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My Dear Friends and Colleagues,

It is with mixed emotion that I write this letter from the editor. I've really been enjoying serving as editor and working with so many talented individuals who sent their work for publication. You've all been so patient with me while I make this transition from the previous editor to my term.

This edition is rather supersized, like many things in our current world. This is why I have mixed emotions. This will be the last regular edition of this journal. It's a little sad to think this outlet will go away, but the prospects of the new journal cheer me up significantly.

For those of you who didn't make the annual meeting, we voted to move the journal in a new direction. Will Oliver has agreed to step up and be the first editor for the new journal which will focus on qualitative work. This will be a unique outlet for many of us who do that sort of work and find ourselves limited in where we can be published.

Will was once the editor of this journal, and has been hugely helpful to me as I took over. Roger Enriquez, the editor immediately preceding me, was also very helpful. The entire Executive Board has been truly helpful to me as I try to balance this and my position, now as President.

I also owe special thanks to all the people who agreed to review articles for me, and especially for the authors themselves. Each person who had a hand in making this edition was incredibly responsive to my requests. Reviewers made quick work of their reviews, but also made thorough reviews that allowed authors to make quick choices about how to respond.

And so, this is the last regular edition. I feel blessed to play a part as editor since this is the first journal I ever published an article in. I hope you all read and enjoy.

All the best,

Lorie Rubenser,  
Interim General Editor



## **A Policy Analysis Framework for Drug Courts**

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### **Abstract**

A tailored approach to policy analysis is used to evaluate various aspects of a Texas state law that requires certain counties to have a drug court program. The values underpinning the law, as well as the unintended consequences resulting from the law are explored. Data for the policy analysis was retrieved from a review of the literature, and implications relevant to practitioners and policymakers are highlighted. Findings suggest that limitations in drug court law may contribute towards the racial disparities in drug court outcomes and an increased risk of drug court participants not receiving culturally competent, evidenced-based treatments.

*Keywords:* drug courts, racial disparities, policy analysis, House Bill 530, House Bill 1287

Criminal justice professionals continue to face the challenges associated with finding efficient and effective ways to address the high prevalence of arrestees with substance abuse problems. Since 1989, drug courts have addressed this challenge by offering treatment as an alternative to incarceration for criminal offenders with a history of substance abuse. The efficiency and effectiveness of drug courts is well

documented, and drug court programs continue to be a growing part of the criminal justice system. The drug court literature consists predominately of formal drug court evaluations. There is a limited amount of drug court literature dedicated to examining the laws that govern drug court practice and policy. Through the use of a policy analysis, this article contributes to the body of literature related to drug courts by examining a Texas state law, House Bill 530, which requires certain counties to have drug court programs.

### **Introduction to the Problem**

The Arrestee Drug Abuse Monitoring (ADAM II) program, which is sponsored by the Office of National Drug Control Policy (ONDCP), provides data related to criminal arrests that are associated with substance abuse. In 2009, the ADAM II program collected data from ten locations throughout the United States; the research sample consisted of males who have been arrested. The ADAM II program is unique because it collects data from a 20-25 minute interview with arrestees, as well as urine drug screens that test for the presence of 10 drugs. The validity of the findings from the ADAM II program is enhanced by matching the results from the interviews to that of the urine drug screens. A major finding from the ADAM II program is that 56-82% of the arrestees across the ten locations tested positive for at least one drug at the time of their arrest, and 12-28% of this population tested positive for multiple drugs (Office of National Drug Control Policy, 2010). In addition to the high prevalence of drug use by the research sample, the ADAM II report also provides information related to recidivism patterns of an arrestee population with a history of substance abuse. In the ten sites combined, 78-93% of the arrestees reported at least one prior arrest (Office of National Drug Control Policy,



2010). A final major finding is that only 1-10% of the arrestees reported receiving outpatient substance abuse treatment during the past year, and 2-10% reported receiving inpatient substance abuse treatment during the past year (Office of National Drug Control Policy, 2010).

Data from the ADAM II report are useful in promoting a better understanding of the prevalence of substance abuse within the criminal justice system; however, there are a few limitations that are important to mention. Limitations of the ADAM II report include that it only collects data from males and that probability sampling techniques are not used to develop the research sample. These limitations hinder the ability to generalize the findings to female arrestees and to geographic regions other than the ten sites. Although the available data do have limitations, they support the conclusion that the criminal justice system requires efficient and effective techniques to treat the high prevalence of criminal offenders with substance abuse problems.

### **What are Drug Courts?**

According to the National Association of Drug Court Professionals (NADCP) (n.d.a), drug courts are criminal justice programs that are designed to divert substance abusing offenders from the traditional court proceedings to a more rehabilitative setting. The NADCP identifies that there are key interventions that underpin the philosophy of all drug courts. During the minimum one year participation in a drug court program, participants are exposed to these various key interventions, including substance abuse treatment, frequent and random drug testing, regular appearance in court to assure program compliance, and presenting rewards and sanctions that are designed to motivate participants to live a drug free, crime free lifestyle. Additionally, Lindquist, Krebs, & Lattimore

(2006) discuss that drug courts attempt to employ a multidisciplinary judicial team that consists of judges, prosecutor and defense attorneys, case managers, and substance abuse treatment providers. By utilizing a multidisciplinary judicial team, drug courts can offer a range of services that may not be commonly offered in traditional court proceedings. These services can include vocational training, parenting classes, budgeting classes, GED preparation courses, mental health and substance abuse treatment, and HIV/AIDS education.

The first drug court began in Miami, Florida in 1989. Factors that contributed to the development of this pilot drug court program include the proliferation of substance abuse-related incarceration, overcrowded and slow processing criminal dockets, and the awareness that substance abusing criminal offenders were not benefiting from a punitive model of criminal justice (Lurigio, 2008). Since this time, the number of drug courts has grown throughout the United States. Additionally, the drug court model has evolved from focusing specifically on the relationship between substance abuse and crime, to other problem-solving courts such as family courts, veteran's courts, mental health courts, and juvenile courts. The NADCP reports that there are 2,459 drug courts, and another 1,188 problem solving courts, operating throughout the United States and United States territories (National Association of Drug Court Professionals, n.d.b).

The success of drug courts in the United States is recognized internationally, and other countries are beginning to establish drug courts within their criminal justice systems. The Toronto, Canada drug court, for example, was one of the first drug court programs to be established outside of the United States. In a recent evaluation of the Toronto drug court, researchers learned about the predictive factors associated with



a participant's noncompliance and ultimate termination from the drug court program. In their study, Newton-Taylor, Patna, & Gliksman (2009), found that drug court participants who were less engaged, and who ultimately were terminated from the program for noncompliance, were more likely than engaged drug court participants to use crack/cocaine, to be in custody at the first drug court hearing, to have more criminal convictions, and to commit more breaches of their bail conditions. Characteristics predictive of drug court success include having a high school diploma, maintaining employment, being older, and participation in substance abuse treatment (Hartley & Phillips, 2001; Taxman & Bouffard, 2005; Wolf, Sowards, & Wolf, 2004). Taxman & Bouffard (2005), for example, found that compliance with substance abuse treatment was a significant predictor of drug court success. In their evaluation of four drug courts, the findings revealed that 62% of the drug court graduates and only 21% of drug court participants that were terminated from the program attended at least 75% of their substance abuse treatment (Taxman & Bouffard, 2005).

The success of drug courts is recognized by policy makers, and states are beginning to mandate drug courts throughout their counties. Texas, for example, has established law that since 2001 requires certain counties to develop a drug court. This law, which was first passed as House Bill 1287, initially mandated that the Commissioners Court of a county with a population of more than 550,000 shall establish a drug court program (Texas State Legislature, 2001). In 2007, House Bill 530 amended the initial legislation by changing the population requirement to develop a drug court from 550,000 to 200,000 (Texas State Legislature, 2007). According to the Office of Court Administration (2009), 53 (20.87%) of the 254 Texas counties currently have a drug court program or are in the planning stages of beginning one. Of the 53 Texas counties

that have a drug court program, 22 (41.51%) are required by law to have a drug court program because their population is greater than 200,000.

Texas state law has mandated certain counties to have drug courts for 10 years, and it is important to evaluate the law to assess its effectiveness. The goals of this policy analysis are to: 1) provide a comprehensive description of House Bill 530; 2) tailor a framework for the analysis of drug court law by incorporating aspects of several policy analysis models; 3) evaluate the effectiveness of House Bill 530 by assessing and comparing outcomes of drug court evaluations; 4) explore the impact that drug court law has on the outcomes of drug court participants; and 5) discuss implications for the criminal justice profession.

### **METHOD OF ANALYSIS**

A tailored approach that incorporated aspects of several policy analysis models is used to evaluate the law that requires certain counties in Texas to develop a drug court program. The data presented throughout the policy analysis was retrieved from a review of the literature focused on formal drug court evaluations. The primary method of policy analysis used is the model presented by Chambers and Wedel (2009). This model provides a set of criteria that can be used to evaluate a law; four criteria were selected. These criteria include: 1) goals and objectives; 2) eligibility rules; 3) administration and service delivery; and 4) financing. In order to make the analysis more rigorous, two other policy analysis models are incorporated into the process. First, the values underpinning the law are discussed using the framework provided by Moroney (1981). Second, aspects of the policy transfer model are incorporated into the analysis to explore the factors that are associated with



the successful and unsuccessful transfer of laws related to drug courts (Lightfoot, 2003). Last, the unintended consequences resulting from the law and implications for criminal justice practice and policy are discussed.

### **Goals and Objectives of House Bill 530**

Chambers and Wedel (2009) state that the first step in a policy evaluation is to establish whether the goals and objectives of the law are clearly stated. A goal is an abstract statement that describes the overall purpose, or expected outcome, of a program, and objectives are individualized, empirical, concrete statements that describe how a goal will be accomplished (Chambers & Wedel, 2009). It is essential that social policies have clearly defined goals and objectives for three reasons. First, the daily operations of a program are guided by the program's goals and objectives (Chambers & Wedel, 2009). Second, social policies cannot be evaluated on their effectiveness unless objectives can be measured against data (Chambers & Wedel, 2009). Third, all phases of a policy analysis are evaluated based on their contribution towards meeting the goals and objectives (Chambers & Wedel, 2009). In an effort to properly define drug courts and identify their objectives, House Bill 530 provides an overview of the 10 key characteristics of a drug court program. These characteristics are noted in Table I (Texas State Legislature, 2007).

### **Table 1 – see appendix**

According to the Texas Association of Drug Court Professionals (2005), House Bill 530 was passed as a result of the success that drug courts were showing in Florida. The outcomes of drug court evaluations have shown promising results. In an evaluation of the Chester County, Pennsylvania

drug court program, Brewster (2001) found that the drug court program was more effective than traditional probation. In this study, comparing 184 drug court participants to 51 participants on traditional probation, the findings indicate that drug court participants had a lower rate of positive drug tests and fewer new arrests while in the program, as compared to the comparison group. Wolfe, Guydish, & Termondt (2002) discuss that most drug court evaluations investigate whether drug court programs contribute towards a reduction in crime, decreases in substance abuse, and savings of money. Research in these areas is plentiful, with many studies indicating that drug court participants experience a reduction in crime and substance abuse, which in turn, saves society money by not having to repeatedly process these individuals through the criminal justice system (Brewster, 2001; Logan, Williams, Leukefeld, & Minton, 2000; Peters & Murrin, 2000; Vito & Tewksbury, 1998).

The Texas legislature's overall goal with the passing of House Bill 530 is to replicate the success that drug courts have shown throughout the United States. The specific goals of House Bill 530 are to: 1) improve public safety by reducing recidivism; 2) reduce costs associated with criminal case processing and re-arrest; 3) reduce overcrowding in jail, detention centers, and prisons; 4) introduce participants to an ongoing process of recovery designed to achieve total abstinence from illicit/illegal drugs; 5) promote self-sufficiency and empower substance abusers to become productive and responsible members of the community; and 6) reunify families and protect children (Texas Association of Drug Court Professionals, 2005).





### **Values Underpinning House Bill 530**

In evaluating the law that requires certain counties in Texas to establish a drug court program, the social work values of *Dignity and Worth of the Person* and the *Importance of Human Relationships* appear to be present in the law's goals and objectives. The value of *Dignity and Worth of the Person* emphasizes the need for social workers to treat individuals in a non-judgmental manner that promotes individual differences and the right to self-determination (Reamer, 2006). This law promotes an individual's right to self-determination by providing the criminal defendant with an opportunity to choose whether they want to participate in a drug court program. Also, the law is designed in a non-judgmental manner where defendants are offered a "second chance" and the opportunity to extinguish the label of a "criminal" or "felon".

The social work value of *Importance of Human Relationships* highlights the need for individuals to be engaged in meaningful relationships in their lives, with an understanding that the relationships held by individuals influence their quality of life (Reamer, 2006). The goals of the policy clearly promote the development of healthy relationships at both the family and community level. Drug courts are designed to rehabilitate criminal defendants and assist them in reengaging in a relationship with the community. Drug courts also promote the reunification of families, which are usually negatively impacted by substance abuse.

Moroney (1981) suggests that a policy analysis assess whether the values of liberty, equality, and fraternity are present within a law. Moroney (1981) also suggests that when one of these values is given priority, the other two values are faced with limitations. Fraternity appears to have the most significant prevalence within this policy. Fraternity, as it relates to this policy, is defined as an attempt to serve a

population with similar characteristics and problems. The primary population being served with House Bill 530 is individuals with a criminal arrest that is associated with substance abuse. The policy is designed to find a solution to the problem, as compared to punishing the behavior. Additionally, the policy appears to place value on changing the way in which individuals with substance abuse problems are viewed. The law utilizes a medical approach, as opposed to a moral stance, to understand substance abuse. The medical approach views substance abuse as a disease, and, as with other diseases, attempts are made to provide the necessary treatment to alleviate the symptoms. Dackis & O'Brien (2005) recommend that medical knowledge on substance abuse be incorporated into criminal justice policies, as this education may reduce societal misconceptions and stigmas associated with substance abuse.

As a result of the value of fraternity having a high salience throughout the policy, the values of liberty and equality are faced with limitations. It is unsurprising that the prevalence of liberty throughout the policy is low, especially because the policy supports a system that is designed to take away an individual's freedom. The value of liberty, or the right to choose, does not exist for criminal offenders who are not eligible for the program, and, at some level, the ability to choose is even diminished for eligible participants. Participation in a drug court program is voluntary, and participants are offered the opportunity to choose drug court or another avenue of the criminal justice system. While there does appear to be some level of decision-making in this process, the other available options may not be equivalent to drug court. Jail, for example, may be the option for individuals who do not voluntarily enter drug court.



The value of equality seems to face the most significant limitations throughout the policy. The benefits of drug court are not available to all; the most noticeable is rural counties. Texas counties with a population of 200,000 or less are not required by law to have a drug court program. The law does not prevent these counties from having a drug court program; however, this limits smaller counties to determine for themselves if they are going to create drug courts and how they are going to fund these programs. The law requires counties with a population greater than 200,000 to apply for state and federal drug court funding, whereas counties with a population of 200,000 or less are not required to apply for this funding. This can be an additional challenge for less populated counties that are experiencing a drug problem and are considering funding a drug court program. This limited opportunity for funding can make it difficult for rural counties to develop a drug court program, and, as a result, the citizens of these counties may not be provided with the equal opportunity to receive the benefits of a drug court program. Additionally, the law suggests that drug courts may only admit non-violent criminal offenders when there is evidence that the crime committed was connected to personal drug use. The law does not consider the possibility that criminal offenders may have resorted to violent offenses to finance their own personal drug use. In such a case, the criminal offender may benefit from a drug court program; however, would be disqualified based on a criminal history that contains violent offenses. According to Moroney (1981), the value of equality can be enhanced in a policy if a rationale is provided as to why the benefits of a policy are not available to all. Unfortunately, House Bill 530 does not provide a rationale for why drug courts are not mandated for counties with a population of 200,000 or less, nor

for why drug courts are not available to criminal defendants who have a history that contains violent offenses.

### **Eligibility Rules of House Bill 530**

Eligibility rules refer to establishing guidelines that identify who is entitled to receive the benefits of the policy (Chambers & Wedel, 2009). There are two groups that are entitled to receive the benefits of House Bill 530. These two groups include the participants of the drug court program and the citizens of the counties where a drug court program exists. Drug court programs are diversion programs that are designed to divert individuals from the criminal justice system. One of the ways that drug court participants are offered a diversion from the criminal justice system is to offer graduates a discharge and dismissal of the criminal case that resulted in their admission into the program. According to House Bill 530, a drug court participant that completes a drug court program is entitled to a court order of nondisclosure which indicates that the criminal case filed against the participant was discharged and dismissed by the district attorney (Texas State Legislature, 2007). Having a criminal case discharged and dismissed can be of great benefit for the drug court graduate, especially in terms of being able to obtain and maintain employment.

The citizens of Texas counties where a drug court is present also experience benefits from the policy. These benefits come in the form of cost savings and public safety. Supervising criminal offenders in a drug court program, as compared to incarceration, saves the tax payers money (Carey, Finigan, Crumpton, & Waller, 2006). Although money is being saved, it is also important to consider public safety. Drug court programs have taken on the responsibility to supervise criminal offenders while they are in the process of



transitioning back into society. Drug court programs provide more intensive supervision than other community-based programs, such as probation and parole (Belenko, 1998). This intensive supervision, in combination with the required treatment, are factors that contribute towards public safety. An indication of drug courts contribution towards public safety is the lower recidivism rate of drug court participants, as compared to criminal offenders on traditional probation. The intensive supervision also protects public safety by assuring that the drug court participants are complying with the rules of the program. Noncompliance with the rules will result in an immediate intervention by the drug court team, where the goal is to assist the defendant in changing behaviors that are conducive to public safety.

#### **Administration and Service Delivery of House Bill 530**

According to Chambers and Wedel (2009), social service programs are designed based on theory, and having an understanding of the theoretical underpinnings of a specific policy can assist in identifying who is responsible for the execution of the policy. A theory that guides drug courts is that a non-punitive, rehabilitative approach to substance abuse and criminality will result in a lower recidivism rate. In order to provide the necessary treatment that drug court participants require, each county must employ a variety of drug court professionals. A goal within the drug court model is to develop a drug court team that meets the individualized needs of its population. For example, in a county that is experiencing high rates of arrests related to methamphetamine use, the drug court may employ a substance abuse counselor who specializes in the treatment of methamphetamine abuse. The diversity in disciplines within a drug court team varies from county to county; however, most drug courts strive to include Judges,

prosecution and defense attorneys, treatment providers, and case managers (Texas Association of Drug Court Professionals, 2005). Other members of drug court teams may include law enforcement officers and representatives from Child Protective Services (CPS) (Texas Association of Drug Court Professionals, 2005). This multidisciplinary team of drug court professionals is responsible for delivering the services associated with House Bill 530, and ultimately meeting the goals and objectives outlined in the policy.

While the drug court team is responsible for the execution of the policy at the practice level, the Commissioners Court of a county is responsible for the administrative functions of the policy. The Commissioners Courts of counties with a population more than 200,000 are required to apply for state and federal funding to offset the costs of a drug court program (Texas State Legislature, 2007). Also, the Commissioners Courts of counties with a population of 200,000 or less are required to monitor the federal census, and on the date that the population exceeds 200,000, the county has one year to begin a drug court program (Texas State Legislature, 2007). Noncompliance with these regulations will result in a county being ineligible for funding for its Community Supervision and Corrections Department (CSCD) and grants for substance abuse treatment offered through the state. CSCD plays a significant role in each Texas County, as this department is responsible for the management of all the defendants on probation and parole. Therefore, the Commissioners Courts have a vested interest in complying with the drug court laws because, in return, their county will be eligible for funding for its CSCD.

Finally, the responsibility of executing the policy also exists with agencies operating outside of the county's budget. These agencies, usually non-profit, such as Mental Health



Mental Retardation (MHMR), are often used as a referral source for drug court participants. Community agencies may offer services such as substance abuse counseling, mental health treatment, budgeting classes, and educational services. These community agencies have a significant interest in the success and continued funding of drug courts throughout Texas, as their revenue increases as a result of the ongoing services provided to drug court participants.

### **Financing of House Bill 530**

In 2001, with the passing of House Bill 1287, the Texas legislature appropriated \$750,000 in annual funds to existing drug courts as well as for the development of new drug courts (Texas Association of Drug Court Professionals, 2005). In order to manage this funding, the legislature aligned with the Governor's Criminal Justice Division (CJD). The mission of CJD is to create and support programs that protect people from crime, reduce the number of crimes committed, and to promote accountability, efficiency, and effectiveness within the criminal justice system (Office of the Governor Criminal Justice Division, n.d.). The CJD offers a yearly grant titled Drug Court Programs. This grant is offered to Texas counties that operate a drug court program as an alternative to traditional criminal justice sanctions.

In addition to this state funding, Texas drug courts are expected to seek out funding from federal sources. The United States Office of Justice offers an annual grant through the Bureau of Justice Assistance. This federal grant, titled the Drug Court Discretionary Grant Program, is designed to support existing drug courts by providing funding to enhance the current operations of a drug court program. This enhancement of drug courts can come in the form of providing

funding to drug court participants for substance abuse treatment and urine drug screens.

An additional method of funding is provided by the participants themselves. House Bill 530 states that a drug court program may charge a reasonable admission fee not to exceed \$1,000 (Texas State Legislature, 2007). At the discretion of the drug court program, the admission fee can be paid through a payment plan. However, many programs may be inclined to require the fee to be paid at admission, especially when federal funding for drug courts is decreasing (Heck & Roussell, 2007), and, as a result, the programs have not received the expected amount of funding. With the passing of House Bill 530, which changed the population requirement to establish a drug court program from 550,000 to 200,000, came an increase in the number of drug court programs causing the grants to become more competitive. As a result of this competition to secure drug court funding, programs may rely more on participants' fees to pay for operational costs such as the salaries of staff. The law is unclear on whether a potential drug court participant can be denied admission into the program because he or she cannot pay the admission fee. As a result, potential participants from lower socioeconomic classes may not be offered the option of drug court.

### **Unintended Consequences of Drug Courts**

The actual impact that a policy has on society may differ from the original goals and objectives; therefore, in policy analysis it is important to assess the unintended consequences that occurred as a result of the policy (Dobelstein, 2003). One of the most notable unintended consequences associated with House Bill 530 has been in the racial differences seen in drug court outcomes. Drug court programs are designed to offer services to a diverse population



of criminal offenders. There is a growing body of literature that examines the impact that race has on drug court outcomes and the factors that may contribute towards racial differences in these outcomes. Within this growing body of literature, findings suggest that African-American drug court participants are graduating drug courts at a noticeably lower rate than Caucasian drug court participants (Beckerman & Fontana, 2002; Brewster, 2001; Dannerbeck, Harris, Sundet, & Lloyd, 2006; Hartley & Phillips, 2001). In an evaluation of ten adult drug court programs in Missouri, Dannerbeck et al. (2006) tested whether race is a predictor of drug court outcomes. The study found that being Caucasian was a predictor of successfully completing a drug court program, with 55% of Caucasian drug court participants graduating the program, as compared to 28% of African American graduates. In an evaluation of the Tarrant County, Texas drug court program, Hoefer & Woody (2009) found that the graduation rate for Caucasian participants was nearly 70%, whereas the graduation rate for African American participants was only 33%. While there is a large body of evidence that demonstrates the low graduation rate for African Americans, it is important to mention that these results are not found everywhere. Vito & Tewksbury (1998) found in their evaluation of the Jefferson County, Kentucky drug court program that African American participants were more likely than Caucasian participants to complete the drug court program successfully.

The racial differences in drug court outcomes have gained the attention of researchers, and in an attempt to explore what factors may contribute toward this unintended consequence, studies have identified that drug of choice may be a factor that influences drug court outcomes. Drug of choice was one of the variables examined in the study by Dannerbeck et al. (2006). In addition to finding that African

Americans were graduating drug court at a lower rate than Caucasians, the findings from this study also noted that Caucasians were more likely to identify marijuana (n=183; 36.00%) as their drug of choice, whereas African-Americans were more likely to identify cocaine (n=47; 45.00%). The science related to drug court outcomes has indicated that drug of choice can have a significant impact on participants' productivity throughout the drug court program. Specifically, the literature has suggested that identifying cocaine as a drug of choice decreases a participants chances of completing a drug court program (Hartley & Phillips, 2001; Newton-Taylor, Patna, & Gliksman, 2009; Wolf, Sowards, & Wolf, 2004). Other drugs of choice do not appear to have the impact that cocaine has on drug court completion rates. In an attempt to examine the impact that methamphetamine use has on drug court outcomes, Listwan, Shaffer, & Hartman (2009) compared the outcomes from two groups, one sample that identified methamphetamine as their drug of choice and another sample that identified a drug other than methamphetamine as their drug of choice. In this study, the results showed that identifying methamphetamine as a drug of choice had the same influence on drug court outcomes as other drugs of choice.

An additional unintended consequence related to House Bill 530 is associated with the substance abuse treatment being delivered to drug court participants. As mentioned previously, mandatory substance abuse treatment is a key component of the drug court program. As drug court programs continue to grow throughout Texas, there is also an increasing need for counties to locate and contract with agencies who will deliver substance abuse treatment to their drug court participants. Locating treatment providers has become more challenging, especially when the supply of Licensed Chemical Dependency Counselors is declining, and 70 (27.56%) Texas counties do



not have a single Licensed Chemical Dependency Counselor (Berndt, 2007). With this influx of referrals to substance abuse treatment agencies, and the apparent limited availability of providers, comes a longer wait for treatment and the potential to contract with providers who are not providing evidenced-based services. Bouffard & Taxman (2004) used a combined quantitative and qualitative methodology to develop a more in-depth understanding of the types of substance abuse treatment offered to drug court participants. Using direct observations and interviews with a sample of four adult drug court programs, the researchers found that drug court participants were not always receiving substance abuse treatments that were consistent with evidenced-based practices. Additionally, in an evaluation of the Baltimore, Maryland drug court program, Gottfredson, Najaka, & Kearley (2003) found that 68.3% of drug court participants received some form of treatment; however, only 51.8% of the treatment received was certified through the Baltimore Substance Abuse Services.

### **Implications for Criminal Justice Practice and Policy Transfer**

The transfer, or borrowing, of policies from state-to-state is becoming an increasingly common practice of policymakers (Lightfoot, 2003). House Bill 530, for example, borrowed the concept of incorporating drug courts into the criminal justice system from Florida. The borrowing of Florida drug court policies to develop Texas drug court policies was not done by transferring the entire policy from one state to the next. Rather, Texas used a method of policy transfer called emulating. According to Lightfoot (2003), emulating is the process of copying the basic philosophy of the policy but not every detail. Emulating allows for states to modify the policy to meet their own individualized needs (Lightfoot, 2003). The

Texas Legislature emulated Florida drug courts in two primary ways. First, Texas and Florida drug courts share the same goals and orientations by operating under the philosophy that drug courts are an effective and efficient way to treat criminal offenders with substance abuse problems. Second, both states have identified the same objectives that are to be used to meet their goals. These borrowed objectives are noted in House Bill 530 as the 10 Key Characteristics of a Drug Court Program (Table I).

The transfer of policies can have many benefits, and the knowledge learned from the policy analysis on House Bill 530 has implications for criminal justice practice and policy, especially for professionals who are considering beginning or enhancing a drug court program. It is recommended that policymakers who are interested in beginning or enhancing a drug court program in their county or state use a policy transfer tool, such as the one suggested by Lightfoot (2003). The use of policy transfer tools can assist policymakers in identifying the benefits and potential difficulties associated with having a drug court, the appropriateness of a drug court for their communities, the financial costs, and the resources that are needed to execute the policy (Lightfoot, 2003). Policy transfer needs to be carefully planned, and without a thorough planning process, many unintended consequences can occur. The analysis of drug court programs in Texas provides an example of an unintended consequence related to limited planning. As drug courts were being mandated throughout the state, it was noticed that there were not enough substance abuse treatment providers to meet the needs of drug court participants. As a result, the quality of treatment being provided may have been compromised. This lesson learned in Texas can be of value to other states, as states that are considering the transfer of drug



court policies will need to make sure that they have enough resources to implement the policy.

An additional implication for criminal justice practice and policy is related to the racial disparities in drug court outcomes. A goal of drug courts is to treat all participants equally by providing a uniformed approach to the treatment of substance abuse and criminality. This uniformed approach, however, does not appear to be as successful for African Americans as it does for Caucasian drug court participants. Despite the evidence that treatment engagement, motivation, and retention can be improved by providing culturally competent, evidenced-based interventions (Beckerman & Fontana, 2002; Henggeler, Halliday-Boykins, Cunningham, Randall, Shapiro, & Chapman, 2006; Lutze & van Wormer, 2007), House Bill 530 does not address cultural issues or mandate the use of evidenced-based practices in the treatment of substance abuse. This state law could be strengthened by considering future amendments that address the cultural diversity of drug court participants and by mandating drug courts to refer to treatment providers that are using evidenced-based practices. It is important to mention that before an amendment to the existing policy can occur, policymakers will need to gain a better understanding as to why the disparity exists. The data provided in this analysis has indicated that drug of choice, specifically cocaine, and the quality of substance abuse treatment may be factors associated with the lower success rate for African American participants. Based on this data, future amendments to House Bill 530 may want to consider requiring drug court programs to offer individualized, evidence-based treatment to their participants. An example of this type of treatment is providing specialized therapy groups to individuals who identify cocaine at their drug of choice. Assuring that evidenced-based and individualized treatments

are being offered may improve the success rate for all drug court participants.

## CONCLUSION

The analysis of House Bill 530 has demonstrated several needs related to the successful development, implementation, and transfer of drug court law. Further examination of these needs can contribute to an increased knowledge base that can aid criminal justice practitioners and policymakers in addressing issues such as the racial disparities in drug court outcomes and the quality of treatment being offered to drug court participants. The conclusions of this policy analysis are limited by the three different models applied. In order to gain a more in-depth understanding of the laws that guide drug court practice, it is suggested that future research continue to utilize a tailored approach to policy analysis, but also incorporate additional models into the analysis. The use of a feminist policy analysis framework, for example, may allow for a greater understanding of the impact that drug court law has on gender (McPhail, 2003). This continued analysis of the laws that influence drug courts may improve the effectiveness and efficiency that these courts already have demonstrated.



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## AUTHOR NOTE

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## **Appendix**

Table I	10 Key Characteristics of a Drug Court Program
1	The integration of alcohol and other drug treatment services in the processing of cases in the judicial system
2	The use of a nonadversarial approach involving prosecutors and defense attorneys to promote public safety and to protect the due process rights of program participants
3	Early identification and prompt placement of eligible participants in the program
4	Access to a continuum of alcohol, drug, and other related treatment and rehabilitative services
5	Monitoring of abstinence through weekly alcohol and other drug testing
6	A coordinated strategy to govern program responses to participants' compliance
7	Ongoing judicial interaction with program participants
8	Monitoring and evaluation of program goals and effectiveness
9	Continuing interdisciplinary education to promote effective program planning, implementation, and operations
10	Development of partnerships with public agencies and community organizations



**Continuing the conversation—  
The operationalization of focal concerns  
perspective:  
Assessing sentencing decisions for criminal child  
neglect**

**Mari B. Pierce**

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***Abstract***

*Steffensmeier and colleague's (1993; 1998) focal concerns perspective has become the "dominant theoretical framework" for explaining sentencing disparities (Hartley, Maddan & Spohn, 2007, p. 58). Although the conceptualization of focal concerns perspective has largely remained unchanged since its creation, the operationalization remains inconsistent throughout the research. The current study examines prior operationalizations of focal concerns perspective and applies Hartley et al.'s (2007) operationalization to the sentencing decisions of defendants convicted of criminal child neglect. The findings suggest mixed support for the focal concerns perspective on sentencing decisions for criminal child neglect. Yet, an affirmation of the validity of focal concerns perspective is difficult due to the lack of standardized formulation of the perspective. Implications of these results and directions for future research are discussed.*

Steffensmeier and colleague's (1993; 1998) focal concerns perspective has become the "dominant theoretical framework" for explaining sentencing disparities (Hartley, Maddan & Spohn, 2007, p. 58). Although the conceptualization of focal concerns perspective has largely remained unchanged since its creation, the operationalization remains inconsistent throughout the research. This study examines prior operationalizations of focal concerns perspective and applies Hartley et al.'s (2007) operationalization to the sentencing of criminal child neglect. Prior research suggests that factors which are indicators of focal concerns perspective influence judicial responses to crimes against children (Cashmore & Horsky, 1988; Tjaden & Thoennes, 1992; Zingraff & Thomson, 1984). Yet, research examining the judicial responses specific to child neglect is largely absent in the literature (see Cross, Walsh, Simone & Jones, 2003; Sedlack et al., 2005; Tang, 2008; Tjaden & Thoennes, 1992).

The current study, therefore, addresses these gaps in the research by examining the factors that affect the sentences of defendants convicted of child neglect using prosecutorial data from 2006 and 2007 within a mid-sized city within a pacific state. In addition, focal concerns perspective is applied in order to assess the sentencing decisions specific to criminal child neglect. This research adds to the literature as focal concerns perspective has not previously been applied to sentencing decisions specific to crimes against children. Further, through an assessment of prior operationalizations of focal concerns perspective and an analysis of the data, largely based on



Hartley et al.'s (2007) operationalization, the discussion of consistent ways to operationalize focal concerns perspective is continued.

### **Focal Concerns Perspective**

The term focal concerns was first introduced by Miller (1958) when he asserts that decisions of lower class juvenile corner groups often are guided by a set of focal concerns prominent within lower class societies. Miller argues that the actions of these juvenile corner groups stem from the philosophies and behaviors of their own community. Steffensmeier (1980) first applies the idea of judicial focal concerns specific to sentencing decisions. Similar to Miller's contention, Steffensmeier emphasizes that judicial decisions are guided by a set of philosophies and perceptions and that these interact with and influence sentencing decisions.

According to focal concerns perspective there are three focal concerns: blameworthiness, community protection and practical considerations. Blameworthiness is identified as the most significant factor of the focal concerns and is defined by the seriousness of the offense or degree of injury to a victim and the extent to which the offender takes responsibility for their actions (Steffensmeier, Ulmer & Kramer, 1998). Blameworthiness is seen to impact judicial decisions due to perceptions of just deserts. Judges consider both the culpability of the offender and the injury caused to the victim.

The second focal concern, community protection, is "conceptually distinct" from blameworthiness (Hartley et al., 2007, p. 60). Through this focal concern, judges consider the

impact of their decisions specific to protecting the community through conviction and sentencing of dangerous offenders as well as the impact of their decisions on deterring potential offenders. Based on focal concerns perspective, if an offender is seen as dangerous to the community, this offender is more likely to receive a sentence of incarceration than an offender who is seen as less of a societal threat. Judges also regard practical considerations, which is the third identified focal concern. Practical considerations consider court resources, in addition to the social costs of incarcerating a defendant, such as impact of incarceration on the children of the convicted. Focal concerns perspective argues that all three concerns interact to impact decisions and that these decisions are ones in which "the court actors start with legal factors such as the offense and prior record . . . but then make further situational attributions about defendants' character and risk based on case characteristics and social statuses" (Ulmer, Kurlychek & Kramer, 2007, p. 431). Consequently, decisions are likely not based only on these three systematic considerations but are also influenced by a fourth component which focal concerns perspective refers to as perceptual shorthand.

The roots of a perceptual shorthand are found within aspects of Albonetti's (1986; 1991) bounded rationality, specific to court decision making. Albonetti (1986, p. 623) describes how bounded rationality is an "exercise of discretion" and that information provided to the court often does not eliminate uncertainty specific to a defendant's guilt or innocence. Judges are responsible for decision making and these decisions can have significant consequences. However,



according to bounded rationality, decisions often are made based on limited information provided to the courts. This limited information often results in decisions being made based on stereotypes of criminality. Through focal concerns perspective, it is argued that the limited or selective information provided to judges, in addition to commonly accepted stereotypes of criminality, impact sentencing results (Steffensmeier, Kramer & Streifel, 1993; Steffensmeier et al., 1998).

### **Testing Focal Concerns Perspective**

Focal concerns perspective was introduced by Steffensmeier (1980) and colleagues (1993) to explain disparity in sentencing decisions. Steffensmeier et al. (1998) then utilize focal concerns to assess the influence of gender on judges' sentencing decisions. The perspective has since been expanded to consider the influence of other variables. Over time, focal concerns perspective has become the "dominant theoretical framework" to explain sentencing disparities (Hartley et al., 2007, p. 58). Focal concerns perspective attempts to explain and quantify thought processes, specific to judicial decision making, yet adequate and consistent ways to measure these thoughts and decisions remains inconsistent across the research. A criticism of focal concerns perspective is that the identified focal concerns are not explicitly operationalized within the research (Hartley et al., 2007). The closest explanation simply indicates that there is a "complex interplay" between the different focal concerns (Steffensmeier et al., 1998, p. 767). Although prior studies have tested and

found support for focal concerns perspective, the lack of a guide specific to each component results in a "set of established concepts which only offer suggestions as to the variables which can measure particular concepts" (Hartley et al., 2007, p. 62). A brief examination of studies utilizing focal concerns perspective is provided in order to illustrate these measurement inconsistencies.

In 1998, Steffensmeier and colleagues introduce specific variables to test the concept of focal concerns perspective. They expand on the two prior focal concerns, blameworthiness and practical considerations, by introducing the concepts of community protection and perceptual shorthand (see Table 1). They suggest that these concerns influence judges' decision making specific to sentencing. Although Steffensmeier et al. (1998) suggest a number of variables to test focal concerns perspective many are not included in their models. For example, they suggest that judges' may make certain considerations for defendants with drug, alcohol or psychological disorders. However, these variables were not included within their analytical models. In addition, they also do not clearly explain how each of these variables was or could be measured. For example, they state that the variables *crime wrongfulness* and *crime harmfulness* can be "defined in various ways" yet, no explicit definitions are provided (p. 766).

It is also not always clear which variables are indicators of which focal concern within their models. For example, criminal history is utilized as an indicator of blameworthiness and community protection yet there is no discussion regarding how it captures both concepts. Steffensmeier et al. (1998)



conclude that the seriousness of the offense is the most significant factor when assessing sentencing decisions. This finding remains consistent throughout focal concerns perspective research.

Since Steffensmeier and colleagues (1993; 1998) conceptualization of focal concerns perspective, research continues to utilize this perspective. However, the operationalization of focal concerns perspective within the existing research varies. For example, Freiburger (2009), Hartley et al. (2007), Steffensmeier and Demuth (2000; 2001) and Steffensmeier et al. (1993; 1998) all use offense severity scores as an indicator of blameworthiness (See Table 1). Yet, Freiburger (2009), Steffensmeier and Demuth (2000; 2001) and Steffensmeier et al. (1998) use criminal history as an indicator of both blameworthiness and community protection, while Steffensmeier et al. (1993) uses it only as an indicator of blameworthiness and Hartley et al. (2007) uses it as an indicator of community protection only. In addition, Steffensmeier and Demuth (2000; 2001) and Steffensmeier et al. (1998) use the offender's role in the offense as an indicator of blameworthiness. This indicator is not utilized within any of the other identified studies (Demuth & Steffensmeier, 2004; Freiburger, 2009; Hartley et al., 2007; Kramer & Ulmer, 2002; Spohn, Beichner & Davis-Frenzel, 2001; and Spohn & Holleran, 2000; Steffensmeier et al., 1993).

The greatest inconsistencies found are within the operationalization of practical considerations. Although Freiburger (2009), Hartley et al (2007), Kramer and Ulmer (2002), Steffensmeier and Demuth (2000; 2001) and

Steffensmeier et al. (1993; 1998), all measure the influence of the judicial decisions on the children, the other considerations vary across studies. Indicators such as, pregnancy status, whether one pays child support, marital status, likelihood of conviction, the defendant's ability to do time, political ramification, the judges' relationship with the court, the defendant's employment, educational and addiction history, their health situation and whether a weapon was used, are only used in select studies. Furthermore, some studies do not even indicate how they measure practical considerations (Demuth & Steffensmeier, 2004; Spohn & Holleran; 2000).

In addition, Kramer and Ulmer (2002) suggest that an absolute operationalization of focal concerns perspective may not exist. They contend that there is no way to measure the definitions of each focal concern as these definitions vary by courts, communities and culture. Although focal concerns perspective is not a theory, it is utilized to theoretically explain sentencing and other judicial decisions. However, unless a reliable measure of focal concerns perspective can be tested consistently, it debatably "has no scientific value" (Akers 2000, p. 7). Kramer and Ulmer (2002) contend that a defendant's offense severity and prior record score are positively associated with sentencing severity but only to the degree that they match definitions of blameworthiness and community protection. Yet, arguably, if these concepts cannot be measured, how then can it be possible to know whether they are associated with sentencing severity?

Support for focal concerns perspective is often asserted within studies when some variables, which are previously



identified as indicators of focal concerns perspective, reach statistical significance. Yet, “it is not enough for a theory to fit known facts about crime or contain empirical evidence consistent with its propositions. It must also be possible to subject the theory to empirical falsifications; in other words, it must be open to evidence that may counter or disprove its hypothesis with negative findings” (Akers 2000, p. 7). Such evidence has not been clearly identified within current focal concerns perspective research.

