mental capacity to be prosecuted?**

The Court examined this issue in *Indiana v. Edwards*, No. 07-208, 128 S. Ct. 2379, \*; 171 L. Ed. 2d 345, \*\*; 2008 U.S. LEXIS 5031, \*\*\*; 76 U.S.L.W. 4512 (2008). Justice Breyer wrote the opinion of the Court, in which Chief Justice Roberts, and Justices Stevens, Kennedy, Souter, Ginsburg and Alito joined. Justice Scalia and Thomas dissented.

Ahmad Edwards tried to steal a pair of shoes from an Indiana department store. After he was discovered, he drew a gun, fired at a store security officer, and wounded a bystander. He was caught and then charged with attempted murder, battery with a deadly weapon, criminal recklessness, and theft. His mental condition subsequently became the subject of three competency proceedings and two self-representation requests, mostly before the same trial judge (*Indiana v. Edwards*, 2008, p. 1).

At his first competency hearing in August 2000,

“[f]ive months after Edwards' arrest, his court-appointed counsel asked for a psychiatric evaluation. After hearing psychiatrist and neuropsychologist witnesses, . . . the [trial] court found Edwards incompetent to stand trial . . . and committed him to Logansport State Hospital for evaluation and treatment. . . .

In March 2002,

“doctors found that Edwards' condition had improved to the point where he could stand trial. . . . The [trial] judge held a competency hearing, considered additional psychiatric evidence, and . . . found that Edwards, while ‘suffer[ing] from mental illness,’ was ‘competent to assist his attorneys in his defense and stand trial for the charged crimes’” (p. 2).

In April 2003,

Edwards' counsel sought yet another psychiatric evaluation of his client. And, in April 2003, the court held another competency hearing. Edwards' counsel presented further psychiatric and neuropsychological evidence showing that Edwards was suffering from serious thinking difficulties and delusions. A testifying psychiatrist reported that Edwards

could understand the charges against him, but he was 'unable to cooperate with his attorney in his defense because of his schizophrenic illness'; '[h]is delusions and his marked difficulties in thinking make it impossible for him to cooperate with his attorney.' . . . In November 2003, the court concluded that Edwards was not then competent to stand trial and ordered his recommitment to the state hospital (p. 2).

In June 2005,

the hospital reported that Edwards' condition had again improved to the point that he had again become competent to stand trial. . . . Just before trial, Edwards asked to represent himself. . . . He also asked for a continuance, which, he said, he needed in order to proceed *pro se* [as his own attorney]. . . . The court refused the continuance. . . . Edwards then proceeded to trial represented by [an appointed] counsel. The jury convicted him of criminal recklessness and theft but could not reach a verdict on the charges of attempted murder and battery.

The State decided to retry Edwards on the attempted murder and battery charges. Just before the retrial, Edwards again asked the court to permit him to represent himself. . . . Referring to the lengthy record of psychiatric reports, the trial court noted that Edwards still suffered from schizophrenia and concluded that '[w]ith these findings, he's competent to stand trial but I'm not going to find he's competent to defend himself.' The court denied Edwards' self-representation request. Edwards was represented by appointed counsel at his retrial. The jury convicted Edwards on both of the remaining counts.

Edwards subsequently appealed to Indiana's intermediate appellate court. He argued that the trial court's refusal to permit him to represent himself at his retrial deprived him of his constitutional right of self-representation. . . . The [appellate] court agreed and ordered a new trial" (pp. 2–3).

The state appealed to the Indiana Supreme Court, which affirmed the appellate court's decision on the belief that the U.S. Supreme Court's precedents, namely, *Faretta v. California*, required the State to allow Edwards to represent himself. At Indiana's request, the U.S. Supreme Court "agreed to consider whether the Constitution required the trial court to allow Edwards to represent himself at trial" (p. 4).

Justice Breyer states the following in the majority:

This case focuses upon a criminal defendant whom a state court found mentally competent to stand trial if represented by counsel but not mentally competent to conduct that trial himself. We must decide whether in these circumstances the Constitution forbids a State from insisting that the defendant proceed to trial with counsel, the State thereby denying the defendant the right to represent himself. . . . We conclude that the Constitution does not forbid a State so to insist (p. 1).

