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Keynote Address: Get Dirty
WSC Conference, 2013, Berkeley, California

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As I reflect upon my academic career, one constant over the span of more than 40 years is that I have been actively involved in collecting original data. My initial ventures occurred while I was a graduate student. As a master's student, I spent the better part of three months sitting in the offices of the Chicago Police Department's homicide bureau while I collected thesis data from stacks of manila folders containing large and disorganized paper files on every case of homicide that had occurred during the prior year. While my interest was in the information contained in the files, the detectives were more than eager to provide a young novice with graphic and sordid stories about the homicides they were working at that time. As a doctoral student, my dissertation research required me to conduct surveys of juveniles and interviews of both the teachers and parents of those juveniles, but it was the many weeks spent interviewing inmates in a nearby prison as part of my research assistantship that set the foundation for the kind of research that would characterize much of my career.

When, in response to the 1971 Attica prison inmate uprising and violent reprisals by the State Police, the New York Department of Correctional Services sought to establish a formal mechanism to hear and resolve inmate grievances, I was fortunate as a second-year Assistant Professor to head a small research team tasked with the process and impact evaluation of the new Inmate Grievance Resolution Procedure. For three years I made bi-weekly visits to the prison facilities for men at Auburn and Attica, as well as the women's facility at Bedford Hills, to conduct focus groups, interview officers, interview and survey inmates, and obtain official records. Before concluding that effort, we expanded our scope to include inmate grievance resolution procedures at maximum security prisons in Columbia, South Carolina and Canon City, Colorado.

My next major journey into prisons was to study the impact of a state's change from indeterminate to determinate sentencing policies on prison management and the control of inmates. Working with Lynne Goodstein and Doris MacKenzie, we wanted to know the extent to which, if at all, the inability to offer the prospect of early release based on "good time" and/or parole to community supervision decreased inmate program participation and increased inmate misconduct, as well as to ascertain whether any functional alternatives to good time credits and parole had emerged to maintain order. Over a two-year period, I made visits to prisons in Connecticut, Illinois, Minnesota, Missouri and Pennsylvania to interview prison administrators, line officers and supervisors, to conduct focus groups with inmates and staff, and to survey both inmates and officers.

Since then, I have collected primary data in prisons and jails in Arizona and other states on a variety of topics, each requiring negotiated entry, focus groups, surveys of officers and/or inmates, and interviews with higher-level command staff and administrators. Topics included inmate misconduct, inmate classification systems, security threat group management, the bases of power and the structure of authority among correctional officers, the diverse effects

of the institutional climate on correctional officers, the use of force against prisoners, and the deterrent effects of pink underwear, chain gangs and other unique aspects of county jail incarceration on post-release recidivism.

Intermittently, I engaged in original data collection in collaboration with adult probation departments. As with institutional corrections, these efforts to study salient issues of community corrections required negotiated entry, pouring through case files that only recently have become automated, interviews and/or surveys of probation officers, and interviews with probationers who met some criterion of our research. Over the years, I have focused these efforts to the study of convicted sex offenders, youthful offenders, probationers exiting residential drug treatment programs, female drug offenders, drug court participants, and probationers who were eligible for early release from supervision.

Whether the original data were collected in prisons or probation agencies, a common denominator of these efforts over the past forty years is that this kind of research is time consuming. It takes months to negotiate entry, to prepare and pretest the interview and survey instruments, to design and then adapt sampling methods to the unique conditions encountered in the field, and to collect, automate and clean the data. Panel studies requiring repeat observations over time were worse, of course, and larger studies require extensive staff hiring and training, as well as the management and replacement of staff over time. Even more taxing of our time are the long-term observational studies, such as those by Barbara Owen (1998). Regardless of methodologies, funded research comes with its own demands on the researcher to submit the proposal and await a funding decision and, if funded, to maintain the budget, to submit quarterly and final reports, and to meet as needed with grant managers from the funding agency.

Another factor common to the collection of original data in institutional and community corrections is that our research methodology is not as "clean" as we might like. Textbook methodologies quickly evaporate when confronted by the realities of prison organization and operations. The limitations, challenges, and problems to be solved when doing research in correctional settings have been discussed knowledgeably already (see, for instance, Fox, Zambrana, and Lane 2011; Lane, Turner, and Flores 2004; Marquart 1986; Megargee 1995; Trulson, Marquart, and Mullings 2004). My point here is to assert that the heavy investment of one's time and the methodological challenges and limitations encountered in collecting original data, while at times frustrating, also create learning experiences that provide qualitative insights about criminal justice agencies and organizations. These insights are not a direct part of the research question, but nonetheless they add substantively to the researchers' understanding of the organization and its personnel. My own research experiences have enriched my work life and my appreciation for the efforts that go into research in corrections. Researchers often encounter apathy, or more likely active and passive resistance, and even hostility, toward the research and the researchers who are viewed, at minimum, as an unwarranted disruption to the routine, or worse, as creating problems of order and control. For what? For a study that the administration and staff often believe will portray the prison and its officers unfavorably and raise sympathy or public support for the hapless inmates and their conditions of confinement.

GETTING DIRTY

Primary data collection requires that we leave the relatively sanitized and disinfected environment of the university and the clean routines of our offices to enter into the world of those we study. Through primary data collection, we glimpse the setting of our research, hear the sounds of the prisons, inhale the smells of the jails, observe the passing of rule violators and rule enforcers alike. We observe everyday activities, we "feel" the levels of tension, mistrust, and hostility, and we gain insights into the complexities of the relationships within the organization and among its personnel. We celebrate the fact that we emerge from the correctional agency or police department with both the data we sought and a greater knowledge and understanding of the working and living conditions of those we are studying.

In doing this kind of research, whether in corrections or some other specialty area, we are getting dirty. The "dirty" part of the task has many facets. One is the often-cited statement that original data collection enables the researcher to get his or her hands dirty – that is, to be in the natural setting of our research subjects and research questions, coming into direct contact with the sights, sounds, and activities of the places and people we study, and obtaining sensory information that will provide meaningful context for our study. Getting dirty also involves methodologies that often are less than the idealized versions advanced in textbooks. But, getting dirty is not the same as being dirty! And, getting dirty by virtue of our efforts to collect original data does not transform the task of original data collection into dirty work!

Recently, I overheard a discussion in which a colleague urged doctoral students and assistant professors to avoid any involvement in primary data collection. On the surface, this may be good advice to someone beginning an academic career. If the goal is a consistent rate of publications that, over time, sums to a very large number of publications and a high H factor for citations, then that goal is not well served by conducting one's own research. On the contrary, it is made more difficult by any or all of the elements of doing original research -- if nothing else, by the amount of time that must be invested.

Upon further reflection, however, my reaction is two-fold. First, original data collection may require that we get

our hands dirty, but it is the essence of our discipline. It is the basis by which we advance the state of knowledge: original research uncovers and discovers, especially within the framework of qualitative research that leads to induction of hypotheses and grounded theory; original research forces us to operationalize theoretical concepts; original research permits us to test theoretical-derived hypotheses; and original research provides the basis for evidence-based practices and policies. And, let's not forget that today's original data collection is a necessary step for tomorrow's secondary analysis of these data and for subsequent inclusion of the findings in a provocative and summative meta-analysis.

My second reaction is that there may be another message, a sub-text, if you will, buried in this admonition to young scholars. This other message is more than a cautionary observation that primary research, that getting dirty, can impede one's ability to publish and gain national prominence. Instead, this other message, whether intended or not, raises questions about social identity and professional hierarchy. At its worst, it is a noxious and delimiting issue, one that is both sinister and insidious in its assumptions. It is in response to this other message that I focus the following comments. I offer these comments not as an accusation but as a cautionary note. My comments are intended only to point out that getting dirty in the collection of original data should not be, and we should not let it be, misconstrued into dirty work.

DIRTY WORK

Reflecting on the horrors that occurred in German concentration camps during World War II, the sociologist Everett C. Hughes (1962) asked how otherwise ordinary and civilized people could do such work. He concluded that those pariahs who do the dirty work of society are really acting as agents for the rest of us, and, as a result, we "give a kind of unconscious mandate" to people who are assigned to do our dirty work "to go beyond anything we ourselves would care to do or even to acknowledge" (Hughes1962:8) Following on this work, Lewis Coser (1969) extended the focus from the concentration campus of World War II to include American prisons, mental hospitals, and what he referred to as the dirty work of Southern law enforcement officers. He observed that society "requires for its operation the performance of certain roles whose existence its members can admit only with difficulty. Though 'good people' may be convinced that these roles are 'necessary' they will nevertheless, in the ordinary course of events, try to shield themselves from detailed knowledge about them" (Coser, 1969:101-102).

Since then, the concept of dirty work has been extended to a variety of other occupations and professions, most notably a variety of sex workers—prostitutes, exotic dancers, phone sex workers, and the clerks who provide sales in sex shops. Other occupations that engage in dirty work, according to some analyses (see Simpson, Slutskaya, Lewis and Hopfl, 2012), are morticians, bail bonds men and women, prison guards, garbage collectors, migrant agricultural workers, gynecological nurses and home care workers. What is common is that this kind of work is socially stigmatized. Dirty work is the opposite of clean work, and clean work is good work. The concept of clean work creates boundaries that separate the pure from the contaminated.

Dirty work takes place in an unsavory environment, in a contaminated workplace. According to Ashforth and Kreiner (1999), the "contamination" of the workplace may be the result of physical taint (e.g., dirty or dangerous working conditions), social taint (e.g., regular contact with unsavory or socially stigmatized persons), or moral taint (e.g., engaged in morally questionable work). Dirty workers cannot distance themselves from the taint of the workplace and, therefore, cannot avoid the social stain and stigma that derives from the work. Dirty work is the work of those at the lowest end of the social hierarchy and those at the margins of society. Often, dirty work is gendered, classed, and raced. The overarching conclusion from current studies of dirty work is that the often low or marginal status of dirty work, the overtones of immorality or social stigma associated with such work, and the desire by many to avoid it creates social divisions, or a social hierarchy (see Davis 1984; Kreiner, Ashforth, and Sluss 2006; Simpson et al. 2012).

WHAT DOES THIS MEAN FOR CRIMINOLOGY AND ITS PRACTITIONERS?

Goffman (1963) noted that dirt has the potential to create stigmatizing conditions such that workers who are stained by their proximity to dirt, or to dirty work, are tainted and disqualified from full social acceptance. That is, the negative qualities associated with dirt are projected onto those who do dirty work, creating for those workers problems of identity management and social validation. This can create not only personal problems for them in terms of coping strategies to deal with stigma at work, but also structural problems for career advancement and professional recognition. As criminologists, and within (1) the context of criminology as a profession, (2) the social organization of the discipline, and (3) the hierarchy of values and worth, then, we need to remain alert to messages that would stigmatize and marginalize the work of original data collection and to those efforts that would under-value and debase those who engage in original data collection. If doing this kind of research is dirty, then I argue that we need to embrace the dirt but not the conceptualization of dirty work!

Identity is relational; identity is negotiated. If "getting dirty" is being equated to "being dirty" then we need to cast, or to recast, the "getting dirty" aspect of the original

research endeavor in alternative terms—in more affirmative terms—to create and maintain a positive identity for the work and the worker. When we frame, or reframe, the work to give it a positive value, we can better appreciate the importance of this work, the magnitude of the task, time and effort involved in conducting this work, and its centrality to the discipline. We need to refocus from the stigmatizing to the credentialing or the crediting. Insofar as they apply to original research in criminology and criminal justice, we need to separate the concepts of "getting dirty" and "being dirty."

In conclusion, getting dirty must never be confused with doing dirty work, lest we relegate original research to the margins of our profession. I urge doctoral students and assistant professors, as well as all others, to get in the trenches, to tackle that task of original data collection, and to get dirty. But, simultaneously, please be mindful that getting dirty is not the same as being dirty. Collecting original data is not dirty work; on the contrary, collecting original data is the lifeblood activity of the discipline.

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Victims as Stakeholders: Research from a Juvenile Court on the Changing Roles of Victims in Restorative Justice

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Abstract*: This research analyzes changes made by a juvenile court over five years toward the progressive inclusion of victims as "stakeholders" within the implementation and development of restorative justice practices. Beginning in 1999, the Clark County Juvenile Court (CCJC) in Washington State introduced a Victim Offender Mediation (VOM) program. Subsequently, the court altered diversion and probation practices in ways that provided several significant services to victims, and afforded victims increased decision-making capacity. In doing so, the court also amended how offenders fulfilled their diversion or probation requirements at the court, particularly in relation to its use of VOMs. This research follows the initial inclusion of victims as "stakeholders" within the use of VOMs beginning in 1999, and explicates how and where these stakeholder roles were amended over time until 2005, when the court had largely finalized the structure of victim involvement and participation. The ensuing discussion describes the rationale for the court's changes, and the effects of these changes on how victims were able to participate and make decisions in both diversion and probation cases. The paper concludes by discussing the implications of these changes as they involve the role of victims as stakeholders within restorative justice as used in formal justice settings, and in particular the possible limits of such roles when enacted through justice agencies such as juvenile courts.*

Keywords: juvenile justice, restorative justice, stakeholders, victims

INTRODUCTION

The term "stakeholder" is often used within restorative justice to both identify and legitimate the inclusion of victims into specific restorative interventions and justice processes (c.f. McCold and Watchel 2003; Schiff 2007; Zehr and Mika 1998). The questions of who or what constitute stakeholders, and exactly how victims should and can be involved as "stakeholders," however, are more oblique within restorative justice (Ashworth 2002; Bazemore and Leip 2000; Miers 2001; Van Ness 1993). Empirical research on restorative justice interventions that involve victims as stakeholders is widespread (Bradshaw and Umbreit 1998; Coates and Gehm 1989; Griffiths 1999; Mika et al. 2004; Umbreit 1998; Umbreit, Coates, and Vos 2002), as is literature that looks more directly at the theoretical implications of involving victims as stakeholders (McCold 2000; Schiff 2007; Zehr and Mika 1998). Among practitioners, there is consensus that victims should be able to meet and address their offenders and should be entitled to the benefits of restitution or other remunerations.. There is decidedly less empirical research in restorative justice on how victims become stakeholders, what this entails in terms of the agency and decision-making abilities of victims, the relationship between victims and justice agencies, and the auspices under which victims are able to act as stakeholders. Thus, if victims are indeed stakeholders within restorative approaches to justice, they are not all stakeholders in the same way or to the same extent across differing restorative interventions, programs, jurisdictions, and agencies.

This research explicates the changes made by one juvenile court over a period of five years toward the progressive inclusion of victims as stakeholders within its development and implementation of restorative justice. Beginning in late 1999, the Clark County Juvenile Court (CCJC) in Washington State introduced a Victim Offender Mediation (VOM) program. Over the next five years the court gradually altered diversion and probation practices in ways that provided several significant services to victims, and allowed victims increasing decision-making in aspects of their cases related to redress from offenders, restitution, and to a limited degree terms of diversion or adjudication.

Purpose of the Research

A primary purpose of this research is the empirical investigation of the determinants of stakeholder involvement for victims involved in VOMs and other victim services at the CCJC between 1999 and 2005. During this time the court implemented the use of VOMs, expanded the services provided to victims through the development of a Victim Impact Program (VIP), and sought to expand or enhance the decision-making capacities of victims in VOMs and in other ways. The CCJC provides an opportunity to address questions regarding organizational changes in juvenile justice agencies that seek to include victims as stakeholders within restorative justice approaches. This research follows the initial inclusion of victims as stakeholders within the use of VOMs beginning in late 1999, and explains how and where these stakeholder roles were amended during this time in diversion and probation practices. The ensuing discussion describes rationale of the court's changes and the effects of these changes on how victims were able to participate as stakeholders in both diversion and probation cases.