### **Definitive Test of Focal Concerns Perspective**

Hartley et al., (2007) are the first known authors to clearly specify which variables capture each component of focal concerns perspective, making their operationalization possible to duplicate. Hartley and colleagues (2007) examine Federal Sentencing Commission data to operationalize an analytical model for purposes of testing focal concerns perspective. Through a factor analysis of this data they suggest which variables are indicators of each element of focal concerns perspective (See Table 2 and Hartley et al. (2007) for full explanation).

No identified studies examine sentencing decisions based on Hartley et al.’s (2007) operationalization of focal concerns perspective. In addition, no identified studies examine focal concerns perspective specific to crimes against children. Yet, variables within focal concerns perspective are found within existing research to impact sentencing of crimes against children (i.e., criminal history, crime seriousness, defendant’s gender, familial status and decisions to plead guilty)

(Cashmore & Horsky, 1988; Tjaden & Thoennes, 1992; Zingraff & Thomson, 1984). In addition, demographic variables are found to reach statistical significance in sentencing decisions and in decisions specific to crimes against children, indicating an application of perceptual shorthand (Cashmore & Horsky, 1998; Zingraff & Thomson, 1984). The impact of focal concerns and the use of perceptual shorthand specific to crimes perpetrated against children however are currently unknown. If focal concerns perspective is parsimonious then it should effectively and consistently explain sentencing decisions for various forms of criminality. Applying the factors of focal concerns perspective to judicial sentencing decisions specific to cases of criminal child neglect allows for further examination into how identifiers of focal concerns perspective impact sentencing for another form of criminality. This examination adds to the existing body of literature that has tested focal concerns perspective by not only assessing the elements of focal concerns through Hartley et al.’s (2007) operationalization but also applying it to a form of criminality that is largely understudied.

### **METHODS**

This study consists of data collected within a county district attorney’s office within a pacific state. The entire population of 434 defendants convicted of forms of criminal child neglect within the state’s second largest city was collected for 2006 and 2007. Child neglect is defined as individuals convicted of one or more of the following:





Criminal Mistreatment I<sup>1</sup>, which is a Class C felony, Criminal Mistreatment II<sup>2</sup>, which is a Class A misdemeanor, Child Neglect I<sup>3</sup>, which is a Class B felony, Child Neglect II<sup>4</sup>, which is a Class A misdemeanor and Endangering the Welfare of a Minor<sup>5</sup>, which is a Class A misdemeanor. The information was gathered and used to construct the independent and dependent variables examined within the current study in order to assess

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<sup>1</sup> An example of Criminal Mistreatment I: "A person commits the crime of criminal mistreatment in the first degree if the person, in violation of a legal duty to provide care for another [minor] person, or having assumed the permanent or temporary care, custody or responsibility for the supervision of another [minor] person, intentionally or knowingly withholds necessary and adequate food, physical care or medical attention from that other person."

<sup>2</sup> "A person commits the crime of criminal mistreatment in the second degree if, with criminal negligence and

in violation of a legal duty to provide care for another [minor] person, the person withholds necessary and adequate food, physical care or medical attention from that person."

<sup>3</sup> An example of Child Neglect I: "A person having custody or control of a child under 16 years of age commits the crime of child neglect in the first degree if the person knowingly leaves the child, or allows the child to stay in or upon premises that have been determined not fit for use."

<sup>4</sup> A person having custody or control of a child under 10 years of age commits the crime of child neglect in the second degree if, with criminal negligence, the person leaves the child unattended in or at any place for such period of time as may be likely to endanger the health or welfare of such child.

<sup>5</sup> "A person commits the crime of endangering the welfare of a minor if the person knowingly permits a person under 18 years of age to enter or remain in a place where unlawful activity involving controlled substances is maintained or conducted."

the impact of focal concerns perspective on sentencing decisions.

#### *Dependent Variable*

The dependent variable is a dichotomous measure of the sentencing outcome: a community sanction other than incarceration (e.g., probation) or incarceration in jail or prison. In addition, the data collected contains information on multiple convictions for forms of criminal child neglect, if applicable. Therefore, the hierarchical rule is applied, meaning the most severe sentencing outcome is utilized for this study. For example, if for one child neglect conviction, the defendant receives a sentence of discharge but for another receives a period of incarceration, the period of incarceration was coded and included in the analysis.

#### *Independent Variables*

The independent variables used within the model are largely based on Hartley et al.'s (2007) operationalization of focal concerns perspective, in addition to variables found to influence sentencing decisions for crimes against children. The independent variables, codes and frequencies are listed in Table 3.

*Blameworthiness.* Hartley et al. (2007) suggests measuring blameworthiness by offense severity scores, if there were co-occurring drug offenses, the overall number of counts referred for conviction, and whether the offender chose to plea or take their case to trial<sup>6</sup>. As a defendant's offense severity

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<sup>6</sup> Hartley et al. (2007) further conceptualized the concept of blameworthiness using the variable, whether the crime involved violence. This variable was excluded within this analysis as co-occurring violence



scores were not available within the County's paper files a proxy variable was utilized for offense severity. The classification of the most serious offense (A, B, C Felony of A misdemeanor) was collected for offense severity. When determining whether the child neglect offense was the most serious conviction offense, all conviction charges for the case were analyzed. For example, if an individual was convicted of Endangering the Welfare of a Minor, which is a Class A misdemeanor and Unlawful Possession of Methamphetamine, which is a Class B felony, then the child neglect offense was not coded as the most serious conviction offense.

Hartley et al. (2007) further suggest that defendants involved in drug crimes, in addition to the number of conviction counts, impacts perceptions of blameworthiness. The variable is a dichotomous variable for whether the defendant has a co-occurring drug conviction with the child neglect conviction. Any individual case within the study has a minimum of one conviction count. This variable is coded as a continuous variable. The number of convicted offenses measures both misdemeanors and felonies. Whether the defendant pled guilty or was found guilty through trial was collected. However, variability did not occur within the

sample, as the vast majority pled guilty, forcing this variable to be dropped from the analysis.

The relationship status between the victim and defendant is also included within the operational definition of blameworthiness. Although not specified by Hartley et al. (2007) this variable is included as research indicates that individuals are often judged more harshly for crimes against their own children due to considerations of blame and greater harm to the victim(s) (Bradshaw & Marks, 1990; Champman & Smith, 1987; Cross, De Vos & Whitcomb, 1994; Finkelhor, 1983; MacMurray, 1989; Sedlak et al., 2005).

*Community protection.* The second focal concern addresses the need to protect the community and deter offenders. Judges consider the future dangerousness of the offender when making determinations (Hartley et al., 2007). Protection of the community, or determining ones danger to society, is measured by criminal history and gender of the suspect (Hartley et al., 2007)<sup>7</sup>. In addition, Child Protection Services (CPS) history is also used as an additional indicator of prior child maltreatment. Similar to criminal history, CPS involvement indicates a pattern of prior maltreatment. The District Attorney's Office is able to access these records for sentencing recommendations (Deputy District Attorney, personal communication, December 21, 2007).

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was not found during data collection. Hartley et al. (2007) further suggested that whether the offender accepted responsibility be operationalized by whether the offender received a reduction in offense severity score for acceptance of responsibility. The judgments available within the District Attorney files only state that there is a "dispositional departure" but not the reason. It was not possible to know from the available data if this departure was due to acceptance of responsibility.

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<sup>7</sup> Hartley et al. (2007) further conceptualized the concept of protection of the community using the variables, mandatory minimum sentence for the use of a weapon or for a drug offense or whether the career criminal or the armed career criminal provisions were applied. As this analysis was specifically looking at child neglect offenses, mandatory minimum or career criminal provisions did not apply, specific to the offense types under study.



*Practical considerations.* Practical considerations are the social costs of incarceration to the defendant, their family and society. Hartley et al. (2007) identifies marital status and number of dependents as practical considerations. Although not identified by Hartley et al. (2007), age of the victim(s) at the time of the arrest is also included within this analysis. The literature suggests that victim age influences decision-making specific to cases of child maltreatment (Brewer et al., 1997; Cashmore & Horsky, 1988; Cross et al., 1994; Faller & Henry, 2000; Finkelhor, 1983; Gray, 1993; MacMurray, 1988; 1989; Stroud, Martens & Barker, 2000; Tjaden & Thoennes, 1992). The victim's age is taken into consideration when assessing the magnitude of the neglect as well as protective custody decisions (Deputy District Attorney, personal communication, December 21, 2007). The victim's age at the time of the defendant's arrest is coded as a continuous numerical variable based on the birth month and year and the arrest month and year.

The number of dependents and whether the victim(s) were placed into State Protective Custody at the time of the arrest are also considered. Practical considerations are defined as considerations specific to the "social costs" of the judicial decisions (Hartley et al., 2007, p. 59). In crimes involving child victims, the defendant is often the victim's parent, therefore, social costs specific to the victim are even greater. The number of dependents is coded as a continuous numerical variable.

*Perceptual shorthand.* Focal concerns perspective contends that stereotypes regarding who is more likely to be crime prone may influence judicial decision-making (Spohn &

Holleran, 2000). In order to examine an existence of perceptual shorthand, Hartley et al. (2007) suggest that citizenship status, pretrial status, race, ethnicity, and age of suspect influence judicial decisions.

Although citizenship status was collected during data collection, variability was not available within the sample. Race/ethnicity was collected based on the categories within the City's Police Department police reports. Police reports identify individuals as White, Black, Native American, Asian, Pacific Islander and Hispanic (City Police Detective, personal communication, February 1, 2007). Although data was collected on the race/ethnicity of each defendant, the variable is dichotomized into white and non-white due to lack of variability within the categories. The age of the defendant is coded as a continuous numerical variable and is found by subtracting the birth month and year from the arrest month and year. One's pretrial status was also collected during data collection. Each defendant is released on their own recognizance (ROR), denied bail or afforded bail during the first appearance. No defendants within the sample were denied bail. It is however unknown from the available data if the defendant was able to post bail. Therefore, the variable is coded as a dichotomous measure: ROR or bail set.

## RESULTS

The descriptive and frequency statistics are shown in Table 3 and 4. As shown in the tables, the majority of offenders committed either a Class C felony or Class A Misdemeanor.



This is likely due to the fact that the most common neglect offense was Criminal Mistreatment I, which is a Class C felony. In the majority of instances, child neglect was the most serious conviction charge and a drug conviction did not co-occur with the neglect. The mean number of conviction charges was 2.8 and the majority of offenders were the parents of their victims. Over half of the sample was female and had neither a criminal nor CPS history. The majority of offenders were married, had a mean of 1.89 children and of these child victims, who had a mean age of 6 years old, most were placed into protective custody at the time of the offenders' arrest. Less than half of the defendants were released on their own recognizance at the first appearance. The majority of the sample was white with a mean age of 31.09 years old. The child victims were mostly white and the victim groups were predominately either all male or a combination of male and female. Examination of the dependent variable indicates that a little more than three quarters of the defendants received a sentence other than incarceration.

### **Factor Analysis**

DeVellis (2003) suggests that the primary function of factor analysis is to determine how many factors or "latent variables" underlie a specific concept. For the study, focal concerns perspective is the underlying specific concept. The operationalization of focal concerns within this study is based on the principal components factor analysis, with Varimax rotation, of the theoretical model of focal concerns perspective operationalized by Hartley et al. (2007). The purpose of the

factor analysis is to examine if this study's model is statistically linked in the way that Hartley et al.'s (2007) factor loadings of the variables of focal concerns perspective suggest. This study also includes additional variables are utilized within previous studies of judicial decision making specific to child maltreatment cases. These variables are placed within the models based on the tenets of focal concerns perspective. The factor analysis findings are presented in Table 5.

As found in the Hartley et al. (2007) factor analysis findings, the variables in the current study loaded on 7 factors. However, the factor loadings here vary from their findings. In the current study, many of variables do not load together as predicted and combining of factors still does not result in clear distinctions among the four factors of focal concerns perspective. Hartley et al.'s (2007) study combine factors, arguing that the seven factors capture different aspects of the three individual focal concerns and the perceptual shorthand (see Hartley et al. 2007 for full explanation). They combine these factors together to capture the full theoretical concept of focal concerns perspective.

The factor loadings within the current study are not as predicted by Hartley et al. (2007). However, their findings also are not as predicted by Steffensmeier and colleagues (1993; 1998) in their original formulation of focal concerns perspective. Hartley et al. (2007) argue that although their loadings are not as predicted they "make logical sense" (p. 70). The results from the current factor analysis provide minimal support for Hartley et al.'s (2007) formulation of focal concerns perspective, and unlike Hartley et al., an argument



will not be made that the loadings appear to “make logical sense.”

The current study’s findings do support Hartley et al.’s (2007) claim that there is “no guide” to indicate which variables specifically capture each of the four focal concerns. Support for the influence of focal concerns on judicial decision making is found within existing research, yet, the interplay of variables between the components of the focal concerns among various studies makes accurate testing of this perspective and replication studies utilizing this perspective challenging. Hartley et al. (2007) identify these discrepancies as a “conceptual void within the focal concerns literature” (p. 70).

This study does not clearly identify four factors that follow either Hartley et al.’s (2007) operationalization or Steffensmeier and colleague’s (1998) original operationalization of focal concerns perspective. Yet, as there is no definitive testable model for focal concerns perspective, this alone cannot indicate lack of support for focal concerns perspective influence. Therefore, for purposes of this study, logistical regression models were analyzed using the proposed components of focal concerns perspective rather than the found factors. Significant logistic regression coefficients were also transformed into odds ratios to show the change in the simple odds of an event occurring with a one-unit increase in each independent variable. Additionally, as the independent variables do not factor as predicted, an additional model (including all the indicators of focal concerns perspective) is utilized within the analysis. Simply analyzing focal concerns perspective against the individual predicted focal concerns (i.e.,

variables of blameworthiness alone) does not acknowledge that these independent variables do not load together as predicted.

### **Individual Models**

As predicted by Steffensmeier et al. (1998), indicators of blameworthiness are found to have the greatest influence of all the components on the sentencing decision. As indicated in Table 6, indicators of blameworthiness account for 29.2% of the variations in sentencing. More specifically, defendants whose most serious conviction was child neglect are less likely to receive a sentence of incarceration than those defendants convicted of co-occurring offenses which are more serious. The simple odds of incarceration for a defendant decreases by 64.2% where a conviction of child neglect does not co-occur with a more serious crime. In addition, cases with a conviction for Criminal Mistreatment I have a greater likelihood of receiving a sentence of incarceration than those convicted of Criminal Mistreatment II, Child Neglect I/II or Endangering the Welfare of a Minor. The simple odds of incarceration decrease by 65.2% for cases without a conviction of Criminal Mistreatment I.

The number of conviction charges is also statistically significant. The simple odds of a defendant receiving a sentence of incarceration increase by 58.5% as the total number of conviction charges increase. In addition, the relationship status between the defendant and the victim statistically influence the likelihood of a sentence of incarceration. The simple odds of a sentence of incarceration are 45.7% less likely



for cases involving defendants convicted of criminal child neglect when their own children are the victims.

When assessing indicators of community protection, the results indicate that male defendants ( $b = -.544$ ;  $p < .05$ ) with a known prior criminal history ( $b = .950$ ;  $p < .05$ ) are found to more likely receive a sentence of incarceration than female defendants or defendants with no known criminal history. The simple odds of receiving a sentence of incarceration increase by 159% for defendants with a known criminal history. The simple odds of a receiving a sentence of incarceration decrease by 42% for female defendants.

The number of dependents and marital status, both of which are indicators of practical considerations, negatively influence the log odds of a defendant receiving a sentence of incarceration. The simple odds of incarceration decrease by 21.5% as the number of a defendant's children increase ( $b = -.242$ ;  $p < .05$ ). In addition, the simple odds of incarceration decrease by 52.7% for married defendants ( $b = -.479$ ;  $p < .05$ ). The age and custody status of the defendant's crime victims both statistically increase the simple odds of a sentence of incarceration. As the mean age of the victim(s) increase the simple odds of the defendant receiving a sentence of incarceration increase by 7.6% ( $b = .073$ ;  $p < .05$ ). In addition, whether the child victims were placed into Protective Custody also significantly increase the likelihood of a defendant's incarceration ( $b = .655$ ;  $p < .05$ ). The simple odds of incarceration for defendants whose victims were placed by the State were almost 93% greater than defendants whose victims were not placed into Protective Custody.

Limited evidence for the influence of perceptual shorthand is found to influence the sentencing decision of defendants convicted of criminal child neglect. Only one predictor of the perceptual shorthand is statically significant. The simple odds of incarceration increase by 172% for defendants who had a set bail than those who are released on their own recognizance. A defendant's pre-trial bail status statistically increases the likelihood of a sentence of incarceration ( $b = 1.000$ ;  $p < .05$ ).

### **Full Model**

Moderate to strong support for focal concerns perspective is found within the sentencing decision when analyzing the individual models. The majority of the variables of blameworthiness, protection of the community and practical considerations all significantly correlate to the sentencing decision. In fact, all the variables of practical considerations are significant at the .05 alpha level. When assessing the full model, as shown in Table 6, blameworthiness is again the strongest focal concern, with three of its six indicators significantly influencing the sentencing decision.

The type of child neglect conviction offense ( $b = -1.034$ ;  $p < .05$ ), whether the criminal child neglect is the most serious conviction offense ( $b = -1.206$ ;  $p < .05$ ) and the total number of conviction charges ( $b = .229$ ;  $p < .05$ ), which are all indicators of blameworthiness, remain significant within the full model. Yet, the defendant-victim relationship is no longer significant. A defendant's known criminal history ( $b = .842$ ;  $p < .05$ ) and their gender ( $b = -.653$ ;  $p < .05$ ), which are



indicators of community risk, both remain significant within the full model. However, all the variables of practical considerations, which are significant within the individual model, are not found to significantly influence the sentencing decision within the full model. Lastly, a defendant's bail status significantly influences the sentencing decision within the individual model ( $b = 1.000$ ;  $p < .05$ ), yet shows no significance in the full model ( $b = .452$ ;  $p > .05$ ).

In order to test whether the variations between the individual and full models are significantly different,  $z$  scores were calculated. The differences within these models specific to a defendant's co-occurring drug conviction ( $z = 2.284$ ), child welfare history ( $z = 2.029$ ), marital ( $z = 1.982$ ) and bail status ( $z = 2.713$ ) are significant. These differences between the judicial decision maker's conclusions when assessing the individual focal concerns combined with the perceptual shorthand versus a comprehensive examination of blameworthiness, community risk, practical considerations and use of a perceptual shorthand may be best explained by what Steffensmeier et al., (1998) referred to as a "complex interplay" between the different focal concerns, (p. 767).

It is difficult to predict whether judges consider each focal concern separately along with the perceptual shorthand, rather, than simultaneously assessing the entire picture. As "we cannot know with any degree of certainty what goes through a judge's mind during the sentencing process" it is doubtful that analyzing these types of data can capture the complexities and interplays within and between these propositions of focal concerns perspective (Spohn, 1990, p. 1215). Yet, the current study indicates that how these concerns are assessed can influence the overall support of focal concerns perspective.

#### *Limitations and Future Research*

The current study is limited in its focus to one jurisdiction. Due to a lack of variability within the overall population of the City (the City's demographics indicate that 83.1% of the population is identified as white, non-Hispanic), the current study is unable to take into account the influence of specific races/ethnicities on sentencing decisions within this jurisdiction. Therefore, the generalizability of these results to other jurisdictions is questionable. Future research should examine the sentencing decisions of defendants charged with child neglect in other jurisdictions. This can help further our general understanding of the sentencing decisions for child neglect crimes. In addition, future research should continue to explore the impact of focal concerns perspective on the sentencing of other crimes against children, in particular crimes against their own children. Although this study found considerable support for focal concerns perspective when assessing each component individually, minimal support is found when collectively assessing the four aspects.

### **CONCLUSION**

This study attempts to further understanding of the influences that affect sentencing decisions in criminal cases involving child neglect. It also attempts to gain a more comprehensive knowledge of the effects of focal concerns perspective on sentencing decisions for forms of criminal child neglect. The findings from the individual models indicate that indicators of blameworthiness and practical considerations influence the decision to incarcerate defendants convicted of



criminal child neglect. In addition, a defendant's criminal history, bail status and gender impact sentencing decisions. These findings support focal concerns perspective, which suggests that defendants who are perceived to be more blameworthy and dangerous are more likely to be sentenced harshly. The practical considerations specific to the victims, who are largely the offenders' children, do show to influence sentencing. For example, whether the victims are placed into protective custody increases the likelihood of a sentence of incarceration. It may be that if a child is in the State's custody, the judge may no longer consider the influence of sentencing on the children, as the child is out of the home.

As expected, indicators of blameworthiness are found to have the greatest impact in both the individual and full models. No evidence of the use of perceptual shorthand was found within the full model. However, these findings may be specific to child neglect or more specifically child neglect in this particular city. Examinations should be assessed not only in other locations, but also to other forms of criminality against children, in order to expand our understanding of focal concerns perspective impact on sentencing decisions for crimes against children.

The results of the current study suggest mixed support for the focal concerns perspective on sentencing decisions for criminal child neglect. Yet, an affirmation of the validity of focal concerns perspective is difficult due to the lack of standardized formulation of the perspective. In order to adequately understand these decision making processes, researchers of focal concerns perspective may need to follow,

watch, listen to, and question judicial decisions makers, rather than trying to measure their decisions through available quantifiable data. Steffensmeier et al. (1998) and Kramer and Ulmer (2002) both utilize interviews of judges when assessing sentencing decisions based on focal concerns perspective, yet their analyses place limited focus on what they uncovered during these interviews. A clearer understanding of what judges' perceive as significant is suggested in order to create consistency within the operationalization of this perspective, which would then make uniform quantifiable testing possible.

However, it is recognized that focal concerns perspective continues as a widely accepted explanation for judicial decision-making, in particular sentencing decisions. It may be that judicial concerns specific to crimes against children are unusual compared to other forms of criminality. Focal concerns perspective simply may not address these unique considerations. It may be that focal concerns perspective adequately accounts for the aggregate of criminal cases yet not necessarily select forms of criminality, which influences its scope. However, not until a consistent, testable formulation of focal concerns perspective is created can assertions regarding its range of scope be made.

## **BIOGRAPHICAL SKETCH**

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Table 1:  
*Prior Operationalizations of Focal Concerns Perspective*

Author(s)	Year	Focal Concerns Utilized	Indicators of Focal Concerns
Steffensmeier, Kramer and Streifel	(1993)	Blameworthiness  Practical Considerations	Prior Record Offense Severity Children Pregnancy Physical Ailments Mental Health Issues
Steffensmeier, Ulmer and Kramer	(1998)	Blameworthiness   Community Protection      Practical Implications	Offense Severity Crime Wrongfulness Crime Harmfulness Criminal History Prior Victimization Offender's Role Nature of the Offense Case Information Criminal History Use of a Weapon Drug Dependency Education History Employment History Family History Relationship with Court Flow of Cases Correctional Resources Ability to "Do Time" Health Conditions Special Needs



Steffensmeier and Demuth	(2000)	Perceptual Shorthand	Costs to Corrections Children/Family Community Perception Race Age Gender
		Blameworthiness	Offense Severity Criminal History Prior Victimization Offender's Role Biographical Information
		Community Protection	Nature of the Offense Criminal History Case Information Employment History Education
		Practical Implications	Community Ties Ability to "Do Time" Likelihood of Recidivism Community Perception Judge's Future Career Costs to Corrections Children/Family
Spohn and Hollerman (2000)		Perceptual Shorthand	Gender Race Social Class/Position
		Blameworthiness	Not Specified
		Community Protection	Not Specified
		Practical Considerations	Not Specified
		Perceptual Shorthand	Age Race/Ethnicity



			Gender Employment Status
Steffensmeier and Demuth	(2001)	Blameworthiness	Offense Severity Biographical Information Criminal History Prior Victimization Offender's Role
		Community Protection	Nature of the Offense Case Information Criminal History Offender Characteristics
		Practical Implications	Ability to "Do Time" Costs to Corrections Children/Family Community Perception
		Perceptual Shorthand	Gender Race/Ethnicity Social Class/Position
Spohn, Beichner and Davis-Frenzel	(2001)	Blameworthiness	Not Specified
		Community Protection	Not Specified
		Practical Considerations	Likelihood of Conviction
		Perceptual Shorthand	Stereotypes of Rape/Rape-Behavior Character of Victim Victim's Cooperation
Kramer and Ulmer	(2002)	Blameworthiness	Varies
		Community Protection	Varies
		Practical Considerations	Prosecutorial/Court Time Jail and Prison Resources Political Ramifications Impact on Victims



		Perceptual Shorthand	Impact on Offender Impact on Family Race Gender Age
Demuth and Steffensmeier	(2004)	Blameworthiness Community Protection Practical Considerations Perceptual Shorthand	Variables Identified: Offense Severity, Criminal History Age County & Mode of Conviction
Hartley, Maddan and Spohn	(2007)	Blameworthiness	Offense Severity Score Drug Offense Drug Minimum Number of Counts Type of Disposition Accepts Responsibility Criminal History Armed Career Criminal Career Criminal Gender Violent Offense Gun Minimum
		Community Protection	Marital Status Number of Dependents Citizenship Status Pretrial Status Race Ethnicity Age Dispositional
		Practical Considerations	
		Perceptual Shorthand	



Freiburger	(2009)	Blameworthiness	Offense Severity Prior Felony Convictions Pretrial Release Status Plea Codefendant Mental Health Diagnosis Race of Defendant Gender of Defendant Age of Defendant
		Community Protection	Offense Severity Prior Felony Convictions Employment Status Educational Status Race of Defendant Gender of Defendant Age of Defendant
		Practical Considerations	Lives with Child Pays Child Support Year of Sentencing Marital Status
		Perceptual Shorthand	Race of Defendant Gender of Defendant

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Table 2:  
*Hartley et al.'s (2007) Operationalization of Focal Concerns Perspective*

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Blameworthiness

- Seriousness of the offense
- Whether the crime involved violence
- Whether the crime involved drugs
- Number of counts referred for conviction
- Whether the defendant pled guilty

Protection of the Community

- Whether the criminal charges fall under the armed career statute
- Whether the criminal charges fall under the career criminal statute
- Defendant's criminal history
- Defendant's gender

Practical Considerations

- Marital status
- Number of dependents

Perceptual Shorthand

- Race/Ethnicity
  - Age
  - Citizenship Status
  - Pretrial Status
-



Table 3:  
*Frequency Statistics for Variables, Coding for Analysis N = 434*

Variable	N	%
<u>Blameworthiness</u>		
Most serious conviction		
C Felony/A Misdemeanor (0)	360	82.9
A Felony/B Felony (1)	74	17.1
Child neglect most serious conviction?		
No (0)	112	25.8
Yes (1)	322	74.2
Co-occurring drug conviction?		
No (0)	272	62.7
Yes (1)	153	37.3
Most serious child neglect conviction		
Other than Criminal Mistreatment I (0)	153	35.3
Criminal Mistreatment I (1)	281	64.7
Defendant relationship with victim		
Not parent/guardian of all victims (0)	154	35.5
Parent/guardian of all victims (1)	280	64.5
<u>Protection of the Community</u>		
Criminal history		
No (0)	224	51.6
Yes (1)	210	48.4
CPS history		
No (0)	337	77.6
Yes (1)	97	22.4
Gender		
Male (0)	163	37.6



Female (1)	271	62.4
<u>Practical Considerations</u>		
Marital status		
Married (0)	289	66.6
Not Married (1)	145	33.4
Victim's placed in Protective Custody?		
No (0)	117	27.0
Yes (1)	317	73.0
<u>Perceptual Shorthand</u>		
Bail Status		
Released on <b>recognizance (0)</b>	171	39.4
Bail set (1)	263	60.6
Race/Ethnicity		
White, Non-Hispanic (0)	358	82.5
Non-white (1)	76	17.5
Gender of the Victim(s)		
Victims per incident not all female (0)	327	75.3
All victims per incident female (1)	107	24.7
Race/Ethnicity of the Victim(s)		
Victims per incident not all white (0)	131	30.2
All victims white, non Hispanic (1)	303	69.8
<u>Dependent Variable</u>		
Sentence Decision		
Out (0)	343	79.0
In (1)	91	21.0

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Table 4:  
*Official Data Descriptive Statistics for Continuous Data, N = 520*

Variable	Minimum	Maximum	Mean	Standard
	Deviation			
Number of conviction charges	1	16	2.82	1.78
Number of dependents	0	9	1.89	1.47
Mean age of victim(s)	0	17	6.00	4.20
Age	18	66	31.09	8.72



Table 5:  
*Principal Components Factor Analysis*

Variables	Factor 1	Factor 2	Factor 3	Factor 4	Factor 5	Factor 6	Factor 7
Child neglect most serious	-0.830						
Co-occurring drug conviction	0.801						
Most serious conviction	0.784						
Bail status	0.372						
Race/ethnicity of victim		0.891					
Race/ethnicity		- 0.836					
Age		0.782					
Mean age of victim		0.751					
Protective custody		- 0.546					
Offender-victim relationship				0.775			
Number of dependants				0.675			
Gender			0.624				
CPS history					0.801		
Criminal history					0.767		
Gender of victims					- 0.693		
Number of convictions						0.628	
Marital status						0.794	
Most serious neglect offense							0.521

Rotation Method: Varimax



Table 6:  
*Logistic Regression Results for the Sentencing Decision, Individual and Full Models*

Variable	Individual Models			Full Model				
	B	SE	Wald	Exp(B)	B	SE	Wald	Exp(B)
<u>Blameworthiness</u>								
Most serious conviction	.706	.365	3.737**	2.025	.521	.401	1.686	1.684
Child neglect most serious	-1.027	.376	7.449*	.358	-1.034	.471	6.164*	.356
Most serious neglect offense	1.055	.288	13.442*	.348	-1.206	.329	13.427*	.299
Co-occurring drug conviction	.163	.359	.206	1.177	-.175	.389	.202	.840
Number of conviction charges	.215	.080	7.192*	1.240	.229	.091	6.338*	1.257
Offender-victim relationship	-.629	.279	5.086*	.533	-.377	.349	1.166	.686
-2 Log Likelihood	355.690							
Model Chi Square	90.053*							
Nagelkerke R Square	.292							
<u>Community Protection</u>								
Criminal history	.950	.267	12.653*	2.586	.842	.315	7.137*	2.320
CPS history	.117	.291	.163	1.125	.537	.358	2.257	1.711
Gender	-.544	.246	4.880	.580	-.653	.305	4.583*	.521
-2 Log Likelihood	422.627							
Model Chi Square	23.116*							
Nagelkerke R Square	.081							
<u>Practical Considerations</u>								
Number of dependants	-.242	.092	6.883*	.785	-.134	.142	.893	.874
Marital status	-.749	.290	6.667*	.473	-.389	.342	1.290	.678



Mean age of victim	.073	.029	6.520*	1.076	.067	.039	2.866**	1.069
Victims in protective custody	.655	.304	4.640*	1.925	.517	.371	1.941	1.677

-2 Log Likelihood	422.170
Model Chi Square	23.573*
Nagelkerke R Square	.082

Perceptual Shorthand

Bail status	1.000	.277	13.018*	2.720	.452	.343	1.731	1.571
Race/ethnicity	.483	.395	1.498	1.621	.179	.476	.141	1.196
Age	.007	.014	.239	1.007	-.012	.017	.475	1.012
Race/ethnicity of victim(s)	-.418	.343	1.488	.658	-.340	.412	.681	.712
Gender of victim(s)	.191	.281	.462	1.211	.227	.346	.433	1.255

-2 Log Likelihood	422.463	324.953
Model Chi Square	23.280*	120.790*
Nagelkerke R Square	.081	.378

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\* p < .05      \*\* p < .10



Table 7:  
*Test of Significance between Individual and Full Models, Sentence Decision*

Individual Models	Full Model				
Variable	B	SE	B	SE	Z
<hr/>					
<u>Blameworthiness</u>					
Most serious conviction	.706**	.365	.521	.401	1.108
Child neglect most serious	-1.027*	.376	-1.034*	.471	.025
Most serious neglect offense	-1.055*	.288	-1.206*	.329	.956
Co-occurring drug conviction	.163	.359	- .175	.389	2.284*
Number of conviction charges	.215*	.080	.229*	.091	.318
Offender-victim relationship	-.629*	.279	-.377	.349	1.201
 <u>Community Protection</u>					
Criminal history	.950*	.267	.842*	.315	.647
CPS history	.117	.291	.537	.358	2.029*
Gender	-.544*	.246	-.653*	.305	.609
 <u>Practical Considerations</u>					
Number of dependants	-.242*	.092	-.134	.142	.982
Marital status	-.749*	.290	-.389	.342	1.982*
Mean age of victim	.073*	.029	.067	.039	.071
Victims in protective custody	.655*	.304	.517	.371	.645
 <u>Perceptual Shorthand</u>					
Bail status	1.000*	.277	.452	.343	2.713*
Race/Ethnicity	.483	.395	.179	.476	1.143
Age	.007	.014	-.012	.017	.594
Race/ethnicity of victim(s)	-.418	.343	-.340	.412	.342
Gender of victim(s)	.191	.281	.227	.346	.178

\* p < .05      \*\* p < .1





## **Drug Treatment Court Versus Probation: An Examination of Comparative Recidivism Rates**

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### **INTRODUCTION**

Drug treatment courts have virtually exploded since the introduction of the first DTC in Miami, Florida in 1989. By December 2008 there were over 2000 drug treatment courts in operation in the United States, including adult, juvenile and family drug courts (National Drug Court Institute, 2009). The drug treatment court (DTC) is a treatment-oriented program that has a strong relationship with restorative and community justice (Fulkerson, 2009). As will be discussed, the DTC is a form of probation that includes a strong treatment component coupled with regular court appearances. Is the DTC any more effective than traditional probation? It is hypothesized that DTC participants have lower recidivism rates than drug offenders who are placed under a traditional probation program. It is also hypothesized that the DTC subjects who successfully complete the program have better outcomes than those who do not. This paper compares the recidivism rates of the Pulaski County, Arkansas DTC program with the

recidivism rates of the drug offenders in the same jurisdiction who were supervised by the "normal" probation system.

### **BACKGROUND**

After forty years, the "War on Drugs" rages on with no end in sight. At the same time, the United States has earned the distinction of having the highest rate of incarceration in the world (Sherman, 2000). On June 30, 2002 over two million persons were incarcerated in American prisons and jails (Harrison & Karberg, 2003). At the end of 2007, a total of 7.3 million were in prison, jail, or under parole or probation supervision (Bureau of Justice Statistics, 2009).

The incarceration rate has increased from 458 persons incarcerated in prison or jail for every 100,000 population in 1990 to 702 persons per 100,000 in 2002 (Harrison & Karberg, 2003). If current incarceration rates continue, then five percent of Americans can expect to be behind bars at some time in their life. When viewed by gender and race, in 2008 4777 black males were incarcerated for every 100,000 in population compared with 1760 Hispanic males and 727 white males (Bureau of Justice Statistics, 2009). It is obvious that minority groups experience a much greater level of contact with the American correctional system than do whites.

It is undeniable that the drug policy of the United States is at the heart of this prison population explosion (Tonry, 1994; Tonry, 1999; Beck, 2000; Granfield, R., Erby, C., and Brewster, T., 1998). Persons convicted of drug offenses constitute the largest single offense group of prisoners in the United States (Beck, 2000). On December 31, 2002 there were 3,995,165 adults serving a probationary sentence in the United States. Of this group, 24% were sentenced for a drug violation (Dorsey, Zawitz, and Middleton, 2003).



In addition to the obvious consumption of a large proportion of criminal justice and correctional resources by drug cases, there is also a relationship between drug addiction and the commission of other criminal acts. A practicing addict is estimated to commit sixty-three crimes in a year. It has been suggested that placing an addict in treatment can reduce this to only six crimes per year (Gebelein, 2000; Hubbard, 1988). The Office of Justice Programs of the U. S. Department of Justice (2000) has estimated that each drug addict will cost his or her fellow citizens over \$43,000 per year if not provided treatment. It has been estimated that each additional dollar spent on providing the additional supervision and treatment in the Dallas, Texas DTC results in a saving of \$9.43 in other costs to society over a 40-month post-treatment period (Fomby & Rangaprasad, 2002). More modest, but still significant, savings are suggested by a California evaluation that reported \$3.50 saved for each \$1.00 spent on a DTC program (Carey, et al, 2006.) These facts illustrate the tremendous importance of treatment for substance abusers.

Length of treatment is a significant variable. Retention by subjects for at least one year was found to be a highly significant predictor of success in a methadone program (Simpson, Joe, & Rowan-Szal, 1997). Drug treatment courts use higher levels of supervision and regular court appearances to encourage longer and more successful participation in the treatment program. Higher retention rates in treatment programs have been shown to have an association with better outcomes and lower recidivism (Belenko, 2001).

#### Drug Treatment Courts

In response to the growing crush of drug cases on our court systems, the drug treatment court (DTC) was developed (Belenko, 1998). The first drug treatment court began in Miami, Dade County, Florida in 1989 under the guidance of

Judge Herbert M. Klein with the goal of addressing the core problem of addiction. Offenders were provided treatment, counseling, and acupuncture, along with educational and vocational programs (Hora, Schma, and Rosenthal, 1999). The DTC is an alternative to incarceration and may be described as a form of probation with a strong emphasis on treatment. The traditional probationary sentence also utilizes varying levels of drug treatment. Of the felony offenders who are on probation, 37.5% had drug treatment as one of the conditions of release (Dorsey, et al, 2003). The DTC also utilizes the continuing jurisdiction and supervision by the court of the participants.

DTCs also recognize that relapses are an expected part of the recovery process (Wolfer & Roberts, 2008; Egbert, Church & Byrnes, 2006). The DTC program makes use of graduated sanctions for violations of program requirements, including positive urine tests (Lindquist, Krebs & Lattimore, 2006). Many drug courts have specified sanctions for violations, with the penalty being increased for successive violations (Hora, *et al*, 1999).

As noted above, evaluations of DTCs have reported lower recidivism rates for DTC participants than for comparison groups. A review of several evaluations nationwide included six studies that considered post-DTC recidivism. Four of the six evaluations reported lower recidivism for DTC participants. Two of the studies were statistically significant, while the other two did not test for statistical significance (Belenko, 2001). Another study considered in the Belenko review measured 12-month recidivism rates of Las Vegas, Nevada DTC participants against a sample of drug offenders who did not enter the DTC program. This study found overall recidivism rates for DTC subjects to be 53% compared to 65% for the non-DTC group (Goldkamp, White, & Robinson, 2001).



An evaluation of three drug treatment courts in Texas found drug court participants had re-arrest rates of 40.5% compared to 56.8% of the comparison group. The DTC subjects who completed the program had re-arrest rates of only 28.5%, while the DTC subjects who did not complete the program had rates of 65.1% (Martinez & Eisenberg, (2003). A study of the New York state adult drug court program also found reduced recidivism rates for drug court participants. This study also observed that completion of the DTC program is a strongly associated with reducing recidivism (Rempel, Fox-Kralstein, Cissner, et al (2003).

An evaluation of the Salt Lake County drug court found a 67.3% recidivism rate for a control group of drug offenders compared to 30% for DTC graduates (Utah Commission, 2001). A California study reported 4-year recidivism rates of 17% for DTC graduates in comparison with 41% recidivism for a comparison group (Carey, et al, 2006.)

One of the most ambitious studies of recidivism rates for drug court graduates was a national sample of 2,020 drug court graduates from 95 courts (Roman, Townsend, & Bhati, 2003). Recidivism was defined as arrest and charge for an offense punishable by incarceration for at least one year. Subjects were followed for two years after graduation from the drug court program. The drug court graduates had a recidivism rate of 27.5% within two years of graduation. Younger offenders had higher recidivism rates than did older offenders. Blacks had higher rates than whites. Males had higher rates than females. The study also considered rates by size of the drug court. It was found that larger courts had higher recidivism rates than smaller courts. The study suggests that the larger drug courts operate in larger cities and accept offenders with more severe drug problems.

The above studies indicate that there is a wide disparity

in the drug court literature as to efficacy of drug courts. A meta-analysis of 103 drug court evaluations of 96 different drug courts raised concerns over the quality of treatment and the quality of the evaluations (Gutierrez & Bourgon, 2009). DTCs utilize a broad range of treatment methods that result in uneven quality of services delivered to participants. Further, the analysis determined that many of evaluations reveal flawed methodology that can impact reliability of the findings of the evaluations. This study determined that after considering the quality of the treatment provided, and considering only acceptable evaluations, DTCs produce an 8% reduction in recidivism compared with comparison groups (Gutierrez & Bourgon, 2009).

#### Drug Courts and Restorative Justice

Drug courts are a departure from the retributive justice model, which has dominated American drug policy since the 1970s. The DTC is a community based treatment program, which seeks to assist drug offenders in a shared effort to become and remain drug free and to become stable contributing members of society. In this regard the DTC may be viewed as a benefiting from the teachings of restorative justice. Restorative justice has emerged as powerful force in criminological theory, even being ascribed "movement" status by observers (Zehr & Toews, 2004). Restorative justice has its roots in victim-offender relations and is used as an alternative to the traditional criminal justice system (Bazemore & Umbreit, 1995).

The traditional approach to criminal behavior is focused upon the offender and is totally controlled by the government (Zehr, 1990). Restorative justice, on the other hand, seeks to treat the offender, the victim and the community and equal participants in the response to criminal conduct (Bazemore & Umbreit, 1995). The DTC program seeks to treat the addiction of offenders and and to repair the damage which has been caused



by the addition. Thus, the relationships of offenders, family, employers and the community are repaired through the completion of a DTC program (Keena, Fulkerson & Griep, 2007).