The Court notes that “the Constitution does not permit trial of an individual who lacks ‘mental competency’ and defines the competency standard as “including both (1) ‘whether’ the defendant has ‘a rational as well as factual understanding of the proceedings against him’ and (2) whether the defendant ‘has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding’ (p. 4). The Court concluded that the

“Court’s foundational ‘self-representation’ case, *Faretta*, held that the Sixth and Fourteenth Amendments include a ‘constitutional right to proceed *without* counsel when’ a criminal defendant ‘voluntarily and intelligently elects to do so.’ . . . The Court implied that right from: (1) a ‘nearly universal conviction,’ made manifest in state law, that ‘forcing a lawyer upon an unwilling defendant is contrary to his basic right to defend himself if he truly wants to do so;’ . . . (2) Sixth Amendment language granting rights to the ‘accused’; (3) Sixth Amendment structure indicating that the rights it sets forth, related to the ‘fair administration of American justice,’ are ‘persona[!]’ to the accused; . . . (4) the absence of historical examples of *forced* representation; . . . and (5) ‘respect for the individual’ (pp. 4–5).

Justice Breyer concludes,

[T]he nature of the problem before us cautions against the use of a single mental competency standard for deciding both (1) whether a defendant who is represented by counsel can proceed to trial and (2) whether a defendant who goes to trial must be permitted to represent himself. Mental illness itself is not a unitary concept. It varies in degree. It can vary over time. It interferes with an individual's functioning at different times in different ways. The history of this case . . . illustrates the complexity of the problem. In certain instances an individual may

well be able to satisfy [the] mental competence standard, for he will be able to work with counsel at trial, yet at the same time he may be unable to carry out the basic tasks needed to present his own defense without the help of counsel (p. 10)

He continues, “Indiana has also asked us to overrule *Faretta*. We decline to do so. We recognize that judges have sometimes expressed concern that *Faretta*, contrary to its intent, has led to trials that are unfair. . . . But recent empirical research suggests that such instances are not common (p. 13).

Justice Scalia, with whom Justice Thomas joined, states in dissent,

The Constitution guarantees a defendant who knowingly and voluntarily waives the right to counsel the right to proceed *pro se* at his trial. *Faretta v. California*, 422 U.S. 806, 95 S. Ct. 2525, 45 L. Ed. 2d 562 (1975). A mentally ill defendant who knowingly and voluntarily elects to proceed *pro se* instead of through counsel receives a fair trial that comports with the Fourteenth Amendment. . . . The Court today concludes that a State may nonetheless strip a mentally ill defendant of the right to represent himself when that would be fairer. In my view the Constitution does not permit a State to substitute its own perception of fairness for the defendant's right to make his own case before the jury—a specific right long understood as essential to a fair trial. . . . (p. 1).

Justice Scalia concludes, “Because I think a defendant who is competent to stand trial, and who is capable of knowing and voluntary waiver of assistance of counsel, has a constitutional right to conduct his own defense, I respectfully dissent” (p. 11).

### Notes

1. These notes are designed to update professionals on recent judicial decisions and legislative changes. It is not peer-reviewed material.
2. For ease of reference, the page numbers of quoted material corresponds with the slip opinions found online at the Supreme Court of the United States Web site.

### References

*Boumediene v. Bush*, No. 06-1195, 553 \_\_\_\_ U.S. (2008) [Slip opinion]. Retrieved July 14, 2008, from Supreme Court of the United States Web site:  
<http://www.supremecourtus.gov/opinions/07pdf/06-1195.pdf>

Roberson

*District of Columbia v. Heller*, No. 07-290, 554 \_\_\_\_ U.S. (2008) [Slip opinion]. Retrieved July 14, 2008, from Supreme Court of the United States Web site:  
<http://www.supremecourtus.gov/opinions/07pdf/07-290.pdf>

*Giles v. California*, No. 07-6053, 554 \_\_\_\_ U.S. (2008) [Slip opinion]. Retrieved July 14, 2008, from Supreme Court of the United States Web site:  
<http://www.supremecourtus.gov/opinions/07pdf/07-6053.pdf>

*Indiana v. Edwards*, No. 07-208, 554 \_\_\_\_ U.S. (2008) [Slip opinion]. Retrieved July 14, 2008, from Supreme Court of the United States Web site:  
<http://www.supremecourtus.gov/opinions/07pdf/07-208.pdf>

*Kennedy v. Louisiana*, No. 07-343, 554 \_\_\_\_ U.S. (2008) [Slip opinion]. Retrieved July 14, 2008, from Supreme Court of the United States Web site:  
<http://www.supremecourtus.gov/opinions/07pdf/07-343.pdf>

*Rothgery v. Gillespie County TX*, No. 07-440, 554 \_\_\_\_ U.S. (2008) [Slip opinion]. Retrieved July 14, 2008, from Supreme Court of the United States Web site:  
<http://www.supremecourtus.gov/opinions/07pdf/07-440.pdf>