A second goal of this research is to describe the court's change to victim roles as stakeholders within the larger framework of Washington State's juvenile justice system. Washington is the only state to use a comprehensive set of determinate sentencing guidelines for youth offenders, and these guidelines and accompanying due process restrict the purview and administration of justice practices for juvenile courts in significant ways. As this research will show, these guidelines and due process requirements also have important implications for the use of restorative youth interventions such as VOMs in Washington State, particularly for victims of crime.

METHODS, DATA COLLECTION, AND ANALYSIS

Methods

This research utilized qualitative methodologies, including interviews and participant and non-participant observation, appropriate for the study of organizations as well as the study of experiences, behaviors, and attitudes of organizational members or those served by organizations. The appropriateness of such methods in investigating these types of social settings and questions is well established in sociological literature. Creswell (2003:181) notes that qualitative research is "emergent rather than tightly prefigured," and is appropriate for research in cases where little is known about a particular social phenomenon or the setting itself. Neuman (2000:146) argues that qualitative methods are crucial for research into social settings in that such methods may "emphasize the importance of social context for understanding the social world." Finally, qualitative methods have long been recognized for their importance and contribution to interpretative studies of social behavior and social action. Researchers often seek to understand not only frequency or patterns of social action, but also meanings attached to social action by actors themselves, as well as how others make sense of and interpret such meanings (Weber 1975).

Semi-structured interviews were conducted with the court administrator, four court managers, several probation staff, the Restorative Community Service Coordinator, two mediation and victim staff members, and other participants as needed. These interviews used in the beginning of the research were limited to 12, as the formal interview setting was no longer necessary once the researcher had established relationships with court administrators, managers, and staff. Other semi-structured interviews were however conducted throughout the research in cases where there was not familiarity with participants, for example juvenile court judges.

Interviews conducted with court managers and the court administrator covered a broad range of issues, including the court's reasons for adopting restorative justice, its overall restorative framework, strategies for implementing and integrating restorative justice, changes in court protocols, and other related questions. Interviews with probation staff were focused primarily on how the court's adoption of restorative justice had altered or amended their roles at the court. Interviews with mediation and/or Victim Impact Program (VIP) staff focused on the use of VOMs, and on questions of how the court's victim services were integrated into the court itself.

A larger amount of data came from "informal interviews" and impromptu discussions carried out with those listed above that were focused on specific questions, outcomes of cases, etc. The researcher was present at the court or at peripheral sites on a weekly basis for extended

periods of time, and this allowed for extensive follow up and further discussions related to questions initially posed in earlier interviews, as well as new questions as they arose. Also, informal interviews were used in discussions with community volunteers working as part of the court's Restorative Community Service (RCS) program, with representatives from community organizations, and with individuals not employed by the court but involved in restorative justice in other ways. The number of informal interviews and/or discussions with those listed above numbered well over 100.

Participant observation research involved volunteer work at over a dozen RCS sites. Participant observation was also conducted in the court's Victim Impact Offender Competency Education Program (ICE), used by the court for offenses where there was no identifiable victim, or where probation staff believed that the curriculum's emphasis on "thinking errors," as they related to harms caused to victims and the community, might be useful for offenders. Non-participant research included numerous observations of court meetings (staff meetings, managerial meetings, meetings with other agencies), meetings between offenders and probation staff, VOMs, preparatory meetings with victims and offenders, and community outreach meetings.

Data Collection

All work with participants was approved according to the ethical guidelines set forth by the CCJC and the researcher's university. All participants in settings determined by the IRB and/or the court to pose a risk beyond that of "daily life" were informed either verbally or in writing of the purpose of the research, and the risks posed to human participants. Consent from youth in such settings was also obtained by their parent or legal guardian. All participants were informed that they could choose to not participate, without reason, with no consequence. In the case of court staff, no staff requested to be excluded from this research. However, as part of the court's guidelines for research, court staff was told by the court administrator they could exclude the researcher from meetings that included offenders and/or victims at their discretion. The researcher was excluded from several meetings, for reasons either later explained or not.

In settings involving qualitative methods discussed above data were collected via note-taking, usually contemporaneously. The primary exceptions to this were several off the cuff conversations at the court, and the researcher's participation at community service sites. In both settings, visible note-taking would have been disruptive or impossible, and in such cases notes were taken as soon as possible thereafter. At the request of the court, electronic recording devices were not used for collection of data.

The research presented in this article also includes data provided to the researcher by the court. This includes court documents such as protocols, mission statements, best-practice guidelines, and minutes and notes from court meetings and working groups. The court also provided information on youth diversion and adjudication numbers, victim participation rates in restorative programs, and significant services provided to victims. Data that were provided by the court for purposes of this article were stripped of personally identifying information, in particular victim and offender data.

Data Analysis

Qualitative data from interviews and observations within the first six months of the research were coded using an emergent coding approach. The result of this early "pilot" analysis led to the recognition of several more defined research questions – one of which was how victims were able to more directly participate as "stakeholders" in their own cases as a result of changes in the court's implementation of its "restorative framework."

Descriptive categories were thus refined, and analytical codes were developed to analyze settings such as VOMs where victims were afforded varying degrees of decision-making capacity. The development of more refined research questions also led to the realization that much of the "story" or analysis (which was indeed unfolding over the course of the research) regarding the inclusion of "victims as stakeholders" was to be found in other places. Data from the court, including court meeting minutes, written communications, formal texts (i.e. victim form letters, diversion form agreements, etc.), changes in court protocols and practices, and victim and offender data, shed light on how, why and when victim involvement and decision-making capacity was implemented or amended. These data were eventually also converted into electronic format for coding and analysis.

REVIEW OF LITERATURE

Restorative justice is both a philosophy of justice as well as a loosely-aligned set of interventions focused on addressing and rectifying harms caused to individuals and local communities by crime (Zehr 1990). Emerging in the 1970s and 1980s as a response to shortcomings in adult and youth justice practices, restorative interventions such as victim-offender reconciliation programs (VORPs), victim-offender mediation (VOMs), family group conferences (FGCs), and sentencing circles are organized in ways that allow victims to meet with offenders, allow victims to voice harms caused to them to the offender, and allow offenders the possibility of making amends and redressing harms they have caused (Strang and Sherman 2003; Umbreit 1985, 1995, 1998; Van Ness and Strong 1997). Restorative approaches also frequently stress the

importance of community participation, either directly, as in the case of sentencing circles or conferences where community members may participate (Bazemore and Griffiths 1997; Stuart 1996), or indirectly such as providing support for victims and offenders (McCold 2000; Umbreit 1998) or providing input into the shaping of justice policies (Bazemore 1997).

The term restorative justice is generally attributed to Albert Eglash (1977), who contrasted "retributive" "distributive" and "restorative" forms of restitution and argued that the latter provided more creative and meaningful possibilities for both victim and offenders beyond that of financial restitution (cf. Van Ness and Strong 1997). However, the origins of restorative justice are more diverse (Van Ness and Strong 1997). In the 1970s, meetings were used in Canada and the United States which brought offenders together with victims in informal settings, and evolved into more fully-developed "victim-offender reconciliation" programs" (VORPs) and "victim offender mediation" (VOM) programs in the late 1970s and 1980s (Umbreit 1985; Van Ness and Strong 1997). In 1989, New Zealand implemented the use of FGC for most youth offenders (Umbreit 2000), and in the 1990s Australia saw the implementation of forms of youth justice conferencing in all states (Hayes and Daly 2004). Other restorative interventions such as sentencing circles also emerged in Canada in the 1990s (Stuart 1996).

Within the growth of restorative interventions in the last thirty years, the larger question of *what is restorative justice* is not a straightforward one. Braithwaite (1999:4) noted over a decade ago that restorative justice had emerged "most commonly defined by what it is an alternative to." By the late 1980s, restorative justice advocates had set forth a number of criticisms or deficits of contemporary criminal justice practices that they argued could be better addressed through restorative approaches, namely: 1) the excluding of victims from participation and knowledge of their own cases (Christie 1977; Umbreit 1985; Van Ness 1989; Van Ness *et al.* 1989; Zehr 1985, 1990), 2) the lack of meaningful redress for victims (Christie 1977; Van Ness 1989; Zehr 1989, 1990), 3) the re-victimization of victims by law enforcement and/or prosecutors (Umbreit 1989), 4) the lack of incentive in adversarial justice systems for offenders to take accountability for harms they have caused (Braithwaite 1989; Zehr 1989, 1990), 5) the lack of means for offenders to make amends to victims outside of restitution (Braithwaite 1989; Eglash 1977), 6) poor rates of offender re-integration (Umbreit 1989), and 7) the growth of justice policies that reflected the interests of the state and policy makers over those of local communities (Christie 1977; Van Ness 1989).

Many of these criticisms were not unique to restorative justice. In particular, victims' rights organizations, which had gained visibility and political influence by the late 1970s, had many similar criticisms of

the justice system. Feminist organizations critical of the treatment of women (especially rape victims) by the criminal justice system played a pro-generative role in the rise of the victim rights' movement (Abrahamson 1985), as did Civil Rights organizations critical of the overrepresentation of Blacks and other minorities as victims and the relative lack of interest or enforcement by criminal justice agencies (Karmen 1992). These groups found common ground with more conservative organizations focused on victims' rights in relation to the rise in crimes rates since the early 1960s (Karmen 1992), and the attention, services, and rights afforded to offenders at the expense of victims (Carrington 1975). The 1973 Supreme Court decision *Linda R.S. v. Richard D.* (410 U.S. 614) enhanced the perception of many victims' rights advocates that victims were in fact no more than "just another piece of evidence, a mere exhibit to be discarded after the trial" (Karmen 1992:158). The efficacy of victims' rights organizations resulted in the passing of legislation on federal and state levels, including the federal Victims and Witness Protection Act in 1982 and 2004 Crime Victims Rights Act, as well as victims' rights legislation in some form in all U.S. states.

The victims' rights movement and restorative justice shared common criticisms of many of the problems facing victims. However, they also diverged in notable ways. From the outset, restorative justice advocates were critical of what they termed "punitive" or "retributive" forms of justice (Umbreit 1989; Zehr 1985). For supporters of restorative justice, the problem was (and remains) not simply one of victims being excluded or re-victimized (Achilles and Zehr 2001), but, equally one of barring offenders from any way to make amends for harms they have caused and be accepted back into their communities. As Zehr (1985:2) argued, "During the past several decades, the U.S. has experienced . . . a major shift in the philosophy of punishment. Rehabilitation is now out of fashion; punishment is definitely in. An unholy alliance of liberals and conservatives made possible the victory of a just deserts philosophy." Such a philosophy, argued Zehr, did not eliminate the excesses of judicial discretion as much as it shifted these excesses to other parts of the justice system, with the result of a continued overrepresentation of minority offenders, growing prison populations, and not much to show for it in terms of recidivism rates. Moreover, Zehr (1985:2) argued that such a system was not only ineffective in reducing crime, but was not "holding offenders accountable" in a way that allowed them to "understand the real human consequences of their actions . . . [and] take responsibility for making things right, for righting the wrong."

Nevertheless, given the growth of restorative justice throughout North America, Europe, Australia, New Zealand, and other regions in the last quarter century, the case today is perhaps less a lack of definition than it is one of multiple and even competing definitions. Johnstone and

Van Ness (2007:6) have argued, for example, that there is currently a lack of any "single clear and established meaning" of the concept of restorative justice. In one sense, this lack of any single definition reflects the fact that restorative practices have emerged distinctly in different local and global regions. On another level, the lack of any single clear definition also reflects larger theoretical and philosophical debates regarding, as Sharpe (2004:17) has termed it, the question of how large the "restorative justice tent" should be, reflecting a lack of "consensus on what restorative justice is . . . and how wide a range of activities should be included under the term 'restorative justice'." Within this growing tent, the tendency, as Van Ness (2005:3) has argued, has been for definitions of restorative justice to be either "process-based" or "justice-based," with the former focusing on "the importance of encounters between the stakeholders in the crime and its aftermath," and the latter on "outcomes and/or values of restorative justice."

Who or what are Stakeholders in Restorative Justice?

While much of the debate within restorative justice has been around which type of interventions or processes may be rightly considered restorative, equally important are questions of who counts as a "stakeholder" within restorative practices, and in what capacity? Arguably, the origins of stakeholder theory as they relate to restorative justice stem from an influential article by Nils Christie, published in the *British Journal of Criminology*. In this work, Christie (1977) argued that modern criminal justice systems effectively usurp "ownership" of conflict more rightly owned by victims of crime themselves in lieu of other state interests such as crime control, offender rehabilitation, monetary gain, and the "professionalization" of a class of people whose livelihoods were vested in laboring in or managing criminal justice systems. His argument was in some ways literal insofar as he proposed that under the auspices of modern criminal justice systems, "Not only has [the victim] suffered, lost materially or become hurt, physically or otherwise. And not only does the state take the compensation. But above all [the victim] has lost participation in his own case" (Christie 1977:7). In short, Christie argued that criminal justice systems had divested victims in particular from rightful participation in systems that directly "concern" them directly, financially and otherwise.

Christie's (1977:10) concept of what he termed a "victim-oriented" form of justice organization provided a significant theoretical justification for the inclusion of victims into justice processes such as VOMs and other restorative interventions that allow victims a participatory role in the determination of financial remunerations. Yet his argument of "conflicts as property" was also directed at questions beyond financial aspects of such ownership, allowing as well for "ownership" of less material aspects of victimization such as emotional suffering and victims' exclusion from knowledge from and participation in their own cases. Such nonmaterial aspects of "conflict ownership" were expanded upon by Howard Zehr (1990:29), who acknowledges in his work *Changing Lenses* a recognition of the victim's right to reclaim less calculable losses such as the violation of trust, the trauma that often accompanies victimization, fear of personal safety, and the need to explain to the offender and others the effects of these harms.

The premise of Zehr's (1990) argument was not simply that there are nonmaterial effects of victimization, but more broadly that crime itself can be better addressed and redressed by focusing on the concept of "harm" instead of "crime." Crime is, by its very definition, "owned" by the state both conceptually and legally – i.e. the state both defines "crime" as well stands as the sole legitimate plaintiff. The concept of "harm," on the other hand, denotes a broader understanding of the effects of crime, particularly in the lives of victims. It also opens up a conceptual and even potential legal space for the attribution of "ownership" of the harms caused by crime, as well as other harms not recognized by the state as such.

Both Christie's and Zehr's work were central in the development of the concept of victims as "stakeholders" within restorative justice. As discussed above, even within conflicting definitions of restorative justice there remains a primary recognition that victims must be afforded an opportunity to directly seek amends from offenders for harms caused to them, and conversely that offenders should be afforded an opportunity to make such direct amends whenever possible. Yet to the degree that the term has become part of the restorative justice lexicon, what people mean by the term "stakeholder" is less in agreement than its general use might suggest. Overwhelmingly, the term is used in restorative justice literature with no accompanying definition beyond that of identifying who, or what, stakeholders are in restorative justice. Zehr and Mika (1998) identify victims, offenders, and affected communities as "stakeholders" – a position echoed by many more well-known scholars or advocates of restorative justice (Bazemore 1999; Bazemore and Walgrave 1999;, Strang and Braithwaite 2002). This is arguably the most common understanding of the term as used in restorative justice, but even this relatively straightforward identification of "stakeholders" is not without debate. Crawford and Clear (2001:134) ask, for example, "Is a *stakeholder in restorative justice* someone who either provides, uses, or benefits from a service, or has relevant expert or local knowledge? If so, what does stakeholding entail?" Zehr and Mika's (1998) definition of stakeholder would suggest that stakeholding entails participation based on relationships of harms, but others such as Cornwell (2007) also include "the state" as a stakeholder – even though the state arguably has no vested interest in one case more than another. Beck, Britto, and

Andrews (2007) have expanded the definition of the term stakeholder to include the family of offenders in capital punishment cases.