There has been a debate as to the scope of restorative justice, with purists asserting that restorative justice should not be expanded beyond its victim-oriented roots. It has been argued that taking restorative justice beyond its victim-offender boundaries will dilute its efficacy as a response to deviant conduct (Roche, 2001). As noted above, the DTC functions as a part of the court system (Hora, et al, 1999; Egbert, Church & Byrnes, 2006). Because of its place as a part of the court system, the DTC is very much a government-dominated program. Accordingly, it may not be termed a fully restorative justice intervention (McCold, 2004). Instead, the DTC may be better described as an example of community justice (Crawford & Clear, 2001). It has been stated that community justice "is a product of the mainstream American justice system, government funded for the past 30 years and designed to improve current practices rather than to change them" (Strang, 2004, p. 77). However, the DTC as a community justice approach can benefit from the rehabilitative and reparative elements of restorative justice (Fulkerson, 2009).

#### The Arkansas DTC

The first drug court in the State of Arkansas was the Sixth Judicial Circuit STEP (Supervised Treatment and Education Program) Court in Little Rock, Arkansas. This court began accepting cases in June 1994. Pulaski County has the largest population (353,221) in the state and is the location of the state capitol of Little Rock. The county is 53% female and 47% male. The county is 65% white and 32% black (U.S. Census Bureau, 2001).

The original Arkansas drug court was a diversion

program, which was designed for adult offenders who were charged with non-violent offenses. All DTC participants were required to undergo a four-phase treatment program. Phase 1 was designed to be for three weeks and included intensive substance abuse counseling, family counseling and group counseling. Phase 1 participants were subjected to frequent drug testing and court appearances. The treatment team would recommend moving to Phase 2 when appropriate. Phase 2, a twelve-week program included continued counseling, random drug testing and life skills classes. Phase 3 is generally nine months and continues the individual and group counseling on a quarterly basis. The offender attends relapse prevention classes monthly in this phase. The offender is tested for drugs only once a month in Phase 3. Upon completion of the program the offender enters aftercare, Phase 4. All offenders in phases 1-3 are required to attend a twelve-step program once each week (Zolten & Rowell, 1996).

## METHODS

This study is an evaluation of the Pulaski County DTC, including a comparison of recidivism rates of the drug court participants with drug offenders in Pulaski County Circuit Court who were sentenced to a traditional probationary sentence. Does the drug court approach work any better than "normal" probation?

Records of the 6<sup>th</sup> Judicial Circuit Supervised Treatment and Education Program (STEP) Court were reviewed for the time beginning with the court's inception in 1994 through the beginning of 1996. These records were provided with the assistance and cooperation of the presiding judge. Each case filed in the court from June 1994 through January 16, 1996 was examined. Data retrieved from the court



files included personal identity information for the purpose of a longitudinal study of subsequent criminal history for each DTC participant. Information collected included age, education, employment, race, gender, offense charged, urinalysis results, and overall program outcome for each subject.

A review of those persons who had drug charges filed in the traditional criminal divisions of the Pulaski County Circuit Court in 1995 and were given probationary sentences identified a comparison group of drug offenders, who did not go through the DTC program. As with the DTC group, identifying personal information was collected for the purpose of determining subsequent criminal histories of the control group subjects. A total of 394 individuals were placed on probation in the traditional Circuit Court divisions for felony drug offenses in this time frame. The DTC group was made up of 381 subjects. The study does not include misdemeanor offenders in the DTC program because the probation group consisted of only felony offenders. The DTC group also excluded offenders who were denied participation in the program after initially being referred to the DTC. These offenders were not considered in the study because they were not provided any services by the program.

Whether the offenders who participated in the drug court program demonstrated any reduction in future criminal behavior is the pivotal question of this research project. Does the program work? Is the DTC more effective than probation? For the purpose of this study, examining recidivism of the group subjects will test effectiveness of the drug treatment court. The DTC program is a form of probation. Accordingly, the comparison group was composed of felony drug offenders placed on probation.

Archival data in the form of criminal histories of the offenders in both groups were obtained from the Arkansas

Crime Information Center (ACIC). ACIC records were reviewed to complete a four-year recidivism analysis of each group. Some offenders were not found in the ACIC records, and were excluded from the study. The four-year period begins with the date of offense and examines whether a subsequent arrest occurred within four years from the date of arrest of the initial offense. Since the DTC was a twelve-month program the follow-up period includes post-graduation recidivism.

Recidivism, as disclosed by official measures of crime, can be based upon arrests or convictions. In this study, arrest was selected as the event that categorizes a subject as a recidivist. Specifically, an arrest and charge for a felony or a serious misdemeanor, which is reported in the Arkansas Crime Information Center statistics.

## RESULTS

The DTC group included 381 subjects. Of this group, 46.4% were under thirty years of age, and 53.6% were thirty or over. The majority of the DTC participants were black at 56.3%, compared with 43.7% who were white. The DTC group was overwhelmingly male with 66.5%, while only 33.5% was female. The comparison group was made up of 394 subjects. All were charged with felony drug offenses in Pulaski County Circuit Court. Comparison group subjects were 35.2% white and 64.8% black, and were 77.6% male and 22.4% female. The probation group was 52.9% under thirty years of age and 47.1% thirty years of age or older.

As noted above, the drug court literature, which has studied retention, suggests that program completion is the strongest predictor of future success for offenders (Rempel, et al, 2003; Utah, 2001). The DTC records indicate that 30.3% of



the subjects of this study graduated from the program, compared with 43.8% who were terminated from the program, and 11.4% who withdrew of their own personal choice. Another 13.3% were denied entry into the program after their initial referral. As stated above, those who were denied entry are not included in this study.

### **Recidivism in general**

Subjects in the DTC group experienced a four-year recidivism rate of 53.3% compared to a 62.5% rate for the traditional probation group. The difference is statistically significant.

(See Table 1. – Appendix)

### **Recidivism and race**

When controlling for additional variables we discover that white offenders showed no significant difference in future arrests regardless of whether they were in the drug court group or the probation group. White DTC subjects had the same future arrest rate of 50.3% compared to 50.7% of the white probation subjects. There was a difference between the DTC and comparison groups when the subjects were black. Black drug court subjects had a 55.8% recidivism rate compared to a 69.8% rate for the black subjects who went through the traditional probation process. For black subjects, the difference is statistically significant with a Cramer's V significance level of .002, and the relationship is moderate with a value of .144.

See Table 2. Appendix)

### **Recidivism and gender**

A distinction is noted when controlling for gender. Female DTC subjects show higher rates of recidivism than the

traditional probation group. The drug court females had a recidivism rate of 53.4%, while the probation group females had a lower rate of 49.4%. This is statistically insignificant with a Cramer's V significance level of .562, and a weak Cramer's V value of .039. Male drug court subjects had a recidivism rate of 53.2% compared to 66.8% rate for the probation group males. The difference is significant with a Cramer's V significance level of .001, and the relationship must be viewed as moderate with a value of only .138.

(See Table 3. Appendix 1)

### **Recidivism and age**

When controlling for age, only the over-thirty subjects showed any statistically significant difference. For the under-thirty subjects 59.0% of DTC group members had a subsequent arrest compared to 64.1% of the probation group members. The difference is statistically insignificant with a Cramer's V significance level of .301. The thirty and over subjects who were in the drug court group produced a recidivism rate of 48.3% compared to the 61.6% rate for the probation group. This is statistically significant with a significance level of .008 and the relationship is moderate with a value of .134.

(See Table 4. Appendix)

### **Recidivism and program completion**

Completion of the DTC program does appear to lower recidivism. Those offenders who successfully completed the drug court program had future offense rates of only 35.9%. This is contrasted with re-arrest rate of 63.6% of those who withdrew or were terminated from the program. The overall recidivism rate for the probation group was 62.9%. Thus, the



offenders who were terminated or withdrew from the DTC program had nearly the same rate of future arrests, as did those offenders who were never referred to the drug court. As noted previously, the probation group subjects had an overall recidivism rate of 62.9%. Those who completed their probation requirements without having a petition to revoke experienced a 49.5% rate of recidivism. The DTC subjects who did not complete the program had a recidivism rate of 63.6% compared to 78.9% for the probation group who experienced a revocation.

**(See Table 5. Appendix)**

Program completion appears to be the strongest predictor of improved recidivism rates. Which program demonstrates the greatest degree of completion must then be considered. The DTC group had a much lower rate of completion with only 37.3% of the subjects completing the DTC program. Of the traditional probation group, 55.5% of the subjects completed the probationary program.

### **Logistic regression**

The dependent variable of recidivism is discrete. The subjects are recidivists if they are arrested for a felony or serious misdemeanor within four years of arrest for the underlying offense. Logistic regression analysis will be used to examine the effect on recidivism by the independent variables of program completion, age, gender, race and program type (DTC or traditional probation).

The overall model has a significant impact upon recidivism with a Model Chi-Square of 81.47 (df 5) and a significance level of .0000. The Hosmer and Lemeshow Goodness-of-Fit test produces a significance level of .5362,

which substantially exceeds the .05 confidence level. Accordingly, we fail to reject the null hypothesis that there is no difference between the model's expected frequencies and those that were actually observed. Thus, the model fits the data at a level that is acceptable.

The SPSS logistic regression classification table indicates that the model also accurately predicts the dichotomous dependant variable of recidivism 66.49% of the time.

**(See Table 6. Appendix 1)**

Logistic regression analysis suggests that all independent variables except gender have a significant influence upon dependent variable of recidivism. It also suggests that the most powerful predictor of future recidivism among these independent variables is that of program completion. The odds ratio of a subsequent arrest within four years for a drug offender who does not complete the court ordered program, whether it be the DTC program or a traditional form of probation, is 3.253 times greater than for an offender who completes the assigned program. Even when the two groups are compared on overall recidivism, the logistic regression odds ratio suggests that the DTC subjects are .5618 less likely to have a subsequent arrest than the traditional probation subjects.

**(See Table 7. Appendix)**

### **DISCUSSION**

The Drug Treatment Court as a response to the phenomenon of drug use in our society is a relatively new



concept. If the measure of success of the DTC as a sentencing option is based upon recidivism rates alone, then the DTC is more successful than traditional probation. The DTC group subjects experienced recidivism rates of 53.3% compared to a 62.9% rate of subsequent arrests for the probation group subjects. This is statistically significant, and indicates a weak-to-moderate relationship between being in the DTC program, and being sentenced to a traditional form of probation, and improved recidivism rates.

Very little difference in recidivism rates was noted for white offenders and female offenders in the two groups. As stated above, the black offenders who were in the DTC group had better success than those in the probation group, with recidivism rates of 55.8% for black DTC subjects compared to a 69.8% recidivism rate for the black probation group offenders. This improvement is statistically significant. Males also appeared to respond better to the DTC and showed a statistically significant reduction in recidivism.

As hypothesized, the lowest rates of subsequent arrests are for those who completed the DTC program. This is consistent with the hypothesis of MacKenzie, *et al* (2001) that the completion of treatment programs is what produces the improvement in recidivism rates among various shock-incarceration programs. The DTC graduates had recidivism rates of only 35.9% compared to a 63.6% rate for those who failed to complete the program. The study shows a 49.5% recidivism rate for the successful probation group subjects compared to a recidivism rate of 78.9% for the probationers who were unsuccessful. Thus, it appears that completion of the assigned program does matter, and has more influence on outcomes than do the other independent variables of age, race, and gender. But, as pointed out by Goldkamp, *et al*, this simply means that, "successes succeed and failures fail" (2001,

p. 32).

While the comparative costs of delivery of services by the traditional justice process against those costs incurred by the DTC program are not considered in this study of the Arkansas DTC, there are obvious savings obtained by placing non-violent offenders in community based programs as opposed to sentencing them to a period of incarceration. But this study compares two different community based alternatives to incarceration, and suggests that the DTC subjects who complete the program do better than the members of the probation group who complete. However, the DTC group has a much lower rate of completion. This low retention rate of DTC participants may cause policy makers to question the efficacy of the DTC model.

The DTC subjects are all voluntary participants. The traditional probation group subjects are not voluntary. The voluntary nature of DTC participation may produce some self-selection bias. Accordingly, the results of this study must be viewed with caution.

### **Recommendation for further study**

The criminal justice system is an aggressive consumer of public resources. An analysis should be completed of the comparative costs of delivering the services and programs of the drug treatment court model against those costs associated with the traditional method of probation supervision.

Completion of the assigned program is the most significant variable in reducing recidivism. The DTC graduates have significantly lower recidivism rates than the successful probationers. Thus, factors that can contribute to improving the retention rates for the DTC program should be considered. Why are the completion rates so much lower for DTC participants than for traditional probationers? Is it the





additional supervision, the drug screening, or the regular schedule of court appearances? The factors that contribute to the DTC failures may be the very factors that produce the improved recidivism rates in the graduates.

The inherent self-selection bias involved in a voluntary program such as the DTC must also be considered. To what extent does the fact that the DTC subjects volunteered for the program increase their chances of successfully completing the program?

The extent of criminal activity should also be determined by going beyond the official measures of crime. This study determined recidivism rates by examining Arkansas Crime Information Center records. This archival data only reveals crime that has resulted in a formal arrest. Self-report data should be collected from study subjects so as to more completely determine to what extent criminal activity is reduced as a result of the DTC program.

#### Summary

The pioneer drug treatment court in the State of Arkansas, the Pulaski County Circuit Court STEP court, is shown to have produced a significant improvement in recidivism rates as compared with the traditional probation system. Overall, completion of the treatment program is suggested as a significant predictor of improved recidivism. Those drug offenders who completed the DTC program showed a more significant reduction in recidivism than did the drug offenders who completed the traditional probation program.

Drug offenses make up a greater and greater proportion of the overall caseload of our criminal courts. Alternatives to "America's contemporary experiment with mass imprisonment" (Tonry & Petersilia, 2000) and the media and politics driven "War on Drugs" must be found and utilized.

But, which alternative? The traditional probation model and the DTC are both community-based alternatives to incarceration. Is the drug treatment court model a step in the right direction?

It was hypothesized that offenders who were diverted to the drug treatment court would display lower recidivism rates than offenders handled in the traditional probation process. The evidence in this study did support this hypothesis. The recidivism rates of the DTC subjects did show an improvement over those of the traditional probation model. The DTC subjects exhibited a recidivism rate of 53.3% compared to a 62.9% rate for the traditional probation group. The reduction in four-year recidivism is statistically significant.

Furthermore, the recidivism rates show a marked improvement among those who completed the treatment-oriented program. It was also hypothesized that completion of the treatment program would also show a reduction in recidivism of offenders. This hypothesis was supported by the data in this study. DTC subjects who completed the DTC program demonstrated four-year recidivism rates of only 35.9% compared with a 49.5% rate for the probation group subjects who completed their probation supervision.

The overall impact of the DTC on recidivism rates may be impacted by the fact that a much lower number of DTC participants (37.3%) successfully complete their assigned program when compared with traditional probationers (55.5%). These data suggest that if retention rates among the DTC participants could be increased, then greater reductions in recidivism will follow.

Drug treatment as a means of addressing the problem of drug abuse in America is an idea whose time has come. The DTC format of administering justice relies upon the rehabilitative model of addiction treatment in conjunction with the coercive



power of the criminal justice system. Many drug users may not obtain the benefits of this treatment program without the not-so-gentle push of the court.

The combination of the treatment-oriented approach of the drug treatment court with the coercive power of the criminal justice system to involve substance abusers in a treatment program is an innovative use of these two distinct processes. The use of the court as a means of delivering restorative justice and the recognition of the public health component of the problem of substance abuse are noteworthy developments that should be encouraged and expanded. It has, however, been suggested that even DTC graduates who have had convictions expunged face substantial obstacles by still being denied benefits available to others such as access to public housing, student loans and other public assistance (Cooper, 2007). This study suggests that while the drug treatment court is not a magic bullet for the problem of addiction, it is an effective program when compared with traditional probation supervision.

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### BIOGRAPHICAL SKETCH

**Dr. Andrew Fulkerson** is the former Judge of the Greene County, Arkansas District Court, having served fifteen years in that position. He has also served as a deputy prosecuting attorney for the Second Judicial Circuit of Arkansas. Fulkerson holds a B.A. and M.A. from Arkansas State University, a J.D. from the University of Arkansas, and a Ph.D. from the University of Portsmouth, U. K. He is a former member of the Arkansas Judicial Discipline and Disability Commission and past president of the Arkansas District Judges Council. Fulkerson now serves as associate professor of criminal justice for the Department of Criminal Justice and Sociology at Southeast Missouri State University. His research interests include restorative justice issues, drug treatment courts and domestic violence.



## Appendix

Table 1 Overall 4-Year Recidivism Rates

	DTC	Probation
Future Arrests-Yes	203 (53.3%)	248 (62.9%)
Future Arrests-No	178 (46.7%)	146 (37.1%)
Total	381 (100%)	394 (100%)
Symmetric Measures		
	Value	Sig.
Cramer's V	.098	.006

Table 2 4-year Recidivism Rates and Race

Future Arrests	DTC	Probation
White		
Yes	82 (50.3%)	68 (50.7%)
No	81 (49.7%)	66 (49.3%)
Black		
Yes	120 (55.8%)	180 (69.8%)
No	95 (44.2%)	78 (30.2%)
Symmetric Measures		
Cramer's V	Value	Significance
White	.004	.940
Black	.144	.002



Table 3      Recidivism Rates and Gender		
Future Arrests	DTC	Probation
Female		
Yes	70 (53.4%)	43 (49.4%)
No	61 (46.6%)	44 (50.6%)
Male		
Yes	133 (53.2%)	205 (66.8%)
No	117 (46.8%)	102 (33.2%)
Symmetric Measures		
Cramer's V	Value	Significance
Female	.039	.562
Male	.138	.001

Table 4      4-year Recidivism Rates and Age		
Future Arrests	DTC	Probation
Under 30		64.1%
Yes	105 (59%)	134 (64.1%)
No	73 (41%)	75 (35.9%)
30 and over		
Yes	98 (48.3%)	114 (61.6%)
No	105 (51.7%)	71 (38.4%)
Symmetric Measures		
Cramer's V	Value	Significance
Under 30	.053	.301
30 and over	.134	.008



Table 5 4-year Recidivism Rates and Program Completion		
	DTC	Probation
Complete Future Arrest		
Yes	51 (35.9%)	106 (49.5%)
No	91 (64.1%)	108 (50.5%)
Not Complete Future Arrest		
Yes	152 (63.6%)	142 (78.9%)
No	87 (36.4%)	38 (21.1%)
Symmetric Measures		
Cramer's V	Value	Significance
Complete	.134	.011
Not Complete	.165	.001

Table 6 Classification Table for RECID			
The Cut Value is .50			
Observed	Predicted		Percent
	Correct		
Yes	369	81	82.00%
No	177	143	44.69%
Overall			66.49%



Table 7 Logistic Regression							
Variables in the Equation							
Variable	B	S.E.	Wald	df	Sig	R	Exp(B)
Group (DTC/Prob)	-.5767	.1616	12.7344	1	.0004	- .1053	.5618
Completion	1.1794	.1619	53.0636	1	.0000	.2297	3.2523
Age	-.1853	.1554	1.4225	1	.2330	.0000	.8308
Race	-.3279	.1595	4.2246	1	.0398	- .0479	.7204
Gender	.3532	.1722	4.2057	1	.0403	.0477	1.4237
Constant	-.4315	.1924	5.0293	1	.0249		





## Hegemonic Masculinity and Mass Murderers in the United States

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### *Abstract*

*This exploratory study examines the act of mass murder as an attempt by the perpetrators to lay claim to a hegemonic masculine identity that has been damaged or denied them, yet that they feel entitled to as males in American culture. Biographical information was gathered for 28 men who have committed mass murder in the United States since 1970 and examined for evidence of stressors to the perpetrators' masculine identities. The majority of the sample demonstrated financial (71%), social (61%), romantic (25%), and psychological stressors (32%) and other stressors (18%) that indicated a failure to attain the hegemonic masculine ideal in American culture. There were co-occurring stressors such as financial-social, financial-psychological and social-psychological. These stressors suggest that the motivations for mass murders are numerous and complex. There is no psychological profile unique to mass murderers and many authors have speculated on their motivations. However, in this study, the range of interrelated stressors experienced by the*

*majority of mass murderers threatened their hegemonic masculine identity and these men engaged in violence to protect their identity.*

## INTRODUCTION

On April 16, 2007 Seung-Hui Cho killed 32 people and wounded another 17 during a shooting rampage on the campus of Virginia Polytechnic Institute and State University. Cho committed suicide before he could be captured by police, so his motivations for his crimes may never be known. However, a note and video manifest left behind by the killer and reports of those who knew him revealed a disturbed young man with little social or coping skills. Reports of Cho's unsettling behavior go back several years prior to the event of April 16. Following the shootings, reports surfaced from both teachers and fellow students who described unsettling classroom behavior and writing assignment themed around acts of violence (Potter, et al, 2007). Cho's peers reported that he was often mocked and bullied in high school and was unable to manage "normal social interactions" (Johnson, et al, 2007). In his videotaped manifesto, mailed to NBC news in New York on the day of the massacre, Cho attributes his actions to the "rich brats" who bullied and picked on him and painted himself as an "avenger for the weak and defenseless" (Biography.com, 2007).

Just after noon on October 16, 1991, George Hennard drove his pickup truck through the front window of a Luby's restaurant in Killeen, Texas. He then proceeded to "calmly and methodically" (Houston Chronicle, 2001) murder 24 of the lunchtime diners. Before the shootings, Hennard had lost his job as a merchant seaman and had sent a letter to two young female neighbors in which he stated that he would "prevail



over the female vipers in those two rinky-dink towns in Texas” (Terry, 1991). It appeared that Hennard may have targeted women in his rampage. Fourteen of the victims were women and one witness reported that during the shooting spree Hennard had shouted “Wait 'til those f---ing women in Belton see this! I wonder if they'll think it was worth it!” (Squitieri & Howlett, 1991, p.1A).

The motivations for mass murders such as those committed by Cho and Hennard are numerous and complex. There is no psychological profile unique to mass murderers and many authors have speculated on their motivations. The intense rage these men must have felt is undeniable, but it remains unclear why they chose to express that rage in rampages against innocent bystanders who never did them any personal wrong. “Mass murderers tend to be frustrated, angry people...(whose) lives have been failures by their standards...(and who tend to select targets that are) symbolic of their discontent...The mass murder is their chance to get even, to dominate others, to take control, to call the shots, and to gain recognition” (Bartol & Bartol, 2005, p. 344-345). This paper examines the act of mass murder as an attempt by the perpetrators to lay claim to a hegemonic masculine identity that has been damaged or denied them, yet one they feel entitled to, as males in American culture.

### **Mass Murderers**

Mass murder is defined as “the sudden, intentional killing of more than one person in the same location and at the same time, usually by a single person” (Palermo & Ross, 1999, p.8). Turvey (2008) notes that the problem of mass murders is not unique to the United States. However, Hamamoto (2002) argues that the United States produce most of the world’s mass murderers because of a “blow back” by civilians scripting

violence in a hyper-militarised America which started with the increasing military adventures after World War II. Research on mass murder is relatively limited when compared to other forms of multiple homicide (Bowers, et al, 2010), yet several authors have identified descriptive characteristics, patterns, and typologies that differentiate mass murder from other forms of multiple murder and from murder in general (Fox & Levin, 2012, Bowers, et al, 2010, Bartol & Bartol, 2011).

Mass murderers tend to differ from murderers in general in a number of ways. They are more likely to be older, male, and white than the typical homicide perpetrator (Fox and Levin, 2012). Their victims are also likely to differ from general homicide victims. According to Fox and Levin (2012) victims of mass murderers are more often white (approximately 70% compared to about 50% of general homicide victims) and female (43% compared to 23%) than general homicide victims. These men tend to have a history of personal and professional failures and tend to externalize the blame for those failures on others or society at large (Fox and Levin, 2012, Bowers et al, 2010).

There are three common types of mass murderers, the pseudocommando, set-and-run or hit-and-run killer, and the family annihilator (Bowers, et al, 2010; Knoll IV, 2010a, 2010b). Family annihilators are often family patriarchs who murder many members of their own families due to mounting feelings of frustration, desperation, and hopelessness stemming from numerous and mounting failures and disappointments (Fox & Levin, 2012, Bowers, et al 2010). The pseudocommando type often have a long-standing fascination with weapons and who plan their mass murders to settle real or imagined grudges with individuals who have harmed them or with society at large (Fox & Levin, 2012, Bowers, et al 2010). A set-and-run mass murderer uses techniques which allow him



to kill many people while avoiding capture, such as product-tampering, bombings, are arson fires (Fox & Levin, 2012, Bowers, et al 2010). Fox and Levin (2012) have also offered a typology of mass murderers based upon the killer's primary motivation – power, revenge, loyalty, profit, and terror.

### **The Motivation for Mass Murder**

There are several explanations that accounts for the behavior of mass murderers. One is the strain theory perspective, which argues that a mass murderer goes through several sequential stages. They experience chronic strain, resulting from long term frustrations starting in childhood or adolescence which isolates them. Over time, they experience uncontrolled strain, because of a lack of pro-social support which influences how, a real or imagined devastating and negative major short-term life event, is constructed. Acute strain follows, which leads to the planning stage that involves fantasies to regain control of the situation, through a masculine solution which is then actualized (Levin & Madfis, 2009). Moving beyond the strain theory, it is also believed that mass murderers are motivated by loyalty, terror, profit, power and revenge (Fox & Levin, 2012).

Although there is no profile unique to mass murderers, they display strong paranoid traits (Stone, 2007). This psychopathological explanation is also supported by Melroy, et al (2004) who find that mass murderers are reclusive people who suffer from psychiatric disturbances. They also have personality traits that predispose them to act out. Some of the predisposing factors are a “warrior mentality” and a fascination with war and weapons. Hempel, Meloy and Richards (1999) also find that some mass murderers suffer from depression or paranoia and the death toll is higher when they are psychotic. Similarly, White-Harmon (2001) finds that the majority of

mass murderers were suffering from a mental disorder. The psychopathology perspective is also supported by Palermo (1997) who speaks of a “berserk syndrome.” The underlying factors of this syndrome are hostile feelings towards society, high narcissism, an injured ego with the potential murderer searching for a sense of self through infamy and the assertion of self, that provides catharsis (Palermo, 1997).

There is a contrary view, which sees the crazed killer explanation which depicts the mass murderer as an unemployed loner who is psychotic, as a myth which should be dispelled. Generally, mass murderers are employed with a married or unmarried partner (Turvey, 2008). The psycho-myth occurs because the mass murders break the basic societal norms and rules around which the community coalesces, so they are seen to be abnormal when they are quite normal (Fox & Levin, 2005). Rarely is the mass murderer a crazy killer (Kelleher, 1997). Also, the hypothesis of a subculture of violence that is used to explain criminal behavior should not be applied to mass murderers. A comparison of mass slayings with single-victim homicides reveal that mass murderers are ordinary and rational people who share the same characteristics with the average American (Levin & James, 1983). The foregoing controversy about the mental state of mass murderers, suggest that they should be seen as people who are influenced by a complex set of interrelated factors and have implications for forensic mental health practitioners (Aitken, et al, 2008; Kelleher, 1997). The trigger for the murderous rage is usually deep frustration because of a major personal loss or major rejection such as the loss of a job or a failed intimate partner relationship in a few days or hours before the murders are committed (Hempel, Melroy & Richards, 1999; Melroy, et al, 2004; Palermo, 1997).



### **Hegemonic Masculinity**

Hegemonic masculinity is the socially supported and dominant masculinity, which informs normative male behavior and unequal gender practices seen in the subordination of women in the society. This dominant masculinity which is associated with power, high status, authority, heterosexism and physical toughness, and legitimizes patriarchy, not only subordinates femininities but also other masculinities deemed to be weaker in the society's gendered order (Beasley, 2008; Connell, 1995; Lusher & Robins, 2009). Hegemonic masculine violence is not only confined to the urban milieu in the United States, because the socio-economic and political changes that also take place in rural areas, lead to internal and external male violent expressions which are strategic patriarchal practices used to create an imagined rural gendered hierarchy (Carrington & Scott, 2008).

Some critics of the hegemonic masculinity thesis suggest that it does not take into account the inequalities of class based power, and the political economy that produces and reproduces traditional physical male violence. This conceptual oversight means that hegemonic masculinity, is applied outside of relevant historical contexts and material processes, that make the use of the term hegemony a misnomer and the concept an inadequate explanatory factor for patterns of male violence (Hall, 2002). Moreover, the concept is also used in a monolithic way which ignores plural masculinities that take into account the heterogeneity of masculine identity and power (Beasley, 2008). Despite these criticisms, there is an evolutionary perspective which locates masculine violence in the descent of man. This perspective argues that violent masculinity is an expression of the survival of the fittest and the drive for reproductive success which has its genesis in human ancestral environments (Polk, 1998).

School is one of several social domains in which hegemonic masculinity is created and expressed in the contemporary era. Very few Americans link school shootings to the gender of the shooters (which is male) although criminologists have consistently argued that there is a relationship between masculinity and violence. The masculinity which influences male aggression and violence is socially constructed (Watson, 2007). In other words, the incidences of hate crimes, bullying in schools and school shootings among other violent expressions of masculinities are influenced by the approaches, processes and codes of the societal construction of men. Schools are very much reflections of this social construction as the bullying and school shootings just mentioned suggests. The ways of man making, which starts before the pre-K level and goes up to manhood, supports and approves subtle and physical expressions of violence. Therefore, the hegemonic masculinity taught in American schools jeopardises the safety of students and the society (Serriere, 2008).

The context of the inner city streets is also used by youth to express violent masculinities. Respect is central to male identity where masculine street behavior is driven by a code that regulates norms surrounding how grievances and conflicts are resolved. There is also an interaction driven ecology of danger, which is influenced by perceptions of threatening or deadly social interactions with rival males, whether they have hostile intentions and whether or not they are willing to use violence to hurt others (Wilkinson, 2001). The anatomy of violence is evident in the narrative of a young male, who was constructing his masculine identity which required the projection of a preferred presentation of self. This self presentation was achieved through creating boundaries about the use of violence, the reasons for fighting and whom



one should fight. Masculine characteristics were made salient in the narrative by sorting and positioning the characters of the story. Several varying depictions of other men emerged in the discourse such as non-men, villain and hero. The foregoing discourse of violence, suggests that that masculine identity was constructed and negotiated through the gendered positioning of the negative other (Andersson, 2008). The use of the life history method to understand adolescent male violence, also suggests that boys use the ideals of hegemonic masculinity to construct their emerging manhood. This identity was buttressed in school by the institutionalized bodily and sexual practices that created subordinate masculinity which is linked to sexual violence and an opposition masculinity which is connected to assaultive violence (Messerschmidt, 1999).

The growing body of evidence in the literature that hegemonic masculinity is related to violence was contradicted by the findings of a study of the relationship between masculinity and violent and nonviolent situations. The findings of the study indicate that there is no relationship between violence and masculinity but the presence of a third party is a significant predictor of violence (Krienert, 2000). In keeping with the overall trend of the data on violent masculinity, the positive presence of a father in the life of a son constructing his hegemonic masculine identity is a key means of preventing the emotional problems that triggers male violence (Pope & Englar-Carlson, 2001). The prevalence of male violence suggests that there is a crisis of masculinity which provides opportunities to stop the violence and challenge the masculinities supported by the status quo (Hurst, 2001). However, masculine violence continues unabated in the United States and the most blatant expression of this form of violence is the action of mass murderers.

### **The Present Study**

Numerous authors discuss the importance of personal and economic failure, episodes of personal humiliation, a history of mounting frustration and depression, and the externalization of the blame for those things as important precipitating factors to mass murder (Fox Levin, 2012; Bowers, et al, 2010; Bartol & Bartol, 2011; Ramsland, 2005). However, none have examined the behavior of mass murder as an expression of the cultural meaning of those factors in terms of the perpetrator's masculine identity. The purpose of the present research is to understand the role of hegemonic masculinity in influencing some males to commit mass murders in the United States. There is no specific hypothesis because this an exploratory research article about hegemonic masculinity and mass murderers.

### **METHOD**

#### *Sample and Procedure*

The authors conducted a review of academic books, peer-reviewed journal articles, and reputable newspapers, magazines and websites and identified 28 mass murders for inclusion in the study. The criteria for selection were (1) the perpetrator was a male, (2) who committed mass murder<sup>1</sup> in the United States since 1970 and, (3) had been discussed in the media.

The authors conducted a Lexis Nexis search of major U.S. and world publications for newspaper and magazine accounts of each subject in order to gather information about their biographical characteristics. The characteristics of the

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<sup>1</sup> The operational definition of mass murder used herein is the murder of three or more persons in one place and there is no rest period between the murders (Bartol & Bartol, 2010).



killer is operationally defined as the disposition and mental state of the killer that is reflected in his speech or behavior, or in witness reports, that were identified as important in the newspaper and magazine reports, and the websites dealing with the incident.

Each case was reviewed based on the place, and death toll of the incident, the characteristics of the killer, and the stressor(s) that led to the incident. Biographical information was reviewed for evidence of stressors to the perpetrator's hegemonic masculine identity. The stressor is operationally defined as any devastatingly negative experience, real or imagined, that threatened the subject's hegemonic masculine identity and influenced the mass murder incident. Any such evidence was then coded as a financial stressor, a romantic stressor, a social stressor, a psychological stressor or other stressor. Conflicting information received from media accounts about a case was addressed by choosing the information which had the greater triangulation of sources.

Financial stressors included circumstances such as the loss of a job, persistent unemployment or inability to maintain employment, serious debt, financial loss, and poor job performance or work-related reprimand. Romantic stressors included divorce, the breakup of a relationship, and rejection of romantic or sexual overtures. Social stressors included circumstances such as having been the victim of bullying by peers, social ostracism or isolation, ethnic or racial harassment, and the perception of having been wronged by others or society in general. Information was coded as a psychological stressor if it involved evidence of a history of mental illness, past or present treatment for mental illness, or indications of the presence of psychotic symptoms such as hallucinations or delusions at the time of the murders. Stressors that could not be classified as one of the preceding or cases in which no clear

stressors could be identified were classified as "other stressors".

The coded data was then analyzed to look for trends and patterns in the frequency of the occurrence of the various types of stressors. Two coders were used to code the data and the inter-coder agreement is .84 and .85.

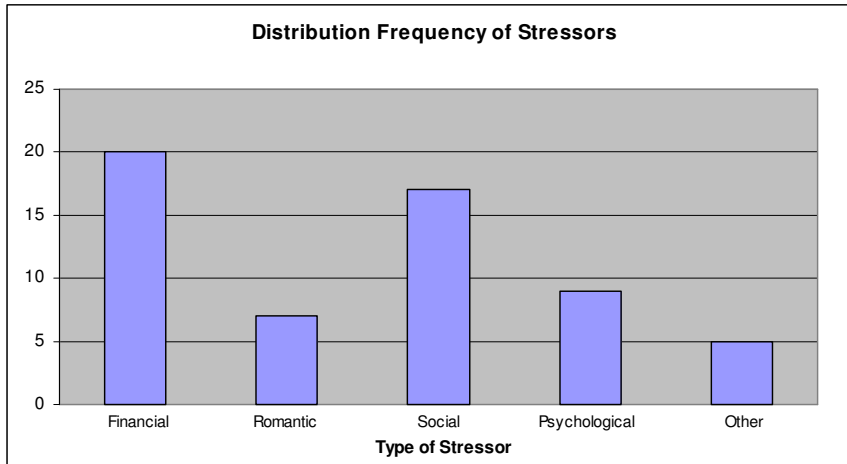
## RESULTS

We identified a total of 28 mass murderers who fit the criteria for inclusion. In all, they were responsible for the murders of 275 people, 48% of whom were female. Most of the sample, 46%, killed people they knew (family, acquaintances, co-workers, or classmates). Another 32% killed strangers and 6% killed some combination of both strangers and people they knew. The average age of the sample was 32 years. 71.4% were White, 14.3% were African American, and another 14.3% were some other race (Asian, Arab, and Native American). Some 46% were unemployed or not currently working (this figure does not include the 29% of the sample who were full time students at the time of their attacks). Also, 54% of the sample committed suicide following the mass murders.

As shown in Figure 1, the most frequently observed stressors were financial (71%) and social (61%) in nature.



**Figure 1: Distribution Frequency of Stressors**



The ability to maintain gainful employment and economic independence is one important element of the hegemonic masculine identity. In 71% of the sample, evidence of a financial stressor in the form of unemployment, serious debt, financial loss, and poor job performance or work-related reprimand was found. For example, George Hennard, who shot and killed 23 people in a Texas restaurant in 1981, had lost his job with the Merchant Marines. His attempts to be reinstated had been denied just six months prior to the shootings.

James Huberty killed 21 people in California in 1984. For several years preceding the massacre, he had been unable to maintain steady employment and had moved his family around several times. After his shooting spree, one witness reported that Huberty had once commented that “if he could not support his family, he would ‘take everyone’ with him” (Reed, 1984). In 1999, Mark Burton went on a rampage and killed 12 people at the office of an Atlanta, Georgia day trading company. Before the shootings, he had lost more than

\$100,000 in the stock market in just eight weeks (Krantz, 1999).

Another important aspect of a hegemonic masculine identity is the ability to exert social dominance, achieve a high social status, command respect and demonstrate authority. Some 61% of the men in the sample experienced social stressors such as bullying by peers, social isolation or ostracism, and racial or ethnic harassment.

In 2007, Seung-Hui Cho killed 32 people on the campus of Virginia Polytechnic Institute and State University in the worst mass murder in American history. Cho demonstrated his rage with the world in a videotaped statement that he sent to NBC on the day of the shootings (Biography.com, 2007). After the massacre, former classmates of Cho’s gave accounts of the ridicule and ostracism he experienced throughout his school career. He was picked-on for his broken English, made fun of for his shyness and social awkwardness, and physically pushed around by other students (Kennedy, 2007). Other school shooters such as Eric Harris, Dylan Klebold, Andrew Golden, and Jeffrey Weise also suffered from bullying and ostracism by peers.

Many subjects in the sample expressed their perceptions of having been wronged or treated unfairly by others or by society in general. Michael McClendon, who killed 11 people in Alabama in 2009, kept a list of people who he felt had “done him wrong” (Bone, 2009). When Colin Ferguson killed 11 people on a commuter train in New York in 1993, he carried with him numerous hand-written notes containing his grievances against various people and social institutions that he felt had wronged him or held him back in some way (Frankel, 1993).

A third important aspect of the hegemonic masculine identity is the ability to demonstrate romantic/sexual success or



dominance. Some 25% of the sample had experienced divorce, the breakup of a relationship, and/or the rejection of romantic or sexual overtures prior to their act of mass murder. In 1988, Richard Farley killed seven and injured five of his former co-workers in a shooting spree in California. One of his victims was a woman who had rejected Farley's numerous romantic overtures (Mathews, 1988). Another man, Bruce Pardo, killed 9 people in California in 2008 following his recent divorce.

In addition to these stressors, many men in the sample (32%) demonstrated some type of psychological distress. This included evidence of a history of mental illness, past or present treatment for mental illness, or indications of the presence of psychotic symptoms such as hallucinations or delusions at the time of the murders. A prime example is George Banks. Banks killed 13 family members and acquaintances in Pennsylvania in 1982. During his trial, defense psychiatrists testified that Banks was a psychotic who suffered from paranoid delusions (International Justice Project, n.d.). Banks' death sentence was later commuted after having been found incompetent to be executed due to mental illness.

Some 18% of the sample evidenced other stressors such as drug abuse, past sexual abuse, terrorism, or whose motives remained unclear or unknown. Christopher Thomas was high on crack cocaine during the 1984 massacre of two women and eight children in Brooklyn, New York. The attack was thought to have been precipitated by Thomas' drug-fueled and incorrect belief that his estranged wife was engaged in an affair with a man living in the house where the killings took place (Associated Press, 1984). Mark Essex's 1972 killing of nine police officers appears to have been primarily motivated by his racial hatred of whites (Hustmyre, n.d.).

Most of the sample (57%) demonstrated evidence of more than one type of stressor. The most frequently occurring

concomitant stressors were financial/social (25%), financial/psychological (21%), and social/psychological (21%). Several men in the sample demonstrated more than two stressors, with the most frequently occurring (18%) being financial/social/psychological.

## DISCUSSION

This exploratory study examined the influence of hegemonic masculinity on the violent behavior of twenty eight mass murderers in the United States since 1970. The majority in the sample 71.4 % were white males and the average age of the men in the sample is 32 years. The foregoing findings corroborate the findings by Fox and Levin (1998, 2012) about the profile of mass murderers. A majority of the men (71%) experienced financial stressors. The hegemonic masculine perspective suggests that it is possible that the men viewed these stressors as threats to the self as providers for themselves and/or their families. A lack of income (46% of the sample were unemployed) or insufficient financial resources reduced the men's autonomy and independence and devalued their manhood so they may have felt they were incompetent providers for themselves and/or their families.