# Index

- African–Caribbeans, 33–35
- African–centered framework, 35–38
- Alcohol, use by juveniles, 66, 68, 70, 72, 73, 74–75
- Amendment. (See Eighth Amendment, First Amendment, Fourteenth Amendment, Fourth Amendment, Second Amendment, and Sixth Amendment.)
- Bill of Rights, 4
- Blacks (U.K.)
  - community and family relationships, 30–31, 32
  - drug use, 23–42
  - popular culture and, 31–32
- Boumediene v. Bush* (2008), 79
- Chicago School (understanding of crime), 29
- Class differences and the law, 1–22
- Classical criminology, 1, 6
- Conflict criminology, 2, 3–4
- Conflict theory/theorists, 1–22
- Crack cocaine, 24, 25, 28, 29
- Conflict view of government (See Conflict theory.)
- Consensus view of government, 1, 2, 5
- Criminal justice
  - and the poor, 1–6, 16
  - and the wealthy, 1–6, 15
  - and Blacks in U.K., 23, 25, 28, 29–31, 32
- Curfews, role in juvenile delinquency, 63, 68, 72, 73–74
- Death penalty, 79
- Defendant
  - and right of self–confrontation, 79, 87–89
  - indigent, 79, 80–81
  - mental capacity, 79, 90–93
- Delinquency (See also Juveniles, delinquency.)
  - defined, 64
- District of Columbia v. Heller* (2008), 79, 85–87
- Drug treatment services (U.K.), 23, 24–25, 26, 27–29, 36–38
- Drug use
  - sociohistorical context (Blacks in U.K.), 23–42
  - urban shootings and, 65
  - use by juveniles, 65, 66, 68, 70, 72, 73, 74–75
- DAAT (Drugs and Alcohol Action Teams), 25, 27, 36
- Eighth Amendment, 84
- First Amendment, 86
- Fourteenth Amendment, 92, 93
- Fourth Amendment, 86
- Giles v. California* (2008), 79, 87–89
- Guantanamo Bay, detainees, 79, 82–83
- Guns (See also Handguns.)
  - and juvenile deaths, 63
  - possession of by juveniles, 63–77
  - use of by juveniles, 63,
- Habeas corpus, 79, 82–83
- Handguns, possession, 79, 85–87
- Heroin use, 23–24
- Immigrants, illegal, 43–62
  - and border issues, 52–53,
  - and employment issues, 52–54
  - and crime rates, 44–45, 46–49, 54
  - and presidential election, 55, 56
  - and prison rates, 44–45, 46–48
  - costs associated with, 45, 48
  - number of, 43–44, 45, 48
- Immigration laws, 43, 48–49, 50–51, 54, 55
- Indiana v. Edwards* (2008), 79, 90–93
- Juveniles, 63–77
  - and violent crime, 63, 64–65
  - deaths, 63
  - defined, 63
  - delinquency, 63, 64, 65–66, 75
  - parental control over, 30, 63–77
- Kennedy v. Louisiana* (2008), 79, 83–84
- Madison, James, 2
- Mapp v. Ohio* (1961), 15

Index

New York City Police Department, 1, 4, 7, 8,  
9–16

Parents/Parenting, 30, 63–77  
    effective, 66  
    influence of, 30, 63–77  
    lone/one/single, 30, 33, 37

*People v. Gokey* (1983), 8

*People v. Jackson* (1992), 8

Police

    bureaucracy, 7–8, 9–16  
    community effect on behavior, 7, 8,  
        9–16  
    culture, 7, 8, 9–16  
    legal situation effect on behavior, 7, 8,  
        9–16  
    search decisions, influences on, 1–22  
    use of authority, 1–22

Polls, public opinion, 51– 55,

Prosocial behavior, 63

Racial discrimination, 23, 31–39

Radical criminology, 2, 3– 4, 5, 15

Rape, death penalty and, 79, 83–84

Richmond, VA, police officers, 6

*Rothgery v. Gillespie County TX* (2008), 79,  
80–81

School shootings, 65

Second amendment, 85– 87

Sixth Amendment, 81, 92

Slavery, effects of, 23, 33–

Socioeconomics

    drug use and, 23–42

    law enforcement and, 1–22

Social contract, 1, 2

Social contract theory, 1

Socialization, of children, 63

Substance abuse, 23–42

Terrorist/terror threat, 47

Theories of behavior of criminal law, 2

U.S. Code, 64

U.S. Congress, 43, 50–51, 55

U.S. Constitution, 4

U.S. Supreme Court, 79–94

Washington, D.C. Metropolitan Police, 5

Youth violence, 65