Without belaboring the point too much, it is not difficult to find widely differing and even contradictory definitions of the term. This imprecision or ambiguity has led several scholars to develop or refine the concept of stakeholder as used within restorative justice. Arguably, the most well-known has been McCold and Wachtel's (2003) work on "stakeholder roles," where the authors build upon the notion of ownership of harms to distinguish between "primary" and "secondary" stakeholders roles. "The primary stakeholders are, principally, the victims and offenders, because they are the most directly affected," argue McCold and Watchel (2003:2), adding that "All primary stakeholders need an opportunity to express their feelings and have a say in how to repair the harm." Conversely, McCold and Watchel (2003:2) argue "The secondary stakeholders include those who live nearby or those who belong to educational, religious, social or business organizations whose area of responsibility or participation includes the place or people affected by the incident . . . their needs are aggregate, not specific, and their most restorative response is to support restorative processes in general." For McCold and Watchel (2003:2-3), "The most restorative response for the secondary stakeholders is to support and facilitate processes in which the primary stakeholders determine for themselves the outcome of the case," meaning in effect that secondary stakeholders do not have an ownership of harms as much as they have an opportunity at "enhancing social cohesion and empowering and improving the citizenry's ability to solve its own problems."

VICTIM-STAKEHOLDER ROLES IN DIVERSION

Diversion was mandated by Washington State law for all first time juvenile misdemeanor offenders.[1] For youth cases referred to the prosecuting attorney's office between 1999 and 2005, about a third of youth each year received diversion, another third received community supervision (i.e. probation), and about a third of the referrals were dropped (i.e. no charges filed or charges dismissed). The final 10% or so consisted of offenders sent to state youth facilities (JRA), youths sentenced to specialized dispositions, and remands to adult criminal court, etc.

Prior to the implementation of restorative justice in late 1999, the CCJC used a diversion program not unlike others in Washington State and in many juvenile courts. Upon receiving a case, the juvenile court manager responsible for intake and diversion made the decision to proceed with a case or to drop the charges. When cases proceeded, juveniles eligible for diversion were required to meet with probation staff, where they were asked to participate in the court's diversion program. If a youth did not agree, the case was returned to the intake manager and charges could then be filed. If the youth agreed, the terms of the diversion were set by a probation staff in a meeting with the offender. These terms included possible conditions such as no further offending, no drug or alcohol use, and so on. They also included possible outcomes such as community service or restitution. The use of diversion at the court during this time was largely focused on the offender, with minimal possibility for victim involvement and participation in any sense. The only exception to this was the use of restitution, but restitution was set by the court, so victim involvement consisted mostly of providing the court with information in hopes of recompense.

2000-2002: Victim-Offender Mediation

Beginning in late 1999, the CCJC instituted a Victim Offender Mediation (VOM) program in conjunction with the City of Vancouver, where a small number of diverted offenders and victims were asked to participate in mediation as an "outcome" of diversion. Mediation was also used for a small number of adjudicated cases as well. At the same time, the CCJC developed an alternative course for youth offenders called Victim Impact Offender Competency Education (ICE), to be used as a substitute for VOM when there was no identifiable victim, when victims were not able not meet with offenders, or as deemed necessary by probation staff. Beginning in 2001, the court also changed its community service program to what it called "restorative community service" (RCS).

In the initial joint program between Clark County and the City of Vancouver, victim-offender mediation was offered as an "outcome" for diverted cases, with the condition that any agreements between offenders and victims could be referred back to the youth's probation counselor and included in the terms of diversion. According to the court administrator, the screening process for mediation was conducted by the probation staff member responsible for overseeing the diversion agreement with the offender. Court records show that the court developed "screening criteria" for probation staff, who then referred appropriate cases to mediation staff. Mediation staff then contacted victims to inquire into their willingness to participate in mediation. Mediation staff would initially meet with both offenders and victims in preparation meetings, which were utilized as a means to answer questions and explain the mediation process, including the court's position regarding conditions of possible agreements between victims and offenders. When and if agreements were reached between victims and offenders in a VOM, the agreement was then returned to the probation staff and entered into the amended diversion contract. According to court data, in 2000, the first full year that the court used VOM, 85 victim-offender mediations were conducted out of a total diversion caseload of 1,140 cases.

The introduction of VOM created stakeholder positions for both victims and offenders that had not existed previously. This involvement was structured to some degree by court protocols and state laws. For example, by 2001 the court had generally limited the number of hours of community service a diverted youth could be asked to perform to 24, and this was carried over into any agreement between victims and offenders as well. Observations of VOMs and preparatory meetings reveal that victims and offenders were made aware of the parameters of possible outcomes of the diversion contract, usually in the preparatory meeting, and when agreements were reached in VOMs these guidelines were further explained by the mediator.

Observation of dozens of VOMs found, however, that mediators generally did not stress the need for an agreement as part of the mediation, nor did they use any pre-set formula for outcomes, outside of the limitations of court practice and state law for offenders. Most observed VOMs lasted from one to two hours, and most of this time was usually spent allowing victims to explain the harms caused to them and to voice concerns, in addition to hearing responses from offenders, answering questions, and discussion. This allowed for flexibility in terms of the needs or concerns of victims and offenders, but VOMs were also structured to a large extent, with victims speaking first, offenders responding, and the mediator facilitating discussion.

Only after these parts of the VOM were finished did the mediator ask victims what they "want to see happen to make things right." In this regard, victims were afforded several possibilities that had not been possible before this program was implemented including direct service from the offender (usually as a type of restitution to repair harms related to the offense), specific community service work (in a particular setting), work in lieu of restitution, and information about the case itself from the offender through the mediation process. Agreements were often reached, but sometimes not, or in some cases victims expressed that there was no need for further action.

Finally, the court's adoption of what it called "restorative community service" (RCS) in 2001 allowed victims one further possibility. It allowed victims to ask offenders to complete their community service work in a specific type of setting, or in some cases for the victim directly. RCS was implemented as a means of replacing "work crews" with service sites where youth could work with community volunteers in non-profit or community organizations. This led to the development of several dozen "partnerships" with a broad array of community organizations (Wood 2012). It also led to an expanded decision-making capacity for victims. Several VOMs observed by the researcher resulted in victims asking youth to fulfill their community service obligations at a particular location related to the offense. In one VOM, for example, the victim owned a house that has been vandalized by two

young people. After explaining that it was his elderly parents who lived in the house, and that they had been shaken by the event, he asked the offender to complete his community service at a retirement home or similar facility.

2003-2005: The Victim Impact Program

In 2003, the CCJC implemented a program designed to assist victims of juvenile crime called the Victim Impact Program (VIP). Prior to this, mediation staff at the court had served primarily as support staff for probation and diversion, where VOM functioned as one outcome of diversion. Thus, VIP effectively created a separate unit within the court. Two full-time staff members were now responsible not only for planning and overseeing mediations, but also for contacting all victims of diverted cases at the CCJC, and for assisting victims and providing them with services and resources.

According to VIP staff, this change was significant for two reasons. It substantially increased the number of victims contacted and assisted by the court. It also changed the status and job responsibilities for the staff who had previously been mediators, but were now VIP staff. Prior to the implementation of VIP, mediation staff did not conduct the screening for appropriate VOM cases, which had been the responsibility of probation staff. Nor at this point did mediation staff have the authority to include victims' concerns or input into diversion agreements without a completed mediation agreement between victims and offenders.

Once VIP was implemented, however, VIP staff was responsible for screening appropriate cases for VOMs. They were also responsible for communicating concerns or requests to be included into the diversion contract from victims who did not participate in VOMs. According to the court manager who oversaw these changes, in cases where victims requested VOMs, the determination of the terms of the diversion contract was now in effect split between the probation staff and the agreement between the victim and offender. Probation staff was still responsible for what the court called "conditions regarding competency" (i.e. treatment, counseling, and intervention/prevention) in the setting of the diversion contract according to the protocols adopted by the CCJC. However, court records (e.g. "Protocols from VIP/CJS Cases") show that at this point, "issues related to offender accountability to the victim and the community (i.e. where the offender will perform community service) [were] left open for determination through the meeting process."

This shift was significant. As mentioned above, it was now VIP staff, not probation staff, responsible for screening cases and making the determination to afford victims an opportunity to meet with offenders. Second, according to court records, the court now required that the agreement between offenders and victims be entered into the diversion contract in lieu of community service or

other "offender accountability" requirements previously decided by probation staff – meaning, in effect, that VOM agreements now took precedence over "issues related to offender accountability to the victim and the community."

In a small number of cases, this created conflicts between VIP and probation staff. However, as expressed by the court administrator, this change was crucial in terms of solidifying and ensuring that victim participation and input, either in mediations or by way of victim contact from VIP staff, were reflected in the final diversion agreements. The protocol for VIP issued to staff by the court noted, "The understood intent is that through direct interaction with the victim the offender will make amends both to the victim and to the community." When this was not possible, victim input by means of contact with VIP staff was to be included when possible in the diversion agreement.

According to interviews and discussions with the court administrator and the court manager in charge of VIP/VOMs, VIP also signified a change in the court's use and philosophy toward mediation itself, which until this point had been a central focus of its overall growing "restorative framework." VIP was implemented in part from the recognition of mediation staff that many victims did not want or request mediation even when it was offered, but did benefit from other services offered by these staff. With the implementation of VIP, the court changed the use of the word "mediation" to "meeting." According to the court administrator and restorative manager, this change reflected both a deliberate de-emphasizing of the centrality of mediation at the court in terms of identified victim needs, as well as the growing recognition that "mediation" was perhaps not an appropriate term for these interventions. Mediation invoked a type of "meeting between equal parties," and not a "victim-driven" intervention between parties that had been harmed and parties that had incurred obligations to make amends.

With additional victims' services offered by the court under its VIP program (discussed below in more detail), victim requests for meetings in fact decreased over time, even though the number of victim contacts increased. With the exception of a small number of victims of sexual assault, stalking or harassment offenses, incarcerated youth, or those who were overtly hostile towards victims or VOM, victims were offered the possibility of VOMs as part of the court's larger VIP program. This was expressed to the researcher by the court's restorative manager, but also observed in many cases of initial victim contact by VIP staff (usually over the phone). Interviews and discussions with VIP staff and the court's restorative manager also revealed that they did not decide to "de-emphasize" VOMs because they were opposed to its use. Indeed, as trained mediators, VIP staff was of the opinion (expressed to the researcher) that VOMs were one of the most useful services offered to victims. Rather, there was

wariness – expressed on numerous occasions – on the part of VIP staff, the restorative manager, and the administrator towards cajoling or pushing victims toward mediation regardless of whatever positive "restorative" outcome such a meeting might yield.

In terms of changes to stakeholder participation, implementing VIP did several things for victims. It allowed for victim input into the diversion agreement itself, importantly now *without* the requirement that victims participate in mediation. According to the restorative manager at the court, this change signified an attempt to further refine the use of VOM only for victims who had a desire to meet with offenders, while making available the option of victim input into specific outcomes regardless of whether or not they chose to meet. Specifically, victims no longer had to agree to mediation to be able to suggest or ask for specific outcomes related to community service and restitution, although the use of "direct service" to victims in lieu of restitution or as part of their community service (in some cases) were things that could still only be done in VOMs.

According to VIP staff, this shift allowed them to focus more time and resources on victims' needs or concerns not related to VOMs or direct victim input into diversion agreements – what the CCJC called "significant victim services." The court defined significant service as, "A victim (direct or secondary) who, if asked, would self-report that VOM staff provided service to them that was meaningful in addressing issues of importance to them." The CCJC listed the following as examples of significant services provided to victims at the CCJC:

- Acknowledgement of their having been the victims of a crime
- Concerns and important issues are acknowledged and validated
- The message is communicated that the community has a responsibility to, and is interested in, supporting victims of crime in meeting their needs
- Victims are given the opportunity to share feelings about impacts of crime
- Information is provided to victims about the justice system
- Information is provided to victims about how the offender is being held accountable
- Information is provided about community resources

The court estimated the increase of overall "significant services" provided to victims in diverted cases between 2000 and 2003 at about 350%. The number of significant services provided to victims of both diverted and adjudicated misdemeanor cases, as well as a smaller number of victims of No Charges Filed (NCF), increased

from 83 in 2000 to 324 in 2003, an increase of about 290%.

VICTIM-STAKEHOLDER ROLES IN PROBATION

In many ways the changes to probation practices paralleled changes made to diversion cases at the CCJC between late 1999 and 2004. In other ways, however, there were significant differences as they impacted the ability of victims to act as stakeholders, in particular as these differences related to due process, which applied to youth who had been formally charged in a manner different from diverted cases. These differences extended as well to Washington State's use of determinate sentencing for youth offenders.

Offenders agreed to participate in diversion to have the charges against them eventually dropped and sealed. They were not pleading guilty to a crime, and their acceptance of the terms of diversion constituted in effect a circumventing of due process, insofar as it was not the criminal charge itself but rather the acceptance of the diversion agreement that allowed the court to require or request that offenders participate in certain restorative interventions or programs. In cases where offenders either pled guilty or were adjudicated however, due process as set forth under federal and state law applied throughout the adjudication process, up until the terms of probation were set by a juvenile court judge. These terms moreover constituted a court order that in many ways was less flexible than a diversion agreement, particularly in Washington State, where determinate sentencing guidelines for youth offenders limited judges' ability to alter or amend dispositions outside the guidelines.

These differences also extended to victims in terms of how and to what extent they were able to be involved in adjudicated cases. Victim input, while allowed at disposition hearings in the form of a victim impact statement, could not inform the terms of probation to the same degree as in diverted cases. This again was a legal difference; where due process applied to offenders throughout the adjudication proceedings and disposition, and where Washington State's use of determinate sentencing guidelines for youth offenders required judges to adhere to these guidelines unless they could show "manifest" reasons for not doing so. For example, the use of VOMs assumed that an offender was willing to "take responsibility" for his or her actions, something that was possible in diversion cases prior to the setting of the diversion agreement, but impossible in cases prior to adjudication where the offender was presumed "innocent" until adjudicated otherwise.

The distinction between diversion and probation was thus fairly pronounced in terms of how the court legally amended diversion and probation processes in implementing restorative justice. Diversion was decidedly less formal, and more flexible, both in terms of the process itself (i.e. meetings between offenders and court staff), as well as in terms of the setting of the diversion contract. Probation was decidedly more formal and less flexible in terms of due process and recommending the terms of probation.[2]

Like diversion, these changes did not happen at once, but rather in a series of progressive organizational and procedural changes between late 1999 and 2005. Prior to late 1999 the prosecuting attorney's office generally filed changes for felony offenses. In the case of most misdemeanors, the filing of charges was ceded to "intake" probation staff. When charges were filed, youth could either elect to be tried as a juvenile or to plead guilty. After a youth pled or was found guilty, the disposition was by and large proscribed by the state's determinate sentencing guidelines for youth offenders in terms of placement either to JRA or to "local sanctions."[3] In cases where the disposition resulted in local sanctions, such sanctions could include community supervision, local detention, community service, or fines. At the court, terms of probation were guided in part by an "intake screening" process, administered by intake probation staff to all adjudicated youth in Washington State.[4] Restitution, when applicable, was also set by the judge.

Where the juvenile court judge set the terms of probation, court probation staff nevertheless had some latitude in terms of how these terms were implemented. This latitude came from the dual role afforded them as both officers of the court, as well as caseworkers for youth offenders. As officers of the court, they could function in a law-enforcement capacity insofar as they had discretion as to whether or not to charge a youth for a probation violation. As caseworkers and advocates, they were able to provide social services and other support to offenders, including at their discretion services beyond those determined in the risk assessment. In both roles, probation staff was able to decide how strictly they would monitor and supervise particular offenders.

Yet while diversion and probation were different for offenders, prior to 1999 they were markedly less so for victims. As with diversion, the primary way that victims were involved in probation was though the use of restitution. In Washington State, victims also had at this point the right to submit a victim impact statement prior to the disposition hearing. However, the influence of such statements was usually minimal, as the disposition itself was largely proscribed by the state's sentencing guidelines for youth offenders. Secondly, such statements did not provide the victim with any more decision-making power over the outcome of any particular case, although in an exceedingly small number of cases (approximately 2 percent of all adjudicated cases) statements may have been used in part to justify a "manifest up" or "manifest down" decision (i.e. a sentence outside of the guidelines) on the part of the judge.