Threats to hegemonic masculinity also occurred through some of the men's inability to exert social dominance and command respect through the demonstration of their authority. These mass murderers (61%) experienced a range of social stressors such as racism and ethnocentrism, social ostracism and bullying. These men earlier in their lives were deviations from the hegemonic masculine norm. Therefore, it is possible that they experienced the taunts, insults and aggressive behavior from their hegemonic masculine peers as socially effacing stressors. These men subsequently reduced their





frustrations by asserting the ideal masculine self through violence. Another threat to men's masculine self came from the affront to their sense of fairness and justice. These men may have blamed society in general and people in particular for the wrongs they suffered rather than themselves in order to protect their masculine identity or their perceived dominance in the gendered hierarchy.

The subordination and control of women are crucial aspects of the hegemonic masculine identity. Mass murder was also triggered by threats to some (25%) of the men's ability to determine and control the outcome of their intimate-partner relationship, start new relationships or succeed in their sexual overtures with women who account for 48% of the victims in the study. The perpetrators may have felt like weak men because of their failures in relationships and sexual overtures so they had to assert themselves. Mental disorder was also prevalent among 32% of the men which influenced their murderous rage. This finding corroborates the findings of Turvey (2008) that the crazed killer explanation is a myth because 68% of our sample did not suffer from a mental disorder. Moreover, the overwhelming majority of people with mental disorders in the United States do not commit mass murders. However, although mental disorders are not apart of the hegemonic masculine self, these disorders may have accentuated the other stressors. Some 18% of the men were also influenced by other known stressors such as drug abuse, past sexual abuse and terrorism and unknown stressors. The range of stressors and the unknown stressors makes it difficult to determine with a very high degree of certainty, the motivations of mass murderers.

The stressors should not be seen in isolation because they operate together in influencing the men's behavior. The most frequently co-occurring stressors were financial-social,

followed by financial-psychological and social-psychological. Some of the murders were influenced by three stressors of which the most frequently co-occurring stressors were social-psychological-financial. The presence of multiple stressors in 57% of the sample suggests that damage to the masculine identity may have a cumulative effect. Overall, our findings, which corroborate the findings of Kelleher (1997) suggests that mass murderers are influenced by a complex set of interrelated factors. Similar to the findings of Stone (2007) the mass murders in the present study do have a unique profile that distinguishes them from other type of murderers and non-violent people.

The majority in our sample (54%) committed suicide after the incident which corroborates the finding of the study by White-Harmon (2001) where the majority of the mass murderers also committed suicide. One possible interpretation of our finding is that the acting out (the mass murders) where violence is turned outward and the acting in (suicide) where violence is turned inward are expressions of male preoccupation with dominance, control and power over people, situations and objects in the society including death. An alternative explanation for the behavior of some of these men is mental disorder because 32% of the men in the sample suffered from mental disorders.

The contribution of this exploratory study to the literature is the explication of the influence of hegemonic masculinity on the behavior of mass murders and how the various stressors threaten the masculine sense of self. Researchers in the future should also look at whether other murderers experience the same configuration of stressors that threatens masculine identity. Another potentially fruitful course of research is looking at whether women who commit mass



murders internalize hegemonic masculinity and if these female mass murderers respond to the stressors the same way men do.

There are some limitations of the present study. The sample of mass murderers that we used in our exploratory study is very small and as such is not a representative sample of the mass murderers in the United States. Therefore, our findings should not be generalised to mass murderers in the United States. In addition, when concomitant stressors were present it was impossible to say what the primary motivator was or how the stressors may have configured, to trigger the behavior of the mass murderers. In dealing with conflicting information from media accounts about a case, we chose the information with the greater triangulation. However, future research may reveal that the information we rejected because it had less triangulation is correct.

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## **Illegal Trafficking in Non-Human Animals\***

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### *Abstract*

*This study examines the impact of the Animal Welfare Act in the United Kingdom. Prior to enactment of this legislation, the animal seizure rate was considered extraordinarily high. Our research shows that one effect of the legislation was a precipitous drop in the number of animal seizures. This research also explores the nature of animal seizures, by describing the types of animal seizures and identifying the location of these seizures. In all, the study provides information about the type, frequency and location of animal seizures and provides insights on the effectiveness of legislation.*

Cases of ghastly maltreatment against non-human exotic animals fill our media

outlets regularly. Exotic animals are high-risk targets for neglect and exploitation, and illegal trafficking of these



animals and/or their parts can threaten the survival of the species (Zimmerman 2003). Legislators around the world have enacted stringent laws regulating the importation of exotic animals. The legal transnational wildlife trade is a \$159 billion dollar industry and is regulated by the United Nations 1975 Convention on International Trade and Endangered Species of Wild Fauna and Florida (also known as CITES, see Leakey 2001; Warchol, Zupan, and Clack 2003; Wyler and Sheikh 2008). The black market of the exotic and endangered animal trade is also a very lucrative industry and, along with drugs and arms, is one of the top three categories of worldwide black market commerce (Koski 2007; Warchol et al. 2003). Estimates indicate that the illegal wildlife trade generates between six and 20 billion dollars per year (Warchol et al. 2003; Wyler and Sheikh 2008).

The demand for exotic and endangered animals and their parts is immense. For example, the fur and pelts of some endangered animals are used for clothing, and bones, paws, horns, fins, and genitals of rare animals are often used for homeopathic remedies in some countries (Hewson 1998; Koski 2007). Live animals may be sold to pet shops, collectors, or even exotic meat dealers and restaurants (Burgner 2002; Koski, 2007; Warchol et al. 2003; Wyler and Sheikh 2008). The payoff for wildlife traffickers is often quite substantial, yet the effects on various animal species and their countries of origin can be detrimental. This type of poaching and theft of natural resources can result in extinction of an entire species (Alacs and Georges 2008) and costs countries millions of dollars,

which is especially unfortunate when considering the supply of illegal animals usually comes from developing countries with unstable economic and political climates (Warchol et al. 2003; Zimmerman 2003). The demand, however, typically originates from individuals in developed countries. It is estimated that individuals in the United States receive the most trafficked animals and contributes over three billion dollars per year to the problem (Koski 2007).

The issue of illegal animal trafficking has received less attention in the literature than other types of illegal trafficking (e.g., drugs, firearms and weapons, gems, and humans). As Koski (2007, p. 49) observes, "...animal trafficking is not as socially significant as drug trafficking, not as ostensibly lethal as gun trafficking, and not as personal or unconscionable as human trafficking." Nonetheless, there are at least four important reasons for examining animal trafficking and the illegal animal trade.

First, as mentioned previously, the poaching and trafficking of illegal animals will reduce the numbers of species and can even result in extinction of the species. An example of a drastic reduction in animal numbers is found in Kenya, where the poaching of elephants in Kenya reduced the elephant population from 167,000 in 1970 to only 20,000 in 1989 (Warchol et al. 2003). Unfortunately, the problem becomes exacerbated because demand and value often increase as a species becomes more rare. The removal of an entire species can also upset the balance of the complete ecosystem,



setting off a chain reaction that negatively affects other types of animals.

Second, the introduction of a species into a new ecosystem can also be detrimental because the regular food chain might be disrupted. There is also a high likelihood that the exotic species will introduce other problems in the form of foreign parasites or disease into the environment, which may also have an impact on humans in the area (Koski 2007).

The third reason it is important to study animal trafficking is that it is often tied to other types of trafficking and organized crime. Sometimes the same individuals are involved with trafficking various types of commodities, and there are times when exotic animals or their parts are used as payment for items such as drugs, gems, firearms, or other illegal items. Consequently, understanding animal trafficking and those who participate in the trade may contribute to the knowledge base surrounding other types of trafficking (Kroski 2007; Warchol et al. 2003).

Last, research into animal trafficking will help to develop policies and procedures to combat the problem. It is imperative that appropriate legislation is developed to deter would-be traffickers and to appropriately punish those who commit the crime. Once the policies are developed, evaluations of the policies will produce evidence as to whether or not they are working as intended.

The current study stems from this last justification. In response to the growing problem of illegal animal trafficking,

and following the regulations of the multi-country “CITIES,” many nations have implemented their own policies and legislation to specify and set penalties for wildlife crimes and enumerate specific endangered species. While many of the crimes are similar from nation and nation, the penalties may differ significantly. For instance, Alacs and Georges (2008) report that the penalties in the United Kingdom (based on potential amount of fines and years of imprisonment) are not as stringent as those in Australia but are more harsh than those in the United States.

The penalties for illegal animal trafficking in the United Kingdom are based on the Animal Welfare Act of 1996. The Department for Environment, Food and Agriculture (DEFRA) in conjunction with the Department of Revenue and Customs has implemented the CITIES guidelines for importing animals. Additionally, more stringent laws have been developed – to help guard against illegal importation of exotic animals and their by products into the United Kingdom (UK) through the Animal Welfare Act of 1996. No species, for example, may be imported into the UK, if doing so would have a negative impact upon the status of that species in its natural habitat. Further, the stricter laws that have been developed include not allowing exotic animals in the country if there is a high mortality rate associated with the transport of the species or a poor survival rate of the species in captivity and/or if the introduction of the species into the UK presents a threat to UK’s native species (Animal Welfare Act of 1996 Council Regulation 338/97).





With this legislation in mind, the objective of this exploratory research is three-fold. One objective is to explore the nature and frequency of exotic animal seizures at one of the largest international airports in the world: Heathrow International Airport (through the Heathrow Animal Reception Centre) in London, England. Second, the compilation of data (used for this exploratory study) is used to assess the immediate impact of new legislation on the number of reported animal seizures before (1993-1995) and after passage of the Animal Welfare Act of 1996 (between 1999 and 2004). Third, the analysis of the data allows us to identify countries with the largest number of animal seizures at Heathrow Airport.

### **Deterrence**

This exploratory research focuses on the trafficking of non-human exotic animals into Heathrow Airport, before and after enactment of the Animal Welfare Act of 1996. And deterrence theory is the philosophical grounding for many findings and observations made throughout this research. Paradoxically, while the research on deterrence has established that the threat of punishment, fine or imprisonment may be temporary, the “evidence certainly favors supporting a deterrence effect more than it favors one asserting that deterrence is absent” (Blumstein, Cohen and Nagin 1978:7). In other words, some policy makers assume that their constituents will obey the law. Concomitantly, there are a number of public and private monies spent on programs aimed at preventing crime. Some of

the programs aimed at keeping potential and actual violators from committing crime utilize deterrent strategies.

Sitren and Applegate (2007) as well as a number of other researchers have identified two deterrence models: general and special or specific. General deterrence is targeted toward the public at large (and includes individuals who may or may not have committed a crime). In contrast, special or specific deterrence focuses on the actual wrongdoer. The goal of both types of deterrence is to demonstrate what will happen to people or organizations, if laws are broken. The overall goal is to prevent individuals from violating the law by assigning penalties for wrongful behavior. It is assumed that individuals weigh the positive and negative consequences of their actions (Kaufman 1999). And that these same individuals calculate the risk of getting caught (Geerken and Gove, 1975). Clarke (1983) refers to those who put these laws and practices in place as the ‘enforcement agents’ of pre-defined negative sanctions for violating explicitly codified rules.

According to Marshall (2006), the profiteers who violate bans prohibiting the illegal immigration of exotic animals into the United Kingdom are driven by low risk and high profits. One reason so few people are deterred from illegal trafficking in exotic animals is because prior to 1975 there was little, if any communication and cooperation between and among countries involved. This illegal trade involves exotic animals and/or their by-products for use in other countries as traditional medicines, food, clothes, trophies and entertainment; further, it is estimated that the illegal trade of



exotic animals is a 10 billion dollar a year enterprise (Basu 2006). These illegal traders and their mules frequently attempt to import into countries, where there is the least amount of risk and penalty. The routes taken by these traders are covert and often shared with organized drug and gun smugglers. In some countries (e.g., Canada), the maximum penalty for illegal importation of exotic animals and/or their by-products is 1000.00 dollars. In addition to low financial risks associated with this illegal trade, many individuals continue to violate bans on the importation of exotic animals because frequently developing and underdeveloped countries do not view enforcement as a priority. Many underdeveloped countries, for example, may view poverty and disease as more important; while some cultures in undeveloped countries may associate medicinal value to these illegal imports. As an example, the use of tiger balm for fly bites in some developing countries is well documented. Returning to the actual illegal trade, Marshall (2006) estimated that between 1996-2000, British Customs officials confiscated about 570 illegal items.

#### Laws against the Importation of Exotic Animals into the United Kingdom

Worldwide, there were very few laws against importation of animals before the United Nations became involved and set standards for countries through CITES in 1975. This group (comprised of 168 nations) determines the level of protection that plants and animals have and allow individual countries to add more stringent guidelines for illegal importation of animals. For example, CITES has

recommended against the global importation or trade of orangutans, tigers, sea turtles or rhinoceros.

In general, worldwide laws against the illegal importation of animals are not stringent and carry weak penalties. By contrast, laws against the importation of animals and/or their by-products are stricter in the United Kingdom, compared to the 25 countries which comprise the European Union (EU). And penalties for violating the ban on the importation of exotic animals range from fines and probation to three months to eight years imprisonment in the United Kingdom. The laws against illegal imports of animals focus on the acts of poachers who import dead animal parts, such as, horns, feet, skin, and skins, dead animal carcasses, live animals and/or animal by-products. With these observations in mind, one objective of this exploratory research was to assess the impact of the Animal Welfare Act of 1996 upon animal seizures at Heathrow International Airport.

#### **Heathrow International Airport**

Heathrow International Airport (HIA) is the largest airport in the UK and one of the busiest airports in the world ([www.cityoflondon.uk](http://www.cityoflondon.uk)). HIA has been in existence since 1946 and serves 180 countries including the 90 airlines that use the airport as headquarters. The Heathrow's Animal Reception Centre operates out of Heathrow International Airport; this Animal Reception Centre has responsibility for imported animal welfare and the prevention of imported disease. Given



the size of the facilities, the Reception Centre and the Heathrow Airport is able to offer agency arrangements to other London boroughs whose animal health and welfare facilities are less extensive. Currently, the City of London offers full services covering three areas: maintaining animal health, preventing imported disease and caring for animal welfare to 23 boroughs. More specifically, the city of London operates Heathrow Animal Reception Centre (HARC) and allows the Centre to carry out its statutory responsibilities under the Animal Health Act, 1981. This legislation incorporates rabies controls and the welfare of animals during Transport Order 1997. The City of London also has responsibilities for other UK and European animal-related legislation.

Heathrow Animal Reception Centre. The HARC operates 24 hours a day, 365 days a year receiving and caring for millions of animals of all types, including tarantulas, cobras, race horses, tigers, cattle, cats and dogs and even baby elephants; the HARC has the facilities and staff to cope with almost any animal. The Animal Reception Centre is also the live animal Border Inspection Post at Heathrow International Airport. All animals entering countries that comprise the European Union (EU) from outside the European Union have to pass through a Border Inspection Post so they can be inspected and have a Border Crossing Certificate issued. This inspection is issued by an agency within DEFRA, the State Veterinary Service, with personnel on the Heathrow Animal Reception Centre compound. The HARC's main responsibility is to enforce the statutory requirements of relevant United Kingdom and

European Union legislation. The HARC also works very closely with the CITIES enforcement team, a special team established by Customs to investigate the trade in endangered species. The process requires HARC to identify the animals that come in, while Customs inspects the licenses and all relevant paperwork. The decision to seize an animal is made by Customs based upon legislation.

The decision to seize an animal at Heathrow Airport can be placed into three categories: (1) The prohibited arrival of dead animals and or animals that arrive without proper documentation; (2) the animal count is deemed excessive; or (3) The animals are diseased and/or have arrived with illegal drugs inside their bodies. Any of these three categories may include outcomes that range from seizure, returning the animal(s) to their country of origin, charging fees and fines, sending the animal to a British zoo, disposing of the dead animal(s) to arrest and conviction of the human offenders.

The academic victimization literature has not focused on this high-risk group. And the enactment of a law that specifically targets the protection of this group provides an excellent opportunity to assess police activity before and after the law passed. By analyzing the seizure data of animals brought into Great Britain through Heathrow Airport, we can determine if the frequency of animal seizures has declined, risen or remained unchanged, since enactment of the Animal Welfare Act. If seizures of exotic animals are found to have remained the same or increased, then legal and extra legal



enforcement strategies based upon this legislation might need to be re- examined.

## METHODOLOGY AND FINDINGS

Data were gathered from the Animal Reception Centre at Heathrow International Airport; the largest airport in the region. All official exotic animal seizures by HARC for the years from 1993-1995, 1999 and 2000-2004 were retrieved, for the purposes of this exploratory study. According to HARC, there was no useable data for the period before 1993, nor for the years 1996-1998. The total number of animal seizures for each available year is as follows:

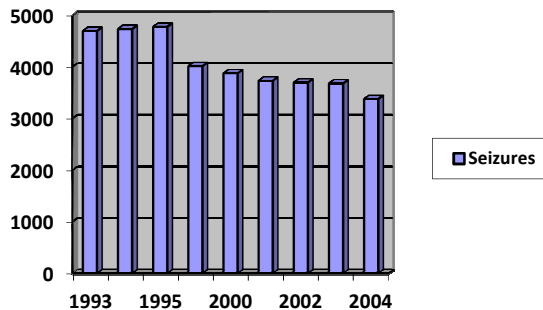


Figure 1: Numbers of Seizures by Year

These summary numbers of total exotic animal seizures represent a decline in the number of animal seizures at

Heathrow Airport over a five year period after the Animal Welfare Act of 1996. It is worth noting that HARC began to collect specific information about the number and nature of seizures in the year 2000. A random sample of 30 seizures from each of the five years from 2000 to 2004 comprise the sample for the current study. Table 1 graphically illustrates information that was retrieved about each seizure in the sample for the years that demographic characteristics were available (2000-2004). (**Table 1: Descriptive Characteristics of the Samples – See Appendix**)

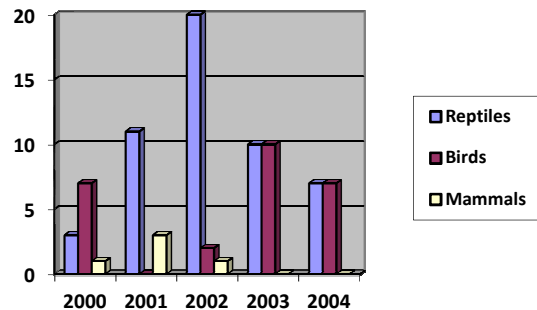
## RESULTS

Table 1 reveals that about half of all of the animal seizures at Heathrow airport were dead. Figure 2 shows that most of the seized exotic animals from 2000-2004 were reptiles, followed by items that appeared to be used for decoration and/or clothing. Exotic birds comprised the third largest category of seized animals during this period. Most of the seized exotic animals were confiscated because they were prohibited by the country, followed by the second category – in which the seized animal did not have an import license. And a similar number of animal seizures occurred because they had contracted a disease. Surprisingly or not, most cases of animal seizures between 2000 and 2004 were disposed of because they had arrived dead.

The second largest category contained those cases resolved over the five years by the shipper agreeing to pay the



fee in order for the animals to be allowed in the country. Upon reviewing the outcome in Table 1, there are those cases which resulted in arrest (11), and/ or conviction (3). These offense data are not unusual if one reviews the category 'reason for seizure' and notes that over the five years there were 28 cases where the exotic animal seizure arrived dead and contained illegal drugs. Far fewer shippers were arrested than in those cases where drugs were found in animal carcasses. Similarly, there were more arrests for smuggling non-legal animals than there were convictions.



**Figure 2: Most Common Type of Animals Seized by Year**

Referring to the seizures by country depicted on the maps comprising Figures 3-7 located in Appendix, the country where most of the exotic animal seizures originate (without regard to year) is the United States of America. For each year, Figures 3-7 reveals the countries where the second largest animal seizures in 2000 originated is from Morocco; in 2001,

the second largest originated from Madagascar; in 2002, the second largest origination point is from Australia, Scotland and Turkey; in 2003, we find Australia and in 2004, the countries of Nigeria, Ghana and South Africa finished second.

### **IMPLICATIONS, DIRECTIONS FOR FUTURE RESEARCH AND CONCLUSIONS**

There were fewer exotic animal seizures after passage of the Animal Welfare Act of 1996. We do not, however, have enough longitudinal data to support a finding that the reduction in animal seizures through Heathrow Airport is the direct result of more stringent laws covering the importation of animals in the UK. Assuming that the data is available, future studies might examine a longer time period in order to establish a stronger connection between laws designed to protect animals and the efficacy of deterrent value of such legislation. Data which covers subsequent years could also determine if there remain reductions in the number of animal seizures.

In all, this was an exploratory study which did find a reduction in animal seizures for each year before and after the Animal Welfare Act was enacted. Our research also provides a profile of countries with the most animal seizures from Heathrow Airport. Each year, the United States of America had the largest number of animal seizures. And by comparison, no other large country approached the number of animal seizures arriving at Heathrow Airport, than the United States.



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## Appendix

**Table 1: Descriptive Characteristics of the Samples**

DESCRIPTIVE DATA				YEARS		
	2000	2001	2002	2003	2004	TOTAL
<b>Number of Exotic Seizures</b>						
Dead	3	12	20	22	21	78
Alive	27	18	10	8	9	72
<b>Type of Seizure</b>						
Birds	7	-	2	10	7	26
Reptiles	3	11	20	10	7	51
large mammals i.e., primates, big cats	1	3	1	-	-	5
Crustaceans	2	9	1	-	-	12
Ornaments	3	4	6	10	15	38
Lizards	3	1	-	-	-	4
Amphibians	11	-	-	-	-	11
Rodents	-	3	-	-	-	3
<b>Reason for Seizure</b>						
Diseased						
Prohibited	2	1	5	1	21	30
no license	7	7	5	21	-	40
too many	14	11	-	-	9	34
Dead	7	10	-	-	-	17
arrived with illegal drugs	-	-	20	8	-	28
<b>Outcome</b>						
fee paid	9	4	9	10	9	41
returned to country	15	2	7	1	-	25
sent to British zoo	5	6	3	1	-	15
disposed of	3	8	11	10	21	53
Arrest	-	9	-	2	-	11
Conviction	-	1	-	2	-	3
Confiscated	-	-	-	4	-	4



Figure 3: Number of Animal Seizures by Country (2000)

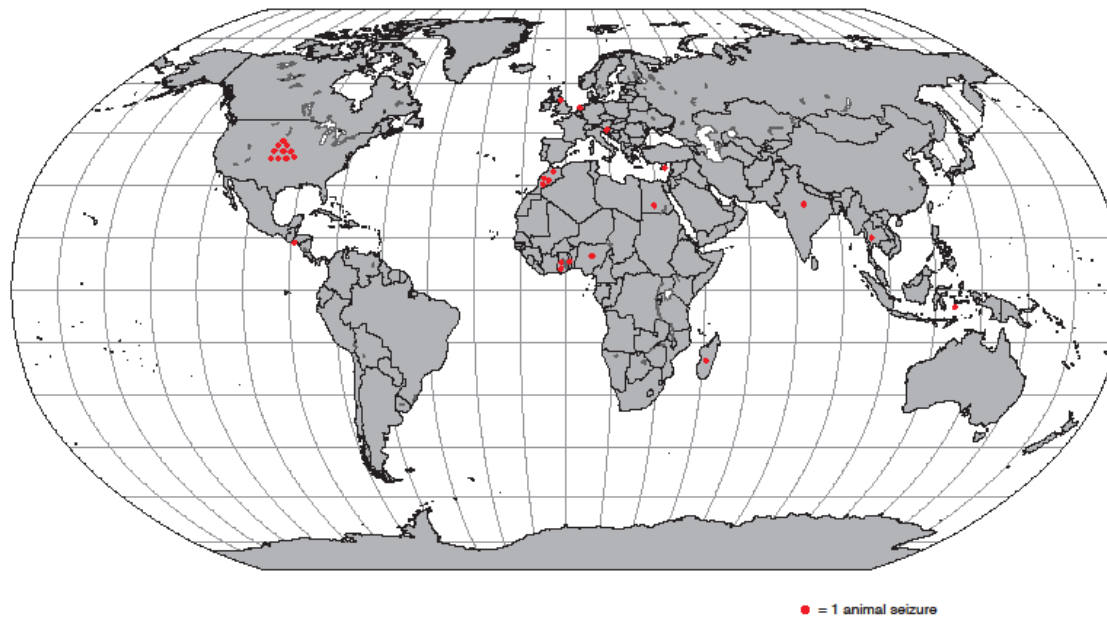






Figure 5: Number of Animal Seizures by Country (2002)

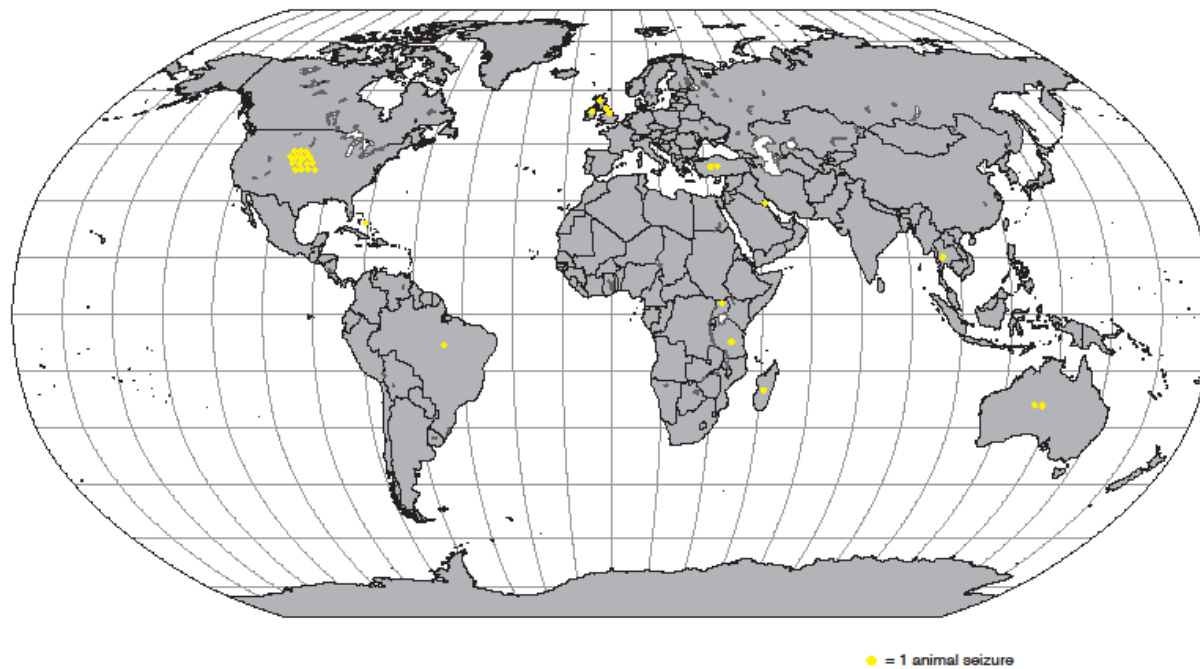




Figure 6: Number of Animal Seizures by Country (2003)

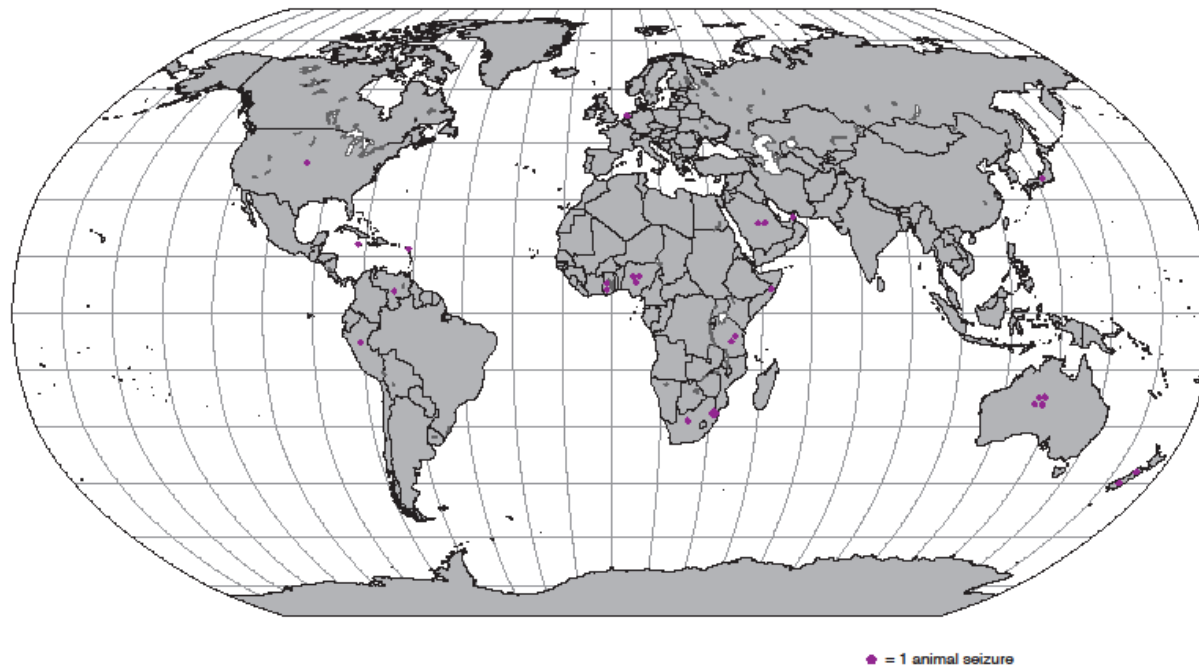
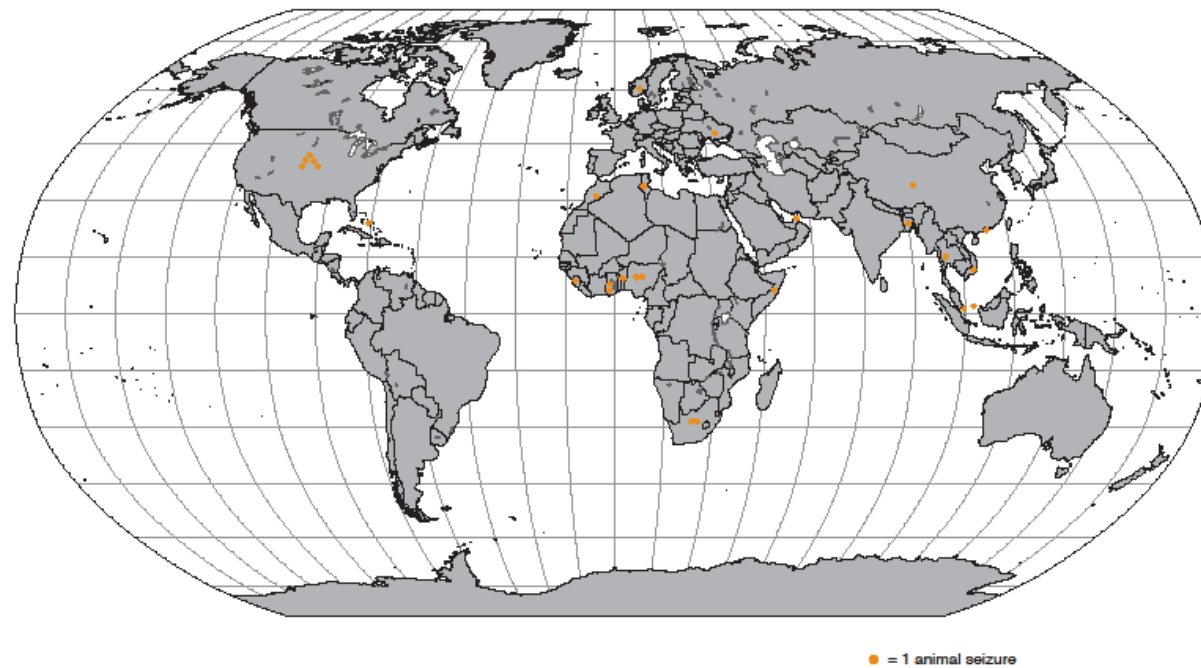




Figure 7: Number of Animal Seizures by Country (2004)





**Music Piracy among College Students:  
An Examination of Low Self-Control, Techniques  
of Neutralization, and Rational Choice**

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**ABSTRACT**

*Music piracy, which is often engaged in by college students, constitutes illegal behavior under the U.S. Copyright Act and, arguably, has a negative impact on the music industry. Based on prior research and a focus group conducted for this research, Gottfredson's low self-control and Sykes and Matza's techniques of neutralization along with the concept of drift, and rational choice theory have been proposed as appropriate theoretical models for exploring music piracy among college*

*students. Based on a survey of 131 college students, it was found that slightly less than half were not willing to pay 99 cents to download a song. Ninety-four percent had illegally copied a CD and 86% had used a Peer-to-Peer (P2P) website to download music. Self-control was significantly related to whether one shared music on a P2P website in the previous six months. Those who engaged in P2P sharing were also significantly more likely than those who had not shared to support the three tested techniques of neutralization (denial of injury, denial of victim, and appeal to a higher loyalty). The implications of these results are discussed.*

Keywords: Music Piracy, Low Self-Control, Techniques of Neutralization, Rational Choice

**INTRODUCTION**

Digital piracy, defined as the unauthorized copying of digital goods, software, digital documents, digital audio, digital video--for any reason other than backup without permission and compensation to the copyright holder, has increased dramatically in the past decade (Higgins, 2007a). For example, the International Federation of Phonographic Industries (IFPI) estimated that almost 40 billion songs were illegally downloaded in 2008, suggesting that approximately 95% of music tracks are downloaded without payment. Despite the increase of software and movie piracy, music piracy continues to have the greatest legal and scholarly emphasis placed upon



it. In recent years, sales of CDs have plummeted and the blame has been placed on the use of Peer-to-Peer (P2P) file sharing of songs by individuals (Gerlich, Turner, & Gopalan, 2007). Additionally, Chiou, Huang, and Lee (2005) reported that world sales of recorded music fell in 2002 by seven percent in value and by eight percent in the number of units.

The Internet facilitates music piracy because it allows the offense to take place away from the copyright holder, which provides the offender with the perception that the act is victimless (Wall, 2005). Furthermore, because of their living, social, and economic situation, college students have been identified as the main perpetrators of digital/music piracy (Chiang & Assane, 2008). Accordingly, much of the recent research on digital/music piracy has placed an emphasis on the usage by college students (Gerlich, Turner, & Gopalan, 2007; Higgins, 2007; Higgins, Fell, & Wilson, 2006; Higgins, et al., 2008; Ingram & Hinduja, 2008). Although prior research has established significant correlations between music piracy and college students, a paucity of explanations exist--particularly within the context of theoretical constructs.

For this study, three theories are examined in conjunction with college students' music piracy: (1) Gottfredson and Hirschi's (1990) self-control "General Theory of Crime", (2) Sykes and Matza's (1964) "Techniques of Neutralization" and concept of "drift", and (3) rational choice theory. Whereas self-control theory suggests a "tendency to avoid acts whose long-term costs exceed their monetary advantages" (Hirschi & Gottfredson, 1994, p. 3), neutralization suggests "a limbo between convention and crime responding in

turn to the demands of each, flirting now with one, now the other, but postponing commitment, evading decision" (Matza, 1964, p. 28). Rational choice focuses on weighing the benefits with the risks for any given behavior.

## **LITERATURE REVIEW**

### **Music Piracy**

Music piracy is a concern for the music industry and law enforcement; the invention of the MP3 files have allowed music to be reduced in size, copied, and sent over an Internet connection. P2P sites, such as Limewire, offered simple ways for users to share their music collection online and compile massive music libraries virtually free of charge (Easley, 2005). The Internet is the primary tool to engage in music piracy by enabling individuals to easily commit criminal activity because it allows anonymous communication; music piracy is transnational and shifts in thinking from ownership of physical property to ownership of ideas (Wall, 2005). College students are the main perpetrators in digital and music piracy, which is not surprising given their routine use of computers, Internet, and technology for educational and personal activities (Higgins, 2007).

The music industry has reported record losses in revenue since the mainstream popularity of P2P and illegal downloading of music. The International Federation of Phonographic Industries (2009) has not only sustained massive revenue loss due to illegal downloading of music, but reveal that pirated CD sales now outnumber legitimate CD sales.





According to Business Software Alliance (2003), piracy had led to lost government revenues, lost jobs, and led to an estimated 11 million dollars in revenue loss. Bhattacharjee, Gopal, and Sanders (2003) reported that 14% of Internet users had downloaded music for free. Moreover, it has led to an estimated loss of \$3.1 billion loss for the music industry. Digital/music piracy is also felt around the globe, with an estimated 40% of all CDs and cassettes sold around the world in 2001 were pirated copies (Chiou, et. al., 2005).

Illegal downloading of music presents a variety of legal problems. For example, the Recording Industry Association of America (RIAA) has filed lawsuits against thousands of persons who have allegedly shared files illegally. In late 2005, the RIAA sued 745 individuals for illegal file sharing across 17 different college campuses. Since 2003, thousand of “John Doe” lawsuits, as well as hundreds of “named suits” have been filed (RIAA, 2004). The lawsuits filed by the RIAA that were intended to offset the number of songs illegally downloaded through the Internet have not been successful; P2P file sharing continues at a high rate (Gerlich, et al., 2007; Karagiannis, Broido, Brownee, Claffy, & Faloutsos, 2004).

In the United States, copyright laws protect intellectual property, which includes digital media. The Copyright Act of 1976 paved the way for current copyright laws, which made copyright violations a federal misdemeanor (Im & Koen, 1990). The Piracy and Counterfeiting Amendments Act made mass copyright violations of movies and music a felony. In 1992, The

Copyright Felony Act made the reproduction of software and copyright violations a felony. The Electronic Theft Act made the illegal copying and distribution of copyrighted materials over the Internet a felony offense (Im & Koen, 1990). The effects of digital piracy are felt across the globe; the World Intellectual Property Organization has created several treaties to strengthen existing copyright laws; these include The Performers and Production of Phonograms Treaty and The Databases Treaty.

Despite the overwhelming evidence of the negative effects of digital and music piracy, some research suggest that the music industry has more to gain than lose from embracing many of the innovations it is trying to stop (Easley, 2005). Easley (2005, p. 163) argued that by fighting music piracy, “the music industry may be holding back the evolution of the music industry towards an untimely beneficial embrace of the possibilities inherent in electronic distribution of music.” Music piracy may play a role in forcing record labels to adopt Internet technologies, to create richer and more fully featured websites, and to experiment with electronic forms of distribution. Also music piracy is a massive free viral marketing campaign. For example, less well-known music bands have profited off the mass distribution of their music across the country. In addition, it has been argued that a trade-off exists between protection of intellectual property and ultimate profitability (Shapiro & Varian, 1999). In other words, “If you lose a little of your property when you sell it or rent it, that’s just a cost of doing



business, along with depreciation, inventory losses, and obsolescence” (Shapiro & Varian, 1999, p. 97).

### **Theoretical Explanations**

#### *Gottfredson and Hirschi Low Self-Control*

Gottfredson and Hirschi (1990) define crime as acts of force or fraud undertaken in the pursuit of self-interest and base their theory on the assumption that crime is the source of immediate gratification. In their view, crime requires little effort or planning and provides only minimal, short-term gratification with few long-term benefits to the offender. Poor child rearing is the source of low self-control, and the responsibility of correctly training the child is determined by the parents or guardian. Low self-control, therefore, develops in early childhood when parents are unsuccessful in their ability to properly raise their child; examples of this are neglect, under-caring, or simply having a single-parent household. Low self-control is a personality trait that remains relatively stable over the course of one's life. Behaviors that are deviant but not criminal, such as smoking, excessive drinking, driving fast, gambling, unprotected sexual relationships, are similar to criminal acts because these activities are also gratifying. Gottfredson and Hirschi suggest that low self-control is the source of crime and criminal activity and that a person with low self-control is less likely to resist the easy, immediate gratification that crime and deviant behaviors provide. Persons with low self-control have the following characteristics: (1) respond to tangible stimuli in their immediate environment, (2) lack

diligence, tenacity, persistence, (3) generally are thrill-seekers, (4) prefer physical activity, (5) possess self-centered qualities, and (6) have minimal tolerance for frustration (Gottfredson & Hirschi, 1990).

Many theorists and critics do not agree with Gottfredson and Hirschi's micro-level theory of crime. For example, Sellers (1999) argue that the immediately gratifying nature of crime is at odds with the real characteristics of certain types of crime. “White collar crime requires a more complex macro-social explanation than self-control theory can offer” (Sellers, 1999, p. 376) and that employees of businesses who break the law require disciplined persons who have high levels of self-control. Barlow (1991) argues that Gottfredson and Hirschi do not introduce the opportunity of crime and they do not provide a specific type of social or cultural setting that would experience high or low rates of crime. Gottfredson and Hirschi do elaborate on parenting management and delinquency, but avoid structural factors of the family, such as family size and social economic status. Poverty, social disorganization, large family size, all has effects on parental management, crime, and delinquency (Barlow, 1991). Many inner city black communities are plagued with these types of structural conditions; Gottfredson and Hirschi also neglect such conditions in *General Theory of Crime*. Barlow (1991, p. 241) stated Gottfredson and Hirschi are presenting two distinct theories “since the crime part of the theory applies to differences among acts and the criminality part to differences among individuals.” Additionally, Gottfredson



and Hirschi never provide a definition or specify a basis for distinguishing degrees of self-control.