In the case of victims as well, the prosecuting attorney's office was also responsible for victim contact and information for felony cases. This process generally involved contacting victims to determine restitution, to collect further information about the crime, and to provide information about victim's rights in Washington State. For victims of felony crimes, these rights included the right to be informed as to the status and outcome of their case, the right to be present at trial and sentencing, the right to submit a victim impact statement to be presented at the disposition hearing, and the right to notification of release of an offender.

Probation 1999-2003: The Addition of Victim-Offender Mediation

The implementation of VOMs in late 1999 was aimed at both diverted, as well as adjudicated, offenders who had committed less serious misdemeanor offenses.[5] Mediation staff noted that in a small number of cases VOM was used during this time for felonies, but in all cases the referral process for VOM was the same as for diverted offenders (discussed above), with probation staff selecting appropriate cases for referral to mediation staff.

The inclusion of victims as stakeholders in the addition of VOM to adjudicated cases created stakeholder roles for victims in some of the same ways as it had for those in diverted cases. Victims in adjudicated cases were, like those in diverted ones, able to request to meet with offenders. They were also able to enter into VOM agreements with offenders, as well as request specific types of RCS work from offenders. However, victims' roles in probation cases differed from that of the diversion process in at least two important ways. Firstly, agreements between victims and offenders were not entered into the "terms of probation" in the same manner as they were included into diversion agreements. This difference was due to the fact that the terms of probation were set by the juvenile court judge, and could not generally be further amended or changed by court staff.

According to victim staff at the court, this difference limited the decision-making ability of victims in using mediation agreements when compared to victims participating in diverted cases. To the extent that victims were afforded a broader stakeholder role, this was most commonly reflected in their ability to offer offenders the option of direct service in lieu of restitution, or to ask that community service be performed at a specific location. Even in the case of the latter however, discussions with the court's restorative manager and VOM staff revealed that the referral process from probation to VOM staff was often slow, and many offenders had already started or completed their service hours prior to the VOM itself. Thus, while mediation in adjudicated misdemeanor cases ideally allowed for "negotiations" in terms of restitution payments and the type of community service performed, as one VIP

staff remarked in many VOM cases there was "nothing left" to be figured out by the victim as they "[had] little or no stake in participation."

A second difference between victims' roles as stakeholders in diverted and adjudicated cases was in the enforcement of the so-called "joint and several" law in Washington State. This law applied to cases involving two or more offenders, where each offender was held individually accountable for the full amount of victim restitution until the restitution was paid off in its entirety. It applied to both diverted and adjudicated offenders, and was originally implemented to afford victims more recourse in collecting unpaid restitution in cases with multiple offenders.

According to the court administrator, in the use of VOMs this law proved more problematic in adjudicated cases than diverted ones. This was apparently related less to legal differences between diversion and probation and more simply to the fact that a larger number of diverted offenders fulfilled the requirements of their respective agreements. In several VOMs where there had been multiple offenders, some adjudicated offenders had met with victims and completed their agreements, and others had not. This posed problems for offenders who had met with victims and completed restitution as part of a VOM agreement, but were nevertheless still legally responsible for the debts of others who had not met with the victim or had not completed their restitution. More to the point, according to VOM staff, this posed problems for victims as well, in terms of the willingness of offenders to enter into such agreements with victims, and in the victim's ability or capacity to decide what was appropriate for them regarding restitution payment or service from each offender.

In 2002, the joint and several law was amended for VOM cases. According to the court administrator, the court sought permission from state to make these changes only in the case of VOMs, and only where the victim requested it. Thus, the joint and several was dissolved at the request of victims for offenders who had met with victims and who had completed their restitution as part of the VOM agreement. If the agreement was not completed, the joint and several was reinstated. According to VOM staff, this change was notable in terms of affording the victim more decision-making power in terms of agreements with youth offenders, particularly in terms of allowing victims the possibility of offering or negotiating different types of work that could be done in lieu of monetary compensation – something observed in VOMs on several occasions by the researcher. Particularly in cases where the amount of restitution was significant, and where many youth offenders in Clark County were unable to or unlikely to repay such restitution, this change ensured that the completion of work for the victim would "conclude" the offender's required restitution.

Probation 2003-2004: The Victim Impact Program

The addition of the Victim Impact Program had several immediate effects for probation. Primarily, according to court data, it substantially increased the number of victim referrals and subsequent victim contacts by VIP staff. In 2000, for example, mediation staff had contacted 176 victims. In 2003, with the implementation of VIP, these staff contacted 436 victims of both diverted and adjudicated offenders. In 2004, the first full year of VIP, victim contacts increased to 659.

Within these numbers moreover, VIP also represented a change in terms of using VOMs for misdemeanor probation cases. This shift was discussed above in relation to diversion cases, but according to the court administrator, the use of VIP for misdemeanor probation cases signified a larger decision on the part of the court to devote resources to victims regardless of whether or not they requested VOMs. According to court data, in 2000 mediation staff offered some other form of "significant service" to victims other than (or along with) mediation in 83 out of a total of 176 victim referrals. Out of these referrals, 48% went to mediation (85 of 176). By 2003, the number of "other significant services" had grown to 324 out of 580 victim referrals, yet only in 50 cases did victims request to meet with offenders. Indeed the number of VOMs decreased from every year after 2000 as shown below in Table 1.

Table 1: **CCJC VIP Victims Services, 2000-2005**

Year	Victim Referrals	VOMs	Other Significant Services
2000	176	85	83
2001	239	83	104
2002	316	62	117
2003	580	50	324
2004	987	33	456
2005	1149	28	644

Before the automatic referral of victim cases to VIP in early 2003, misdemeanor cases deemed appropriate for VOM had been screened by probation staff and then sent to VOM staff. In effect, this process constituted a choice on the part of probation staff as to whether or not to afford victims the opportunity to meet with offenders. It also constituted in effect the *only* option for victims who wanted to be included in some sense in their own cases. In the implementation of VIP, however, victims of all misdemeanor offenses were now contacted by VIP staff directly.

This change was explained by the court administrator and the restorative manager as a move towards a more "victim-driven" approach. Victims were now to be contacted prior to initial meetings between probation staff and diverted or adjudicated offenders to "better represent" what the victim wanted to see happen, as well as to allow the victims to choose whether or not they wanted to meet with the offender without the intervening "screening" by probation staff. The goal of the court was to remove, as much as possible, the intermediate screening steps between what the court administrator cited as "what police, prosecutors, probation, and even VOM thinks is best for victims," and to begin to provide victim services that met needs as identified by victims themselves, beginning from the initial point of contact by VIP staff.

According to VIP staff and the court's restorative manager, this change represented a shift in the purpose of victim services at the court. Instead of asking victims if they wanted to meet with offenders, the court was now focused on asking victims what they needed from the court and the offender to "make things right." This shift was carried over into the change of personal contact scripts for victims used by VIP staff, where instead of contacting victims as representatives from "mediation services," VIP staff now initiated contact as representatives of the court's "Victim Impact Program." Observations of victim contact reveal that the possibility of meeting with offenders was now usually brought up after the VIP staff had inquired about the harms caused to victims, and how the court and offender could help to make things right for the victim. At this point, at the discretion of the VIP staff, as well as screening criteria from the court, the possibility of meeting with offenders was offered as part of a larger possible set of services and rights afforded by both the court and Washington State law. VOM became, in this sense, one option for victims among several services offered by the VIP program.

The biggest change in victim involvement and participation with the addition of VIP was the point at which victim contact was initiated and victim input was inserted into the probation process. Victim contact was now made prior to adjudication and setting the terms of probation. According to VIP staff, this generally allowed them to contact victims before adjudication, in effect enabling them to inform victims of their rights and options in the case before the case itself was over. This included the right to be present at adjudication and disposition hearings, the right to have knowledge about the outcome of the case, the right to present a victim impact statement, the right to restitution (importantly including how to document and provide proof of losses to the court), and the right to notice of release offenders who may have been sentenced to state youth facilities. It also allowed for victim contact and an opportunity to offer certain services even where charges were later dropped or the offender was found to be not delinquent.

Another effect of VIP was the ability of the court to have victim information and requests available to probation staff prior to their initial meeting with adjudicated youth offenders. In most cases, VIP reports

regarding victim input and possible VOMs were now sent back to probation staff to be included in the initial meeting between the offender and probation counselor, although according to the court's restorative manger this took some time and significant effort to implement. This change was similar to that in diverted cases where victim information was also now collected before setting the diversion agreement. In adjudicated cases, however, this change was perhaps more important where victim input could not be reflected in the terms of probation (set by the judge) to the same degree as in diversion agreements. Thus, according to VIP staff, victim input was more important in probation cases because it could now be addressed in the initial meeting between the probation staff and offender and, ideally, could inform decisions within the probation staff's capacity in meting out the terms of probation.

Observations of probation meetings with offenders found that, in practice, victim input was acknowledged in these meetings in varying ways, and the alignment of victim requests with the terms of probation was not always consistent. This was most prevalent in the case of restorative community service, where some probation staff expressed that they understood RCS as a "community" service and not necessarily as a victim's service – with the result that in several cases made known to the researcher that community service was assigned to offenders prior to victim input and/or VOM agreements. In observations of probation meetings with offenders after 2003, it was also the case that individual victims were discussed in almost every meeting that involved identified victims, where they had not necessarily been discussed before this.

Thus, if the change was not entirely consistent, it was nevertheless noticeable to the researcher insofar as probation staff generally presented victim input in these meetings and, when appropriate, allowed them to incorporate this input and/or VOM agreements into the terms of probation. Formally, this requirement was communicated to probation staff in a change of protocol for offender meetings, specifically in the altering of the language of the "responsibility agreement" used by the court to now include discussion of harms caused to victims. As the court administrator noted this was necessary to provide victims with as much involvement as possible, within the state's use of determinate sentencing and due process, so that victim input and/or VOM agreements could in turn shape restitution, community service, and other victim requests that fell within the purview of the court itself following adjudication.

2004: Integrating Felony Cases into the Victim Impact Program

According to court records, by late 2003 the court was referring almost all victims of diverted and misdemeanor probation cases to VIP. While the changes in referral processes for diversion and misdemeanor probation were in some cases difficult due to new court protocols, and in some cases conflict within court culture, these changes were "in-house" insofar as the court administrator needed only the approval of the county's superior court judges. The addition of referrals to VIP for juvenile felony cases, however, beginning in 2004, was more complex, particularly because the Prosecuting Attorney's (PA) office already had its own victim services unit and was wary of ceding victim services to another agency, particularly in cases involving more serious and high profile crimes.

Adding felony cases to the VIP referral process took several months of negotiations between the court and the PA's office. In an initial meeting observed by the researcher in February 2004, the prosecuting attorney expressed concerns regarding whether or not it would be "appropriate" to contact victims prior to "proving the case." He was especially concerned about giving victims "false expectations." He was also concerned about extending the process of collecting restitution to the juvenile court, as restitution in felony cases was often substantial. "Victims need money," he noted, "it's usually their biggest concern."

The juvenile court administrator stated in this meeting that it was the court's position that they were now focused on contacting victims, regardless of the outcome of cases. He also noted that "early contact" also helped to "focus on the offender later on," in terms of better understanding the effects of his or her actions and how to best approach making things right for victims. As an afterthought, the prosecuting attorney asked the restorative manager how long victim contact and support continues in VIP. The restorative manager answered, "As long as they need it." This answer seemed to be particularly important to the prosecuting attorney and his staff. The meeting concluded with a general agreement to pursue the possibility of referring victim cases to VIP.

An agreement was reached in mid-2004 that allowed the prosecuting attorney's office to dissolve its victim services program and refer victims of felony cases to VIP. Part of the reason that the prosecuting attorney's office made this shift was related to restitution. According to the court administrator, the CCJC had apparently made an effective case that the VIP program could increase the accuracy and timeliness of restitution assessments. Part of the reason was related to the fact that the referral of victims of felony youth crimes to VIP would free up financial and staff resources at the PA's office. According to one VIP staff member, the involvement of VIP in "some cases [that] presented problems for the PA's office" had helped this decision as well. This staff member noted that in one case, one offender had received diversion, and a second offender was prosecuted by the PA, and in this case "the PA's office saw value in doing victim work with both cases jointly."

The addition of victim referrals from the prosecuting attorney's office to VIP was also seen as particularly important for both VIP staff and the court's restorative manager in terms of the seriousness of many of the offenses. The restorative manager noted in one meeting that, "the addition of the PAs office will allow for earlier victim contact," arguing that such contact was important for the continuation and success of restorative justice at the court because "the quality of contact will be stronger and include feelings of inclusion for the victim," and because earlier contact for victims of felony crimes would also "allow for a less defensive posture from VIP staff," who would not have to explain why the court had taken so long to contact victims.

The addition of felony cases did not significantly alter victim stakeholder roles further. It did, however, substantially increase the number of victim referrals to the CCJC. In 2005 for example, the first full year that VIP received victim referrals from the prosecuting attorney's office, victim referrals for felony, misdemeanor and diverted cases reached 1149 (see Table 1). By the end of 2004, the CCJC estimated that more than 50% of all cases referred to the CCJC went through VIP for victim contact and services.

DISCUSSION OF FINDINGS

The implementation of restorative justice and subsequent changes to victim stakeholder positions in diversion and probation practices at the CCJC involved quite a bit of "groping along," to borrow from Lemley and Russell's (2002) description of an adult restorative justice program in Spokane, Washington. On the one hand, the ability of the court to implement and effect changes as they related specifically to the inclusion of victims as stakeholders came from various aspects of Washington State law that allowed for, but also limited, victim participation and restitution in juvenile justice services. On the other hand, these laws regarding victims' rights to restitution and participation in mediation programs were ambiguous as to how restitution could be remunerated, whether or not mediation could be concluded with an "agreement" between the victim and offender, or how victims could be involved in the justice process outside those victims' rights specifically identified in state law.

Thus, while the CCJC did have some latitude in terms of its ability to implement VOMs and other "restorative justice" approaches, between 1999 and 2005 it was regularly adapting these in response to both organizational needs and identified victims' needs. There was no clear initial formula for how to best include victims as stakeholders within the limits set forth by due process and Washington State law, and in choosing to implement a fairly "traditional" VOM program in 1999, the CCJC was almost immediately presented with two sets of interrelated

problems that were worked out over the course of five years, largely through trial and error.

Primarily, the court recognized that the use of VOM merely as an outcome of diversion or probation left victims with little actual input into their cases, outside of being able to meet with offenders and express harms they had caused. Research on restorative justice has recognized the importance of such meetings to victims in terms of being able to express harms caused by offenders and engage in questions or dialogue (Coates and Gehm 1989; Strang 2002; Strang and Sherman 2003; Umbreit and Coates 1992; Umbreit 1995, 1998). The restorative manager had significant experience with VOMs, so both he and the court's mediation staff viewed VOMs as significant in this regard. However, from the outset it also seems clear that there was recognition by the court administrator, restorative manager, and mediation staff that no "alternative" justice processes in Washington State could be conducted outside of the state's use of determinate sentencing and due process. In this regard, the goal thus became one focused not only on affording victims an opportunity to meet with offenders, but on how to provide victims more decision-making capacity.

The second problem, which is related to the first, was recognition on the part of the court administrator, restorative manager, and mediation staff that victim needs were not necessarily best being met by probation staff specifically, and the court more generally. As discussed above, probation staff was initially responsible for screening appropriate cases for mediation. At the same time, probation staff was usually in a position of having to advocate for offenders in the same cases –in effect leaving probation staff in a position of having to make decisions regarding different needs or rights for victims and offenders. The decision to have mediation staff screen appropriate cases for mediation, and to provide this and other services to victims, was a result of this recognition.

In turn, this led to the growing perception that the court was not meeting victims' needs by relying on VOMs as the only option for victim involvement in diversion and probation cases. As mediation staff began to be the primary point of contact for victims, and as victims were contacted more quickly by the court, over time it became clear to these staff that: 1) a larger number of victims did not want to meet with offenders, while for a smaller number this was important, 2) victims identified many other problems or needs that were not being met, particularly about their rights as victims, restitution, and information about the process and outcomes of their cases, 3) the CCJC could provide these significant services to a larger number of victims by shifting towards a "victim-driven" approach that involved early contact for all victims of juvenile crime, and 4) by utilizing this early contact, victims were able to have input into the outcome of cases *prior to* the setting of diversion agreements and input into

some elements of how the probation agreement was structured by the court.

Between the Ideal and the Possible

More generally, the CCJC represents an important case study of the attempt to integrate the use of restorative justice into formal juvenile justice practices at a municipal or local level. In this regard, questions of what restorative justice, and in particular victim involvement in such practices, should ideally look like from the point of view of the court administrator, court managers, and victim staff at the CCJC were tempered and limited by larger considerations – namely due process (which extends to all youth offenders) as well as aspects of Washington State's use of determinate sentencing guidelines for youth offenders, which involve legislative attempts to standardize youth dispositions. To the degree that determinate sentencing for youth offenders, adopted initially in 1977 and amended in 1994, had shifted decision-making power away from juvenile court judges and probation officers in Washington State (a move clearly intended by the state legislature in the initial passing of the 1977 Juvenile Justice Act),[6] it also had the effect of limiting the degree to which victims were able participate as stakeholders in the ways discussed above.

In this respect, implementing restorative justice generally, and broadening victim involvement in individual cases more specifically at the CCJC, can arguably be conceptualized as a type of "pushing back" on the part of the court against certain aspects of the standardization of youth justice practices at both a state and federal level. The concept of pushing back here is not meant to suggest that the court administrator and other court staff were seeking to undermine or circumvent the use of determinate sentencing or due process per se. Rather, the term "pushing back" is used here in part to indicate the degree to which the CCJC, and specifically the court administrator, were able to interpret ambiguities present in Washington State law regarding the use of restorative justice practices as they pertained to the question of victim involvement in individual cases. For example, in 1999, the Washington State code allowed for restitution and mediation, but in 2004 it was revised to allow for, "Provid[ing] opportunities for victim participation in juvenile justice processes, including court hearings on juvenile offender matters" (Wash. Rev. Code RCW 13.40.010). This change in 2004 afforded the court administrator some latitude in interpreting these allowances for restitution and victim involvement in juvenile justice processes, especially where the court could justify contacting victims for reasons other than mediation, and include victim input into diversion contracts or initial probation meetings after adjudication.

To the degree that the court was able to make changes related to the level of involvement of victims as stakeholders, it thus did so at the local level of the auspices of the county juvenile court itself. The level to which victims were increasingly afforded stakeholder roles paralleled in large part the level to which the CCJC could claim authority over "local sanctions" within the state's youth sentencing guidelines, to the degree that such sanctions overlapped with state law on victims' rights and restitution. Thus, by thinking of restorative justice at the CCJC as a type of "pushing back," what this meant in essence was that the court was attempting to bring as broad as possible interpretation of the state's laws regarding victim involvement and restitution into the local purview of the court. For example, the changes to diversion practices discussed above began precisely at the point where the court administrator had authority to do so, with the signing of the diversion contract and the subsequent "waiver of rights" signed by diverted youth. With the exception of Community Accountability Boards, which for the most part remained unchanged between 2000 and 2004, and state-required interventions Functional Family Therapy Aggression Replacement Training, the changes in outcomes represent almost the entire scope of the court administrator and managers' ability to alter justice practices as they pertained to victims' roles in diversion cases in the court.

At the same time, it is within changes to localized probation practices at the CCJC that the limits of the court's ability to involve victims as stakeholders were most apparent. Juvenile justice practices set at the state level, including standardized dispositions, state mandated programs such as ART and FFT, and due process as it applies to all youth offenders, remained relatively unchanged. On the other hand, localized practices were changed, in some cases substantially, in new programs that widened the overall number of victim-stakeholder positions in these practices (i.e. VIP and VOM), as well as modified practices that altered the way in which existing victim stakeholders were involved.

In this respect, it is difficult to imagine that victims' roles as stakeholders in the manner described throughout this article can be amended much further within the limitations of the state's standardization of youth dispositions and within the strictures of due process. Allowing victims, for example, to use VOM agreements as a way to participate in the determination of an adjudication would violate Washington State's Juvenile Justice Act, as well as invoke a host of due process problems – not the least of which would be concern over the possible use of self-incrimination in the case that VOM agreements were not upheld or charges were filed against youth for other reasons.

To the degree that municipal justice agencies, such as juvenile courts, increasingly seek to involve and utilize restorative justice practices to benefit and involve victims, they are likely to encounter similar problems. While Washington is the only state that has a comprehensive

determinate sentencing scheme for youth offenders, it is not the only state to use such practices for juvenile delinquents. States such as Texas, Utah, and Wyoming use determinate sentencing guidelines for certain categories of youth offenders (Office of Juvenile Justice and Delinquency Prevention 1998; Texas Juvenile Probation Commission 2006), and all states must adhere to both federal due process laws as well as to their respective state laws on due process. In the case of adult criminal justice systems, there are at least 40 states that use some form of determinate and/or mandatory sentencing, and the application of due process for adult offenders is more rigid and comprehensive than for youth offenders. Although formal (i.e. part of a formal criminal justice agency) restorative justice interventions or programs that seek to include victims as stakeholders are frequently referred to as embracing a "victim-driven" approach to justice, in the case of the CCJC, victims were not quite "drivers" as much as they were navigators, able to determine specific trajectories for certain outcomes, but only within a largely predetermined course.

On the other hand, even within Washington State, which has the most standardized juvenile justice system of all states, victims' roles as stakeholders at the CCJC, were amended and enhanced. Victims were afforded a larger stakeholder role in both diverted and adjudicated cases in several ways. They were able to request VOMs, which as earlier research at the court suggests were markedly important and useful for most victims (Wood 2007). Victims who participated in VOMs were able to request outcomes such as direct service in lieu of restitution as part of VOM agreements. They were also able to request other offender outcomes pertinent to their victimization – participation in anger management classes, letters of apology, and so on. Beginning in 2003, victims were able to determine the conditions of restitution in VOM agreements as they pertained to the state's joint and several law.

Victim participation in VOMs was not the only way that victim-stakeholder roles were changed. After the implementation of VIP in 2003, victims were able to request conditions of restitution and community service as part of diversion agreements. In adjudicated cases, victims were able to have their input into the conditions of probation (as they related to "conditions of offender accountability") included in initial probation meetings following adjudication. In many probation meetings observed by the researcher, this input was included in conditions of community service, restitution, and in a smaller number of cases into more "creative" requests, such as stressing the importance of completing school or even offering employment as part of the offender's restitution requirements.

That victim-stakeholder roles were amended and enhanced at a local level (i.e. the juvenile court) in Washington State suggests there is room for juvenile courts to maneuver in pursuit of further victim involvement in their own cases. One primary limitation of this study is the inability to generalize about other state juvenile justice systems, and their amenability to restorative justice practices and victim involvement as stakeholders. Nevertheless, Washington State is arguably the most standardized juvenile justice system in the country, and the use of restorative justice at the CCJC within the limited influence of local juvenile courts was notable in terms of the degree of involvement afforded many victims, and the growth of the number of victims the court was able to contact and provide opportunities for involvement. In this regard, the CCJC's use of the VIP program in particular represents a concrete example of the larger problem facing restorative justice programs in terms of looking beyond mediation towards the integration of victims' services and victim involvement in the criminal justice system.

Notes

1. Washington State code RCW 13.04.170 notes, "Where a case is legally sufficient the prosecutor shall divert the case if the alleged offense is a misdemeanor or gross misdemeanor or violation and the alleged offense is the offender's first offense or violation."

2. In its common usage, the "juvenile court" is comprised of the actual courthouse, detention facility, and probation and units. Legally, however, the "juvenile court" in Washington State means only the application of juvenile jurisprudence to criminal proceedings. In Washington, the juvenile court judges and commissioners are overseen by the corresponding superior court, and decisions made on charging youth offenders, adjudication, and dispositions are made by the juvenile court judge. In certain cases, probation staff may submit recommendations, but the judge is not bound to these recommendations. Everything that happens after the disposition hearing becomes the responsibility of the different probation units, including decisions to "violate" offenders who have broken the terms of their probation.

3. For these guidelines as they are used in Washington State, see Washington State code RCW 13.40.0357. They are available online at
http://apps.leg.wa.gov/rcw/default.aspx?cite=13.40.0357.
In certain cases, judges could adjudicate outside these guidelines in a "manifest up" or "manifest down" decision, where an argument was made that the determinate disposition was not appropriate. These cases were rare however, and between 2000 and 2004 constituted between two to three percent of all cases at the CCJC.

4. This screening process was actually two-step process that included a "pre-screen" comprised of a shorter number of questions, and a longer series of questions administered by the probation caseworker in a lengthier interview for offenders who scored "moderate" or "high risk" on the pre-screen. This screening process was used to determine eligibility and referrals to social services and state-level intervention programs.

5. These cases included at the time Malicious Mischief I, Malicious Mischief II, Malicious Mischief III, Forgery, Assault IV, Cruelty to Animals, Theft I, Theft II, Theft III, Harassment, False Reporting, Arson 1, Residential Burglary, Burglary II, Possession of Stolen Property, Display of Weapon, Taking Motor Vehicle, Trespass I, Trespass II, Reckless Endangerment II, Vehicle Prowl, and Minor in Possession.

6. As Representative Mary Becker, chair of the House subcommittee responsible for drafting the 1977 Juvenile Justice Act noted, the legislation:

> "Is meant to limit the courts to their judicial function, to require them to deal more consistently with youngsters who commit offenses, and to identify social resources outside the court for handling non-criminal behavior. In terms of the philosophical polarities that have characterized the juvenile court debate for a century, the bill moves away from the *parens patriae* doctrine of benevolent coercion, and closer to a more classic emphasis on justice [WBA Report 1978:6]" (Schneider and Schram 1986:215).

The original source for this quote (WBA 1978) could not be located.

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Experiencing Prejudice and Violence among Latinos: A General Strain Theory Approach

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Abstract: *General Strain Theory (GST) predicts that being a victim of ethnically-based discrimination will raise the risk of violent offending. Data from a national sample of 631 Latino students are analyzed to test the hypothesis. OLS regression analysis reveals that perceiving that students at school are prejudiced is positively associated with an index of violent behavior. In addition, the criminogenic effect of prejudice is reduced as conventional social support increases. Partial support is found for a number of other hypotheses derived from the theory. Overall, GST is somewhat successful at explaining interpersonal violence among Latino youths, and in making sense of the effect of school prejudice.*

INTRODUCTION

While progress has been made over the past few years, criminological research devotes insufficient attention to the study of the Hispanic community (Schuck, Lersch and Verrill 2004). Latinos are a rapidly growing segment of the United States. Having been the largest minority group for more than a decade, their numbers are currently more than 52 million (U.S. Census 2012). Like other minority groups, Hispanics have lower than average levels of education and income and are victims of prejudice and discrimination (Montoya 2009). Along with other high-immigration groups, they face additional challenges, including large numbers of immigrants, rapid growth, social dislocation, language barriers, and issues concerning acculturation (Iceland 2009).

Interpersonal violence among Latinos is one of the understudied areas within criminology. General Strain Theory (Agnew 1992) seems to be a particularly relevant theoretical perspective to explain the link between minority status and violent offending since it views social difficulties as being central to the production of violence. The present study employs a national sample of Latino youths to identify links between various types of strain, particularly perceived prejudice at school and violent

behavior, within a General Strain Theory (GST) theoretical framework.

HISPANICS, DISCRIMINATION, AND STRAIN

While members of the Hispanic community are a diverse population, originating from many different Spanish-speaking countries, they share some basic cultural values that make them identifiable as part of a coherent group (Marin and Marin 1991). For example, the literature identifies familism, in-group identification, and collective over individual achievement as important dimensions of the Latino cultural value system (Lindahl and Malik 1999; Moore and Pachon 1985; Robbins and Szapocznik 2000; Sommers, Fagan and Baskin 1992; Valenzuela and Dornbusch 1996; Williams 1990).

Research points to the psychological costs felt by Hispanics who experience prejudice and discrimination. Perceived discrimination and racism have been linked to higher rates of psychological distress (Brondolo et al. 2008; Diaz et al. 2001; Fisher, Wallace and Fenton 2000; Taylor and Turner 2002); depression (Coker et al. 2009; Finch, Kolody and Vega 2000); suicidal ideation (Diaz et al. 2001); poor mental health outcomes (Cook et al. 2009; Holt et al. 2006); and attention deficit hyperactivity

disorder, oppositional defiant disorder, and conduct disorder (Coker et al. 2009).

An additional source of strain for Hispanics and their family members is the higher rate of supervision by the criminal justice system. Hispanic males are 2.5 times more likely than white males, and Hispanic females are 1.5 times more likely than their white counterparts to be serving a sentence in prison (Sabol, West and Cooper 2009). Latino males face an estimated lifetime risk of imprisonment that is almost four times higher than white males (Bonczar and Beck 1997).

Research has documented disparities at several points in criminal justice processing. Hagan, Shedd and Payne (2005) found that Latino youth have higher rates of police contacts than Anglos. In large urban counties, Hispanics are over-represented among felony arrestees (Bureau of Justice Statistics 2008). Most analyses of the intake decisions among juveniles demonstrate a bias against minority offenders (Bishop and Frazier 1988, 1996; Bortner, Sunnerland and Winn 1985; Dannefer and Schutt 1982; DeJong and Jackson 1998; Smith and Paternoster 1990). Minority offenders are more likely than white offenders to be formally referred (DeJong and Jackson 1998; Pope and Ferverherm 1990a, 1990b). Prosecutors are more likely to apply mandatory minimums to Hispanic males (Ulmer, Kerlychek and Kramer 2007).

A body of research demonstrates consistent bias against minority juveniles at sentencing (Bishop and Frazier 1988, 1996; Bortner, Sunnerland and Winn 1985; Dannefer and Schutt 1982; DeJong and Jackson 1998; Fagan, Slaughter and Hartstone 1987; Frazier and Bishop 1985; Marshall and Thomas 1983; McCarthy and Smith 1986; Schissel 1993; Tittle and Curran 1988). Crow and Kunselman (2009) found that Hispanic female drug offenders are disadvantaged at both the incarceration and sentence-length decision points. Brennan and Spohn (2008) found that convicted Hispanic felony drug offenders received harsher punishments than both blacks and whites. According to Lee (2007) defendants in Hispanic victim cases were less likely to face a death-eligible charge than defendants in white victim cases.

While research has revealed bias against Latino defendants, it does not appear to fully explain the disproportionate numbers of Hispanics under the supervision of the criminal justice system. Various sources, including self-report and victimization data, suggest higher levels of criminal violence and gang membership than among Anglos (Felson, Deane and Armstrong 2008; Hawkins et al. 2000; Haynie and Payne 2006; Lafree 1995; Lopez et al. 2004; McNulty and Bellair 2003; Snyder 1999). Self-report studies have reported higher rates of physical fighting (Eaton et al. 2006), bullying (Nansel et al. 2001), and joining gangs (Lopez et al. 2004).

While Latinos are confronted with a wide range of difficulties, recent scholarship has revealed that there is no simple disadvantage-violence connection. Latinos do better on various social indicators, including violence, than would be predicted by their average level of disadvantage, a phenomenon that has been termed the "Latino Paradox" (Martinez 2002; Morenoff 2005). Sampson, Morenoff and Raudenbush (2005) report no Hispanic-white difference in violence among similarly situated individuals, and Morenoff (2005) found that white and Latino rates of crime and delinquency are converging. The relatively low rate of violence among Mexican Americans has been explained by a combination of having married parents, living in a neighborhood with a high concentration of immigrants, and having an immigrant status (Nielsen et al. 2005; Sampson et al. 2005). High numbers of immigrants appear to offer social protections to immigrants themselves and to those living in their midst (Feldmeyer 2009).