*Sykes and Matza: Techniques of Neutralization*

Similar to Gottfredson and Hirschi, David Matza (1964) and Gresham Sykes' (1957) work provide an alternative view of crime and deviance, with the primary difference rooted in "soft rather than hard determinism" (1964, p. 27). For Gottfredson and Hirschi, their General Theory of Crime, as well as the accompanying element of social control, is rooted in "hard determinism", as it attempts to explain *all* individual differences in the likelihood of committing crime indicates such a determinant measure. Sykes (1957) and Matza's (1964) original research; however, attempted to explain how juveniles commit "softly determinant", delinquent acts through the process of "drift." Matza (1964, p. 29) explained drift as, "an actor neither compelled nor committed to deeds nor freely choosing them; neither different in any simple [n]or fundamental sense from the law abiding, nor the same; conforming to certain traditions in American life while partially unreceptive to other more conventional traditions." Additionally, Matza (1964, p. 29) stated that drift stood "midway between freedom and control." Matza suggested that average individuals, guided by underlying influences, would merely "drift" in and out of delinquency through a process that was *not* seen as a predictor of predictable, frequent, or consistent delinquency. In explaining the underlying influences, Sykes returned to his earlier work with Gresham Sykes (1957) on "neutralization theory."

According to Akers and Sellers (2008, p. 127), *techniques of neutralization* "are justifications and excuses for committing delinquent acts, which are essentially inappropriate extensions of commonly accepted rationalizations found in the general culture." The process of neutralization, therefore, allows for one's removal of personal responsibility conformity, Sykes and Matza (1957) presented five types of justifications: (1) denial of victim, (2) denial of responsibility, (3) denial of injury, (4) condemnation of the condemners, and (5) an appeal to higher loyalties. Each of these techniques provides the momentary release needed to "drift" in and out of normal moral constraints.

Overall, the research on both "drift" and "techniques of neutralization" have been mixed--offering weak to moderate results (Agnew, 1994; Austin, 1977); however, research on software and music piracy suggests that the behavior is fundamentally condoned by participants (Kini, Ramakrishna, & Vijayaraman, 2004; Peace, Galleta, & Thong, 2003; Morris & Higgins, 2008). Furthermore, prior research suggests that neutralization and deviance may demonstrate a curvilinear relationship (Copes & Williams, 2007; Maruna & Copes, 2005). The result of a curvilinear relationship would presume that individuals that utilize "techniques of neutralization" are not completely committed to conventional or delinquent behaviors.

*Rational Choice Theory*



The use of rational choice theory in the study of criminology is most often associated with the fundamental contention that criminal behavior is decided through the maximization of profits or gains and the lessening of losses (Piquero & Tibbitts, 1996). Prior research suggests that three consistent elements of rational choice theory are situated within rational choice theory (Cornish & Clarke, 1986; Simpson, Piquero, & Paternoster, 2002). First, the decision to commit a crime is fundamentally rational and is rooted in the belief that the criminal act would be of benefit. The eventual determination of criminal behavior would be the weighing of costs versus benefits, with a greater value in benefits. Second, the information associated with crime accompanies correlative and varying rational choices and is specific to particular sets of crime-types. A crime-specific focus allows for changeable information to be associated to differing crimes. Finally, the decision to offend is influenced by both the decision for involvement in criminal behavior and the immediacy of participation in the criminal event. The short and long-term characteristics that shape criminal behavior decision-making provide consistent context throughout rational choice opportunities. A critical factor of rational choice is that a crime specific focus is required, meaning that different crimes evolve in different ways as each crime occurs in a different context (Cornish & Clarke, 1986). Cornish and Clarke emphasize that to ignore such differences can lead to an inability to intervene.

Studies have examined the rational choice decision-making for a variety of offenses (Hickman & Piquero, 2002; Jacobs, 1999) to largely mixed results. One challenge to

finding more consistent correlations between crime and rational choice theory are the specific, theoretical constraints that must be met. For example, Carroll and Weaver's (1986) work with shoplifters indicated a significant, rational processing leading up to the criminal act; however, paid little attention to criminal event rationale such as arrests or detainment.

### **Theory-Guided Research on Digital Piracy**

Researchers have found it beneficial to apply various theoretical approaches to explain the causes of digital piracy (see generally: Higgins, 2007; Higgins, et al., 2008; Moore & McMullan, 2009). These studies have relied upon self-control theory, (Higgins, 2007; Higgins, et al., 2008), techniques of neutralization (Moore & McMullan, 2009), and rational choice (in conjunction with self-control) (Higgins, 2007).

In regard to techniques of neutralization, Higgins, et al. (2008) examined a group of approximately 200 ( $n = 292$ , 202, 213, and 185) college students each week over a four-week period assessing their intent to pirate music as well as their neutralizations of such behavior. Utilizing Latent Trajectories Models analysis, it was found that changes of neutralization had a direct influence on change in music piracy behaviors, at least initially. Thus, students will "take a 'holiday' from social controls to allow themselves to pirate music without developing a pirating identity" (p. 334). Furthermore, in a qualitative assessment of techniques of neutralization and digital piracy, it was found that all of a



sample of 45 students supported at least one technique of neutralization (Moore & McMullan 2009).

Higgins (2007) applied a model developed by Piquero and Tibbets (1996) to further explore music piracy. The model was originally developed to examine the effects (indirect and direct) of low self-control and other situational factors when one chooses to commit an offense. The results of 382 surveys administered to college students showed that low self-control has an indirect and direct effect on music piracy. The relationship, however, was not simplistic by any means; the study showed that situational factors also affected piracy. The authors also showed that rational choice, in conjunction with low self-control, are suitable for exploring digital piracy.

Thus, current research shows that criminological theory, specifically low self-control, techniques of neutralization, and rational choice can be useful to exploring an explanation for the mechanisms responsible for music piracy to occur. It has also been found that using more than one theory can be useful as it explores different facets of the process involved in one engaging in music piracy. Current research, however, is relatively limited--more research is needed to replicate the application of low self-control and techniques of neutralization. Prior research, therefore, shows deterministic theories, such as low self-control and techniques of neutralization as well as rational choice can be applied to explain music piracy. On the one hand, a *General Theory of Crime* is rooted in hard determinism. This presumes that a college student entering into the delinquent

act of music piracy is predicatively and consistently delinquent in other forms and was inexorable according to a particular upbringing. On the other hand, *drift* and *techniques of neutralization* are rooted in soft determinism. This presumes that a college student entering into the delinquent act of music piracy not only does so temporarily and independently, but also in a manner inconsistent with future delinquency possibilities. Rational choice also appears to address a crucial aspect of music piracy: although the environment may be conducive to engaging in music piracy, the individual must make the decision to actually engage in this behavior.

## METHODS

The purpose of this study is threefold: (1) to assess the attitudes and music downloading behaviors among a group of undergraduate students; (2) to assess how some of theoretical constructs of low self-control and drift/neutralization are correlated to illegal music downloading; and (3) to examine sanctions that may affect one's decision to commit music piracy in relationship to his/her level of self-control. The last purpose, therefore, focuses on rational choice (i.e., examining change in attitude based on increasing potential sanctions). To collect this information, a survey was administered to a convenience sample of college students in Texas.

### **Focus Group, Pilot Test, and Survey**

This research was conducted in three stages. First, a focus group was assembled for the purpose of developing



and refining questions. A small group of students were asked to discuss the issue of music piracy, what their thoughts were regarding it, whether they engage in it and whether it should be legal/illegal and why. One trained individual led the group and asked follow-up questions and to expand on areas that were of interest to the project.

Second, after a survey was created, a group of 15 graduate students were asked to pilot the test. They were asked to read each question and ask the surveyor any questions about the clarity of the questions along with their general reaction of the survey. This led to a refined surveyed.

Third, a small group of trained surveyors administered the final survey to a convenience sample. The interviewers were given a set number of surveys to distribute to students on campus. Thus, a convenience sample was utilized; the students administered the surveys in central locations on campus and to their classmates. The survey was anonymous and voluntary participation was required. After each participant was read the informed consent and agreed to participate, the subject completed the survey and placed it in an envelope. Permission was given by the Institutional Review Board to conduct this research.

### **Measurement of Key Concepts**

#### *Music Piracy*

Music piracy was measured by asking students if they had engaged in any of the following behaviors to obtain digital music: a peer-to-peer sharing site, file sharing, CD burning, or any other unauthorized/nonpaid source. During the pilot test it was noted that when students engage in music piracy they are aware of what it is and what they doing; students commented

when they see the question, they understood what it was intending to measure.

#### *Attitude and Behavior Regarding Music Piracy*

Students were asked several questions regarding their attitude and behaviors of music piracy. For example, they were asked whether they believed downloading music from an unauthorized source was equivalent to stealing or if it was "unethical." They were also asked if they would pay 99 cents to download a song. In regard to other behavior, they were asked if they owned an MP3 player (or iPod, Zune, etc.), how many songs they downloaded, how many of those were downloaded through an unauthorized source, if they had "burned" (i.e., copied) a CD to distribute, whether they had *ever* shared music through a P2P website, and whether they shared music through a P2P website in the previous six months.

#### *Low Self-Control*

Grasmick, Tittle, Bursik, and Arneklev's (1993) scale was included to measure low self-control. It is a 24-item Likert scale where low scores indicate lower self-control. The responses included four items: strongly agree, agree, disagree, and strongly disagree. Those who score higher on the scale have low self-control. The score has shown to have relatively high levels of internal consistency (see Higgins, 2007).

#### *Techniques of Neutralization/Drift*

To develop the survey questions regarding techniques of neutralization, a group of college students were asked to participate in a focus group. As part of the discussion, students were asked about their rationale for downloading music through unauthorized sources. The students indicated several



reasons: (1) sometimes they would buy the artist's album at regular sale price after "sampling" it or previewing it through an unauthorized source (i.e., not paying for it), (2) some artists actually benefit from the unauthorized downloading, and (3) it doesn't really harm the music industry. Thus, their explanations revolve around the lack of harm (i.e., denial of injury), lack of victim (denial of victim), and benefiting the artists (appeal to a higher loyalty). Based on these results, questions were developed regarding these three areas.

#### *Rational Choice Theory*

The students' attitudes favorable to illegal downloading of music, questions were developed from the focus group. Three specific questions regarding possible legal consequences: students were asked (1) if they *were concerned* about the possible legal consequences of downloading music through an unauthorized source without paying for it (agree, neither agree/disagree, disagree), (2) if they *would continue* to download music through an unauthorized source if they knew someone personally was caught and punished for engaging in the same behavior, and (3) if they would still download music from an unauthorized source if they knew it was clearly a crime.

#### **Analytical Strategy**

To assess the effect of sanctions on one's decision to commit music piracy, the attitudes and music downloading behaviors among a group of undergraduate students descriptive statistics are reported for each of these variables. Also,

comparisons are made between those who had and had not shared music through a P2P website in the previous six months.

To examine whether level of self-control correlates with sharing music online through a P2P website, logistic regression is employed. The dependent variable is identified as the question "Have you shared music online through a P2P network in the past six months?" (yes/no). The individual self-control score was entered as an independent variable along with race, sex, and age as control variables.

Based on this, several questions were developed for the survey based on these categories. These questions are assessed by correlating them individually with whether the student downloaded music through an unauthorized source in the previous six months. Here, a Phi coefficient is utilized, given that the categories are categorical. This will allow a test of significance and an indication of the strength of the relationship.

Last, to assess sanctions that may affect one's decision to commit music piracy (in relationship to his/her level of self-control the set of questions were analyzed by correlating them individually with their self-control score. The self-control score was collapsed into two categories: high and low. Those with low self-control were those who fell above the median score and those with high self-control fell at and below the median score<sup>1</sup>.

#### **Participants**

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<sup>1</sup> This method has been used in previous research (see Gibson, Schreck, & Miller, 2004).



A total of 131 surveys were collected. Beyond their participant's affiliation with the university, there were no additional demographics or characteristics required for inclusion in the project. Approximately half of the sample was male (see Table 1). The majority of the students were Caucasian (60.8%); however, minorities--particularly Hispanics and African Americans were well represented. The participants ranged in age from 17 to 38, with an average age of 22.3 ( $SD = 3.187$ ). More than three-fourths of the sample were upper classmen.

**Table1. See appendix**

## **RESULTS**

### **Attitudes/Behaviors of Music Piracy**

The students were asked a variety of questions regarding their attitude and actual behaviors toward music piracy. In regard to their attitude, approximately half of the 131 surveyed students ( $n = 61$ ; 47%) agreed that they would be willing to pay 99 cents to download a song from the Internet; 13% ( $n = 17$ ) neither agreed/disagreed, while 41% ( $n = 53$ ) disagreed--they are not willing to pay 99 cents to download a song from the Internet. When asked if downloading music from an unauthorized source (i.e., source where music is not paid for), the majority ( $n = 61$ ; 47%) neither agreed/disagreed, while 34% ( $n = 44$ ) disagreed--indicating they believed music piracy was unethical. Only 20% ( $n = 26$ ) believed it was ethical to engage in music piracy (i.e., download from an unauthorized

source). When asked if they believe music piracy is considered stealing, the largest percentage ( $n = 50$ ; 38%) disagreed. Thus, they did not believe music piracy is a form of stealing. Thirty-three percent ( $n = 44$ ) neither agreed/disagreed while only 29% ( $n = 38$ ) agreed that downloading music without paying for it is considered stealing.

Eighty-six percent ( $n = 113$ ) indicated they owned a portable music system (e.g., MP3 player, iPod, Zune, etc.). Approximately one-third of those ( $n = 37$ ; 33%) had 17 to 400 songs on their portable music system. Another one-third ( $n = 30$ ; 28%) had 500 to 800 songs. The last one-third ( $n = 46$ ; 40%) had 900 to 31,200 songs. The average number of songs one had on their portable music system was 1,969 ( $SD = 4,484$ ). A common form of music piracy is simply copying (or "burning") a CD on to a blank CD and distribute. In fact, when asked about burning a CD, 94% ( $n = 123$ ) indicated they had done this previously. Furthermore, 86% ( $n = 112$ ) indicated they had shared music through a P2P website; 69% ( $n = 90$ ) indicated they had done so in the previous six months.

In a comparison of those who indicated they had shared music through a P2P website to those who had not, it was found, male students were significantly more likely than female students to report they had shared music through a P2P website (82% compared to 56%); however, the correlation was relatively weak ( $\Phi = .275$ ,  $p < .05$ ). In regard to race/ethnicity, significant differences were found. Eight-eight percent of African American and 71% of Caucasian students had shared music through a P2P website compared to 61% of the Hispanic students and none of the students who indicated





an "other" race/ethnicity. Again, the difference among the categories was relatively weak ( $\Phi = .29$ ,  $p \leq .01$ ). No significant correlations were found for year in college and whether the students had shared music through a P2P website ( $\Phi = .208$ ,  $p > .05$ ). Also, there were no significant mean differences between age and whether the students had shared through a P2P website ( $\bar{x}$  of students who had shared = 22.2 compared to  $\bar{x}$  of students who had not shared = 22.5,  $t = -.463$ ,  $p < .05$ ).

When students were given six options to choose from to describe their typical music downloading habits, the largest percentage, 37% ( $n = 46$ ), indicated they use P2P websites; however, the next largest percentage, 25% ( $n = 31$ ), indicated they use pay sites (such as iTunes, Rhapsody, etc.). Another 24% ( $n = 30$ ) indicated they use a variety of sources: pay sites, P2P, out-of-country where one does not pay, etc.). Eight percent ( $n = 10$ ) indicated they do not download music online. Four percent ( $n = 5$ ) use out-of-country sites where one does not pay (also a form of music of music piracy). Three percent ( $n = 4$ ) rely primarily on sites where artists post their songs for free (where there is no copyright infringement)<sup>2</sup>.

### **Self-Control and Music Piracy**

To examine factors that correlate with music piracy, descriptive statistics and chi-square analysis were utilized. As shown in Table 2, a large percentage of those with low self-control were more likely than those with high self-control to

report behaviors and attitudes supportive of music piracy. More specifically, those with low self-control were significantly more likely than those with high self-control to have borrowed a CD to burn to his/her computer, downloaded (ever or in the previous six months) a song using via P2P network, and would still download music if he/she knew it was a crime. Those with low self-control were also significantly less likely than those with high self-control to pay 99 cents for a song and less likely to believe paying for music harmed the music industry.

### **Table 2: See appendix**

Furthermore, to examine factors that correlate with music piracy, the question asking whether students had shared music through a P2P website in the previous six months was relied upon. Given that 69% had indicated they had done this, it would allow comparisons between student who had and had not done this. Whether they had shared music through a P2P website in the past six months (yes/no) was the dependent variable. The independent variables included sex, race, age (as control variables) and low self-control score. A logistic regression model was chosen. The variables were entered into the model by using Forward: Likelihood Ratio, meaning the model was data-driven--including only the variables that significantly increased the predictive effect of the model.

The results of the model showed that self-control was a significant factor predicting whether one reported engaging in music piracy in the previous six months ( $\beta_R = .917$ ;  $p < .005$ ; see Table 3). Thus, the lower one's self control, the more likely

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<sup>2</sup> Five participants did not answer this question.



they were to have shared music through a P2P website recently (previous six months).

The resulting model yielded appropriate scores for goodness of fit. For example, the likelihood ratio of the final model yielded a chi-square of 4.6 (d.f. = 7,  $p < .05$ )<sup>3</sup>, indicating the data adequately fit the model. Also the classification model of the initial model revealed a hit ratio of 69% while the final model yielded a hit ratio of 75%. Thus, after including the independent variables noted in Table 3, the ability to correctly predict cases increased substantially. Post-hoc analysis, which included a test of correlation (*Phi coefficient*) between whether the students had downloaded from a P2P website in the previous six months and their self-control category (either low self control or high self control). The results showed a significant correlation ( $p \leq .001$ ), yet the strength was relatively weak ( $Phi = -.285$ ).

**Table 3: See appendix**

### **Techniques of Neutralization/Drift and Music Piracy**

It was hypothesized that those who engaged in music piracy were more likely than those who had not engaged in music piracy to affirm statements regarding denial of injury, denial of victim, and appealing to a higher loyalty. The largest portion, 57%, of those who had engaged in music piracy in the previous six months agreed that they would download the

artists' music after sampling; thus, those who engaged in music piracy recently were more likely to rationalize a lack of victim or harm; however, a larger percentage (73%), of those who had not engaged in music piracy recently indicated they would also download the artists' music after sampling. The difference between those who had and had not engaged in music piracy recently, however, was only marginally significant ( $Phi = -.152$ ,  $p = .08$ ).

Additionally, the largest portion, 39%, of those who had engaged in music piracy recently compared to 25% of those who had not engaged in music piracy recently, believed piracy does *not* harm the music industry ( $Phi = .216$ ;  $p < .05$ ); thus, those who had engaged in music piracy were significantly more likely to deny harm for the music industry. Also, those who had not engaged in music piracy recently were more likely than those had engaged in music piracy recently to agree that music piracy has a negative effect on the *artists'* profits (55% compared to 42%), yet the difference was not significant ( $Phi = .128$ ,  $p > .05$ ). Thus, the techniques of neutralization that the students revealed were focused more so on the music industry, but not on harm caused to the artist.

### **Effect of Sanctions (Rational Choice) in Relationship to Self-Control**

The students who had high self-control were more likely than those with low self-control (43% compared to 29%) to indicate they were concerned about possible legal consequences from engaging in music piracy; however, the difference was not significant ( $Phi = .18$ ,  $p > .05$ ). Also, those

<sup>3</sup> A non-significant effect is desired here.



with high self-control were *less likely* than those with low self-control to indicate they would continue engaging in music piracy if he or she knew someone personally who had been caught and punished for this (20% compared to 36%); however, the difference was only marginally significant ( $\Phi = .199$ ,  $p = .08$ ). Those with high self-control were also less likely than those with low self-control (23% compared to 41%) to indicate they would continue engaging in music piracy if they knew it was clearly a crime. The difference between the two groups (high and low self-control), however, was marginally significant ( $\Phi = .190$ ,  $p = .09$ ).

## DISCUSSION AND CONCLUSION

This study applied a deductive and inductive method to assess music piracy explanations. Deductively, we searched existing theoretical frameworks that had been applied to music piracy. Low self-control, techniques of neutralization along with drift, and rational choice have been applied with moderate support to explain music piracy (Higgins 2007; Higgins et al. 2008; Moore and McMullan 2009). Inductively, we asked a group of college students through a focus group for explanations of engaging in music piracy. Here, students gave specific details that related directly to techniques of neutralization and rational choice theory. Specific to techniques of neutralization, students gave reasons for engaging in music piracy that related to denial of injury, denial of victim, and appealing to a higher loyalty. This allowed us to test techniques

of neutralization and specific rationales the students applied specifically to music piracy.

The purpose of this study was to add to the paucity of research on college students' engaging in music piracy as well as to build on previous research efforts to apply a theoretical framework to this type of crime. This, essentially, will build to our understanding of music piracy as well as to the applicability of these theories to a type a crime that is committed by a large percentage of college students. The findings will apply low self-control to another group of students, indicating a measure of reliability. It will also test another aspect of techniques of neutralization: techniques that specifically relate to music piracy. Furthermore, specific rational choice aspects that relate to music piracy, which include potential legal sanctions are explored.

This research confirmed that the majority of students have engaged in music piracy; it is not a rare phenomenon. The results from this study, however, indicate not all students are consistently engaging in music piracy. For example, although 86% had engaged in P2P sharing, only 69% had done so in the previous six months. This may indicate that students drift in and out of this type of behavior.

This study confirmed that students with low self-control are more likely than those with high self-control to engage in music piracy. However, it is by no means a perfect indicator. Many students with high self-control also engage in music piracy. Higgins (2007) found support that rational choice is a mediator between low self control and music piracy—meaning one with low self control, when placed in a particular situation



or having some other characteristics (e.g., lack of value), is more likely to engage in music piracy. This research builds on his research by showing that low self-control is only one factor and other factors, such as perceived sanctions, can affect whether one commits music piracy. In general, a large portion of students do not believe music piracy is unethical and it is not equivalent to stealing.

Drawing upon both a deterministic (self-control, techniques of neutralization, and drift) and free will framework, there appears to be factors from the environment and one's individual choices at play when one engages in music piracy. The environment is rich for music piracy: use of computers and Internet on a daily basis, prevalence of a portable music device, ability to download music through a P2P website, etc. Also, at some point, each student weighs the benefits and the risks. Given the overall lack of consequences (i.e., few are prosecuted for such offenses), which leads to music piracy.

This research, however, is not without its limit. Many of the findings revealed only marginal significance; perhaps with a larger and cross-national sample, the study can provide more definitive relationships. Larger samples also allows for more sophisticated analyses that can also test mediating/moderating effects to map out a better flow of how all of the variables affect one another. Also, this research did not test all of the techniques of neutralization and did not fully test rational choice theory. Only a few aspects of each were included. Future research should include additional measures of each of the theories. Aside from these limitations, this study

shows that applying deterministic and free will to music piracy provides insight into music piracy.

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of race and class, the influences of race and class on criminal behavior, and juvenile justice and positive youth development.

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APPENDIX

**Table 1. Demographics and Background Characteristics of Sample**

	Frequency	Percentage
<b>Gender</b>		
Male	65	49.6%
Female	66	50.4%
<b>Race*</b>		
Caucasian	79	60.8%
Hispanic	31	23.8%
African-American	17	13.1%
Other	3	2.3%
<b>Age</b>		
17-20	35	26.7%
21	25	19.1%
22-23	39	29.7%
27-38	32	24.6%
<b>Year in College</b>		
Seniors	71	54.2%
Juniors	43	32.8%
Sophomore	12	9.2%
Freshman	5	3.8%





**Table 2: Music Piracy and Low Self-Control**

Percentage of students who:	Total who Agreed/ Reported Yes	Percentage with Low Self-Control
Are willing to pay .99 for a song*	47% ( <i>n</i> = 61)	43% ( <i>n</i> = 26)
Do <i>not</i> consider downloading music from an unauthorized source stealing	29% ( <i>n</i> = 38)	40% ( <i>n</i> = 15)
Borrowed a CD to “burn” to his/her computer*	94% ( <i>n</i> = 122)	56% ( <i>n</i> = 68)
Ever downloaded a song using a P2P network*	86% ( <i>n</i> = 112)	61% ( <i>n</i> = 68)
Downloaded a song using a P2P network in the previous six months*	69% ( <i>n</i> = 90)	63% ( <i>n</i> = 57)
Would still download music from unauthorized source if he/she knew it was clearly a crime*	33% ( <i>n</i> = 42)	67% ( <i>n</i> = 28)
Believe downloading music without paying for it harms the music industry*	42% ( <i>n</i> = 54)	44% ( <i>n</i> = 24)



**Table 3: Predictors of Students Who Shared Music via P2P  
in Previous Six Months**

Variable	$\beta_R$	S. E.	Wald	d.f.	Exp(B)
Race: Caucasian	-21.9	22954.3	.00	1	.000
Race: African American	-23.1	22954.3	.00	1	.000
Race: Hispanic	-21.4	22954.3	.00	1	.999
Self- Control Score***	-.087	.025	11.6	1	.917
Constant	24.0	22954.3	.00	1	2.73



## **Female Parole Absconders: Considering the Necessity of a Separate Risk Instrument**

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**Key Words:** parole, absconders, females, prediction, recidivism

### **Abstract:**

Absconding is one of the more common events for those on parole yet there is little published research. Of the existing studies, the samples are all comprised of 90% or more males with no thought to whether results for males would apply to females. This research examines whether female parolees abscond at rate different from male parolees and whether a separate absconding risk instrument is desirable for females. Using a random sample of parolees from California, we found

the female population, taken as a whole, has the same rate of absconding as males but when disaggregated by race exhibits subpopulation differences. Logistic regression and ROC-curve results indicate that female parole absconding can be reasonably predicted with four variables, one of which—unstable living conditions—may be sufficient by itself. When compared to the results of a model derived from male parolees, there is little difference in classification accuracy; therefore, there is no reasonable argument to support a separate female-based model to predict absconding.

## **Female Parole Absconders: Considering the Necessity of a Separate Risk Instrument**

Although female offenders are often described as forgotten and almost invisible in the criminal justice system (Covington, 2004; McShane & Williams, 2006), they represented about 7% of the incarcerated population in 2010 (Guerino, Harrison, & Sabol, 2011, p. 14, 16) and their numbers continue to rise proportionately faster than the number of incarcerated men (Guerino et al., 2011, p. 16). The attention of feminists, and in particular feminist criminologists, over the past two decades has been instrumental in elevating the visibility of this relatively small group. One product of this is increasingly stronger evidence that women both come into the criminal justice system from different pathways than men and have different needs as they leave the system (Visser & Travis, 2003). If this evidence is correct, then it is likely women's actions in, and out of, the criminal justice system are different from males and occur for different reasons.



### **Women in the Correctional System**

The percentage of women incarcerated for drug offenses has risen dramatically in the last two decades, most likely as a consequence of the 1980s “war on drugs.” As government reports indicate (Staton-Tindall, 2011; Staton-Tindall, Duvall, Leukefeld, & Oser, 2007), women now use and abuse drugs at rates nearly equal to men. A recent study (La Vigne, Brooks, & Schollenberger, 2009, p. 3) found that some 83% of the females in their Texas prison sample had used illegal drugs in the six months prior to incarceration, with 40% of that group reporting length of use at 10 years or more. This combination of drugs/incarceration is so pervasive that some criminologists have referred to the war on drugs as if it were a war on women (Chesny-Lind & Pasko, 2004; Covington & Bloom, 2003).

The male-oriented crime and criminal justice system research also may misrepresent the importance of various criminogenic factors for females. There is growing evidence that females have different experiences and risk factors (Reisig, Holtfreter, & Morash, 2006; Staton-Tindall, 2011). More significantly, the profile of adult female offenders reflects a complex pattern of personal and familial problems that continue to threaten their health, safety and ability to adjust once released from penal institutions (Center on Addiction and Substance Abuse [CASA], 2010; DeHart, 2008; Sacks, 2004).

Female offenders are more likely to grow up in a single parent household and to have at least one family member who has been, or is, currently incarcerated (Bloom, Owen, & Covington, 2004). Most female offenders have young children, and a majority are single parents (Mackintosh, Myers, &

Kennon, 2006). Among those incarcerated in state prisons, 62% of women report being a parent (Glaze & Maruschak, 2010, p. 2) and three-quarters of them have multiple children (La Vigne et al., 2009, p. 3). While approximately 90% of incarcerated men report that at least one of their children resides with their mother, only 28% of women say that the father was the primary caregiver (Mumola, 2000, p. 1). Indeed, females are more likely to become the primary caregiver upon release. Reuniting with their children is the one thing female inmates most look forward to, yet, at the same time, their families are less likely to offer post-release support when compared to support offered to males (La Vigne et al., 2009, p. 10).

While the number varies, at least four-in-ten women report encountering prior physical and sexual abuse (O’Brien, 2001). More recently, a 2010 Illinois study (Reichert, Adams, & Bostwick, 2010) found that virtually all of their female inmates had experienced some form of physical abuse. Thus, it is reasonable to say that pre-prison abuse is a common feature among females but it is not yet clear if child and adult abuse have differential effects on recidivism (Bonta, Pang, & Wallace-Capretta, 1995; Harm & Phillips, 2001). Moreover, it appears that some women imitate that abuse, as they are reported more frequently than male offenders for committing violent offenses against someone close to them (Morash, Bynum, & Koons, 1998).

Where criminal records are concerned, female offenders are more likely than men to have only one conviction and a shorter criminal career (Hollin & Palmer, 2006). Their involvement with the criminal justice system, on average, begins later in life than males, is much more likely to involve



drugs, and fewer than one-in-five have a prior prison experience (La Vigne et al., 2009, p. 3). Because drug offenders tend to have the highest probation and parole recidivism rates, the juxtaposition of drug offenses with females' shorter criminal careers is worthy of research in and of itself.

In sum, it appears that arrested and incarcerated females are, upon release, more likely to find themselves in a stressful home situation, suffering from abusive relationships, and undertaking the role of parent and caregiver of minor children while lacking proper models for that role. Compared to similarly-situated males, the evidence suggests that criminogenic influences for females are more likely to be family-centered and related to instability in their lives.

#### **Gender and Parole Outcomes**

The androcentric nature of research continues once those incarcerated are released on parole, as most of extant parole research concerns male parolees. Actually, the preferred methodology of random sampling parolee populations essentially guarantees a male sample because of the relatively small number of females on parole. As of 2010, females constituted 12% of the more than 840,000 parolees (Glaze & Bonczar, 2011, p. 43), up from 1995 when females represented 10% of that group (Glaze & Palla, 2005, p. 9). While a number of studies have found that female offenders have lower recidivism rates than male offenders even when they have similar levels of risk (Deshenes, Owen, & Crow, 2006; McShane, Williams, & Dolny, 2002), there have been comparatively fewer studies focusing solely on the recidivism of female offenders. Indeed, much of the work is a product of

sustained research and analysis by Patricia Van Voorhis and colleagues who have consistently found evidence to justify gender-responsive risk and needs instruments (see, Salisbury, Van Voorhis, & Spiropoulis, 2009; Van Voorhis & Presser, 2001; Van Voorhis, Salisbury, Bauman, & Wright, 2007; Van Voorhis, Salisbury, Wright, & Bauman, 2008; Van Voorhis, Wright, Salisbury, & Bauman, 2010). Research by Williams and Dolny (1998) found that females are more likely than male offenders to succeed on parole even though they needed more interventions and services than the parole population at large. Female parolees are also faced with significant barriers affecting their successful reintegration into society (Schram, Koons-Witt, Williams, & McShane, 2006). Parolees are generally released to the county in which they resided before going to prison, which means that women are more likely to be returned to inner-city areas that are culturally isolated and plagued with crime, drug problems, and poverty (Leverentz, 2006; Petersilia, 2001).

While more needs to be known about female risk factors, McShane et al. (2002) report that a separate classification instrument for California female parolees, while increasing predictability over the general population instrument, does not improve prediction enough to justify its use. However, they also note that potential factors relating to better prediction of female parole failure are not usually among those available from existing databases. Possibly because of this lack of female-oriented information, Van Voorhis and Presser (2001) report that few states have validated their classification instruments for use with women and strongly argue that female instruments are needed, if for no other reason than women have been overclassified into higher risk levels



(Hardyman & Van Voorhis, 2004). Austin (2006) echoes this in his recent discussion of the misuse of risk instruments. In fact, he argues (2006, p. 59) that separate male and female risk instruments constitute a basic requirement for any correctional assessment. He also notes, consonant with Hardyman and Van Voorhis, that any gender-neutral risk instrument will automatically misclassify females with more recidivism-predicted false positives.

Because parole violations are one of the leading causes of growth in the prison population (Bonczar & Glaze, 1999), research on predicting parole recidivism is important. However, one form of parole violation, absconding, is neglected. One recent estimate from Utah (Carter, 2001, p. 37) is that absconding is the third most frequent category of parole violation. National estimates (Glaze & Bonczar, 2011, p. 9) place the percent of parolees who have absconded each year from 2006 to 2009 as somewhere between 9% to 11%. Unfortunately, estimates of absconding vary by state as, for example, Williams, McShane, and Dolny (2000, p. 31) find a much higher rate of 21% in California. Moreover, rates in the same state vary across time, as for example, Grattet, Petersilia, Lin, and Beckman (2008, pp. 14-15) a decade later find a California rate of 17% of all parolees on any given day. In addition, the incidence of parole absconding may be estimated as a percentage of all violations, as in Carter's (2001, p. 37) report that absconding constitutes 17% of all Utah parole violations, with almost half absconding again (for comparison, Grattet et al. [2008, p. 12] report California's percentage of all violations at about 23%, which is two-thirds of all technical violations).

Overall, absconding statistics may be misleading both because of reporting practices and definitional ambiguity. Where reporting practices are concerned, some agencies do not include absconders in their reported data. Others do not consider absconders to be among their parole "failures" and thereby have a vested interest in ignoring them. This latter issue suggests that administrative policies may have much to do with determining rates of parole absconding (as they likely do with the base rate of "failure" on parole and other recidivism measures). More lenient administrative policies likely produce lower absconding rates while administrative policies at the other end of the spectrum create higher absconding rates.<sup>1</sup>

Where the definition of absconding is concerned, what constitutes absconding from parole varies between jurisdictions and ranges from very broad conditions (such as missing any appointment) to very specific and narrow ones (such as being out of contact with no forwarding address for some defined but rather long period of time). When present, the requirement of a specific time-span before an absent parolee can be officially

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<sup>1</sup> This issue is one that needs greater attention. The general approach to predicting recidivism has been to assume that individual behavioral characteristics explain parole outcome. However, administrative decisions obviously affect outcomes by determining if and when official action will be taken. Where absconding is concerned, administrative action is necessary to create a categorization of certain violations as "absconding."



labeled an absconder may vary substantially. Moreover, there are relatively minor violations of parole conditions that may also be used to qualify a parolee as an absconder, such as failure to attend clinics, failure to report to the parole office, leaving the county of residence beyond 48 hours, traveling outside a 50-mile radius or changing residence without notifying parole authorities. As a result, national figures on parole absconders, such as those reported in the federal Bureau of Justice Statistics' (BJS) annual report, *Probation and Parole in the U.S.*, are at best estimates based on potentially incompatible data.

With these problems, the lack of knowledge concerning parole absconders seems understandable; yet at the same time the contribution of absconding to parole violation is obvious. As a result, we argue that knowing more about parole absconding can be important to understanding parole failure. And, in this area too, research on females is lacking.

### **Absconders**

Comparatively little research has been done on absconders in contrast to that on the general population of parolees and, where female parole absconders are concerned, we are not aware of any existing research. Research specifically focused on parole absconders seems to have begun in the late 1960s, largely based on British research with juvenile borstal groups (cf., Brown, Druce, & Sawyer, 1978; Clarke, & Martin, 1971; Thorton & Speirs, 1985). There are, of course, many parole studies that mention absconding and/or present a descriptive analysis of parole absconders (see, for example, Buckholtz & Foos, 1996). There is also the likelihood

that there are unpublished in-house studies present in the files of many parole agencies. Moreover, there are studies of probation absconders, both published and unpublished, available.<sup>2</sup>

The earliest U.S. study of which we are aware is by Chase (1973). Like his British colleagues of the period, Chase examines juveniles, this time in the New York State's Division for Youth. His work focuses on predicting absconding and finds ten variables significantly associated with the behavior. Only two actuarial variables, whether a current petition exists and ethnicity, are among the predictors. Other predictors require clinical assessment of the youths, in particular their personality orientations and their feelings toward, and activity in, the program Chase was evaluating.

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<sup>2</sup> We are not concerned here with absconding from probation (nor any other type of absconding, such as pre-trial absconding), for which separate literature and research history exist. Just as the characteristics of probationers are expected to be generally dissimilar from parolees, there is no reason to believe that parole absconders will be similar, as a group, to probation absconders. Thus, we repeat that our emphasis is only on parolees. However, those interested in probation absconders may want to review the work of McReynolds (1987) and Mayzer, Gray, and Maxwell (2004).



More modern parolee absconder research (over the past 30 years) in the U.S. appears to be comprised of seven studies, none of which examines females as a group. The earliest, by Austin and Litsky (1982), examines Nevada parolees (and probationers) with the purpose of reviewing Nevada Parole and Probation Department's then-existing risk assessment instrument. The authors' finding that the instrument is in need of change is not surprising and, in particular, they recommend separating assessment of probationers and parolees. More relevant for our purposes is that, in examining parolee absconders, they find only three variables (a larger number of prior convictions, a larger number of prior periods of parole and a larger number of revocations) to be relevant. Because these variables are different from those of probation absconders, Austin and Litsky recommend separate assessment instruments to determine the risk of absconding.

The second study (Feder, 1989) is less relevant in that it focuses on mentally-ill offenders released from New York state correctional facilities. Feder's (1991) follow-up at the 18-month point reports that the mentally-ill are less likely to abscond than other parolees. A later study, with slightly more relevance, of temporary-release inmates (Chard-Wierschem, 1995), also from New York, finds that offenders are at greater risk of absconding if they have shorter sentences. In addition, offenders who are closer to their parole eligibility date are less likely to abscond. According to Chard-Wierschem, females are less likely than males to abscond. Moreover, there are relatively few differences in the types of crime committed by absconders and non-absconders. Demographic variables that seemed to distinguish absconders from non-absconders were gender, ethnicity, age and county of commitment. However,

because these are temporary-release inmates, they are technically not absconders; a failure to return would label them as escapees. Thus, Feder's (1989, 1991) and Chard-Wierschem's (1995) research both more clearly describe characteristics associated with the mentally-ill and escapees rather than strictly-defined parole absconders.

Schwaner (1997), in the first published study focusing directly on parolees, indicates that absconders represent 11% of Ohio's parolee population. The analysis compares two groups of Ohio absconders and non-absconders using 1978 and 1994 data sets. The best predictors for absconding are larger numbers of prior adult and juvenile felony convictions, an arrest within five years to the instant arrest, prior adult incarcerations, and the larger number of prior adult parole and probation revocations. A history of fleeing or absconding is also predictive of avoiding supervision. Overall, the 1994 group is more drug- and alcohol-involved and has longer and stronger criminal histories than the 1978 cohort. Therefore, there may be differences across time in absconder cohorts.<sup>3</sup> Schwaner also finds that higher-risk absconders are more likely to be caught. However, in general, the absconding group is of no greater threat to society, perhaps even less, than non-

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<sup>3</sup> While this longitudinal difference is likely to be accurate, it also demonstrates the differences in incarceration policies from 1978 to 1994.

With a first cohort prior to the war on drugs and a second one during that period, it would be surprising if differences in drug and alcohol offenses do not distinguish the two groups (and prisoners in general).





absconding parolees. In Schwaner's study, most of the absconders eventually return to prison and most return on a technical violation.

Schwaner and two colleagues (Schwaner, Namcgaughey, & Tewksbury, 1998), follow up his earlier work with interviews of 25 randomly-selected Ohio prisoners who have an absconding from parole on their record.<sup>4</sup> The interviews yield five unique absconder identities which they refer to as social isolates, drug fiends, villains, night-life swingers, and family types. A commonality across all types except night-life swingers is that they are introverted and rarely come out of prison intending to abscond. Rather, it is limited opportunities that create frustration and anger followed by a reaction to supervision and concern over being "free." The primary reason for absconding is stifling supervision and a fear of returning to prison. Ironically, many of these absconders have a history of "running." As before, Schwaner et al. find little in the way of dangerousness among their interviewees.

Williams et al. (2000) report on a California study of some 4,000 parolees, of which 20.7% are absconders (although the sample of fully-analyzable cases brings the absconding percentage to 27% across the full term), a noticeably higher

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<sup>4</sup> The fact that the Swaner et al. interviews were with incarcerated inmates may raise an issue with the sample itself. Because these are apprehended absconders, most likely for another offense, the qualitative characteristics of the group may be different from the total population of parole absconders.

percentage than other estimates produce. This larger percentage is likely a product of a definition of absconders as those parolees with any absconding within the first year on parole (2000, p. 29), rather than those in absconding status at some arbitrary time as counted in BJS estimates of U.S. parolee populations. Conversely, their data do not use minor forms of being missing without permission to define absconding or the number of absconders would be even larger.