GENERAL STRAIN THEORY AND VIOLENCE

General Strain Theory (Agnew 1992) seems particularly well suited to explain a link between ethnically-based mistreatment and violent behavior among minority youths. According to the theory, certain life circumstances generate intense stress which, in turn, raises the odds that it will be managed with illegal coping strategies. According to the perspective, there are three broad types of strain: 1) the failure to achieve positive goals, 2) the withdrawal of positively valued stimuli, and 3) the presentation of negatively valued stimuli.

Strains, according to Agnew (1992), generate anger, frustration, depression, anxiety and other negative emotional states. An individual adopts coping strategies in order to manage the unpleasant emotions caused by strain. Coping strategies enable one to minimize or eliminate the experience of strain. Violent behavior is one of several ways to respond to distressful circumstances. The response is conditioned by a number of variables, including the attribution of blame to others, the availability of legal coping resources, the degree of conventional social support and the influence of peers (Agnew 2006a).

According to the theory, the strains most likely to lead to violence are those that are seen as undeserved (Agnew 2001). People who attribute the strain they experience to others are likely to experience frustration, anger and a desire for revenge (Jang and Johnson 2003). Discrimination, for example, is a type of strain that leads to other-directed blame (Kaufman et al. 2008). Further, if strains like ethnic prejudice are diffuse, and specific offenders cannot be clearly identified, one lacks a particular target for retaliation and might develop angry attitudes in general, and may experience despair, hopelessness, and depression (Kaufman et al. 2008; Piquero 2005; Piquero and Sealock 2004).

According to research, Latino youths who experience prejudice tend to react differently than other minority groups. Rasmussen et al. (2004) found that Hispanic adolescents were less likely than African American youth to use positive appraisal, problem solving, and sources of social support as a means of coping with a potentially violent situation. According to a study by Rosario et al. (2003), youth who employ more confrontational coping strategies are more likely to be involved in violent behavior than those who rely on strategies that involve guardians or other sources of social support.

HYPOTHESES

A number of hypotheses to be tested in the present study can be derived from General Strain Theory. First, the perception of prejudice should raise the risk of violent behavior. Mistreatment might be directed at the target, at others known to the target, or prejudice might be a hostile environment. A person who reacts to perceived prejudice might target a specific person who is acting in a bigoted manner, or he or she might attack a convenient target if the perceived prejudice is diffuse and not specific to any particular person (Jang and Johnson 2003; Kaufman et al. 2008; Piquero 2005; Piquero and Sealock 2004). Since school is a common arena for inter-ethnic interaction among adolescents, perceived prejudice at school should be an important source of strain. Vega et al. (1995) found that Latino adolescents who experience prejudice and discrimination in school were more likely to be involved in delinquent activities.

Academic strains are predicted to be associated with greater violence. The anxiety, frustration and anger generated by learning or behavior problems might lead youths to strike out at others, especially at those who ridicule their difficulties (Agnew 2006b). Poor grades, poor relations with teachers (including unfair punishment and demeaning treatment), and an unstimulating learning environment are all experienced as aversive. Numerous studies have found that negative academic experiences are related to delinquency (Agnew 2005; Colvin 2000; Morash and Moon 2007; Sampson and Laub 1993).

According to GST (Agnew 2006b) family problems are a crucial source of strain for adolescents. Parental rejection, erratic and/or punitive parenting, child abuse and neglect, family conflict, and parental separation and divorce have been found to be important predictors of delinquency (Agnew 2001; Colvin 2000; Piquero and Sealock 2004; Sampson and Laub 1993). Family strains have been found to be particularly relevant in explaining the delinquent behavior of Latino youths (McNulty and Bellair 2003; Rodriguez and Weisburd 1991; Smith and Krohn 1995).

Levels of distress are also predicted to be higher in communities that are viewed as unsafe. Witnessing violence in such neighborhoods is common, as is violent victimization (Gorman-Smith, Henry and Tolan 2004). Other strains—economic, familial, and educational—are also associated with high crime neighborhoods (Agnew 2006b). Studies of Latino adolescents have shown that exposure to more community violence raises the risk of acting violently (Gorman-Smith, Henry and Tolan 2004; Peacock, McClure and Agars 2003).

Research has shown that more acculturated Latinos are at risk for delinquent behavior (Brook et al. 1998; Samaniego and Gonzales 1999; Vega et al 1995; Wall, Power and Arbona 1993). According to GST, the process of assimilation poses stressful challenges that might raise the risk of counterproductive coping strategies (Agnew 2006b; Perez, Jennings, and Gover 2008). Assimilation often involves the disruption of social networks, parent-child conflict, and language challenges. As a consequence, youths may lose important social resources which would help them successfully manage strain. Communities with large numbers of immigrants do not experience higher levels of violence and may provide social resources which reduce some forms of violent crime (Feldmeyer 2009).

General Strain Theory predicts that strains are likely to be managed criminally if a teenager lacks conventional social support that facilitates more constructive forms of coping (Agnew 2005). Family members, friends, teachers, coaches, religious figures, and others can give advice, emotional support, and other forms of assistance. A strategy for conflict management is an important example of the type of advice that can reduce the odds of violence (Rosario et al. 2003). Research has identified a link between low conventional social support and crime (Cullen 1994; Wright and Cullen 2001).

According to GST, strains are more likely to be converted into illegal behavior if a youth associates with peers who encourage and model deviant coping strategies (Agnew 2006b). Deviant peers communicate beliefs that favor and justify crime. Criminals are more likely to rate objective strains as high in magnitude, and are quicker to make hostile attributions (Bernard 1990). Youths exposed to such individuals are expected to develop a disposition for criminal behavior (Agnew 2006b). The link between delinquent peers and one's own delinquency is well-established (Warr 2002), and studies of Latino youths have reported that more time with delinquent friends raises rates of delinquency (McCluskey and Tovar 2003; Pabon 1998).

General Strain Theory also predicts that the relationship between strains and delinquent behavior will be conditioned by the levels of other variables (Agnew 2006b). In the present study, the degree to which perceived prejudice and academic, family, and neighborhood strains raise the risk of interpersonal violence depend on both the level of conventional social support and the involvement with deviant peers. High levels of social support should reduce the tendency of strains to be managed illegally, while extensive

involvement with delinquent friends should exacerbate the link between strains and violence.

In addition to hypotheses derived from GST and assimilation research, empirical studies point to other predictors of violence. Delinquency appears to increase in the earlier teens, but then declines after mid-adolescence, at least for minor offenders (Farrington 1986; Moffitt 1993). Gender is another important demographic. The higher rate of criminal violence among males is well documented (Moffitt et al. 2002). A number of studies have found that movement away from low-income neighborhoods can reduce the risk of subsequent offending among teenagers (Katz, Kling and Liebman 2001; Ludwig, Duncan and Hirschfeld 2001).

DATA AND METHODS

Data relevant to the hypotheses described above were taken from The National Longitudinal Study of Adolescent Health (Add Health). This is a study of a nationally representative sample of American adolescents in grades 7 through 12 conducted during the 1994-95 school year (Harris and Udry 2009). The cohort has been followed into young adulthood, but the present study is based on the first wave of data. In the first stage of Wave I, a stratified, random sample of U.S. high schools was selected. A school was eligible if it included an 11th grade and had a minimum of 30 students. A feeder school which sends graduates to the high school and that included a 7th grade was also selected. In the second stage, an in-home sample of 27,000 teens was drawn consisting of a core and over-samples from each community. For purposes of the present analysis, the sample was limited to those students who described themselves as Latino or Hispanic (N = 631).

Regarding violence, students were asked about the frequency of their involvement in the following behaviors: a physical fight, a group fight, carrying a weapon to school, seriously injuring someone, using or threatening to use a weapon to get something from someone, pulling a knife or gun on someone, and shooting or stabbing someone. Scores were standardized and summed to create a violent behavior index (alpha coefficient = .84).

As a measure of perceived prejudice at school, students were asked the extent to which they agree that students at school are prejudiced. Answers to four questions—the frequency of trouble: 1) getting along with teachers, 2) paying attention in school, 3) getting homework finished, 4) and getting along with other students—were standardized and summed to create an index of academic strain (alpha coefficient = .73). Family strain was measured as the sum of three standardized items: the desire to leave home, maternal coldness, and dissatisfaction with the relationship with one's mother (alpha coefficient = .67). (Father-related variables were not included because of too many missing values). For neighborhood strain, a measure was constructed from the standardized scores of three items: feeling unsafe, dissatisfaction with neighborhood, and a desire to move out of the neighborhood (alpha coefficient = .65).

Three questions were selected to measure various dimensions of assimilation to the dominant culture. 1) Whether or not the respondent was born in the United States measures one's immigration status. 2) The extent to which a child is exposed to mainstream culture in the household is operationalized as whether or not one's mother was born in the United States. 3) Whether or not Spanish (or some other language other than English) is usually spoken at home taps family exposure to mainstream language. While the original plan was to assess the independent impact of each of these three dimensions of assimilation, preliminary analysis revealed that the three items are highly collinear, so an index of assimilation was constructed by summing scores ("yes" responses equal 1 and "no" responses equal 0; alpha coefficient = .78).

Conventional social support is the sum of standardized responses to four questions about the extent to which students feel that adults, teachers, parents and friends care about them (alpha coefficient = .65). Involvement with deviant peers is measured as the sum of three questions concerning the number of best friends who: 1) smoke, 2) drink alcohol, and 3) use marijuana (alpha coefficient = .75). For the control variables, students were asked their current age and their gender (males were scored as 1 and females as 0). Mother's education ranges from no school (scored as 0) to graduate school (scored as 9). Students were also asked if they had moved residence in the past five years.

As described above, General Strain Theory predicts that the effect of strain on illegal behavior will depend on levels of conventional social support, as well as involvement with deviant peers. This implies interaction effects between the various strains, on the one hand, and the two conditioning measures on the other. Four types of strain multiplied by two conditioning variables yields eight predicted interaction effects.

Interaction variables are constructed by multiplying the values of the two component variables together, but a problem with such a strategy is that the interaction variables are frequently collinear with the original measures (Jaccard, Turrisi and Wan 1990). To avoid this problem, the original variables were first centered by subtracting the mean from original values. Following this, the transformed variables were multiplied to create the interactions.

RESULTS

Table 1 lists the minimums, maximums, means and standard deviations for the dependent and independent measures in the sample of 631 Latino youths. The standard deviation for the violent behavior index (SD=5.21)

Table 1. Independent, Dependent and Control Variables, Descriptive Statistics, N = 631 Latino youths.

Measures	Min.	Max.	Mean	SD
Dependent Variable				
Violent behavior index	-3.31	38.67	-0.16	5.21
Strains				
Prejudice at school	1	5	3.00	1.19
Academic strain	-3.97	11.51	0.01	2.95
Family strain	-2.53	9.40	-0.06	2.30
Neighborhood strain	-2.85	6.89	-0.04	2.21
Assimilation index	0	3	1.82	1.19
Moderators				
Social support	-15.57	7.07	0.19	2.61
Deviant friends	-2.33	6.17	-0.10	2.40
Controls				
Age	12	21	16.04	1.73
Male	0	1	0.46	0.50
Mother's education	0	9	4.13	2.52
Moved	0	1	0.55	0.50

indicates a great deal of variation in criminal involvement. The mean response on the question about agreeing that students at school are prejudiced is 3.0, indicating that the average student neither agrees nor disagrees. A closer look at the data reveals that 11% of students strongly agree and 27% agree with the statement (percentages are not shown in the table). Standard deviations indicate substantial variation in the level of family (SD=2.30), academic (SD=2.95) and neighborhood strain (SD=2.21) experienced by students. In addition, the mean Latino student is moderately assimilated (M=1.82).

Variation is considerable both for conventional social support (SD=2.61) and the number of deviant friends (SD=2.40). Respondents range in age from 12 to 21, the mean age is 16.04, and 46% of the sample is male. Mean maternal education is 4.13, which indicates that the typical student has a mother who completed high school. Finally, 55% of students moved residence at least once in the past five years.

Table 2 displays the OLS regression coefficients (both unstandardized and standardized) for a model in which the dependent variable is the violent behavior index and the predictors are as follows: perceived prejudice at school, three other types of strain (i.e., academic, family and neighborhood), an index of assimilation, social support, deviant friends, age, gender, mother's education and residential mobility. This model estimates only main effects. A model that includes interaction effects will be described below.

Agreement that students at school are prejudiced is significantly associated with greater involvement in violence (b = 0.28, p<.05). The beta coefficient, however, indicates that the effect is relatively weak (beta = .06). Academic strain, by contrast, is more strongly related to violent behavior (beta = 0.22, p<.001). The effects of family (b = .13, p > .05) and neighborhood strain (b = .06, p>.05), while in the predicted direction, fail to reach statistical significance. The same is true of assimilation (b = .05, p>.05): the coefficient is positive, but more assimilated youths are not significantly more violent.

Offending is negatively and significantly related to conventional social support (b = -0.16, p<.05). Having more deviant friends is strongly associated with more violence (b = .46, p<.001). The impact of deviant friends (beta = .21), along with academic strain, is the strongest in the model. Older students (b = -.38, p<.001) and females (b = 1.50, p<.001) commit significantly fewer violent crimes than their counterparts. Finally, the coefficients for mother's education (b = -.03, p>.05) and moving in the past 5 years (b = -.32, p>.05) are in the predicted direction, but p-values indicate that the associations are not statistically significant. The R-squared statistic shows that

Table 2. OLS Regression Coefficients, DV = Violent behavior index, N = 631.

Predictors	b	SE	Beta
Strains			
Prejudice at school	0.28*	0.16	0.06
Academic strain	0.40***	0.07	0.22
Family strain	0.13	0.10	0.06
Neighborhood strain	0.06	0.03	0.03
Assimilation index	0.05	0.18	0.01
Moderators			
Social support	-0.16*	0.08	-0.08
Deviant friends	0.46***	0.09	0.21
Controls			
Age	-0.38***	0.12	-0.13
Male	1.50***	0.39	0.14
Mother's education	-0.03	0.08	-0.01
Moved	-0.32	0.38	-0.03
Constant	4.61*	2.04	
Model chi-square	164.54		
p-value	0.001		
Adjusted R-squared	0.20		

*p < .05, **p < .01, ***p < .001, two-tail test.

20% -- a modest amount -- of the variation in violent behavior is explained by the model's predictors.

Turning to Table 3, OLS regression coefficients are displayed for a model that includes the eight estimated interaction effects in addition to the main effects. Following Jaccard, Turrisi and Wan (1990), an F-test reveals that adding the interactions to the main-effects only model contributes significantly to the model's amount of explained variation (F = 4.17). The adjusted R-squared increases from .20 in the main effects model to .24 in the interaction model. Examining coefficients, the results are similar to the main effects-only model, but school prejudice and academic strain are complicated by their interaction with social support. Specifically, the interaction between prejudice and conventional social support is negative and significant (b = -.30, p<.05). In other words, the criminogenic effect of prejudice on violent behavior is strongest when social support is low. The same is true if the focus of analysis is placed on social support: Its reduction of violence is strongest when school prejudice is high and weakest when prejudice is low.

Second, the coefficient for the academic strain/social support interaction is negative and statistically significant (b = -.07, p<.01) This means that the impact of academic strain on offending is at its peak when social support is low. Conversely, social support has its strongest violence-reducing effect when academic strain is highest. The strength of the two statistically significant interaction effects is quite considerable, as indicated respectively by the standardized coefficients (betas = -.18, -.11). By contrast, the remaining six interaction effects fail to reach statistical significance. Overall, effects tend to exert their influence in a linear rather non-linear fashion.

Table 3. OLS Regression Coefficients and Interaction Effects, DV = Violent behavior index, N = 631.