With a primary interest in predicting risk of parole absconding, Williams et al. identify seven significant variables (unstable living arrangements, frequent unemployment, a previous parole violation, low stakes,<sup>5</sup> larger number of prior arrests, single marital status, and a longer record of previous felonies). Of these, unstable living arrangements, frequent unemployment, and being a previous parole violator are clearly the best predictors (2000, p. 35). With data on up to six violations over a parolee's term, Williams et al. are also able to ascertain that the initial absconding approximately doubles the probability of a second absconding (to .541), with a subsequent probability around .30 for both a third and fourth absconding (2000, pp. 35-36).

In the most recent relevant study, Hanrahan, Gibbs, and Zimmerman (2005) examine young offenders who have been processed as adults. The researchers, although focused on revocation, refer to absconders within the larger group. They

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<sup>5</sup> Low stakes, in this research, constitutes offenders who do not fall into categories of sex offender, gang offender, or the state-defined statutory category of "serious or violent" offender.



note that absconders tend to run when revocation appears to be imminent, a finding supported by Schwaner et al.'s earlier study (1998). What Hanrahan et al. add is that these young offenders do not appear to be deterred by the specter of future punishment.

In sum, the extant literature suggests that parole absconders seem to be associated with pervasive instability in their lives, which then generates frustration and anger over their lack of opportunities with a resultant "solution" of absconding. Parolees who are more susceptible to these problems are those with more extensive criminal histories (but not necessarily more serious offenses) and previous parole terms and violations. Not surprisingly, the presence of previous abscondings is also a trait. It is perhaps these existing characteristics that make relationship and employment difficulties even more stressful while on parole. The use of the acronym "running" for absconding may ironically be more appropriate given that absconders appear to be running from life's problems in general. These problems, in particular instability and lack of opportunities, are frequently associated with female offenders, thus one might expect females to be susceptible to absconding. Unfortunately, we simply do not have evidence concerning this group.

### **Gender and Absconding As a Research Focus**

While it is relatively clear that there is much we need to know about parolee absconding, our general lack of knowledge about this group is exacerbated by an even greater lack of knowledge of females who abscond. Regardless of the fact that gender is sometimes used as a variable in absconder studies,

we simply are not aware of any published, or unpublished, research in which the *focus* is on females. As we have noted, random samples rarely contain enough females to conduct a meaningful analysis and, regardless of the size of their samples, none of the studies reviewed sought to specifically examine the absconding of female parolees. Further, given the male-dominated nature of general-population-normed risk prediction instruments, we agree with Austin (2006) and Hardyman and Van Voorhis (2004) that the variables in any potential absconder instrument will likely overpredict female absconding.

This situation is, unfortunately, indicative of a dual problem in parole research in general. While substantial work has taken place on parole risk prediction and classification, there is much to do in regard to specific populations of offenders. Where females are concerned Austin (2006, p. 59), in a discussion of the basic issues of doing risk assessment, has specifically referred to the necessity of norming risk instruments for both female and male offenders. This, as he argues, is nothing more than a logical conclusion based on differences in rates of male/female offending, recidivism, general behavior and response to treatment.

The focus of this research is, then, the juxtaposition of special populations and risk events. Specifically, we focus on the risk combination of females and absconding behavior, a virtually nonexistent category of parole research. First, we ask if females abscond from parole at a rate different from that of males. Second, by examining the predictability of female absconders in comparison to male absconders, we anticipate an answer to whether females would be advantaged by a population-specific risk prediction instrument for absconding.



### **Methodology** **The Data and Sample**

The data are derived from Williams, McShane, and Dolny's (2000) study of closed parole files, institutional databases and parole databases from California.<sup>6</sup> The population for the study is all California parolees who are just completing their terms of parole or who are otherwise terminating their parole within the period of November, 1997, to February, 1998. This population allows the collection of information across a parolee's entire term and is preferable to the use of an entire parole population because the latter includes individuals at all stages of a parole term. By using just closed cases, all subjects have similar experiences and opportunities.<sup>7</sup> A disproportionate random sample of females is purposely pulled from the closed-file population to insure an analyzable number of women; this resulted in 546 female parolees. The remainder of the random sample is comprised of

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<sup>6</sup> For a more complete explanation of the methodology and sampling process, please refer to Williams et al. (2000) or Williams and Dolny (1998). A full description of the methodology and sampling process is rather extensive, therefore we provide only a basic explanation here.

<sup>7</sup> Parolees with immigration detainers are removed from the sample because their parole experiences are different and they are normally terminated without completing their full term.

3409 male parolees (3400 in the analyses) for a total of 3955 closed-file parolees.

The data collection instrument is constructed from multiple sources, with an original purpose of determining risk variables for parole failure. First, variables are incorporated from a preliminary departmental study which correlates inmate information with return-to-prison experiences.<sup>8</sup> Second, suggested items from Williams and McShane's (1997) review of research on classification variables and instruments throughout the United States and Canada over the previous 20 years are used. Third, items suggested through interviews with parole agents and parole administrators are included as are the suggestions of project staff at parole headquarters. A subset of these variables constitutes the predictors for this analysis. Reliability of data coding among the 11 senior parole agents who acted as coders exceeds a 0.95 level for inter-rater reliability.

### **Variables**

The criterion variable for this study, absconding while on parole, is a binary one. Parolees are classified as either an

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<sup>8</sup> This unpublished study was undertaken by Richard Berk and colleagues at UCLA for the California Division of Parole and Community Services. The purpose was to locate best-predicting recidivism variables from the characteristics of 2000 parolees released from California institutions in 1994. The research was completed in 1997.



absconder or a nonabsconder over the first 12 months of their parole term. Absconding is operationalized as being classified an absconder in parole unit reports.<sup>9</sup> A period of 12 months is used because it was the minimum (and standard) term a successful parolee could serve.<sup>10</sup> All parolees are examined over a 12-month period, even if they had been reincarcerated<sup>11</sup> at some point during the period.

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<sup>9</sup>This classification is actually a technical violation of parole under a code of “absconding parole supervision.” Because there are other codes for such technical violations as “leaving county of residence beyond 48 hours without approval” or “traveling beyond 50 miles from residence without approval,” the absconders in our study are guilty of neither momentary nor inadvertent technical violations.

<sup>10</sup> Any time period exceeding 12 months results in an analytical loss of virtually all parolees who had no violations in the first year and were therefore released from parole.

<sup>11</sup> All parolees are analyzed across a 12-month period regardless of how long it takes to create those 12 months. For instance, a parolee could have been reincarcerated three months after release and placed in prison for five months. After release from reincarceration, the period continues for nine more months to achieve the total of 12 months. Parolees with multiple

Potential predictor variables are chosen from characteristics previously associated with recidivism and absconding. The recidivism characteristics are either derived from the research literature as noted in work by Gendreau, Little, and Goggin (1996) and Williams and McShane (1997) or from previous analyses of these data where the focus is female parolees (McShane, Williams, & Dolny, 2002; Schram et al., 2006). Similarly, the absconding variables are informed by the studies previously reviewed and the above noted analyses of these data. We classify these variables into three categories based on their relationship to the point of release on parole: pre-release official information, release information, and post-release information.

*Pre-release official information predictors:* Age at first arrest; number of prior arrests (0-2 arrests, 3-12 arrests, 13+ arrests); street/prison gang affiliation (binary, from prison and parole records); serious and/or violent offenses (binary, from state statutes classifying offenses); presence of a drug-related commitment offense (binary); and presence of an alcohol-related commitment offense (binary).

*Release predictors:* Age at release on parole and type of release (binary, whether parolee was a new releasee or a previous parole violator released on a new parole term).

*Post-release predictors:* Marital status (binary, not married/married); frequent unemployment (binary, three or more periods of unemployment in a year); unstable living conditions (binary, four or more home addresses over a

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reincarcerations have a combined total of 12 months of release, or “street,” time.



year); immediate family, spouse, significant other or roommate with a drug problem (binary); immediate family, spouse, significant other or roommate with an alcohol problem (binary); and immediate family, spouse, significant other or roommate with a criminal history (binary).

The analysis is accomplished with multiple statistical techniques due to the nature of the variables (their level of measurement and distributions) and the questions we ask. The initial question, whether females abscond at different rates than males, is examined through the use of Fisher's Exact test. The Fisher's Exact test is superior to the Chi-Square test in this instance because it is specifically designed for a 2X2 problem, with no assumptions about the shape of variable distributions other than each is binary, and with no sensitivity to differential sample sizes or marginal inequality between female and male groups (Williams, 2009, p. 107). For the classification question, whether females have different absconding predictors compared to males, the analysis uses binary multivariate logistic regression to predict the presence of an absconding across the 12-month term. Assuming the existence of significant predictors, the logistic regression is followed by an ROC-curve analysis to test the suitability of the predictors.

### **Analysis**

#### **Do Females Abscond From Parole At Different Rates Than Males?**

The first question concerns the possibility of differential rates of absconding between female and male

parolees. Approximately 25.3% of the females abscond during their first year on parole, while about 26.8% of males abscond. This difference is not statistically significant, with the two-tailed Fisher's Exact Test probability at 0.498.<sup>12</sup> Thus, we can conclude that, in general females do not abscond from parole at a rate different from males.

This conclusion, however, may not be true for subgroups of females and males so we break the genders into three common race/ethnicity groups (White, Black, and Hispanic). An examination of the female/male absconding percentages within each of these subpopulations shows a different picture than that of the entire population. White females are less likely to abscond than white males (13.2% versus 22.4%, respectively) and that difference is statistically significant (Fisher's Exact Test probability = 0.002).<sup>13</sup> On the other hand, black females are more likely to abscond than black males (34.4% versus 23.8%, respectively; Fisher's Exact Test probability = 0.006). Gender does not appear to produce absconding differences among Hispanics (19.1% for females, 17.1% for males; Fisher's Exact Text probability = 0.549). Thus, there is evidence, at least for white and black parolees, that females and males have differential absconding

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<sup>12</sup> Fisher's Exact Test calculates the exact probability, thus there is no separate "statistic value" for the test.

<sup>13</sup> Subsample sizes for the race/ethnicity layers are as follows:

White—1163 males, 227 females; Black—1051 males, 160 females;

Hispanic—1088 males, 136 females.



percentages and that those differences are reversed across the two racial groups.

### **Is Female Parole Absconding Predictable and Different from Male Absconding?**

The next question to be examined is whether absconding behavior of female parolees is predictable and, if so, whether the predictors are different from those of male absconders. We begin with a logistic regression of the binary absconding variable on the variables in the pre-release, release, and post-release blocks noted earlier. The three blocks are introduced in a stepwise fashion with pre-release official information entered first, then release information and, finally, post-release information. The objective of using the three blocks is to determine, assuming that the variables in a block significantly contribute to prediction, whether it is possible to use pre-release actuarial information, or at least information available at release, rather than having to rely on more subjective (and more difficult to gather) post-release parolee information. Thus, in addition to determining if *any* predictors exist, we intend to compare their predictive power relative to the parole release point.

Table 1 contains the results of the separate female and male logistic regressions, for significant variables only. The reported coefficients are from the final three-block results in which all variables are controlled for the presence of all other variables (i.e., standardized multivariate values). The first block of variables, as a whole, indicates that pre-release information contributes only tangentially to the prediction of female parole absconding. Having a record of prior arrests is

the only pre-release variable that serves as a predictor, with 7% greater log odds of female absconding for each arrest,<sup>14</sup> but the individual categories of arrests are not significantly different from each other.<sup>15</sup> For males, significant pre-release variables are prior arrests and having a current prison commitment for a serious and/or violent offense. Having prior arrests increase the chances of absconding by 87% to 115% and a current serious/violent offense commitment increases the chances by 76%. See Table 1.

The second block, information available at release on parole, has no prediction value for female parole absconding. For males, one predictor, type of parole release, is significant.

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<sup>14</sup> For consistency and ease of understanding, we will hereafter use percentage increase or decrease in “chances” to express the effect of each variable or its categories without referring to the term “log odds.”

However, the more accurate interpretation is that of higher or lower log odds of being an absconder as a result of being in a category of interest, compared to a base category, of the variable under consideration.

<sup>15</sup> Because the categorical version of prior arrests becomes problematic when categories are not different, we used a version of the variable as a continuous covariate in the female model. The coefficients in Table 1 located beside the variable name (rather than the categories) are derived from the model with the continuous variable.



Having a previous parole term increases the chances of absconding by 65%.

The results for third and final block suggest that post-release predictors are critical to the prediction of female absconding. Frequent unemployment, unstable living conditions, and having family, spouse and/or friends with an alcohol problem are all statistically significant. Frequent unemployment increases chances of female absconding by 92%. The chances of females with unstable living conditions absconding are 407% greater than those with stable living conditions. And, the chances of a female parolee with immediate family, spouse, significant other or roommate with an alcohol problem absconding are 334% lower than those with significant others without alcohol problems. Predictors for male parole absconders are similar to those of females, with the addition of marital status. Married males have a 37% lower chance of absconding than unmarried male parolees. Those who have immediate family, spouse, significant other or roommate with an alcohol problem also have a lower chance of absconding, by about 62%, than male parolees without significant others with alcohol problems. Conversely, both frequent unemployment and unstable living conditions increase the chances of male parole absconding (by 71% and 360%, respectively).

In regard to the three blocks of potential predictor information, there are clear differences between females and males. Female parolees, as was expected from the existing literature, seem to be more affected by dynamic post-release factors and, in particular, those revolving around life stability. For females, actuarially-oriented data derived from pre-release and release information do not appear to be particularly

important in predicting absconding behavior, with the best predicting variables all in the post-release block. For males, certain areas of prior behavior seem to be as important in predicting their absconding behavior as do post-release experiences. These results suggest that a male-based instrument may not be suitable for predicting female absconding. Nonetheless, the best predictor for both females and males is unstable living conditions, a post-release factor.

Given the overall differences in predictors, we now examine the the classification tables from the logistic regressions. Classification tables are merely a comparison of predicted categories versus observed categories or, in our case, how well the prediction of absconding compares to the actual event for the total number of cases. We use a baseline classification which assumes the best prediction choice—nonabsconders—because they constitute the largest group.

Using the predictors derived from the female model, the correctly-classified percentages for female are 80.9% for nonabsconders and 70.1% for absconders, with an overall correct classification of 78.6%. With an initial baseline of predicting absconders at their sample percentage of 21.3%, the final classification percentage reduces the error in predicting female absconders by approximately 62%, which is a meaningful reduction.

Using the predictors derived from the male model, the correctly-classified percentages for female parolees are 78.6% for nonabsconders and 72.6% for absconders, with an overall correct classification of 77.8%. The percentage reduction of error in absconder classification is about 65%. The interesting point is that the small difference between the two models



suggests that either of the two models will suffice for prediction of female parole absconders.<sup>16</sup>

### **Are the Logistic Probabilities Useful in Female Classification?**

As noted previously, we use an alternative statistical technique designed for binary dependent variables to validate the analytical results thus far. Receiver Operating Characteristic analysis visually graphs the strength of conviction present in each of the significant variables and the composite group of variables from the female model logistic regression analysis. The issue here is the accuracy of the results from the binary logistic regression. If the variables (and the full model) are statistically significant but not reasonable for decision-making, then there is little utility in creating an instrument for absconding risk. In this case we make that determination by using the logistic probabilities generated by each of the variables separately and the composite three-variable model.

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<sup>16</sup> Also of interest is the classification accuracy of the male model for male parolees. As it happens, the male model results in a comparatively degraded prediction of male parole absconders, with 67% of absconders correctly identified and a 58% reduction in error of prediction. However, the female model applied to males does even worse, with a 63.6% correctly-identified group of absconders and a 54% reduction in error of prediction.

In interpreting ROC curves, the numbers (0 to 1.0) on the Y axis represent a greater degree of true predictions (correction prediction of absconders) and the numbers on the X axis represent a greater degree of false positives (incorrect prediction). The closer a curve comes to the Y-axis (left-hand side) and the top of the chart, the better is the prediction; in fact, the topmost left corner represents perfect classification. A curve close to the 45-degree diagonal represents poor classification. The ideal prediction curve, then, will be far to the left and at the top of the chart. False positives occur more frequently as a curve moves toward the right-hand side of the chart. The diagonal line at X0.0/Y0.0 to X1.0/Y1.0 represents fully random classification. Any curve below the diagonal line denotes worse than random classification. The other possible diagonal line (X1.0/Y0 to X0/Y1.0) represents the midpoint between conservative and liberal classification. A curve with a peak (representing distance from the baseline diagonal) to the left of the line represents decreasing tolerance of false positives. A curve with a peak to the right represents increasing tolerance. Thus, the issue in examining the viability of the variables is not only correct prediction, but also the “cost” of prediction in false positives (Gonen, 2007).

Comparing the three predictor variables in Chart 1, it appears that our previous results concerning the predictive value of unstable living conditions are upheld. The curve representing this variable’s logistic probabilities is clearly the best single-variable ROC result and meets the best-favored criteria of leftmost and topmost. Moreover, the peak of that curve is virtually on the middle (the left/right diagonal) which is the most desirable result. The curve representing other’s alcohol problems barely separates from the diagonal baseline





and can be construed as having virtually no classification accuracy. The prior arrests curve shows a small degree of accuracy but with lower tolerance for false positives. The curve representing frequent unemployment is slightly more accurate than the prior arrests curve but, with a peak on the right-hand side, is undesirably accepting of false positives. The full model probability line, on the other hand, demonstrates that the full model is slightly more accurate than the single-variable unstable living curve and its peak, while slightly more tolerant of false positives, remains reasonably close to the middle.<sup>17</sup> See Chart 1.

A final way to interpret ROC charts is to examine the area under the curve represented by each of the lines. A reasonable interpretation of areas is that 1.0-.9 is considered excellent prediction, .9-.8 is good, .8-.7 is fair, and .7-.6 is poor. The calculated areas for the unstable living variable and the full model are .735 and .810, respectively. Frequent unemployment results in a value of .620 of area under the curve and prior arrests captures .623 of the area. The lowest amount, .546, belongs to other's alcohol use. Thus, the prediction of female absconders over the first year of parole with these two approaches is good to fair. Moreover, the use of

multiple variables has only marginal value over the single unstable living conditions variable for classification purposes.<sup>18</sup>

### Discussion

The purpose of this study is to determine whether female parole absconding differs from that of males and, subsequently, whether predictors of female parole absconding differ from those of males thus suggesting the viability of a separate risk instrument for females. The answer to the first issue is a qualified "yes." When taken as a whole, female parolees abscond at essentially the same rate as male parolees; therefore, there is no generic difference in the two populations. However, when broken down by race and ethnicity, we find that both white and black females exhibit different rates of absconding behavior when compared to same group males. There are differences between these two groups though. White females are less likely to abscond than white males; black females are more likely to abscond than black males. In fact, black females have the highest absconding rate of any of our

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<sup>17</sup>Note that the diagonal line where a peak would normally be on the full-model curve is a product of a group of tied probabilities at the "top" of the variable range.

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<sup>18</sup>We also combined the frequent unemployment and unstable living conditions variables into an additive scale and subsequently derived logistic probabilities for that scale. The results yield a negligible loss of accuracy (area under the curve is .724) compared to the single living conditions variable and the ROC curve tends toward a flattened peak in a right-hand direction.



racial or ethnic groups and white females have the lowest. Hispanics males and females, on the other hand, have essentially the same rate of absconding.

Thus, an answer to whether female and male parolees have differential absconding rates is contingent on the subpopulations used. Indeed, this preliminary portion of our analyses suggests that the question of whether female parolees have different traits than their male compatriots is insufficiently complex. We originally felt that a random sample of over 500 females would be sufficient for analysis; at this point, though, the necessity of breaking females into subpopulations based on race and, most likely, other variables demonstrates that an even larger sample is needed. As a result, an important limitation of our subsequent analyses to determine predictability of absconding is that those analyses are based on a “generic female.” We now assume that there are likely to be differences in the logistic regression results based on racial characteristics, and possibly other personal traits or features. This is clearly an important consideration for future research.

In the examination of female parolees as a whole, we found that their absconding can be partially predicted with a few variables and, depending on how prediction is defined, the results account for about 32% of the binary variance or about 70% accuracy in classification. The variables used in this predictive model are prior arrests, frequent unemployment, having family or significant others with alcohol problems, and, most importantly, unstable living conditions. Further, the presence of unstable living conditions as the primary predictor matches expectations from existing literature on females in the criminal justice system. Our results indicate that it can be used as a sole predictor with little loss of power in classifying

potential absconders. In addition, the results of our ROC analysis confirm that the unstable living conditions variable provides the best classification accuracy. Given that post-release living conditions are rather dynamic and fluid, this is not a variable that can be found in pre-release databases nor determined in a release interview. Thus, any absconding risk instrument containing this variable will require parole agents to monitor female parolees over their term, a not too different requirement than currently exists but a time-consuming one.

As to the question of whether a separate female parole absconding instrument is valuable, at this point we (remembering the limitation of our “generic female” analysis) do not think one would be worth the time spent on developing, validating and maintaining it. Our logistic regression results for females, in comparison to those for male parolees, strongly suggest that either absconding risk model classifies both groups with about the same level of accuracy. The minor difference of a couple of percentage points does not seem to argue for two separate instruments. Moreover, the best predicting variable for both females and males is the same: unstable living conditions.

Finally, we caution that these results only examine the first year of parole and in a single jurisdiction (albeit a large one). It is entirely possible that analyses over longer periods and in different jurisdictions will identify different variables predictive of absconding. After the first year, most of the well-behaved parolees depart leaving behind those who have already violated their parole and are thus more likely to continue their violations. In previous analyses, we have already seen evidence of a first absconding increasing the probability of subsequent abscondings (Williams et al., 2000). With longer terms of parole, the issue of multiple abscondings becomes more critical



and different predictors may be present among those who abscond frequently. For the present, however, our analyses of one-year term parolees argue against the construction of separate models to distinguish risk of absconding for female and male parolees.

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### Appendix

Table 1.  
*Significant Predictors of Parole Absconding From Multivariate Logistic Regressions*

Block	Variable	Females			Males		
		B	SE	Log Odds Ratio	B	SE	Log Odds Ratio
1	Prior arrests <sup>1</sup>	.06**	.02	1.07			
	3–12 arrests				0.625***	0.20	1.87
	13+ arrests				0.765***	0.22	2.15
	Serious/violent				–0.27*	0.12	0.76
2	Release type				0.50***	0.10	1.65
3	Married				–0.32*	0.14	0.73
	Unemployed	0.65*	0.31	1.92	0.54***	0.12	1.71
	Unstable living	1.94***	0.27	6.93	1.53***	0.10	4.60
	Others—alcohol	–1.46*	0.67	0.23	–0.47*	0.23	0.62
Constant		–3.09***	0.83	0.05	–2.98***	0.31	0.05



Note: All categorical variables are contrasted to the first category of the variable. All coefficients represent final model, standardized coefficients. Female N = 546. Male N = 3400.

<sup>1</sup>Prior arrests is a significant variable ( $p < .05$ ) for females but the reported coefficients in the female model are derived from a continuous version of the variable.

Blocks are: 1 = Pre-release information; 2 = Release information; 3 = Post-release information. Model and Block fit statistics for females: (Block 1,  $X^2 = 27.18^{***}$ ; Block 2,  $X^2 = 11.77^{**}$ ; Block 3,  $X^2 = 88.75^{***}$ ; Full model,  $X^2 = 127.70^{***}$ ). Model and Block fit statistics for males: (Block 1,  $X^2 = 81.54^{***}$ ; Block 2,  $X^2 = 64.60^{***}$ ; Block 3,  $X^2 = 373.17^{***}$ ; Full model,  $X^2 = 519.31^{***}$ ).

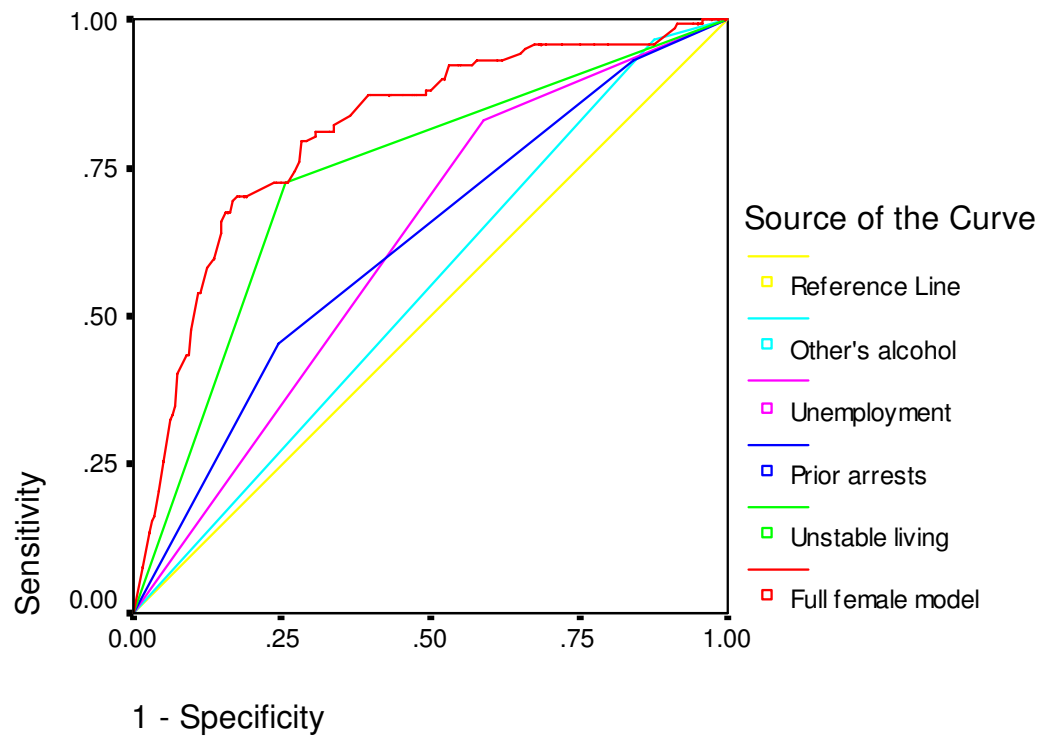
Full Model Nagelkerke  $R^2$ : Females = .329; Males = .239.

\* $p < .05$ , \*\* $p < .01$ , \*\*\* $p < .001$ .





Figure 1  
*ROC Curve Analysis for Strength of Conviction in Significant Absconding Predictors for Female Parolees*



Note: N = 546



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**Myth versus Reality:  
The Arguments against Arming Campus Police**

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***Abstract***

*In the culture of academia, one of the most highly contentious issues is the question of whether to allow campus safety forces to carry firearms during the everyday course of their duties. It is an issue fraught with political, philosophical, social, perceptual and personal tensions. And while its proponents believe it to be crucial to the advancement of professionalized police and safety services, many campus administrators, faculty members and students are adamant in their objections to this standard tool of the law enforcement profession.*

*This article conducts a review of the literature and seeks to evaluate several of the more prevalent points of opposition to this level of professional enhancement to college and university safety services.*

Keywords: campus police, arming, police/community relations, higher education, weapons on campus, campus violence

It must at once be recognized that the issue of arming campus police personnel is one fraught with political, philosophical, social, perceptual and personal tensions. The mere mention of this facet of police power has, at times, caused high levels of dissension and upheaval of seemingly normal campus attitudes for learning and open expression of ideas and concepts. Yet, while proponents believe it is crucial to the advancement of professionalized police and safety services, particularly for those institutions that maintain formal, sworn law enforcement agencies, many campus administrators, faculty members and students are adamant in their objections to this standard tool of the law enforcement profession.

For more than two decades, almost all police officers on public, and many private, college and university campuses have attended the same training academies and have the same certification as officers from local municipalities or sheriffs' offices. In many instances, these agencies have become both a training venue and recruiting source for members of the various municipal, county and state police agencies surrounding and adjacent to college campuses.

Yet, while throughout the 48 contiguous states of the nation numerous campus police agencies, at both public and private institutions of higher education, are found to be armed, campus police officers at many institutions remain prohibited from carrying weapons on duty, even while being allowed to carry concealed weapons during their off-duty hours. And this un-armed status, for those who have been properly trained



through statutorily mandated programs, continues to provide self-perceptions of ineffectiveness in their endeavors to provide for a fully safe and secure environment, and images of lowered self-esteem and lack of worth to the community, because of their belief that they cannot properly and adequately provide professional services without the accepted professional tools of their trade (Wilson & Wilson, 2001).

These agencies are considered as first responders, and bear the responsibility for the investigation and response to all campus-related criminal activities, ranging from disturbances to domestic arguments; suspicious persons and vehicles to fights in progress; stolen vehicles to sexual assaults; substance abuse issues to weapons offenses. Yet where unarmed officers are called to respond to violence-prone issues, they are universally required to delay their response until assistance can be obtained from local, armed law enforcement agencies.

The overriding national issue of political ideology and support for firearms usage and gun control laws cannot be ignored when examining the topic of potential arming of campus police officers (Hummer, Austin, & Bumphus, 1998). Thus, the question of whether to arm campus police would seem to more appropriately be voiced in the context of whether these officers are expected to provide the same services, and perform in the same manner, as their more public counterparts.

### **LITERATURE REVIEW**

With few exceptions, nearly all literature found which opposes the introduction of weapons on college and university campuses has been either subjectively anecdotal, or speaks specifically against allowing students to carry weapons. The

Brady Center to Prevent Gun Violence (2007) indicates that the effect of any policy to arm students and teachers will be to undermine school safety and academic freedom and supplant it with a culture of gun carrying that is completely foreign to those institutions, and that academic communities must also become active in potentially every state legislature if they want to keep the right to maintain a gun-free environment.

According to some security professionals, “there are numerous survival options for students, faculty, and staff when confronted with an armed attacker that do not involve carrying a gun and firing back at him” (Redeker, 2007). A candid discussion of the issue—for instance, weighing Second Amendment rights versus state law versus the appropriateness of carrying guns on a college campus, and attempting to divorce emotionalism from the issue as much as possible—is key (McBain, 2008).

Some students feel “arming campus police alters the relationships of power and the atmosphere of college campuses from places of tolerance and peaceful discussion of issues to armed citadels” (McCall-Delgado, 2008). Research shows highly competitive schools in areas where there isn't much for students to do produce stressful situations. Combine that with the fact that more and more students than ever -- including, perhaps, some less academically inclined students -- are heading to college, and you have all the ingredients needed for a potentially deadly incident (Gessel, 2008). Ratner et al. (2006) found that exposure to violence leads to poor academic performance and Barnes (2002) concluded that exposure to violence leads to decreased social involvement.

The principal body of literature related to the arming of campus law enforcement personnel does not appear to



significantly support arguments in opposition to this measure, as almost all professional and academic writings dealing with the issue of arming campus law enforcement officers have dealt not with opposition to that level of professionalization but rather with those issues related to its implementation (Wilson & Wilson, 2011). Limited prior research exists regarding community perceptions of campus police departments and their duties (Johnson & Bromley, 1999). Maslow (1954) ranked safety as the second tier of needs above basic physiological needs in his hierarchy of needs pyramid.

The role and function of campus law enforcement has been defined by John Powell (Neilsen, Pander & Powell, 1994), as “difficult because the operation must be programmed to meet the needs and general attitudes of the campus it will serve.” It has been suggested that campus police have a legitimate need to carry weapons on duty in light of the increase in campus crime, especially that committed by off-campus persons (Vanbenthuyssen, 1976). “Guns are necessary to allow campus police to do their job properly and to equip them for the broader role of policing adjoining areas and not just campus property (Bratton, 2002).” And recent government-sponsored research has indicated that the percentage of campuses using armed personnel for patrol actually increased from 66% to 72% between 1995 and 2005, with two-thirds (67%) of all campuses surveyed having armed officers (Reaves, 2008).

Professional campus law enforcement administrators believe that, if the campus provides a full service law enforcement agency to members of the campus community, the officers should be armed (IACLEA). As well, other studies related to issues of role-perception conflict of campus public

safety departments have indicated that a majority of campus safety directors were in agreement that campus public safety officers should be required to carry firearms while on duty, preferring that campus public safety personnel be called “police officers” rather than “security officers” (Nichols, 1985).

Studies have found that patterns of student victimization are most directly affected by levels of risky behaviors such as recreational drug and alcohol use in conjunction with nighttime partying, campus crime prevention seminars, escort programs, and dormitory security arrangements (Bromley, 1995). Violent crimes against college students occur off campus 14 times more often than on campus. Alcohol or drugs were reported to be a factor in 41% of crimes against college students. Firearms were present in 9% of violent crimes, 7% of assaults, and 30% of robberies (Hart, 2003). Laub and Lauritsen (1998) state that “the conventional wisdom holds that school violence is a reflection of violence in the broader social context, that is, violence is imported into a school by the students, and by intruders from the neighborhoods surrounding the school.”

Wada (2007) indicates that no studies have determined whether a campus police officer and “mainstream” police officer’s perceived legitimacy levels differ. Skogan (2005) found that, although there are many determinants of people’s attitudes and assessments of policing, none is more important for policy than the quality of service rendered. Studies using Hall’s 1968 Professionalism Scale concluded that officers possess higher-than-average professionalism attitudes (Carlan & Lewis, 2009), with college students aspiring to become law



enforcement officers found to view policing as more of a profession than just an employment source (Bumgarner, 2002).

The literature on public expectations suggests that the public holds the police responsible for a wide range of problems, with crime at the head of the list (Koehle, Six & Hanrahan, 2010). Smith (1989) states that “different historical origins of campus security agencies and variations in legal powers given to campus officers have left their role unclear and sometimes confusing.” Grant (1993) determined that, while each program prototype has its advocates and can point to its own success stories, the enforcement model appears to be eclipsing the public relations model. Unarmed people with police power were considered to be nothing more than lawsuits ready to happen (McBride, 2009). Ray (1991) suggests that a department possessing no real law enforcement authority is not sufficient for most modern colleges and universities. Armed patrol officers were used at nearly 9 in 10 agencies that employed sworn officers and at nearly 1 in 10 agencies that relied on non-sworn officers only (Reaves, 2008).

Other research has shown that constituents who supported the carrying of firearms by campus police were more likely to provide a reason for their position than those who did not, and that conservative individuals would look favorably on the provision of firearms to officers for the protection of themselves and other campus constituents (Hummer, Austin, & Bumphus, 1998). Some students, when asked during surveys about arming campus police, responded by stating “How can we expect our officers to protect us when they can’t even protect themselves?” (Neilsen, Pander, & Powell, 1994). Rutherford and DeVaney (2008) found that students reported

school shooting incidents, such as the one at Virginia Tech, made them more aware of their surroundings.

Research that focused on weapon carrying among college students across the country found that 11% of males and 4% of females on college campuses reported having carried weapons (Presley, C.A., Meilman, P.W., & Cashin, J.R., 1997). Male students were found to be more likely to have a firearm at college where they attended institutions in areas where household firearm prevalence is high (Miller, Hemenway & Wechsler, 2002). Absolute bans on firearms have proven to be extremely dangerous because they turn schools into uniquely attractive targets for mass murderers (Kopel, 2009). Kelling and Sousa (2001) found that “Broken windows” policing is significantly and consistently linked to declines in violent crime.

While in the post-Virginia Tech legal climate there is no clear idea of what standard might be applied if an incident were to occur, courts have previously established that colleges and universities may be held liable for not taking adequate and appropriate measures to insure the safety of students (*Furek v Univ. Delaware*, *Mullins v Pine Manor*, *Schieszler v Ferrum College*, *Jesik v Maricopa County Community College*). Jiao (2001) determined that failure to protect individuals due to the lack of armed officers may leave the campus police open to legal claims of malfeasance.

There may be an emerging trend toward recognition of a special relationship between colleges and universities and their students. In fact, Section 40 of the Proposed Restatement (Third) of Torts: Liability for Physical Harm, which has been approved for publication, lists the relationship between a school and its students as a special relationship (Sokolow,



Lewis, Keller & Daly, 2008). If a special relationship is found to exist, the intervening and superseding cause may not negate a college or university's duty to protect students from harm posed by potentially dangerous individuals (*Stanton v Univ. of Me Sys.*, 2001). Almost one fourth of campus police chiefs perceived that their officers had not been adequately trained for overseeing an "active shooter" crisis (Thompson, Price, Mrdjenovich, & Khubchandani, 2009).

Drugs and alcohol abuse, sexual assaults, thefts, domestic violence and homicides occur just as readily on the nation's college campuses, as they do in the roughest neighborhoods of the nation's cities (Leaderman, 1994). Where the issues of police-community interactions were concerned, while not specifically centered on the campus community, research has found that there are high levels of dissatisfaction with police among residents of poor neighborhoods (Smith, Graham, & Adams, 1991; Huang, Wilson & Vaughn, 1996; Carr, Napolitano, & Keating, 2007), and that nearly 9 out of 10 Black residents said they thought the police often engaged in brutality against Blacks, with almost two-thirds saying police brutality against members of minority groups is widespread (Barry & Connelly, 1999).

### **THEMES OF OPPOSITION**

While there exist several central themes of opposition to the arming of campus law enforcement officers, the principal arguments evolve around the following issues: that arming will decrease the value of the educational environment; armed campus police will increase adverse treatment of minority student groups; local law enforcement personnel are readily

accessible; there is a lack of violent episodes on campus; the non-deterrence factors of armed police; and financial considerations for implementation. In order to sustain these points of opposition, however, there must be proven validity to support these arguments.

### **Devaluation of the Educational Environment**

This objection appears to be based on the concept that the implementation of armed campus police will create an overwhelming perception that the campus is unsafe, thus causing potential students and faculty to avoid the institution. This argument, however, is creditable only in its attempts to portray the campus as the quiet, bucolic atmospheres that parents want to send their children to, and that the value of an education gained from any institution with armed campus police is somehow marred or diminished because of their mere presence. Opposition based on this concept has more to do with advertising and promotional issues related to student and faculty recruitment, fund development, and alumni relations than with the issue of whether an agency should be armed.

The educational process is one which takes its character from how it is used, rather than from the environment it is placed in (Kates, Schaffer, Lattimer, Murray, & Cassem, 1994). While there is no doubt that the concept of having armed officers where there previously were none is upsetting to many, one cannot dispute the perceived and real value of the education gained at such prestigious institutions as Harvard, MIT, Northeastern, Brown, Rutgers, Vanderbilt, Yale, Temple and the University of Connecticut, all of whom have armed agencies.



Knowledge is neither good nor evil, but takes its character from how it is used. In like manner, weapons defend the lives of those who wish to live peacefully, and they also, on many occasions kill [murder] men, not because of any wickedness inherent in them but because those who wield them do so in an evil way (Boccaccio, 1982).

### **Increased Racial Profiling**

Surveys have shown that Blacks are less likely than Whites to trust the police and that Whites are more favorably disposed toward law enforcement (Gallup, 1999a; Harris, 1999; Jacob, 1971). Carr, Napolitano and Keating (2007) indicate that variation exists along neighborhood context in terms of the likelihood of police using force; police are more likely to use force on suspects or engage in misconduct in disadvantaged neighborhoods. Yet the perceptions of mistreatment, law enforcement mismanagement and abuse that are brought to bear with this issue appear to be more closely aligned with interactions between minorities and local law enforcement authorities rather than campus police.

Research has also demonstrated that cynicism is very high among residents of disadvantaged neighborhoods, showing that these residents can have a distinct intolerance for crime even while being negative toward police and the justice system in general (Anderson, 1999; Sampson and Bartush, 1998). In recent studies conducted in several states (NJ, RI, MA), minorities were found to be searched more often than whites during traffic stops, yet with less positive results of criminality from these searches (Farrell, McDevitt, Cronin, & Pierce, 2003).

Campus police departments, however, are more likely than their public counterparts to engage in service-type activities, not found in traditional law enforcement circles, that clearly mark the community policing programs of campus law enforcement as more successful than those of their traditional counterparts, with public campuses more likely than private institutions to have implemented community policing concepts (Reaves, 2008). They are, in fact, the staples of campus policing without which no campus agency can truly operate or survive. And prior research by these authors indicates that, where campus law enforcement officers are held to the same professional standards of training, hiring and performance as their more traditional counterparts, racial minorities support arming campus police. In fact, it may be significant to note that while Blacks were less likely to support arming than Whites, their level of support for arming (57%) was only slightly lower than the level of support for arming among the entire study sample (61.1%) (Wilson & Wilson, 2011).

It may also be of interest to note that, of the 103 historically black colleges and universities, more than half maintain armed campus law enforcement agencies.

### **Ready Access of Local Law Enforcement**

The role of the "First Responder" for law enforcement has rapidly evolved from the 'contain and wait for the SWAT team' philosophy employed universally prior to the Columbine High School incident, to the 'rapid armed intervention by first responders' strategy employed at Virginia Tech, the New Life Church, Delaware State, and others, in an effort to minimize the loss of life and injury to those involved (Kirk, 2008). Experts in professional police tactics universally agree that





Police officers cannot wait for local SWAT teams to arrive and assemble, but must attack an active shooter at once, using the first officers on the scene (Virginia Tech, 2007).

Few state, local and tribal police agencies consider college and university campuses in their allocation of resources (Greenburg, 2007). Regardless of being supplied with detailed maps of the campus environment, local law enforcement personnel do not know the environment of the campus or its constituency, and are thus hindered in their response, thereby adding precious minutes to their intervention. And their principal focus is, and will continue to be, the provision of services to their constituency, not the college campus.

Thus, from a purely professional law enforcement perspective, a decision to arm Campus Police would enable them to truly be effective First Responders to all situations, as well as insure their safety. There is a significant difference between awareness and readiness. Simply providing information to increase awareness of a problem and potential solutions does not ensure preparedness or appropriate response in a crisis (Greenburg, 2007).