Predictors	b	SE	Beta
Strains			
Prejudice at school	0.29*	0.16	0.07
Academic strain	0.35***	0.07	0.20
Family strain	0.15	0.10	0.06
Neighborhood strain	0.05	0.09	0.02
Assimilation index	0.09	0.17	0.02
Moderators			
Social support	-0.16*	0.08	-0.08
Deviant friends	0.47***	0.09	0.22
Interactions			
Prejudice X social support	-0.30*	0.06	-0.18
Prejudice X deviant friends	-0.08	0.06	-0.05
Academic strain X social support	-0.07**	0.02	-0.11
Academic strain X deviant friends	0.02	0.03	0.03
Family strain X social support	0.04	0.03	0.06
Family strain X deviant friends	-0.05	0.03	-0.05
Neighborhood strain X social support	0.02	0.03	0.02
Neighborhood strain X deviant friends	0.01	0.03	0.01
Controls			
Age	-0.32**	0.12	-0.11
Male	1.62***	0.38	0.16
Mother's education	-0.02	0.08	-0.01
Moved	-0.27	0.37	-0.03
Constant	4.17*	1.99	3.02
Model chi-square	217.28		
p-value	0.001		
Adjusted R-squared	0.24		

*p < .05, **p < .01, ***p < .001, two-tail test.

DISCUSSION

Results provide some support for General Strain Theory. The link between school prejudice and violence is found here to be statistically significant and of considerable size if both the main and interaction effects are considered together. The results consequently support other research that has tested similar hypotheses (Simons and Burt 2001; Simons et al. 2003; Unnever and Gabiddon 2011; Unnever et al. 2009; Vega at al. 1995). Findings are consistent with the GST hypothesis that experiencing ethnic mistreatment generates aversive emotions which, in turn, can fuel a violent response. The effect of perceived prejudice appears to operate in tandem with conventional social support. The criminogenic impact of prejudice falls as conventional support is strengthened. As shown previously in research on Latino adolescents (Rosario et al., 2003), conflict with other students is handled more constructively if youths have people to turn to for advice, direction, and emotional support.

The strength of the link between school prejudice and violence reported here is of moderate size, but the connection might turn out to be stronger if students were

asked more specifically about incidents of bias. Items that inquire about discriminatory events directed specifically at the survey respondent are likely to produce stronger results. Mistreatment directed toward the self is likely to be more intensely averse than a general atmosphere of prejudice, which is what is measured in the present analysis (Agnew 2006b). This is a limitation in using the Add Health data to measure prejudice.

Academic strain strongly predicts violent behavior -- a finding which is consistent with prior research (Agnew 2005; Colvin 2000; Sampson and Laub 1993). An interaction with conventional social support was also found. Evidently, strains at school are more effectively managed if one enjoys a high level of support from parents, adults, teachers, and friends. This finding supports the hypothesis put forth by Agnew (2005) that social support can act as a buffer against strains that might otherwise result in delinquency.

The two other forms of strain – family and neighborhood – are not significantly associated with violence in the present analysis, although coefficients are in the hypothesized direction. Other studies have found that family and neighborhood factors are important in explaining delinquency among Latinos (Gorman-Smith, Henry and Tolan 2004; McNulty and Bellair 2003; Peacock, McClure and Agars 2003; Rodriguez and Weisburd 1991; Smith and Krohn 1995; Sommers, Fagan and Baskin 1994). The measures used here (e.g., dissatisfaction with maternal relationship or neighborhood) probably tap minor levels of strain. Traumatic events and circumstances like experiencing parental abuse or witnessing frequent neighborhood violence are more traumatizing and are probably more relevant predictors of problematic behavior.

While the level of assimilation to the dominant culture is not a direct measure of strain, it does involve stressful circumstances, such as a disjuncture of strong supportive networks, parent-child conflict, and language difficulties (Vega et al. 1993). The coefficient for the assimilation-violence relationship in the present study was positive but failed to reach statistical significance. Other research, by contrast, has reported a heightened risk of delinquency among Latinos who are more assimilated (Perez, Jennings and Gover 2008; Samaniego and Gonzales 1999; Sommers, Fagan and Baskin 1994). Perez et al. (2008) found that the relationship between measures of acculturation and delinquency are non-linear: it depends on the degree of Hispanic concentration. Modeling only the linear relationship might be a limitation of the present analysis. In addition, recent research documenting the "Latino Paradox" (Martinez 2002) points to important social resources and networks which might reduce the relationship between various strains and violence among Hispanic teens—resources and networks which are not modeled in the present study.

Social support has both a linear and an interactive impact on violent offending. Most research has linked social support and delinquency in a linear fashion (Cullen 1994; Wright and Cullen 2001) but the present analysis demonstrates that interactions can exist between strains that motivate deviance and moderators that either reduce or exacerbate the tendency to act inappropriately. The strength of the main effect alone is somewhat weak, but the overall impact is considerable when one also considers the conditioning effects. Specifically, strong social support lessens the criminogenic impact of prejudice and academic strain – evidently by providing the protection and interpersonal resources necessary to manage aversive feelings (Agnew 2005). Moreover, when the focus of analysis is switched, the violence-reducing impact of social support is most powerful when levels of school prejudice and academic strain are at their highest. While most of the interactions examined in the present study do not affect the risk of offending, school prejudice, academic strain, and social support appear to work together in ways that support GST's emphasis on conditioned relationships.

The positive effect of the number of deviant friends on violent offending is one of the strongest in both the main effects-only and interaction models. A large literature has established the importance of peers in the generation of delinquency (Warr 2002). The relationship is typically explained in terms of social learning (Akers 1998) but research has shown that delinquent peers encourage a youth to perceive strains as unjust, and to react to strain with deviant behavior (Bernard 1990). The interactions between deviant friends and strains in the present analysis, however, failed to reach statistical significance. Evidently, delinquent peers encourage violence in a more straightforward manner and do not condition the influence of various types of strain.

Age and gender are consistently found to be related to offending: older youths are less likely to engage in violence, while males have significantly higher rates. These demographic patterns are well established in the research literature (Farrington 1986; Moffitt 1993). Standardized coefficients indicate that both effects are of moderate size.

The other two control measures—mother's education and having moved residence in the past five years—are unrelated to the violent behavior index. Coefficients are consistently negative and in the hypothesized direction, but in no case reach statistical significance. Other research has found that residential moves can help Latino youths escape negative influences (Katz, Kling and Liebman 2001; Ludwig, Duncan and Hirschfeld 2001).

General Strain Theory has been shown to be quite effective at explaining interpersonal violence in general (Agnew 2006a; 2006b) and the findings from the present study also demonstrate the usefulness of GST's focus on the links between minority status, strain, and violence. While level of assimilation did not significantly predict

violence, perceived prejudice at school did. Future research would do well to delve more deeply into the pathways by which minority status, discrimination, and strain are connected to crime and violence among Latinos and how these pathways might differ from those of other minority groups. Focus should be placed on the unique histories and structural conditions experienced by Latinos and the various sub-groups found within that broad category (Stowell and Martinez 2009).

GST is one criminological theory that can illuminate, at the social psychological level, the nature of the discrimination-violence relationship. Exploring the link between discrimination and crime among other minority populations (e.g., African Americans, Native Americans, Asian Americans, females, gay males, and lesbians) is an important avenue for future research. Discrimination in contexts other than school—the workplace and the criminal justice system, for example—might also raise the risk of deviant responses. While a number of hypotheses were supported in the present study, data limitations might have prevented stronger empirical support for GST hypotheses. Survey respondents need to be asked about specific, traumatic, and long-lasting events and circumstances and about specific negative emotions if GST is to be properly tested. The explanatory power of the theory warrants sustained inquiry.

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Malleable Mandates: Liberal Ideology and the Politics of Protection and Punishment in the Juvenile Justice and Delinquency Prevention Act

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Abstract*: While the notion that youth warrant special protection has a lengthy and controversial history in juvenile justice dating back to the child saving movement, little research has examined how the idea has played out politically in law-making bodies at the federal level. Further, there is limited attention to how the core ideological foundation of our legal system may have paved the way for politically reshaping the notion of protection in a punitive direction in recent legislative efforts. In this paper, I explore the shifting political meanings of "protection" and "punishment" contained in the evolution of the Juvenile Justice and Delinquency Prevention Act (JJDPA) and propose that their malleability partially stems from overlooked ideological forces in the liberal legal model including a weak, individualized version of public duty and variable understandings of youth autonomy and culpability. Together the underlying liberal dynamics engender an ideological affinity between protection and punishment that permitted their rhetorical vulnerability and political distortion.*

INTRODUCTION

In the United States, rhetoric surrounding children pervades the popular media. If one casually surfs the web, watches television, or listens to the radio, children figure prominently as a subject of concern, a reason to hope, and a lucrative target for advertisers. As a country, we profess to care about kids.   Yet, despite our proliferate rhetoric, children and adolescents are the hardest hit by serious social problems confronting our society. Under times of budgetary crunch, social programs receive "first cut" leaving youth most exposed under the vagaries of the market economy. Even during good times, budgets for social services have to fight for survival.   Children's vulnerability in American social policy comes at a price. At least one in five children lives in poverty (U.S. Census Bureau 2011). Each year millions of youth fall victim to abuse, neglect, and serious violence (U.S. Government Accounting Office 2011) and suffer from its toxic fallout facing increased risks of delinquency, especially violent

delinquency, drug abuse and educational drop-out (U.S. Department of Health and Human Service 2006).

The mismatch between rhetoric and reality has caused some scholars, like Martha Minow (1987), to argue that children are "quite beside the point" and suffer from "societal neglect" in policy making efforts. Given their relative developmental, economic and legal dependence, children lack the "voice" to effectively marshal legal and political resources, and subsequently find their needs subsumed to other, more powerful interests.   Yet, thousands of youth are processed through the juvenile courts each year in dependency and delinquency cases, and most states have multiple mechanisms that permit the transfer of youth to adult court (Griffin et al. 2011; Kupchik 2006). It seems that while children do appear "beside the point" in some important senses, they are certainly the subject of societal concern and social control, and debates about how best to handle youth in trouble with the law have a long, contested history (Blomberg and

Lucken 2000; Getis 2000; Platt 1977, 2002; Ryerson 1978; Schlossman 1977).

At the political level, critical criminologist and historian Thomas Bernard (1992) has argued that the policy debates in youth justice proceed in fairly predictable "cycles" that vacillate between an emphasis on rehabilitation and an emphasis on punishment. He argues that myths about the seriousness and frequency of juvenile delinquency as well as faulty perceptions of being "too hard" or "too soft" on juvenile crime propel the policy debate and drive the swings between rehabilitation and punishment over time. Bernard's characterization identifies an important vacillation in our models of youth policy, and points to some of the reasons that empirical realities of juvenile justice seem incapable of penetrating hegemonic understandings about youth, crime and government interventions at the level of policy-making. Yet, the model also begs some larger questions about whether the problem is somehow partly intrinsic to the political process itself (McCorkell 1987), and perhaps to the dynamic tensions at work in our understanding of juvenile justice that are produced by a legal system founded on Lockean principles of maximum individual freedom and minimal government intervention, particularly in the zone of privacy surrounding family life (McCorkell 1987; Minow 1987; Ryan 1987).

In this article, I propose that the "individualized" version of public duty in the liberal legal model which subordinates collective social issues to the primacy of individual freedom creates an "ideological affinity" between the meanings of protection and punishment that have facilitated their malleability and interchangeability over time. Further, tensions springing from contradictory understandings of youth autonomy and culpability in the liberal legal model also promoted the punitive re-shaping of protection that occurred in the most recent re-authorization of the Juvenile Justice and Delinquency Prevention Act (42 USC §5601; §5602; §5633).

While the impacts of policy reforms have been studied extensively, the front end process of law-making has received comparably little critical attention (Ismaili 2006; Jones and Newburn 2002; Solomon 1981; Cullen and Wright 2002). Yet, exploring how legislation conceives of and drives particular models of justice for youth permits critical criminologists to understand and theorize about how changes in justice come about, and how to intervene more effectively at this level.

The JJDPA is one such law that merits critical consideration. Heralded as a victory for progressive youth justice advocates with its controversial passage in 1974 (Schwartz 1989), the JJDPA supplies funding for all states in compliance with its four core mandates that dictate how states handle youth in their care. Even though much of the work of juvenile justice takes place at the local level, the JJDPA is particularly important for critical scrutiny because it supplies a vital stream of funding for already strapped local juvenile justice systems. Beyond serving as a funding source, the Act performs both practical and symbolic functions for the states as well. On a practical level, the law limits what the states can "do" with juveniles in their care if they desire access to federal resources. In the case of the original formulation of the JJDPA, states were forced to do a better job of "protecting" youth by diverting them away from the system initially, separating them from adults when contact was unavoidable and deinstitutionalizing youth charged with status offenses like truancy and running away. On a symbolic level, federal law enshrines certain values into the infrastructure of juvenile justice, providing a tool for advocates interested in shaping social policy, and a basic philosophy that can guide future efforts at change.

METHODS

The material for this project derives from a legislative analysis of the Juvenile Justice and Delinquency Prevention Act from its inception, pre-1974, to its most recent authorization in 2002. In addition to the text of the laws themselves, congressional debate, committee and subcommittee hearing transcripts, and official committee reports were reviewed. The documents not only trace the change in language from pre-1972 to the present, they also illustrate the types of evidence presented in the debate and the rhetorical framing of that evidence, which provides a glimpse into the legislative manipulation that is often missed in much policy research focused on the back end of reforms. While it cannot tell the whole story, federal lawmaking represents a crucial site to examine how ideology and values about youth are channeled into the policy process and impact states' ability to receive federal resources.

It is important to acknowledge that the changes to the JJDPA developed within a complex legislative process where multiple versions of legislation, debate and hearings related to the JJDPA were proposed before the final version became law. In order to examine how federal lawmakers construed protection and punishment in the JJDPA, understanding both the official legislative history contained in the committee reports, and the more "messy" legislative process found in years of debate, drafting legislation and hearing testimony are necessary. Clearly, the entire lawmaking process for the Act will not be reflected in this analysis. Much of lawmaking that happens behind closed doors, in the hallways, and on the phone with lobbyists, or in the field with constituents will not be revealed here. Also, all the potential "voices" of the juvenile justice system are not included. Most notably absent include the voices of children and their parents. Yet, the focus of this study is on how federal lawmakers rationalized key changes in the JJDPA and how those changes relate to philosophical underpinnings inherent within the legal infrastructure of the juvenile justice

system itself. In this sense, hearings, reports, and legislation are ripe for investigation.

For this paper, the analysis concentrated on the legislative history tracing recent amendments to JJDPA's purpose, rationale and core mandates. Quotes contained in this article were selected based on their relevance to the shifts in meaning from the original legislation. That being said, it is important to stress the debate itself was not one-sided. While the quotes selected here were most reflective of the legislative rhetoric that accompanied the new, more punitive conception of protection and the loosening of the core mandates in the revised act, not all lawmakers or testimony supported the legal changes. Indeed there was a fair amount of resistance to the punitive notion of protection, and calls for stronger state efforts to protect youth and more robust efforts at rehabilitation were proposed. However, the recorded changes to the law itself moved in a punitive direction, and the quotes selected here are emblematic of the rationale that justified these legal shifts. Furthermore, the quotes selected came from the final committee report (or hearing testimony relied on in the final committee determinations) that claims to contain the "official" rationale behind the revised Act and proffers the given explanation for shifts in each of the mandates.

While these quotes may appear to reflect the most "conservative" rhetoric, they are included here because it was this rhetoric that was relied on in revising the purpose and core mandates of the JJDPA. It can be argued that the voices of advocates and lawmakers arguing for stronger (not weaker) mandates succeeded in the sense that the mandates survived amid even more radically conservative voices calling for elimination of the JJDPA entirely. Given the strength of opposition to the changes, which were arguably not supported by a majority of practitioners called in to testify, it becomes necessary to understand how the legislative shift occurred, and to consider how the underlying liberal legal model may have contributed to this change, and the broader "cyclical" (Bernard 1992) nature of U.S. juvenile justice policy.