### **Non-violent Atmosphere of Campus**

Notwithstanding incidents such as Virginia Tech that have since been glorified in the media, shootings on college and university campuses are indeed rare, with an average of 16 per year across 4,000 institutions. Bombings are rarer but still within the realm of possibility. Arson is more common and drunken driving, other alcohol and substance abuse incidents more frequent.

The post-Virginia Tech legal climate, however, suggests that colleges may now be much more vulnerable to

lawsuits in the event of a similar incident on campus that would allege that the failure to adequately arm Campus Police Officers contributed to that incident, almost certainly those that would inevitably be filed by the survivors of unarmed campus officers. And because there have been no test cases on this issue since the Virginia Tech incidents, there is no clear idea of what standard might be applied if an incident were to occur.

The sense among proponents is that arming Campus Police Officers could serve as an indication that campus administrators have done all that it reasonably could to create a safe environment making arming, in effect, an affirmative defense in any legal action against them. Where unarmed campus police officers are called upon to respond to these types of incidents, both their procedural and tactical levels of response are severely restricted. This is exceptionally true as it pertains to “active shooter” situations.

One must, as well, factor in the surrounding municipal areas when considering the numbers and propensities of life-threatening incidents. The final assessment of this argument must then be considered from the view of how well the institution has prepared itself to respond when these issues occur, as it is no longer safe to hold the opinion that an appropriate response will be made if necessary. It is now a matter of when and not if.

### **Armed Police Cannot Deter Violence**

Both detractors and proponents of arming concur that armed campus police will not deter the occurrence of incidents such as those at Virginia Tech, Northern Illinois, and Delaware State. In fact, each of these institutions maintained armed



campus law enforcement agencies at the time of those occurrences.

Short of searching every single person and vehicle that enters a college campus, there is no known method to deter someone who is dedicated to creating harm, injury, death and mayhem on campus. To do so, however, would be to create an atmosphere of distrust, be both administratively and politically un-sound, and border on dire and serious constitutional issues.

### **Fiscal Responsibility**

This is one of the very few arguments against arming that has merit, as for every program implementation of any type, there must always be a financial consideration. The costs of arming campus police are imbedded in the following two areas: equipment and training, each of which must be a required component and cannot be lightly overlooked.

In their March 2010 report to the Rhode Island Board of Governors for Higher Education, the Campus Security Commission cites an estimated \$732,000.00 to obtain needed equipment and training for the arming of all officers at the three state-supported institutions (CSC, 2010). Likewise, a state college in Massachusetts calculated the cost for equipment, training, and psychological testing of their entire 18 member force prior to arming at less than \$25,000.00 (Naughton, 2007).

Of additional concern must be the matter of upgrading personnel statuses, pay grades, and enhancements needed to both capitol and organizational infrastructures. Yet cost factors alone should not, and must not, be considered as the principal determining factor in whether or not to arm. The primary determinant in this decision should, and must, be in answering

one specific question – “What level of professional service to the campus community is desired and how committed are you to providing it?”

### **DISCUSSION**

It is a standard axiom that any argument or opposing viewpoint should be able to be substantiated by a body of evidence which categorically supports the particular argument, and is convincing enough on its face to affect the opinions of others. And in attempting to validate the various arguments against arming campus police it must at once be recognized that its opponents strongly believe that their concerns are, in fact, valid. The body of evidence however, based upon a review of the published literature on this subject, does not establish any level of broad support for their opposition. Yet the alignment of campus police and university goals is paramount. This perspective must be maintained since the success and health of the college or university depends on the organization’s ability to effectively accomplish goals aligned with an educational function (Striegel & Cox, 1994).

The principle thesis of all objections to arming campus police should more correctly be viewed in the context of the hiring practices, officer training programs, and administrative control mechanisms that are put in place by campus administrators which are, and should be, of concern to both proponents and opponents of this issue, and not in the emotionally charged, personalized biases that currently exist.

The modern campus law enforcement agencies provide many of the same services, and more, that their traditional police counterparts do, albeit in a more microcosmic



community. Most of these agencies incorporate the same community-oriented policing concepts, provide escort services and student and faculty training sessions in both personal and community safety procedures, and directly interact with members of the campus community in both professional and social settings. And as society becomes more complex, and crime spreads to every facet of life, institutions across the nation have been charged with the responsibility of providing a safe educational, working and living environment on campus for employees, faculty and students alike (Wilson & Wilson, 2001).

Hiring policies for campus law enforcement officers directly mimic those in place for their municipal counterparts and, in many cases, exceed them. Generally, a higher percentage of campus police departments require a minimum two-year degree, and previous full-time service in a position having authority for arrest, search and seizure and protection of life and property when compared with their municipal counterparts (Bromley, 1998). Nearly all campus law enforcement agencies require extensive background checks and mandatory training programs that either meet or significantly exceed those of their public counterparts.

Likewise Sloan (1992) found that campus police entities have evolved to closely resemble their municipal counterparts in both structure and operation, with the size of many of today's college campuses paralleling or even surpassing that of many small municipalities.

Where training is concerned, only the highest level of professionally accepted training curriculum must be used to prepare successfully hired candidates for their positions in the academic environment as law enforcement officers. In reality,

for more than two decades, almost all police officers on public, and many private, college campuses have attended the same training academies and have the same certification as officers from local municipalities or sheriffs' offices. In many instances, these agencies have become both a training venue and recruiting source for members of the various municipal, county and state police agencies surrounding and adjacent to college campuses.

Strong and considered emphasis should be brought to bear on those instructional areas which deal, not only with firearms and the use of force, but issues affecting diversity and cultural awareness, student rights, and other topics which have a more direct impact on dealing with the targeted community. And this training regimen must be augmented with continuous, on-going refreshers and reinforcements, so as to continue the professional development, growth and knowledge base of campus law enforcement officers.

Finally, one must insure that the policies and procedures placed into effect, both during and after the arming process, meet or exceed current professional standards set for their traditional counterparts. The overall management of these programs must be attuned to the core principals of Community Policing, and be totally transparent in its interactions with the campus community.

Campus police departments have a unique responsibility in the college setting to provide security services that meet both law enforcement and private security standards. Providing security for large numbers of students spread over expansive geographic areas is an inherently difficult task (Newman, 1996). Yet the legitimacy of campus law enforcement, its proper role in the academic setting, questions



regarding police liability, and the issue of arming campus officers have remained major arguments in the effort to truly professionalize police services to the campus community.

It is unrealistic for any administrator to consider any campus to continue to be immune from the violence which routinely occurs in every community. Sensationalized accounts of specific incidents, such as Columbine, Virginia Tech and others, lend further credence to officer declarations that campuses are not refuges from violence. Recent statistics indicate that 78 % of the violent crimes which occur on campuses are committed by students rather than by outsiders (Hodge & Blyskal, 1989). On a campus where police do not currently carry firearms, supplying them with this common law enforcement tool would most certainly qualify as an alternative crime prevention/crime control method.

Meaningful and open discussion of issues is at the heart of the entire educational process. It is through this means alone that campus stakeholders: students, faculty, staff, police and administrators, are ensured of establishing and reaching goals important to an institution's well being. And it must be accepted that the arming of campus law enforcement officers fits well within the concept of professional law enforcement standards in both training and performance.

Robert F. Kennedy once stated "Every society gets the kind of criminal it deserves. What is equally true is that every community gets the kind of law enforcement it insists on." While his comments were directed at that time towards the more traditional settings of law enforcement, they are no less true when transposed to the campus environment.

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### **BIOGRAPHICAL SKETCHES**

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### **Third-person perception and myths about crime and victims of crime**

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#### *Abstract*

*Results of a community sample (N = 340) document third-person perception (TPP); people believe they are less influenced than others by news coverage of crime. TPP was related to the belief in common myths about crime and crime victims. The study extends the third-person perception literature by documenting the phenomenon within the context of news coverage of crime, and by establishing a relationship between TPP and myths or misperceptions about crime, regardless of age, race, or gender.*

The criminal justice system is effective in combating crime.  
Violent crime is going down in the U.S.  
Most violent crimes against whites are committed by blacks.  
Prisons are full of first-time offenders.  
Persons on probation or parole pose little threat.

Because of mandatory sentencing, most prisoners now do long, hard time.

Most violent juvenile felons are being handled as adults.

Most sexual assaults are committed by strangers.

Professional women (25 to 29) are more likely to be sexually assaulted than younger women (18 to 21).

These are common myths about crime and crime victims in the United States. Many of the myths are reinforced by the media on the silver screen, the TV screen, and the computer monitor. The Survivors Speakers Bureau (SSB) trains crime victims to speak about their experiences, in public, in an attempt to educate people and to share a first-person perspective. Operated by the Coalition of Pennsylvania Crime Victim Organizations (COPCVO), SSB speakers present at rallies, in classrooms, in prisons, in libraries, or anywhere they are able to tell their stories, give comfort to others who have been victimized, and to expose the public to the personal face of crime. The SSB is the first comprehensive crime victim speakers bureau in the nation, encompassing victims of sexual assault, attempted homicide, assault, domestic abuse, and identity theft. Crime survivors are screened for readiness and trained in public speaking, media relations, and self-care. The current study examines audience reactions to SSB speakers, using third-person perception (TPP) as a theoretical framework. TPP (Davison, 1983) states that people believe the greatest influence of media messages is not on oneself (the first person) or people like oneself (the second person), but on distant others (the third person). People who believe a message is attempting to influence them (i.e. an advertisement) tend to be more critical viewers. If people believe images of crime and crime victims do not affect them, their passive viewing may make them more likely to accept crime myths as factual. Hearing first-hand accounts of crime victimization at an SSB



event may result in more realistic perceptions among audience members.

Over two decades of research document the phenomenon (for reviews, see Connors, 2005; Golan & Day, 2008; Schmierbach, Boyle & McLeod, 2008). The belief that others are more influenced by media is based on downward social comparisons (Grier & Brumbaugh, 2007; Wei & Lo, 2007). The same could be said of perceptions of crime victims. Other people are more likely to be sexually assaulted than I am because \_\_\_\_ (they frequent bars, they are less wealthy or educated, etc); other people are more likely to be the victim of identity theft because \_\_\_\_ (they spend more time on-line, they are careless with their documents, etc.). People who subscribe to common myths about crime and crime victims are able to feel safer by engaging in downward social comparisons. It stands to reason that people who hold such myths would also believe other people are more influenced by media depictions of crime.

Most third-person perception studies use a particular context to measure the phenomenon. The most common contexts are advertising (Golan, Banning & Lundy, 2008; Jensen & Collins, 2008), public service announcements (Cho & Boster, 2008; Chock, Fox, Angelini, Lee & Lang, 2008), and pornography (Paek, Lambe & McLeod, 2008; Zhao & Cai, 2008). A few studies have examined third-person perception within the contexts of crime (Chapin, 2008; Haridakis & Rubin, 2005; Paek, Lambe & McLeod, 2008) and news coverage (Jeffres, Neundorf, Bracken, & Atkin, 2008; Tsfaty & Livio, 2008; Wei, Lo & Lu, 2008), but have not examined TPP within the context of news coverage of crime. One study (Frederick & Neuwirth, 2008) looked at news coverage of prostitution, finding that college students exhibited first-person perception, believing they were more influenced than others by

the news reports. First-person perception was best predicted by the perceived importance of the topic, i.e. people who believed prostitution was a serious problem in their community exhibited greater degrees of FPP. Students who exhibited FPP also indicated they were more willing to protest or to support stricter legislation to prohibit prostitution. Similarly, Chapin (2007) found first-person perception among adults regarding media depictions of domestic violence. In this case, FPP was best predicted by knowledge of domestic violence and optimistic bias, the belief that they personally were not likely to become victims of abuse. The relationship between person-perception and knowledge is well established in the literature (Chapin, 2008; Paek, Pan, Sun, Abisaid, & Houden, 2005; Wei & Lo, 2007): actual or perceived knowledge increases person-perception. The relationship between person-perception and importance of the topic is less-well established, but has been previously explored (Coe, Tewksbury, Bond, Drogos, Porter, Yahn & Zhang, 2008; Huge, Glynn & Jeong, 2006). The current study contributes to the literature by predicting relationships between person-perception, importance of topic, and belief in common myths about crime.

As speakers about crime are likely to attract crime victims, it is also necessary to consider experience with crime as a predictor of person-perception. For instance, Cho and Boster (2008) reported that children with personal experience with drugs exhibited greater third-person perception regarding anti-drug public service announcements. Public service announcements generally elicit first-person perception, because people perceive that it is good to be influenced by them. In the case of children already using drugs, the effect was the opposite. Tsfaty and Livio (2008) found the opposite. People with journalism experience exhibited greater third-person perception than non-journalists. In this case, the journalists



believed news and newspapers had a positive effect, while readers were more likely to view them as negative.

Based on the preceding literature review, the following hypotheses are proposed.

H1: People believe others are more influenced than they are by news coverage of crime.

H2: Third-person perception will increase as belief in crime myths increases.

H3: Third-person perception will increase as the perceived importance of the topic increases.

H4: Third-person perception will increase as experience with crime increases.

## **METHOD**

### **Participants**

Surveys were collected in conjunction with speaking engagements across Pennsylvania by members of the Survivors Speakers Bureau (SSB). The SSB started in 2007, in response to a long-held belief that the voices of survivors of crime are crucial in furthering the advancement of victim services in Pennsylvania. Speakers adapt their messages to meet the needs of all types of audiences, including "Take Back the Night," rallies, impact panels, staff trainings or conferences. Crime victims speak independently or as part of a panel of crime victims. SSB events were publicized locally through hosting non-profit organizations; thus, audience members consist of people affiliated with sponsoring programs and interested members of the public. The majority of participants (79%) were female; 79 percent were Caucasian; 13 percent were African-American; participants ranged in age between 13 and 83 (Average age = 28.2; N = 340).

## **MATERIALS AND PROCEDURES**

Participants were asked to complete pre/post-test surveys at SSB events throughout the State of Pennsylvania. The pre-test consisted of myths about crime and crime victims and person-perception measures. Surveys were collected anonymously during the 2009 calendar year.

Belief in crime myths was measured by asking participants to agree or disagree with the common myths listed in the introduction of this paper (i.e. "Most sexual assaults are committed by strangers.") responses were on a Likert-type scale ranging from 1 (strongly disagree) to 5 (strongly agree). The items were summed to create the scale, with higher scores indicating stronger belief in crime myths. The resulting scale demonstrated moderate internal consistency ( $\alpha = .75$ ).

Person-perception was measured with a standard instrument used throughout the literature. Participants were asked to respond to the following two items: (1) "News coverage of crime has a strong effect on most people." (2) "News coverage of crime has a strong effect on me." Third-person perception is indicated if the rating from item one (effect on others) subtracted from item two (effect on me) results in a negative number. First-person perception is indicated, if the result is a positive number.

The post-test consisted of the crime myth scale repeated, experience measures, importance of the topic, and demographic information (gender, age, and race). Pre-test responses were used for analysis, because they were less prone to influence by the speakers. Post-test scores were used by the SSB to gauge any attitude change attributable to the presentation.

Experience was measured through a number of yes or no questions: "I personally know someone who has been the



victim of: (1) burglary, (2) domestic abuse, (3) homicide, (4) identity theft, and (5) sexual assault. The types of crime included reflect the breadth of experience of SSB speakers and topics included at SSB events. Each “Yes” answer was scored as a one. Responses to the five items were summed to create a scale. The resulting scale demonstrated high internal consistency ( $\alpha = .89$ ).

Importance of the topic was measured through a single item: “Rate the importance of the topic.” Responses were on a Likert-type scale, with 1 indicating “Not Important” and 5 indicating “Very Important.”

## RESULTS

H1 predicted third-person perception (TPP). TPP is indicated by a group mean significantly less than zero. Participants believed they ( $X = 2.2$ ,  $SD = 1.1$ ) were less influenced by news coverage of crime than others ( $X = 2.4$ ,  $SD = 1.1$ ),  $t(334) = 2.1$ ,  $p < .000$ . H1 was supported. The finding is consistent with the literature. No relationship between TPP and demographic variables (age, gender, and race) was predicted, and none emerged.

Table 1 displays zero-order correlations among the variables predicting third-person perception. Standard multiple regression was used to identify the predictors of TPP. Analysis of residual plots indicates that assumptions regarding normality, linearity and homoscedasticity were met. Table 2 displays the regression analysis.

H2 predicted TPP would increase as belief in crime myths increased. The most commonly held myth among participants was that “Violent crime is going down in the US” (48.8% agreed or strongly agreed with the statement). While this statement is true about some types of violent crime, it is

not the case overall. For instance, the FBI Uniform Crime Report (2008) notes a 1.6 percent increase in violent crime over the past four years. The report attributes the increase mostly to aggravated assault, which accounted for 60% of violent crime in 2008. Another myth on the higher end of the scale was “Most violent juvenile offenders are being handled as adults” (31.2% agreed or strongly agreed). On the lower end of the scale were “Persons on probation or parole pose little threat” (9.5% agreed or strongly agreed) and “Most violent crimes against whites are committed by blacks” (10.6% agreed or strongly agreed). As predicted, TPP increases as belief in common myths about crime and victims of crime increased.

H3 predicted that TPP would increase as the perceived importance of the topic increased. Ratings for importance of the topic ranged from 1 (not important at all: .6%) to 5 (very important: 81%). Results were counter-hypothetical. TPP decreased as the perceived importance of the topic increased. Topic importance emerged as the strongest predictor of TPP.

H4 predicted that TPP would increase as experience with crime increased. Participants indicated they had a great deal of personal experience with crime, ranging from 67.6% knowing someone personally who experienced sexual assault to 50% knowing someone personally who experienced identity theft. The predicted relationship did not emerge. H4 was not supported.

## DISCUSSION

A number of media theories would predict a relationship between media coverage or depictions of crime and perceptions about crime. One of the most common is the Mean World Syndrome, which posits that heavy viewers of TV believe crime is more common in the real world, as it is on TV.



This position assumes a powerful media effect. The current study documents third-person perception, that people believe they are less influenced than others by crime coverage. While believing the world is a dangerous place could contribute to fear and anxiety, discounting any media influence could result in passively accepting skewed or inaccurate media portrayals of crime and crime victims as the truth. It is likely that participants at an SSB event have an interest in or some experience with crime. Over 50% of participants indicated that they personally know a victim of sexual assault. Given this audience, even 11% subscribing to myths such as “Most violent crimes against whites are committed by blacks” has a potentially damaging influence on race relations and beliefs about crime, criminals, and victims. Myths on the higher end of the scale used in the study (about violent crime) were held by half of the study participants.

The study also contributes to the media studies literature by studying TPP within the context of crime coverage and by establishing a relationship between TPP and myths or misperceptions about crime. This relationship may hold true for other research contexts, such as advertising and political messages. Findings indicate that myths or misperceptions may have as much or more to do with person perceptions as actual knowledge. Understanding people’s perceptions about crime and crime victims is an important first step to addressing misperceptions. The person holding the misperception could be an ER nurse screening for domestic violence, a police officer investigating an assault, or a juror on a rape trial.

A number of limitations should be noted. The study is based on a small convenience sample of people who chose to attend public presentations about crime victimization. Results indicate that participants had greater than average personal experience with a variety of types of crime. This is a likely

explanation for the counter-hypothetical result with topic importance and may also explain the failure to document a relationship with experience. Results should be considered preliminary and may not be generalizable to other populations. Future research could replicate the study with a larger representative sample. A cultivation framework may also yield useful insights.

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### **BIOGRAPHICAL SKETCHES**

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## Appendix

Table 1

*Zero-Order Correlations Among Variables Predicting Third-Person Perception*

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	2	3	4
1. TPP	-.18*	.17*	.15
2. Topic Importance	---	-.31**	.23**
3. Myth		---	-.09
4. Experience			---

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Note. \* $p < .05$ , \*\* $p < .01$ .

Because TPP is indicated by a negative mean, the signs in the first row were reversed for ease of interpretation.





Table 2

*Summary of Linear Regression Analysis for Variables Predicting Third-Person Perception*

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	Adj. $r^2 = .16$		
	N = 333		
	<hr/>		
Predictor	B	SE B	$\beta$
Topic Importance	.09	.01	.40***
Crime Myth	.07	.01	.38***

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\* $p < .05$ .



Perceptions of Alcohol Consumption: An Examination of  
Undergraduate Students' Perception of Harmful Alcohol  
Consumption as a Social Problem and its Relationship with  
Crime

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**Abstract**

This study examined undergraduate students' perceptions of harmful alcohol consumption as a social problem, and alcohol's relationship with crime. Research indicates that alcohol misuse costs taxpayers billions of dollars each year, yet consumption of alcohol is a social norm. The prediction is by addressing problems associated with alcohol consumption, law enforcement can impact social problems pervasively related to harmful alcohol consumption. A survey was administered to 166 undergraduate students at a major university in the southwest. Fifty-four percent of the respondents are female and 45.8% are male. Results indicated students whose family consumed alcohol in their presence while growing up were less likely to see alcohol as a social problem than those who did not. In addition, Non-whites were more likely than whites to see alcohol use as a social problem. It appears that race and family consumption play a factor in the perceptions of alcohol consumption as a social problem and alcohol consumption and crime as a social problem, respectively.

Key Words: Alcohol, consumption, undergraduate students, perceptions, crime.

**Introduction**

Alcohol consumption in the United States of America has fostered a wide variety of attitudes, opinions, and behaviors. Research suggests that alcohol consumption is a more widespread social problem than most realize. Criminologists and social scientists have established a correlation between alcohol and crime. Alcohol is believed to be a factor in 35 to 40 percent of all violent victimizations



(Greenfield, 1998) and in at least 50 percent or more of selected violent crimes that include murder, rape, and family violence (Miczek et al., 1993).

The problems associated with alcohol consumption extend far beyond alcohol's correlation to violence and aggression, yet the violence/aggression problem is interconnected with the overall social costs of alcohol consumption. Harwood (2000) documented an estimated \$184.6 billion for the United States for 1998 in the economic costs associated with alcohol abuse.

### **Definitions of Social Costs and Alcohol Consumption**

There are a variety of views related to the concept of social costs as they relate to alcohol consumption. Because of the varied connotations of the term, it is necessary to clearly define the concepts that will encompass all references to the term "social costs." Therefore, for the purposes of this study, the social costs or consequences of alcohol consumption "are changes, subjectively or objectively attributed or attributable to alcohol, occurring in individual social behavior or in social interaction or in the social environment" (Klingemann and Gmel, 2001, p. 3). Similarly, the terms alcohol use, alcohol abuse, alcohol misuse, and alcohol consumption will be used as Harwood (2000) defines the term alcohol abuse. Throughout his report on economic costs, Harwood defines the terms as "any cost-generating aspect of alcohol consumption" (p. 1). This differs from the clinical definitions that might be associated with any of the terms which involve specific diagnostic criteria. Thus, the costs associated with a single occasion of drunk driving that leads to injury or property damage would be counted in this framework, even though this behavior would not, by itself, meet the clinical criteria for a diagnosis of alcohol abuse.

## **Literature Review**

### **Social Consequences of Alcohol Abuse**

Alcohol abuse is associated with many harmful consequences for the individual drinker, the drinker's immediate environment, and society as a whole (World Health Organization, 2004). Alcohol consumption among US college students is a significant problem, with 80% reporting that they drink and 40% reporting that they engage in heavy episodic or binge drinking (Osborn, Thombs, and Olds, 2007). Other social consequences may include traffic collisions, workplace-related problems, family and domestic problems, and interpersonal violence or aggression.

Klingemann and Gmel (2001) explain that a significant number of studies have found an association between heavy drinking or alcohol abuse and unemployment and illness-related absenteeism. Heavy drinking in the workplace has the potential of lowering productivity. Illness related absences associated with alcohol abuse and alcohol dependence results in substantial costs to employees through social security systems. This assertion is supported by evidence that individuals with alcohol dependence and alcohol abuse have higher rates of illness-related absences from work than other employees (Klingemann and Gmel, 2001). Globally, alcohol is the primary cause for approximately 10 percent to 20 percent of work accidents and trauma in France (World Health Organization, 2004). A survey conducted in Australia of 833 employees at an industrial worksite found that problem drinkers were 2.7 times more likely to have an injury-related absence from work than were non-drinkers (Webb et al., 1994).

The United States has experienced similar levels of economic costs related to employment and work-related



alcohol use. According to the North West Public Health Observatory, up to 25 percent of workplace accidents and around 60 percent of fatal accidents at work may be related to alcohol use (Hughes and Bellis, 2000). Harwood, Fountain, and Livermore (1998) estimate that lost future earnings due to premature deaths (mortality) will cost approximately \$36.5 million and lost earnings (morbidity) due to alcohol-related illness costs approximately \$86.5 million.

Similarly, the Texas State Commission on Alcohol and Drug Abuse reports morbidity costs at \$6.1 million and mortality cost at \$2.6 million (Liu, 1997). Some of the impacts of alcohol-induced morbidity are actually borne by the employer rather than the employee who chooses to consume alcohol. In fact, employers of alcohol abusers bear the costs of illness-related absences, time spent on physician visits, visits to medical centers, and reduced productivity (Grant and Litvak, 1998).

### **Alcohol Use and Aggression**

There is a well established link between alcohol and aggression, yet much of the empirical data reports only the percentage of criminal episodes in which alcohol was present in either the aggressor or the victim (Exum, 2006). Of an estimated 5.7 million offenders under criminal justice supervision in 1998, approximately 38 percent were under the influence of alcohol at the time they committed their crimes (Greenfeld and Hennenberg, 2001).

According to Parker and Auerhahn (1998), violent events are more likely to be associated with the consumption of alcohol than with any other substance. It is not suggested that alcohol causes violence or violent behavior. Rather, findings from many studies suggesting that nearly half of all violent

criminals were drinking prior to their crimes may simply reflect daily consumption patterns (Abel, 1987; Spunt et al, 1994 & 1995; Wieczorek et al, 1990; Fendrich et al., 1995; Goldstein et al., 1992). However, alcohol consumption is more strongly linked with violent behavior than heroin, amphetamines, cocaine, or phencyclidine and it is more commonly associated with acts of violence than all other drugs combined (Exum, 2006). The results of Exum's study of the relationship between alcohol and aggression revealed that alcohol exerts a true and medium effect on aggressive behavior, while also indicating that alcohol had a causal influence on violent behavior.

While most Americans consume alcohol in the social context, the majority of drinkers do not engage in violent behavior. Yet alcohol is believed to be involved in thirty-five to forty percent of all violent victimizations and in fifty percent or more of selected violent crimes including murder, rape, and family violence (Exum, 2006). Some experimental studies suggest that alcohol facilitates aggressive behavior, and the most commonly accepted mechanism of alcohol-induced aggression involves the inhibition of fear (Haggard-Grann et al., 2004). Even though thirty to forty percent of offenders self-report the use of alcohol at the time they committed the offense (Windle and Windle, 2005), there remains some difficulty in establishing a causal relationship between alcohol and aggression or aggressive behavior from correlational data. These include: the aggressor may misreport alcohol use as an excuse or to avoid punishment; alcohol consumption may accompany participation in group events that could lead to violence; alcoholism may force people into a social stratum where crime is more probable; and alcohol and violent crime may be responses to underlying social malaise (Bushman, 1997).



### **Alcohol and Intimate Partner Violence**

The literature indicates a relationship between alcohol use and intimate partner violence (IPV) (Klostermann and Fals-Stewart, 2006). Recent research has indicated that alcohol is present in a substantial amount of violence associated with domestic relationships. The most prevalent of these patterns has revealed that drinking is common among both the offender and the victim. IPV is a significant health problem in the United States (Field et al., 2004). Although all of the cognitive and personal risk factors evaluated tended to be common in perpetrators of IPV, expectations of aggressive behavior following alcohol consumption appear to be the most influential predictor in couples that have permissive attitudes toward intimate partner violence, alcohol as an excuse for harmful behavior, and risk taking. Klostermann (2006) indicates that those involved in alcohol related IPV are rarely directed by the criminal justice system to enter into domestic violence prevention programs.

Further research compared incidents of intoxicated husband aggression with incidents of sober aggression that were reported by the same individual (Testa et al., 2003). The analyses of the study are based on data from 37 wives and 35 husbands representing 61 different couples. All reported both an alcohol-related and a non-alcohol-related incident of partner violence. Their findings provided evidence that episodes of marital violence where the husband is drinking may be more severe than situations perpetrated by the same spouse when sober.

Children are also subject to cases of IPV. Studies estimate that anywhere from 3.3–10 million children observe IPV every year (Carlson, 1984; Jaffe et al., 1990). In addition,

several children are also targets of IPV. For those children who witness IPV, there are long-term health consequences, which can result in the development of violent relationships (White and Chen, 2002), and alcohol related problems (Caetano et al., 2003) during adulthood.

### **Race, Gender and Alcohol**

With regards to gender and race, women in general, specifically African American women, consume less alcohol compared to males and members of other racial groups (Kaba, 2008). Other studies indicate similar results, with males having much higher rates of alcohol consumption than females (Dzokoto et al., 2007). According to Taylor, Johnson, Voas, and Turrisi (2006), “Non-white ethnicity has been identified as a risk of alcoholism in the general population, but this association does not hold with the college population. In fact, across four national surveys of college students, the data consistently show white students reporting the highest prevalence of heavy drinking, followed by Hispanic and black students, respectively” (p. 37).

Further studies indicate that Whites have an overall higher level of alcohol-related dependence than Blacks, 5.1% to 3.9%, respectively (Grant et al., 2004). In addition, Blacks have less “heavy drinking” patterns when compared to Whites (Chan et al., 2009). Ernst, Hogan, Vallas, Cook, and Fuller (2008) conducted a study comparing alcohol use amongst students. They found that 69% of African American versus 78% of white college students used alcohol. Within the racial groups, 42% and 56% of African American female and male college students who reported using alcohol at all also reported having engaged in binge drinking during the past month and year, respectively, compared to 60% and 79% of Whites. When



binge drinking was assessed in the total samples of drinkers and nondrinkers, the findings were 34% and 47% of Blacks binge drinking in the past month and year and, for Whites, 45% and 63%, respectively. Similar differences can be found in binge-drinking patterns: 14.7% of Whites and 9.8% of Blacks.

### Methods

#### Sample

For the purposes of this study, a self-administered survey regarding students' perception of alcohol consumption as a social problem and its relationship to crime was given to undergraduate students attending Criminology and Criminal Justice (CRCJ) classes on the campus of the University of Texas at Arlington. Only undergraduate courses within the Criminology and Criminal Justice Department were chosen for survey administration. Permission was given to administer the survey to six classes (see Table 1).

Table I

*Classes in which the Perceptions of Alcohol Consumption Survey was Administered*

Introduction to Research Methods in Criminology and Criminal Justice
Comparative Criminal Justice Systems
Topics in Law and Judicial Processes
Topics in Crime and Criminology
The American Judicial System
Victimology

A survey instrument was the most appropriate method by which data could be gathered to study perceptions of alcohol consumption as it can be self-administered and

participants are not threatened or pressured as they respond to the items contained within. The number of participants in this study totaled one hundred sixty six (n=166). Table 2 provides a complete demographics summary of the respondents for this study.

Table II

<i>Demographics of the Sample</i>		
Variable	Attribute	Sample
Gender	Male	45.8%
	Female	54.2%
Age	18-25	75.3%
	26-30	15.1%
	31-40	7.2%
	41-55	1.8%
	56-65	0.6%
	Over 65	0.0%
Race/Ethnicity	White	47.6%
	Black/African American	18.7%
	Hispanic/Latino	25.9%
	Asian	4.2%
	Other	3.0%
Marital Status	Single	76.5%
	Married	16.3%
	Divorce	5.4%
	Separated	0.6%
Gross Income	\$0-\$20,000	53.6%
	\$20,001-\$40,000	30.7%
	\$40,001-\$65,000	9.6%
	\$65,001-\$90,000	3.0%
	\$90,001-\$100,000	2.4%
	\$100,001 and up	0.0%



Registered Voter	Yes	85.5%
	No	14.5%
Employment	Full-time	41.0%
	Part-time	44.0%
	Unemployed	10.8%
	Looking for work	3.0%

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As shown, 54.2% of the respondents are female and 45.8% are male. A majority of the sample (75.3%) is between the ages of 18-25, followed by the age categories of 26-30 (15.1%), 31-40 (7.2%), 41-55 (1.8%), and 56-65 (0.6%). Additionally, 76.5% of the respondents indicated that they are single, 53.6% reported their income between \$0 and \$20,000, 85.5% indicated that they are registered voters, and 44% indicated they currently work part-time jobs.

The data also shows that 47.6% of the respondents are White, 18.7% are Black/African American, 25.9% are Hispanic/Latino, 4.2% are Asian, and 3% categorized their race in the "Other" category. For the statistical manipulations performed for this study, the demographics question pertaining to race was grouped into two categories that included "White" and "Non-White." After simplifying the categories of race in this fashion, 47.6% are White and 51.8% are Non-White.

### **Dependent Variables**

The dependent variables for this study are alcohol consumption as a social problem in general, alcohol consumption and crime as a social problem, alcohol consumption as a social problem for law enforcement, and drinking and driving as a social problem. Alcohol consumption as a social problem in general was measured by asking students

to indicate their level of agreement, from one (strongly agree) to five (strongly disagree), with the following statement: alcohol consumption is a social problem that harms all members of society. Alcohol consumption and crime as a social problem was measured through five items by asking students to indicate their level of agreement on the following statements: in my experience, alcohol consumption tends to result in aggressive behavior; family violence is typically associated with alcohol; murder is typically associated with alcohol; alcohol is more closely related to violent crime than any other illicit drug including methamphetamines, cocaine, and marijuana; and alcohol is the primary cause of property crimes that occur in the City of Arlington.

In addition, alcohol consumption as a social problem for law enforcement was measured through two items by asking students to indicate their level of agreement with the following statements: alcohol consumption in the United States, and more specifically Texas, is a problem that requires the attention of law enforcement; and alcohol consumption in Tarrant County is a problem that requires the attention of law enforcement. Lastly, drinking and driving as a social problem was measured through three items by asking students to indicate their level of agreement with the following statements: addressing issues related to drinking and driving is a waste of time and tax dollars; there is no problem with drinking alcohol and driving myself home as long as I am not "buzzed"; and I routinely drive myself home from social functions even though I feel slightly "buzzed."

The items associated with alcohol consumption and crime as a social problem, alcohol consumption as a social problem for law enforcement, and drinking and driving as a social problem were combined in an additive index for each



variable. The alphas for the scales were .703, .880, and .683, respectively. Table 3 presents the means for the individual items and the scales.

Table III

*Alcohol Consumption and Drinking and Driving Scales*

Item	Mean	Alpha
In my experience, alcohol consumption tends to result in aggressive behavior.	2.44	
Family violence is typically associated with alcohol.	2.01	
Murder is typically associated with alcohol.	3.37	
Alcohol is more closely related to violent crime than any other illicit drug including methamphetamines, cocaine, and marijuana.	2.78	
Alcohol is the primary cause of property crimes that occur in the City of Arlington.	3.27	
<i>Alcohol Consumption and Crime as a Social Problem Scale</i>	13.87	.703
Alcohol consumption in the United States, and more specifically Texas, is a problem that requires the attention of law enforcement.	2.27	
Alcohol consumption in Tarrant County is a problem that requires the attention of law enforcement.	2.48	
<i>Alcohol Consumption as a Social Problem for Law Enforcement Scale</i>	4.75	.880
Addressing issues related to drinking and driving is a waste of time and tax dollars.	4.26	
There is no problem with drinking alcohol and driving myself home as long as I am not "buzzed."	3.22	
I routinely drive myself home from social functions even though I feel slightly "buzzed."	3.90	
<i>Drinking and Driving as a Social Problem Scale</i>	11.38	.683

**Independent Variables**

The independent variables for this study are race and family alcohol consumption. Race was measured by asking students to indicate if they were White, Black/African

American, Hispanic/Latino, Asian, or "Other." As stated previously, the variable of race was dichotomized into "White" and "Non-White" categories. Family alcohol consumption was measured by asking students to answer "no" or "yes" to the following question: Did your family regularly consume alcoholic beverages in your presence as you were growing up?

**Analysis**

Two independent sample t-tests were conducted to determine if there was a statistically significant difference between means for the variable alcohol consumption as a social problem in general using race and family alcohol consumption. Additionally, a factorial MANOVA was conducted to determine if race and family alcohol consumption significantly affected a student's perception of alcohol consumption and crime as a social problem, alcohol consumption as a social problem for law enforcement, and drinking and driving as a social problem.

**Results**

Results for the first independent samples t-test indicate that Whites ( $M = 2.95$ ) are significantly less likely than Non-Whites ( $M = 2.37$ ) to agree that alcohol consumption as a social problem in general  $t(163) = 3.106$ ,  $p = .002$ . More specifically, this means that Whites are more likely to lean toward neutral and Non-Whites tend to agree with the statement that alcohol use is a social problem that harms all members of society. In addition, findings for the second independent samples t-test show that no significant difference exists between students whose family regularly consumed alcoholic beverages in their presence as they were growing up





and students whose family did not for the variable alcohol consumption as a social problem in general  $t(163) = -1.561, p = .121$ .

Results for the factorial MANOVA indicate that there were no statistically significant differences between race and family alcohol use on the combined dependent variable. Univariate ANOVA results show that race does not significantly differ for any of the three dependent variables. Findings also demonstrate that family alcohol consumption does not significantly differ for alcohol consumption as a social problem for law enforcement or drinking and driving as a social problem. This means that students whose family regularly consumed alcoholic beverages in the presence of their children ( $M = 14.61$ ) tend to lean toward neutral and those whose family did not ( $M = 13.28$ ) tend to agree more that crime while under the influence of alcohol is a social problem. Table 4 provides a summary of the MANOVA and ANOVA results, and Table 5 presents the means and standard deviations for the dependent variables by race and family alcohol use.

Table IV

*Summary Table of MANOVA and ANOVA Results for the Dependent Variables by Race and Family Alcohol Consumption*

	<i>SS</i>	<i>df</i>	<i>MS</i>	<i>F</i>	<i>p</i>	$\eta^2$
Race						
Alcohol Consumption and Crime	17.78	1	17.78	1.534	.217	.010
Alcohol	3.16	1	3.16	.945	.332	.006

Consumption and Enforcement	Law					
		10.50	1	10.50	1.361	.245
Drinking and Driving	and					
Family Consumption	Alcohol					
Alcohol Consumption and Crime		86.39	1	86.39	7.452	.007
Alcohol Consumption and Enforcement	Law	3.25	1	3.25	.973	.325
Drinking and Driving	and	6.72	1	6.72	.870	.352

Table V

*Means and Standard Deviations of the Dependent Variables by Race and Family Alcohol Consumption*

	Race		Family Alcohol Consumption	
	White	Non-White	No	Yes
Alcohol Consumption and Crime	14.03 (3.60)	13.66 (3.43)	13.28 (3.34)	14.61 (3.60)
Alcohol				



Consumption and Enforcement	Law	4.89 (2.00)	4.66 (1.70)	4.62 (1.77)	4.91 (1.96)
Drinking Driving	and	11.65 (2.74)	11.11 (2.80)	11.60 (2.78)	11.06 (2.76)

## Discussion

Overall, it appears that race and family consumption play a factor in the perceptions of alcohol consumption as a social problem in general and alcohol consumption and crime as a social problem, respectively. Results indicate that Non-Whites tend to agree more that alcohol use is a social problem that harms all members of society than do Whites. This finding appears to conflict with previous research that indicates White college students have more heavy drinking patterns, engage in binge drinking more often, and have an overall higher level of alcohol-related dependence than Non-Whites (Chan et al., 2009; Grant et al., 2004; Taylor et al., 2006). One possible explanation may be that because White college students consume more alcohol more often than Non-White college students, they see it as less of a problem.

Previous research has shown alcohol consumption can lead to more severe IPV situations (Testa et al., 2003) and that millions of children witness IPV each year (Carlson, 1984; Jaffe et al., 1990). Based on prior research, one could hypothesize that students who witnessed family members drink alcohol while growing up would also have the point of view that crime committed while under the influence of alcohol is a social problem. In the current study, however, the opposite was found. This demonstrated that students whose family regularly consumed alcoholic beverages in their presence while growing

up tend to have more neutral perceptions and those students whose family did not regularly consume alcohol in their presence while growing up tend to agree more that crime while under the influence of alcohol is a social problem. Possible explanations may include students who saw family members drinking while they were growing up were either taught how to drink alcohol responsibly, did not witness violent situations or other criminal activity while family members were drinking, or believe that violence is a typical result of drinking and therefore is not an issue. An additional explanation may be related to the students' level of knowledge of crime and alcohol consumption. Students that did not witness family members drinking may believe that crime and alcohol consumption are highly related, thus agreeing that crime while under the influence of alcohol is a social problem.

## Limitations of the Study

The first limitation to this study is the sample itself. Because random sampling was not feasible, the respondents in this study were selected purely based on the availability of the respondents. While random sampling is the preferred method of choosing subjects for this type of study, one can conclude that the results of this research are valid as they satisfy the intent of the study by measuring Criminology and Criminal Justice undergraduate students' perceptions of alcohol consumption as a social cost, specifically as it relates to crime. However, because the survey was administered to only Criminology and Criminal Justice students, these results cannot be generalized to all undergraduate students. With regards to future research, other disciplines (Sociology, History, Anthropology, etc) should be surveyed as well, in order to gain a more representative sample. For the current study, there were no definitions provided to the respondents (i.e., "buzzed"). This fact, in and of itself, is a limitation within



the survey instrument as differing cultures, ethnic backgrounds, and worldviews may infer differing meanings on the words used in this study to measure the perceptions of harmful alcohol consumption.

### **Policy Implications**

Alcohol use is a social norm for many social settings; thus, there is a need for education on alcohol's effects on the human body, brain, and crime. Perhaps the best practice would be to add a mandatory alcohol education course for all incoming freshman and transfer students, in addition to developing a comprehensive alcohol education program for the entire campus. Students who are new to campus life may be more inclined to imbibe alcoholic beverages than those who have been previously enrolled. In addition, students who identify themselves as Greek-affiliated (i.e., members of Fraternities or Sororities) may drink more than non-Greek-affiliated students. Alcohol education for these groups could potentially lead to fewer instances of binge drinking or alcohol abuse. Increased awareness of the dangers associated with alcohol abuse could reduce the associated risks, such as accidents, crime, or even deaths.

### **Suggestions for Future Research**

Future research might examine the specific social costs of harmful alcohol consumption as a whole. This would be ground-breaking precedence for municipalities as they seek to combat the issues related to harmful alcohol consumption. Examples of investigation within this framework might include an analysis of the expenditures related to acts of violence (murder, family violence, and vehicular assaults), fatality crashes related to alcohol, and health and vehicle insurance premium increases for expenditures. Researchers should seek

to determine if there is a correlation between homicide and alcohol-related fatality crash rates. Furthermore, they might use regression analysis to determine if predictors exist for combating acts of violence as outlined in the synthesis of related literature for the current study.

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**Rising Road: A True Tale of Love, Race, and Religion in America.**

Oxford University Press, 2010

By Sharon Davies, Ohio State University

Reviewed by Willard M. Oliver, Sam Houston State University

May the road rise up to meet you.  
May the wind be always at your back.  
May the sun shine warm upon your face;  
The rains fall soft upon your fields and  
Until we meet again,  
May God hold you in the palm of His hand.

-Traditional Irish Blessing

Sharon Davies, the John C. Elam/Vorys Sater Designated Professor of Law at Ohio State University, in her first book, has presented an important piece of historical legal research that adds significantly to the growing number of publications in this field. *Rising Road: A True Tale of Love, Race and Religion in America* (Oxford University, 2010) relays a little remembered “crime of the century,” the August 11, 1921 murder of Catholic Priest Father James Coyle, the Pastor of St. Paul’s Catholic Church in Birmingham, Alabama. While gently swinging on the front porch bench swing of the Church’s Rectory engaged in daily paperwork and correspondence, Reverend Edwin Stephenson, a Methodist parson, walked up to the Catholic Priest, drew a gun and fired three shots, killing him instantly. He then turned and walked across the street to the police station where he turned himself in for the murder of Father James Coyle. The reason for the murder? Stephenson blamed Father Coyle for brainwashing his daughter Ruth with the Catholic faith, converting her to Catholicism, which led to her marrying a Catholic from Puerto Rico. Despite numerous witnesses and clear evidence, Stephenson would literally get away with murder. In 1921 Birmingham, Alabama, Catholics were seen as the enemy and there was no way Stephenson would be sentenced for the death of a Catholic Priest. He was justified by a jury of his peers.

The title of the book, *Rising Road*, is an acknowledgment to Father Coyle’s Irish roots based on the traditional Irish blessing as printed above. Born to Irish parents in County Roscommon in Drum, Ireland, James Coyle grew up with a love of literature which contributed greatly to his obtaining a Jesuit education. Upon his ordination, Father Coyle was sent to Mobile, Alabama in 1898 as a missionary to serve the ever-growing population of Irish Catholics in Alabama. In 1904, with the sudden death of Father O’Reilly, the Pastor of St. Paul’s



Catholic Church in Birmingham, Father Coyle was installed as the new Pastor. Initially he worked to gain the trust and confidence of his parishioners, which came easily for the always friendly and cherubic priest. What unsettled many of the parishioners was his fiery defiance of the anti-Catholic magazines, newspapers, and editorials that often appeared in the mainstream Birmingham newspapers. He met these anti-Catholic attacks head on, usually with a friendly and self-deprecating humor, but ultimately with a dogged defense of the Catholic faith. Father Coyle, for these attacks, unnerved his parishioners, who thought he should remain more quiet on the subject, and incensed many of the Protestants in Birmingham, especially those who were members of the Ku Klux Klan.

None of this apparently bothered young Ruth Stephenson for she was fascinated by the parishioners, dressed in their Sunday best, walking to mass to the Gothic-styled Catholic Church just down the street from her house. By the time she was twelve, she began sneaking into the church, admiring the architecture, the statuary, and the prayerful. Her Father, Edwin, being a Methodist minister and member of the Ku Klux Klan, derided the Catholic Church for their sinful architecture, their worshipping of idols, and their allegiance to the Pope in Rome, whom he saw as the “anti-Christ.” Ruth did not care about her Father’s views until she was caught and punished for her drifting toward the “heathen” church. His punishments had little impact on her new found faith and, more than likely, inflamed them. She continued to explore Catholicism and was fully opened to it when she began working as a sales clerk in downtown Birmingham. There she met a young lady, Aileen Cronan, who was a devout Catholic and Ruth began opening up to her about her beliefs and desire to join the Catholic Church. In April of 1921, Ruth stayed with Aileen and, after

attending classes, was baptized into the Catholic Church upon the Easter Vigil.

One factor that may have fueled her desire to join the Catholic Church was her interest in Pedro Gussman. Pedro had been hired to hang wallpaper in the Stephenson home when she was just thirteen. Pedro was a generation older than Ruth and had previously been married, but he was handsome with a youthful appearance and Ruth was smitten. Pedro, being from Puerto Rico and of Spanish descent was naturally Catholic. The courtship lasted about six years, becoming more serious as the years passed. Ruth finally decided to accept his offer of marriage for she wanted to practice her Catholic faith openly; she was now eighteen and was tired of living with an abusive (often physically abusive) father. So, one day, she went to work and on her lunch break met Pedro for a clandestine wedding on August 11, 1921.

Father Coyle was well aware of Ruth’s situation with her father and he counseled her to take that into consideration. However, after working with her and Pedro through the marriage preparations classes, he agreed to marry her. Father Malone assisted in the wedding ceremony and it is his memory that is so chilling, for after the wedding, Father Coyle turned to Father Malone and said, “Stephenson will probably kill me for this.” Before the end of the day, Father Coyle lay dead on the Rectory’s front porch swing, shot three times by Edwin Stephenson just as he had predicted.

Sharon Davies next takes the reader through the legal aspects of the case. Initially the facts of the case and Edwin Stephenson’s admission and confession appeared to make for a very straightforward case. In fact, public sentiment was sympathetic toward the murder of the beloved Father Coyle





and against Edwin Stephenson for having committed the murder. However, backed with money by the local Ku Klux Klan (although not revealed until years after the trial) the early twentieth century version of the “dream team” was hired to defend Stephenson, including criminal lawyer Hugo Black, the future United States Supreme Court Justice. During the trial, Black found ways to first raise the Catholic issue as reasons for Stephenson’s actions by putting his wife Mary on the stand. The anti-Catholic sentiment struck a cord with the public (and no doubt the jurors) that saw the murder of Father Coyle as being justified for his attempt to corrupt Ruth Stephenson with his “papist” teachings.

Black, however, was not willing to let the case swing solely on anti-Catholic sentiment, but decided to plunge the case into the one other issue that would justify Stephenson’s actions: the issue of race. Pedro Gussman was born in Puerto Rican to parents of Spanish descent and although not fair of skin, was assuredly not black or a mulatto. Hugo Black did not let the truth get in his way and during the trial portrayed Gussman as being from Puerto Rico of at least one black parent, thus under Alabama’s anti-miscegenation law, the marriage would have been illegal. Further, because Father Coyle went ahead and married Ruth to a “Black” man, the public and the jury could further justify Stephenson’s actions against Father Coyle. Edwin Stephenson was simply a father protecting his young innocent daughter against the evils of both the Catholic Church and the black race. Surely the jury would understand he was fully justified in murdering the Priest. And they did. Stephenson was acquitted and released. Simply put, he really did get away with murder.

Despite the nation-wide sensation of the case, it was mostly ignored during the confirmation hearings of Hugo Black to the

United States Supreme Court. In many ways, it also fell from the collective memory of the American people as well. Yet, it is a perfect example of the way American bigots used the criminal courts in early twentieth century America to highlight not just the crimes or alleged crimes of those individuals accused, but rather of an entire population that was deemed unworthy of their rights as American citizens. A number of recent publications conveying early twentieth century criminal cases has conveyed this hatred with great affect. The hatred and false accusations of blacks for rape in the infamous Scottsboro Case (Carter, 2007) and, despite their guilt, the hatred of Jews (and Homosexuals) that was revealed in the Loeb & Leopold case (Batz, 2008) are prime examples. One such hatred, however, that has received little similar exposure is the anti-Catholic sentiment that was so common during the so-called “progressive era.” Through her legal research and conveyance of the murder of Father Coyle, Davies has begun to fill a gap in this type of research. In her compelling narrative and adept conveyance of how the trial unfolded, Davies not only presents a nice piece of research, but a fascinating and engaging read.

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**A Woman Doing Life: Notes from a Prison for Women.**

By Erin George.

Edited by Robert Johnson with Afterword by Joycelyn Pollock.

(New York: Oxford University Press, 2010. Pp. vi, 202)

(ISBN: 978-0-19973475-7, \$29.95, Barnes & Noble)

As far as is known, *A Woman Doing Life: Notes from a Prison for Women*, is the first book of its kind in the world: An ethnography of life in a women's prison by a woman who has been sentenced to, what the book's editor Robert Johnson calls, "death by incarceration." The author is serving a 603 year sentence in the Commonwealth of Virginia Department of Corrections, presently in the Fluvanna Correctional Center for women, for the murder of her husband. In that she is a middle class person and a first-time offender, George is a) an unlikely felon and b) serving a relatively rare sentence application.

*A Woman Doing Life* may be imagined as the female companion volume or counterpart to *Life Without Parole: Living in Prison Today* by Victor Hassine (2009), the widely acclaimed book which describes a life sentence in prison from a man's perspective. In fact, Erin George read and used Hassine's book as inspiration for her writing and as a model for guiding her thoughts.

The casual observer may believe that the harsh circumstances of time served in jail, sentencing, and incarceration; along with the foreboding environment of a prison which houses women with sentences extending to the end of their natural lives; would argue against an author's ability to focus and to concentrate on the production of insightful and artistic prose. Yet, in recording her thoughts, feelings, and perspectives, Erin George proves to be an astute observer, a perceptive and logical thinker, and a gifted writer.

Not least among the worthwhile attributes of this volume, is the author's unique ability to communicate the circumstantial pathos of incarceration for herself and for other inmates both in the Rappahannock Regional Jail and in the Fluvanna Correctional Center for Women. In a very real way, incarceration for Erin George spurred her on to organize her thoughts, find her mission, and to get on with life. She began to write, to study writing, and to tutor other inmates in their writing of poetry and prose, and in their language skills.

Notable about Erin George's work is that she focuses upon functioning on a day by day basis within the only environment of which she is certain and within the time span of the rest of her life. While she questions the morality of a culture and correctional system which would sentence a person to death in prison, she attempts to meet and befriend new people, to build the relationships already begun, to avoid trouble, and to win small freedoms and discover redeeming interactions with others within the closed walls and society of the prison.

The author is dedicated to helping other women find themselves through writing thoughts, events, and happenings while imprisoned. This is illustrated by the contents of Chapter



10 (Pp., 141 to 153) in which Erin George has asked other women inmates to write essays to help her more fully convey a picture of women's lives while incarcerated and the troubles, stumbling blocks, and promises encountered in prison experience.

Some of the experiences and conditions she shares will surprise even those who study in or teach correctional courses. For one thought-provoking example, George tells of the incredibly poor quality of the garments issued to her by the state prison system of Virginia. Receiving two pair of undergarments as her initial allotment, the first pair fell apart before the end of her first day; and the second were as long lived. This episode was only one of many experiences and observations in prison which caused the author to raise the question: Are those who provide garments and services in the 21st Century still following the habit of those in the 19th Century who became rich by providing the prison inmates with fewer goods, less food, and fewer services than those for which the state was paying them?

The book itself is well set off, as if with parentheses, by the excellent introduction and afterward by two accomplished writers and recognized correctional experts: First, Robert Johnson, editor of this volume as well as of the 2011 fifth edition and posthumous issue of Victor Hassine's *Life Without Parole*, has introduced and summarized *A Woman Doing Life* in a short, pithy, and intellectually stimulating essay. Second, Joycelyn Pollock, a researcher and scholar who has frequently published on the subjects of women and corrections, adds much insight in the afterward as to how the organization and information of this volume fits in the twin literatures of corrections and feminism. She explains how the book may be used as a companion textbook supporting courses in the

academy, and gives a valuable apologetics regarding the credibility of the author's observations and conclusions.

It is suggested that *A Woman Doing Life* could be used in the college classroom, as a companion to a primary textbook. Thus the student may glimpse the faces of hope, loss, and fear -- the basic human attitudes or emotions which prison life tends to intensify.

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**Life without Parole: Living and Dying in Prison Today  
(5th Ed.).**

By Victor Hassine. Edited by Robert Johnson and  
Sonia Tabriz.

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Victor Hassine went to prison in 1981 to begin serving a sentence of life without parole; he died there in 2008. The popular first four editions of *Life without Parole* have been considered to be important contributions to the criminal justice sub-discipline of corrections or penology. The first editions were written by Hassine to chronicle his life, observations, and perspectives of penal confinement. This fifth edition completes the circle, telling of both his life and his demise in prison.

The fifth edition, edited by the noted penologists, Robert Johnson and Sonia Tabriz, includes at least five new features: First, the editors, with the unique advantage of hindsight, have added a new sub-title to the book, namely *Living and Dying in Prison Today*. Secondly, the chapter introductions have been eliminated and replaced by two essays which serve as parenthesis to the entire text. This replacement frees the chapters from the accretions of the four previous

editions; and allows for excellent overviews as introduction and afterword by the editors.

Thirdly, the chapters of the book have been rearranged, with materials ordered to chronicle the author's life before confinement, to and through incarceration, and beyond to his death. Fourth, the later chapters also include some of Victor Hassine's well-written and stirring fiction which is intended to convince the mind or to compel the emotions.

Finally, in a new appendix, the latest developments in penology are explained and discussed by the editors. These correctional developments are contrasted and compared by Johnson and Tabriz with the observations of Hassine. The appendix offers a satisfying conclusion to the book, binding the introductory sections, the chapters of narrative, and the works of fiction into a single, complete informational package.

At first glance, the use of the first 25 pages, of a volume which is only 194 pages in total, for introductory material appears excessive: Yet in those introductory sections, Johnson and Tabriz create the setting for the development of the entire work. Without the complete introduction, the reader might become lost in the chapters of the book's body. To begin with, the development of the book's varied and antecedent generations is prefaced and explained. These served as the building blocks which the editors first dismantled, then rebuilt with additions, deletions, and refinements.

The editors next offer an introduction of the author, Victor Hassine, in a rather short, retrospective portrait. This is followed by short biographies of the editors, highlighting their expertise and work, their perspectives on Hassine and his notions of prison life, and the forces which drive their



scholarship. In the midst of the introduction, the reader discovers the poem *Prison* by editor Robert Johnson.

The final element of the introduction is the new essay by the editors, *Life Without: Opening Reflections on Living and Dying in Prison Today*. This is in essence the front bookend for this work; and serves as a valuable guide that the reader might know what to expect from the body of the text. Johnson and Tabriz include a similar bookend near the end of the book to summarize the material contained within the text: This bookend is aptly entitled, *Death Without: Closing Reflections on Living and Dying in Prison Today*.

Among the most fascinating inclusions in *Life without Parole* are chapters 14 and 15 which include four works of the author's fiction writing. Victor Hassine felt, and taught those he tutored, that the prison author could best express his innermost thoughts by writing fiction; and the four stories included in these chapters give strong support to his assertion. The book would be less valuable for understanding the perspectives of the author were these four works omitted.

Victor Hassine expands upon the three human emotions or sentiments he has singled out as common to men in prison: The first is fear, a mind-numbing dread which weighs upon an inmate every moment of his existence. Fear was greatly multiplied through the gross overcrowding the author and his fellows experienced in Pennsylvania prisons up into the 21st Century. The second common human emotion is an overwhelming sense of loss: Upon commitment to prison, the convicted felon is stripped of all belongings; and in the case of someone serving a life sentence (or death through incarceration) the inmate begins to lose contact with all those people and organizations which were important to him in the

free world. Ultimately, even ones closest friends and loved ones either die or cease coming to visit; thus the sense of loss is greatly intensified.

The third universal human sentiment among inmates tends to be hope: After Hassine worked through fear and loss, he hoped that his living a life of helping others in prison and dedicating himself to prison reform would ultimately cause the board of pardons and paroles to consider clemency on his behalf. When, after more than 20 years, the author sent an appeal to the parole board, the members of the board voted to reject it without consideration. That night, Victor Hassine checked himself into solitary confinement after he heard the news that his appeal had been ignored by the board. He body was found in his cell the next morning, hanging by the neck.

*Life without Parole* in each of its four previous editions has proven to be a valuable addition to the literature of penology. The fifth edition is certainly a new and improved version. It may be best used in the undergraduate or graduate classroom to inform students of the perspectives of the prison inmate -- perspectives which are so often disregarded or overlooked in the leading correctional text books.

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## **Experiences of nonoffending parents and caretakers in child sexual abuse cases**

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### **Abstract**

The current study seeks to better understand the unique experiences of a specific subgroup of nonoffending caretakers who also identify themselves as closely related to the registered sexual offender who abused the child for whom they care. The sample is made up of 31 survey participants who indicated that they were the parent or caretaker of a child who was sexually abused by a family member. Many described continuing feelings of hurt, loneliness, and a sense of betrayal. Anxiety and depression were not uncommon, and many reported feelings of guilt, shame, or embarrassment about the abuse. More than one-half indicated that family and friends do not seem to understand the unique circumstances of intrafamilial sexual abuse, and few viewed the abuser as at risk to reoffend. Implications for practice and policy are discussed.



### **Experiences of nonoffending parents and caretakers in child sexual abuse cases**

The discovery of intrafamilial child sexual abuse by a nonoffending parent causes a significant amount of distress, and how the parent responds to this event can be related to the victim's healing process. The initial disclosure is a time of crisis for the family and many conflicting thoughts and feelings emerge. Feelings of distress can be ongoing for a family coping with the aftermath of sexual abuse, especially when the nonoffending parent also has a close and significant relationship with the abuser. There are currently over 704,777 registered sex offenders in the United States (National Center for Missing and Exploited Children, 2010). Police reports indicate that child sexual abuse victims identified their abusers as relatives in 34% of cases (Bureau of Justice Statistics, 2000) and therefore a substantial number of families experience the loyalty conflicts that emerge when a family member sexually abuses a child. Most research efforts have focused on understanding the experiences of nonoffending mothers. The current study seeks to better understand the unique experiences of a specific subgroup of nonoffending caretakers who also identify themselves as closely related to the registered sexual offender who abused the child for whom they care.

Once the authorities become involved with a family after allegations of child sexual abuse, support and protection of the child victim is assessed. In a study of how child protective workers substantiate "failure to protect" cases in which a nonoffending parent is thought to have neglected to intervene to prevent sexual abuse, several factors emerged as predictive of substantiation: allowing contact with a known sexual offender, acknowledgement that the nonoffending parent knew of the abuse, and a past history of abuse or neglect

(Coohey, 2006). On the other hand, reporting the incident to child protective services (CPS), going to the hospital, cooperating with the prosecution of the offender, and actively denying contact with the offender were seen as supportive behaviors and led to unfounded dispositions for failure to protect. There are times, however, when the nonoffending parent does not trust the authorities involved and may become confused as to how to respond. This ambivalence and mistrust may be misinterpreted as being non-protective.

Bolen and Lamb (2007) defined ambivalent responses as those in which the parent displayed inconsistent responses of disapproval towards the offender. They noted that no study has concluded that ambivalence is a valid indicator of parental support but agreed that ambivalent parents may not be appropriately supportive. Elliott and Carnes (2001) found that mothers were more likely to believe abuse occurred when they were not a current sexual partner of the offender. Adolescent victims perceived their mothers to be less supportive when they lived with the offender at the time of the abuse and more supportive when they lived separately from the abuser (Cyr et al., 2003). Even mothers who are generally supportive and protective of their sexually abused children may at times exhibit inconsistent and ambivalent responses (Elliott & Carnes, 2001). Ambivalence and supportive behaviors can coexist with parents simultaneously experiencing a range of feelings about the event which creates opportunities for intervention (Levenson & Morin, 2001).

When nonoffending caretakers first learn about the abuse, their reactions vary considerably. Many experience an initial sense of disbelief and denial, but levels of belief and support or protection are not static constructs (Trepper & Barrett, 1989). Initial reactions may not predict a parent's ability to believe, support or protect the child (Manion et al.,



1998). Nonoffending parental reactions can vary due to a variety of factors such as the mother's relationship to the offender, maternal history of abuse, and the age and gender of the child. A nonoffending caregiver's thoughts, emotions and reactions often change over time and according to the circumstances in either direction, as parental response to sexual abuse is a fluid process; caregiver supportiveness is not a static quality and appears to be susceptible to intervention (Alaggia, 2002; Elliott & Carnes, 2001; Malloy & Lyon, 2006).

Learning about the sexual victimization of one's child is an unexpected and confusing event which understandably leads to psychological distress manifested in a variety of ways. The disclosure may trigger feelings of failure for some parents and coping skills are a salient variable in the outcome of treatment (Hebert, Daigneault, Collin-Vezina, & Cyr, 2007). A child's disclosure may trigger past sexual trauma of the mother, further confirming the need for support and counseling to help her cope with the consequences of disclosure (Hebert et al., 2007). Elliott and Carnes (2001) indicated that stress is greater for the nonoffending parent who experiences blame from other family members for "allowing" the abuse to occur. More than half (57.9%) of mothers of sexually abused children scored within the clinical range of distress but mothers of intrafamilial sexual abuse victims were more likely than others to experience clinically significant levels of distress (Hebert et al., 2007). Mothers of intrafamilial sexual abuse victims continued to score in the clinically distressed range for as long as one year after the disclosure (Manion et al., 1998) and 52% of mothers whose children had been abused in day care had psychological distress scores in the clinical range two years after disclosure. Distress may interfere with the parent's ability to best respond to their child's needs (Kelly, 1990).

Surveys of family members of registered sex offenders (RSO) reveal that they often experience stigmatization and other psychosocial consequences as a result of the actions of their loved one. Employment problems experienced by an RSO and resulting financial hardships are often the most stressful issue identified by family members (Farkas & Miller, 2007; Levenson & Tewksbury, 2009). Many scholars have observed that financial dependence on the offender can impact the amount of support a caregiver offers a victim (Cyr et al., 2003; Elliott & Carnes, 2001). Family members living with an RSO also experienced threats and harassment by neighbors, and some children of RSOs were reportedly stigmatized and received differential treatment from teachers and classmates (Farkas & Miller, 2007; Levenson & Tewksbury, 2009). Nonoffending family members revealed that they are often affected in important ways that are subtle and not obvious to others, including isolation, loss of relationships, and shame, and these adverse consequences were correlated with increased stress levels as measured by the Perceived Stress Scale (Tewksbury & Levenson, 2009).

Maternal support has been identified as a crucial variable related to outcomes in child victims of sexual abuse. The strongest predictor of treatment response for sexually abused children in a randomized trial (other than type of treatment) was parental emotional distress (Cohen, Deblinger, Mannarino, & Steer, 2004). After one year, the strongest indicator of a successful adjustment for the child victim was parental support. Elliott and Carnes (2001) concurred that children who have a supportive caregiver exhibit fewer symptoms of distress and are more likely to disclose sexual abuse. Conversely, angry feelings directed at the victim can negatively impact the child's distress level. At the time of a disclosure, a child's vulnerability increases and there is a strong





need for validation and support. Naturally a child will seek this reassurance from the nonoffending parent and children who are believed and supported will fare better in therapy and be less likely to develop severe psychopathology over time.

We add to the literature here by examining a previously understudied population: nonoffending family members of registered sex offenders who are also parents or caretakers of the perpetrator's sexual abuse victim. We hypothesize that this subgroup is uniquely positioned to potentially experience the loyalty conflicts and ambivalence inherent in an intra-familial child sexual abuse case. Without specific *a priori* hypotheses, this exploratory study sought to: 1) examine child protective services outcomes, 2) identify caretakers' common feelings about the abuse, and 3) identify the types of interventions the nonoffending parent or caretaker participated in and their beliefs about those interventions.

## **Method**

### **Sample**

This sample of 31 nonoffending parents or caretakers (NOPC) was selected from a larger group of 584 family members of registered sex offenders who responded to an online survey about the impact of sex offender registration and notification laws on their lives. The majority of respondents were white (92%) and female (80%). The average age of the respondents was 48 years (median = 50, mode = 50, SD = 13). Nearly two-thirds (64%) said that they were married, 15% were divorced or separated, and 4% were widowed. The sample was well-educated, with 20% reporting high school completion or GED, 37% indicating that they attended some college, and 41% reporting that they had obtained a bachelors' or graduate degree. Most of the respondents were either the spouse (42%) or a parent or stepparent (33%) of the RSO. Only 1% said that

they were an RSO's child or stepchild (minors were not permitted to take the survey), and the remaining 24% were siblings, relatives, friends, or romantic partners. Most (62%) said that they lived in the same home with the RSO. There was representation from all 50 states, though California, Florida, Michigan, and Texas had a particularly high number of respondents.

### **The subsample of nonoffending parents and caretakers**

Survey respondents were asked if they were "the parent or caretaker of a child who was sexually abused by your family member, the RSO" and 32 people indicated that they were, but only 31 answered the questions in that section of the survey. Table 1 describes their demographics. Most were middle-aged, white, married females. Ten indicated that they were the parent of both the RSO and the victim, suggesting that the victim was a sibling (or step-sibling) of the abuser. Three quarters had attended or completed college or graduate school. Most earned over \$40,000 per year. About half were employed full time, 15% were disabled, and the rest were part time workers, retired, unemployed, or students. Half said they had minor children, but only 37% said they had minor children living in their home. The nonoffending parents were from 17 states (AZ, CA, CT, FL, IA, IL, MA, MD, MI, MO, NY, OH, OK, SC, TN, TX, and WY).

Table 2 shows the characteristics of the registered sex offenders about whom the NOPC answered the survey. All but one of the RSOs were male, and all but one were currently adults. Most RSOs were the spouse or child of the person answering the survey. Though the mean age of the RSO was 43, the mode was 30, and four (13%) of the RSOs were under the age of 24. More than half (56%) of the respondents indicated that they were currently living with the RSO. The victim was the respondent's child in most cases. Curiously,



three respondents answered that they did not know the victim in the case for which the perpetrator became an RSO. So, presumably, they are the parent or caretaker of a child who was an additional victim of the RSO in a case that was either not reported or not substantiated.

#### **Data collection**

The sample was recruited from websites and list-servs identified as advocacy or support resources for the families of registered sex offenders. A letter requesting assistance with data collection was sent to six sites known to provide support, information, and resources for registered sex offenders and their families. Four of the sites agreed to participate, one declined, and one did not respond to the request for assistance. Additionally, a request was sent to the administrators of two list-servs for RSOs and their families, and both agreed to help recruit participants. Specifically, we requested that the contact persons 1) send a link to our survey to their email distribution list; and 2) post a link to our survey on their website. The survey was launched in July 2008 and remained active for 45 days.

There are benefits and weaknesses to online survey methods (Pokela, Denny, Steblea, & Melanson, 2008; Wright, 2005). They are cost effective and time-saving, allowing data to be collected from a large volume of subjects without the personnel and fiscal resources typically needed for interviewing and data entry. Online surveys are an efficient method for soliciting a unique or difficult-to-reach population who tend to frequent websites pertinent to their interests (Wright, 2005). On the other hand, Internet users are not representative of the general population; they are more likely to be white, more educated, more affluent, and younger (Pew Internet & American Life Project, 2008). Even in the 21<sup>st</sup> century, not everyone has Internet access. Roughly 27% of the

adult population does not have or does not use email or the World Wide Web (Pew Internet & American Life Project, 2008). Moreover, there is no reliable method (e.g. similar to random digit dialing for telephone surveys) to generate a random sample when surveying people online (Pokela et al., 2008), and online samples are self-selected, perhaps leading to bias (Wright, 2005). These limitations notwithstanding, an online survey was deemed to be an efficient method for collecting data from a large pool of family members of RSOs. We recognize, however, that our sample is made up only of family members who have Internet access and who have chosen to visit websites known as “advocacy sites” for registered sex offenders and their families. There are over 700,000 registered sex offenders in the United States and many of them have family members who visit online advocacy sites. The actual population for online sampling pools, however, is unknown (Wright, 2005). Therefore, we are unable to calculate the response rate and we are also limited in our ability to know if the sample is representative of the population.

Subjects were invited to complete the survey via a link on the websites and/or a link distributed through the above mentioned email lists. It is also possible that those email invitations were forwarded by recipients to other interested parties or posted on relevant blogs (known as “snowball sampling”). Surveys were completed online and were anonymous and confidential. The survey was developed using Survey Monkey, a survey construction site designed for online data collection. The first page of the survey contained an authorization for informed consent and the survey was designed not to launch unless participants stated that they were over 18 years of age and clicked “yes” giving their consent to participate. Our survey did not track or record respondents’ IP or email addresses or other personal information. Survey



Monkey uses Hypertext Transfer Protocol over Secure Socket Layer (HTTPS) to create a [secure HTTP](#) connection with [encrypted](#) communication, which is widely used on the [World Wide Web](#) for security-sensitive communications such as payment transactions and corporate logons.

The research was conducted in accordance with federal guidelines for the ethical treatment of human subjects, and was approved by an Institutional Review Board. Participation was entirely voluntary and subjects could withdraw from the study at any time by closing the survey. Online completion of the survey was considered to imply informed consent to participate in the project. The survey was programmed to allow only one response from each IP address or work station to prevent one person from taking the survey multiple times.

#### **Instrumentation**

The survey was originally designed by the authors for the purpose of collecting data regarding the impact of sex offender registration and notification on family members. A final section of the survey inquired about the experiences of nonoffending parents and caretakers; it is this section of the survey that is the focus of the present study.

### **Results**

#### **CPS investigations**

Table 3 displays the reported CPS activity as described by the respondents. Almost one-third said that CPS was not involved in their case, suggesting that the RSO may have had additional victims that were the focus of the criminal investigation that resulted in sex offender registration. In about one-third of the cases, the abuser was asked to leave the home, and in about 25%, the child was removed from the care of the NOPC either temporarily or permanently. When asked whether the RSO admitted to abusing the child, 86% of the NOPCs said

yes, although only 82% of NOPCs stated they believed that the RSO had sexually abused the child. When asked if the RSO could be at risk to reoffend, rated on a 4-point agreement scale, 87% strongly disagreed and 13% disagreed. Not one respondent thought that the RSO would abuse a child again in the future.

#### **Feelings about the sexual abuse**

We did not ask specifically how long it had been since the child in the NOPC's care was sexually abused. We did ask, however, how long the RSO has been on a registry, and the mean was 8.6 years with a median of 7 years and a mode of 5 years. For 42% of the respondents, the sexual abuse disclosure and investigation had occurred within the past five years.

Table 4 describes the feelings respondents currently have about the sexual abuse. Many reported mixed feelings, with about 80% still describing continuing anger at the offender and 24% feeling angry at the victim. Many continue to describe feeling hurt and lonely, with some still struggling with a sense of betrayal. Anxiety and depression were not uncommon, and many reported feelings of guilt, shame, or embarrassment about the abuse. More than one-half indicated that family and friends do not seem to understand the unique circumstances of intrafamilial sexual abuse.

#### **Interventions**

The majority of offenders, victims and NOPCs received counseling (Table 5). Slightly more than three-quarters of the offenders spent time in jail, but less than one-half served a prison sentence. Most NOPCs participated in a family safety plan for reunification or visitation. Most of the respondents found their counseling programs to be helpful (Table 6). Most reported involvement in relapse prevention planning, and said that they had become familiar with the abuser's grooming patterns, risk factors, and triggers (Table 7). The majority of



NOPCs agreed that they had made changes in their own behavior in an effort to prevent future sexual abuse of their children, but the majority denied that the particular abuser in the current case was at risk to reoffend.

### **Discussion**

This study provides an examination of the experiences of nonoffending parents and caregivers for sexually abused children victimized by a family member. Whereas previous research has focused on how parents of sexually abused children respond to such situations, or how family members of RSOs are affected by a loved one's status as a registered sex offender, the current study focuses exclusively on those family members caught in a situation with loved ones being both victims and perpetrators. The results of this study show that there are significant emotional and psychological consequences for such individuals.

We should consider the implications for social policy. Over the past decade, sexual abuse prevention efforts have heavily emphasized a criminal justice approach focusing on longer prison sentences, sex offender registration, community notification, and residential restrictions (Levenson & D'Amora, 2007). Our country's current emphasis on the rather simplistic strategy of attempting to avoid known perpetrators provides a disservice to parents and potential victims of sexual assault. Most sexually abused children are victimized by offenders who are well known to them: among cases reported to law enforcement, relatives are perpetrators in 34% of cases, and family acquaintances in 59% of cases (Bureau of Justice Statistics, 2000). In New York, 95% of all registered sex offenders were first time offenders and therefore would not have been found on a sex offender registry at the time of their crime (Sandler, Freeman, & Socia, 2008). As we see here, when registered sex offenders are publicly identified, their

most likely victims -- family members -- are also those most likely to engage in denial and rationalization about the offender and the crime. This is not surprising, as sexual offense are often minimized by both offenders and their loved ones (e.g., he was falsely accused, the victim came on to him, he won't do it again, he was drunk, he learned his lesson) and NOPCs may therefore take fewer precautions than those who are viewing the Internet registration of an offender who is unknown to them. The reality is, however, that the offender has more access and opportunity to cultivate relationships with familiar potential victims and misuse positions of trust and authority in order to sexually abuse.

The results of this study clearly indicate the need for services to be directed toward the NOPC. With a majority of NOPCs reporting feeling angry (especially toward the perpetrator), sad, hurt, lonely, betrayed, ashamed, guilty, depressed, and without the understanding of family and friends, it is obvious that there are serious harms experienced by NOPCs, even after several years have passed. Coupled with the fact that two-thirds of NOPCs report at least occasionally having "mixed feelings" about their family situation, it is clear that serious and lasting consequences are present. In this way, the victims of the sexual abuse are a broader and more all-encompassing group than just the child who was the recipient of sexual abuse. Counseling, case management, and assistance in dealing with the physical, social and emotional fallout of intrafamilial sexual abuse is a serious and very real need for all family members.

This study had several limitations. The small sample size precluded sophisticated statistical analysis and therefore the results are purely descriptive. Though the sample was drawn from a national sampling pool, due to the size of this sub-sample results may not generalize to the larger population



of nonoffending parents and caretakers. Nonetheless, the results contribute to a relatively small literature describing the experiences of nonoffending parents and caretakers of sexually abused children.

Without services directed toward all members of families affected by intrafamilial sexual abuse, victims may not realize a fully achievable level of recovery. Also, families may continue to interact in dysfunctional ways, or spiral into increasingly harmful forms of interactions and dynamics. The pain and suffering of sexual abuse is likely to continue without interventions for all family members, including those directly victimized and those who are not involved directly in the abuse instance but participating in the family structure.

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**Table 1: Descriptive statistics (n = 31)**

Item	Frequency	Valid %	Mean	Median	Mode
Male	5	16%			
Female	26	84%			
Age			51	53	53
Married	22	69%			
D/W/S	6	19%			
Living w/someone	3	9%			
Race	White = 29	91%			
Education	Some HS = 1	3%			
	HS grad/GED = 7	22% 41%			
	Some college = 13	19% 13%			
	College grad = 6				
	Graduate degree = 4				
Income	Under \$20K = 3	10%			
	21K = 40K = 9	30%			
	41K-60K = 8	27%			
	61k-80k = 5	17%			
	81k-100k = 4	13%			
	OVER 100K = 1	3%			



**Table 2: Characteristics of subjects, RSOs and victims**

Item	Frequency	Valid %	Mean	Median	Mode
Gender of RSO	Male = 30 Female = 1	94% 3%			
Age of RSO	Minor = 1 Adult = 30	3% 94%	43	44	30
Victim was my	Child = 25 Relative = 1 Grandchild = 1 Stepchild = 1 Unspecified = 3	78% 3% 3% 3% 9%			
Relation to RSO	Spouse = 17 Living w/ but not married = 2 Sibling = 1 Relative = 1 Parent = 10	53% 6% 3% 3% 31%			
Live w/RSO	Yes = 18	56%			





**Table 3: Reported of outcomes of CPS involvement with family**

	Response percent	Response count
CPS was not involved in my case.	31.0%	9
CPS investigated but the allegation was unfounded.	0.0%	0
CPS allowed all family members to remain in the home but recommended counseling services.	6.9%	2
CPS told the abuser to leave the home.	34.5%	10
I left the home with my child.	3.4%	1
My child was removed from my care temporarily.	10.3%	3
My child was removed from my care permanently.	13.8%	4



**Table 4: Feelings about the sexual abuse ( n = 29)**

	Never 0	Sometimes 1	Often 2	Always 3	Rating Average
Family and friends don't seem to understand.	10.3% (3)	34.5% (10)	41.4% (12)	13.8% (4)	2.59
I feel sad.	3.4% (1)	51.7% (15)	27.6% (8)	17.2% (5)	2.59
I feel embarrassed.	17.2% (5)	34.5% (10)	31.0% (9)	17.2% (5)	2.48
I feel hurt.	10.3% (3)	48.3% (14)	24.1% (7)	17.2% (5)	2.48
I feel lonely.	17.9% (5)	32.1% (9)	35.7% (10)	14.3% (4)	2.46
I feel shame.	17.9% (5)	35.7% (10)	32.1% (9)	14.3% (4)	2.43
I feel a loss of control in my life.	17.2% (5)	44.8% (13)	24.1% (7)	13.8% (4)	2.34
I feel guilty.	13.8% (4)	51.7% (15)	24.1% (7)	10.3% (3)	2.31
I feel depressed.	20.7% (6)	44.8% (13)	27.6% (8)	6.9% (2)	2.21
I feel anxious.	13.8% (4)	62.1% (18)	17.2% (5)	6.9% (2)	2.17
I feel numb.	20.7% (6)	51.7% (15)	24.1% (7)	3.4% (1)	2.10
I feel angry at the RSO.	20.7% (6)	58.6% (17)	17.2% (5)	3.4% (1)	2.03
I have mixed feelings about our family situation.	34.5% (10)	37.9% (11)	24.1% (7)	3.4% (1)	1.97
I feel betrayed by the RSO.	37.9% (11)	44.8% (13)	10.3% (3)	6.9% (2)	1.86
I feel betrayed by the victim.	72.4% (21)	24.1% (7)	3.4% (1)	0.0% (0)	1.31
I feel jealous.	75.9% (22)	20.7% (6)	3.4% (1)	0.0% (0)	1.28
I feel angry at the victim.	75.9% (22)	20.7% (6)	3.4% (1)	0.0% (0)	1.28



**Table 5: Interventions**

	Yes	no
I received counseling.	74.1% (20)	25.9% (7)
The victim received counseling.	96.3% (26)	3.7% (1)
The offender received counseling.	85.7% (24)	14.3% (4)
The offender went to jail.	76.9% (20)	23.1% (6)
The offender went to prison.	47.8% (11)	52.2% (12)
Our family created a safety plan for reunification or visitation.	71.4% (20)	28.6% (8)



**Table 6: Perceptions of counseling**

	strongly disagree	disagree	agree	strongly agree	N/A	Rating Average
I found my own counseling to be helpful.	3.6% (1)	7.1% (2)	32.1% (9)	39.3% (11)	17.9% (5)	3.30
I think counseling for the victim was helpful.	17.2% (5)	6.9% (2)	27.6% (8)	37.9% (11)	10.3% (3)	2.96
I think counseling for the offender was helpful.	0.0% (0)	0.0% (0)	41.4% (12)	51.7% (15)	6.9% (2)	3.56
I think family counseling was helpful.	3.6% (1)	10.7% (3)	17.9% (5)	28.6% (8)	39.3% (11)	3.18



**Table 7: Prevention**

	strongly disagree	disagree	agree	strongly agree	Rating Average
I have been involved in my RSO's relapse prevention plan.	3.7% (1)	14.8% (4)	48.1% (13)	33.3% (9)	3.11
I can describe the RSO's grooming patterns.	3.7% (1)	18.5% (5)	51.9% (14)	25.9% (7)	3.00
I can describe the RSO's risk factors and triggers.	3.7% (1)	22.2% (6)	37.0% (10)	37.0% (10)	3.07
I have changed some things about my own behavior to try to prevent future sexual abuse of my children.	7.7% (2)	23.1% (6)	30.8% (8)	38.5% (10)	3.00
I know my RSO won't do it again so I do not have to worry.	3.4% (1)	24.1% (7)	44.8% (13)	27.6% (8)	2.97