FINDINGS

Since its original authorization in 1974, the meanings of "protection" and "punishment" within the JJDPA have been re-worked in both the philosophy of the Act and its mechanisms specified in the four key mandates. Originally, protection was grounded in a philosophy of non-intervention that maintained youth should be kept out of the system wherever possible, and protected from punitive state action when contact was unavoidable. In the revised Act, protection was reframed as punishment, and non-intervention was reshaped to mean staying out of the state's way to punish youth in order to protect them from further criminality and to protect society from the harmful effects of delinquency. The shift in meaning materializes in the evolution of the law's four key mandates. Originally

promulgated as minimum level protections that attempted to minimize the harm of the state in youth lives, the more recent mandates were touted as punitive burdens on the states, and were re-formulated to allow states more freedom (termed 'flexibility') to handle youth in their care.

The Early JJDPA

In 1974, the purpose of the JJDPA was conceived primarily as a means of protecting youth from the harmful consequences of involvement in the state juvenile justice systems. At this time, the rehabilitative philosophy of juvenile justice was attacked as mere rhetoric overlaying what was considered a fundamentally punitive system. Senator Bayh, the sponsoring legislator of the original Act, critiques the rhetoric surrounding the importance of children in U.S. society as more "myth than reality" and calls for efforts to end the "second class status of children in the juvenile justice system" (U.S. Congress 1972:44). Dr. Jerome Miller, the Director of Youth Services in Massachusetts at the time, claimed in his testimony supporting the Act, "We will no longer engage in a bureaucratic game of calling punishment 'treatment' or neglect 'rehabilitation'" (U.S. Congress 1972:62).

The philosophy of the Act exemplified a deep concern that processing youth through the system produced damaging labeling effects that posed serious risks to the youth's development. In comments to the Congress in 1974, Senator Bayh remarked that rather than decriminalizing youth according to the founding mission of the juvenile justice system, present day state efforts were "criminalizing" the social problems that led to offending, and further processing the youth through the juvenile justice system only entrenched criminal behavior. The concern that youth needed to be protected from the system itself is captured by his blunt critique of the state treatment of youth.

> Once a young person enters the juvenile justice system for whatever reason, he will probably be picked up again for delinquent acts, and eventually he will, more often than not, graduate to a life of crime…Our objective must be, therefore, to minimize the youngster's penetration into all negative labeling, institutional processes. (U.S. Congress 1974:25156)

Given the detrimental effects of entering the system, the goal for the advocates of the JJDPA centered on keeping kids out altogether and rerouting delinquency prevention to local communities and diversion programs. Entering state care should only occur as a last resort, and when it could not be avoided, the states' objective should focus on protecting youth from damaging state practices that disrupt development and deepen criminality. Toward this aim, the Act stipulated minimum requirements, now known as the core "protections," for states to follow once youth were in custody.

The first key protection reflects the JJDPA's focus on getting kids out of state custody. It compelled states to "deinstitutionalize" status offenders, including those charged with offenses such as truancy and running away. Advocates saw these behaviors as symbolic of larger social problems that incarceration would not address effectively. Consistent with the concern of protecting youth from the dangerous influences within the system, advocates argued that youth charged with relatively minor status offenses would simply get worse by sharing a cell with youth who commit serious offenses. In other words, they would go out of state custody in a worse state than when they came in, and potentially more prone to serious delinquent behavior. Thus, the first protection, now known as the "DSO" mandate, aimed to protect youth by keeping them out of state placement in the first place, particularly detention, jail and prison facilities.

The second and third protections in the Act reflect the JJDPA's related focus on protecting young people who must enter state care. At the time, states were holding youth out of convenience and budgetary constraints in the same facilities as adults. The proximity to adults was believed to place youth at increased risk for physical and sexual abuse, as well as heighten the chances to learn more severe criminal behavior from more experienced offenders. Advocates perceived youth as developmentally vulnerable to the influence of adults, and less equipped to maintain their safety in their presence. Thus, the second protection dictated that states take youth out of adult facilities, and in the limited cases where that simply was not possible, the third protection mandated that that they develop and maintain complete "sight and sound" separation from adults.

The fourth protection in the Act was not authorized until much later in 1992, but it reflected the original law's central focus of protecting youth from the juvenile justice system itself, in this case protecting youth from unfair discrimination based on race. Advocates for this mandate identified that youth of color were more likely to have contact with all parts of the system, and were particularly more likely to face confinement and become entrenched in the juvenile justice system. To protect youth from institutional oppression, the JJDPA required that states advance efforts to reduce "disproportionate minority confinement" or DMC.

Taken together, the four core mandates construe protection as keeping the state away from youth where possible, and preventing harm at the hands of the state when contact becomes inevitable. The original mandates conceived protection as a "hands off" approach and concentrated on requiring states to reduce custody of juveniles, and restrict the manner in which they could be handled once in state care. During the most recent authorization in 2002, which took place during the height of the "get tough" movement in youth justice, the meaning of protection shifted toward punishment, and non-intervention became a mechanism to free the states from the shackles of the original mandates, giving them greater latitude to punish youth in the interest of protecting society and deterring youth from delinquency.

Protection and Punishment in the 2002 Act

In 2002, the notion of the "protection" contained in the Act underwent two crucial shifts, and each reflects the malleability of the term and its vulnerability to punitive distortion. First, the new law altered the primary recipients of protection in a substantive way. Instead of identifying youth who come into contact with the justice system as the primary group of concern, the new Act emphasized "public safety", and added a section to the Act that stipulated the state's responsibility to protect the community through juvenile accountability. The punishment of youth, rather than representing a harm that must be avoided, was reconstituted during the debate surrounding the law as "protective" of youth and in their best interests. Second, what may be called the "mechanisms" of protection in the form of the four core mandates were redefined in the debates as burdensome and rigid, indeed punitive, toward the states. In other words, protecting youth in the manner the mandates required in earlier versions of the JJDPA was now perceived as overly punitive toward the states, and each mandate was loosened to allow states greater "flexibility" to handle youth in their care.

The first punitive manipulation of protection in the revised Act relates to the question "Who merits protection and how should it be achieved?" In the original Act, both advocates and lawmakers aligned on the issue that youth in contact with the juvenile justice system needed protection from the harmful labeling consequences of custodial placement and from the potential dangerous actions of the state in processing youth through the system. Essentially, youth should receive protection from punishment. In the reauthorization process for the 2002 Act, advocates and lawmakers were no longer of one mind. Despite protests from advocates, on-the-ground practitioners, and some legislators who pushed for even stronger protections from the state, key lawmakers succeeded in flipping the original goal of protection on its head, co-opting the language of protection in fundamentally punitive ways. First, lawmakers targeted the "community" as the key constituent meriting protection from the actions of delinquent youth. For example, at the beginning of the 2002 Act, a series "findings" are listed as evidence for the need for revision to the JJDPA. Even though the statement recognizes juvenile arrests in 1999 were the lowest in the decade, there was consensus that juvenile crime was still "too high" and lawmakers listed a number of significant public safety threats from juvenile crime:

SEC. 101. (a) The Congress finds the following:

(1) Although the juvenile violent crime arrest rate in 1999 was the lowest in the decade, there remains a consensus that the number of crimes and the rate of offending by juveniles nationwide is still too high.

(2) According to the Office of Juvenile Justice and Delinquency Prevention, allowing 1 youth to leave school for a life of crime and of drug abuse costs society $1,700,000 to $2,300,000 annually.

(3) One in every 6 individuals (16.2 percent) arrested for committing violent crime in 1999 was less than 18 years of age. In 1999, juveniles accounted for 9 percent of murder arrests, 17 percent of forcible rape arrests, 25 percent of robbery arrest, 14 percent of aggravated assault arrests, and 24 percent of weapons arrests.

(4) More than 1⁄2 of juvenile murder victims are killed with firearms. Of the nearly 1,800 murder victims less than 18 years of age, 17 percent of the victims less than 13 years of age were murdered with a firearm, and 81 percent of the victims 13 years of age or older were killed with a firearm.

(5) Juveniles accounted for 13 percent of all drug abuse violation arrests in 1999. Between 1990 and 1999, juvenile arrests for drug abuse violations rose132 percent.

(6) Over the last 3 decades, youth gang problems have increased nationwide. In the 1970's, 19 States reported youth gang problems. By the late 1990's, all 50 States and the District of Columbia reported gang problems. For the same period, the number of cities reporting youth gang problems grew 843 percent, and the number of counties reporting gang problems increased more than 1,000 percent. (H.Rpt. 107-203:2).

After listing the threats to public safety that youth crime poses, the legislation states that without reform, the juvenile justice system will not be able to handle the imminent threat of more juvenile crime, based on projections that the youth population was due to increase.

(b) Congress must act now to reform this program by focusing on juvenile delinquency prevention programs, as well as programs that hold juveniles accountable for their acts and which provide opportunities for competency development. Without true reform, the juvenile justice system will not be able to overcome the challenges it will face in the coming years when the number of juveniles is expected to increase by 18 percent between 2000 and 2030. (H.Rpt. 107-203:3).

In order to "fix" the system and equip communities for the projected increase in the youth population (and youth crime), the JJDPA approach was revised to include an "accountability provision" alongside its prior emphasis on prevention that emphasizes punishment:

These problems should be addressed through a 2-track common sense approach that addresses the needs of individual juveniles and society at large by promoting—

(B) programs that assist in holding juveniles accountable for their actions and in developing the competencies necessary to become responsible and productive members of their communities, including a system of graduated sanctions to respond to each delinquent act, requiring juveniles to make restitution, or perform community service, for the damage caused by their delinquent acts, and methods for increasing victim satisfaction with respect to the penalties imposed on juveniles for their acts. (H. Rpt. 107-203:2).

Finally, a new "public safety" provision was added to the Act's official purpose that was to be accomplished by juvenile "accountability" at the hands of the state, rather than rerouting youth away from the state justice system involvement.

Second, protection no longer meant shielding youth from punishment; rather, punishment was redefined as serving a protective function for both the community and for youth. Instead of producing damaging labeling and learning effects, punishment, under the new Act, allows youth to learn "accountability" and deters future criminality, thus protecting the youth from themselves and the community from their delinquent behavior. According to Mr. Boehner, in the committee report for H.R. 1900 that contained the revised JJDPA, punishment serves as one of the most effective tools of prevention:

The Committee believes that the two most important approaches to attacking juvenile crime are clear: prevention and holding juveniles accountable for the crimes they commit. Controlling juvenile crime must start early with juveniles in order to make them understand that there are consequences for their actions. Sending the message to our nation's youth that they will be punished for their delinquent activities is one of the most effective means of crime control and prevention. (H.Rpt 107-203:24-25).

Comments from Congressman McCollum in Congressional hearing testimony following the expiration of JJDPA in 1996 foreshadow the punitive infusion that erodes the Act's original construction of protection:

In closing I would like to comment on the Office of Juvenile Justice and Delinquency Prevention. It is my belief that any reauthorization of the Juvenile Justice and Delinquency Prevention Act should discard the outmoded anti-detention goals currently embedded in the Act and replace them with a new set of accountability-based incentives. It is sadly anachronistic that the only office of juvenile justice at the federal level has as its central goal the diversion of juvenile offenders from secure confinement. There is no question that there are many delinquent acts that should not be punished with secure confinement.

Nevertheless, it is important to note that the only federal juvenile justice office established to work with the States spends money to help States avoid confining juveniles. The Act is a rejection of the principle that youthful offenders must be held accountable for every act of wrongdoing. (U.S. Congress 1996:92).

The Congressman's philosophy was later cited in the final Committee Report for the revised JJDPA:

One theme, which echoed throughout the hearings held by the Subcommittee, was the need to hold juveniles accountable for their actions. Forty-four States have already strengthened their State laws with respect to violent juvenile offenders. According to noted criminologist James Q. Wilson, "There ought to be penalties from the earliest offense… so that juveniles are treated by the State the same way we treat our children. You don't ignore the fact that they're wrecking the house until they finally burn it down. You try to deal with it right away." (H.Rpt 107-203:30).

The next major shift centered on the reframing of the core mandates from essential minimum protections for youth to punitive burdens restricting the states. Senator Orrin Hatch offered his opinion on the "misguided" mission of the core mandates in the original Act:

Today's hearing is going to examine the problems related to the so-called mandates placed on the States in order to qualify for formula funding under the Juvenile Justice and Delinquency Prevention Act. These mandates were developed as a result of a well-intended, but somewhat misguided philosophy that preaches youth should be rehabilitated, not punished. (U.S. Congress 1996:34-35).

After establishing that the mandates misdirect juvenile justice practitioners toward rehabilitation instead of punishment, he goes further to denounce the mandates as "burdensome hoops." According to Hatch:

There are four major mandates, and countless regulations attached to the formula and incentive grant money…this money has more strings than a symphony orchestra. Federal requirements dictate everything from who must sit on the State Advisory Committee, like youth currently under the supervision of the juvenile justice system…These requirements create numerous burdensome hoops that States must jump through in order to receive the limited funds available under the Act. (U.S. Congress 1996:35).

Jerry Regier, the Director of the Oklahoma Department of Juvenile Justice, agrees with Senator Hatch. During the same hearing, he argued for more "freedom" to punish youth while simultaneously demanding that federal lawmakers liberate states from punitive federal oversight:

It is time that we hold youth accountable from the early signs of delinquent behavior throughout their entire adolescent period within the juvenile justice system. The youth of today must realize that when they violate the law that there will be consequences to that violation. The consequence will be swift and it will be certain… We want to restructure the Oklahoma system to be responsive and flexible to local desires and needs…the federal strings should be cut….Communities and municipalities are tired of all the bureaucratic nonsense. They want to have the freedom to hold their youth accountable. (U.S. Congress 1996:76).

The DSO provision (42 U.S.C. 5633 (a)(23); H.Rpt 107-203:26), for example, was relaxed to allow holds in detention without social service review under the "valid court order"(VCO) exception that was added in 1980. The valid court order exception allows youth originally charged with status offenses to be held in detention if they violated a "valid court order". For example, youth ordered to go to school who failed to do so were now deemed delinquents that could be held in detention. In 1988, Congress recognized this problem and amended the VCO exception to require a measure of protection-social service review by an appropriate agency- before holding a status offender who had violated a court order in detention. Under the new Act, however, more "flexibility" was added to the VCO provision permitting judges to hold youth in detention while awaiting an appropriate agency to review the placement and provide a report to the court. The effect of the change was to make incarceration of youth charged with repeat minor offenses an easier administrative option. The increased leeway in the VCO exception demonstrates the infusion of punishment into a provision originally designed as a means of protecting troubled youth from the harmful exposure to secure confinement. The original law tried to keep them out; the new law makes it easier to put them back in.

Similar "flexibility" was built into the provision prohibiting children from being housed in adult facilities. The "rural county" exception in the law was narrowly

construed to allow counties with limited resources and facilities to temporarily house youth for 24 hours in the same facilities as adults as long as sight and sound separation was strictly maintained. In the new Act, those same adult facilities can now keep youth for five days without a court hearing (42 USC 5633 (a)(13)(B); H.Rpt 102-203:28) Likewise, sight and sound separation, designed to protect youth from adult contact when separate facilities could not be established or used, was also relaxed in the 2002 reauthorization. In the original legislation, all contact was prohibited. Now, states are only required to prohibit "sustained" auditory and visual contact (42 USC 5603(25) as described in the Code of Federal Regulations, Title 28, 31.303(d)(1)(i) in effect in 1996; H.Rpt 107-203:23, 130).

In contending that these two mechanisms of protection unfairly burden states, Sheriff Bill Franklin from Alabama testified that the requirements forcing states to keep youth strictly separate from adults for their protection are financially "repressive" micromanagement techniques (aka "punitive") that increase recidivism:

> The Federal regulations by which local correctional facilities are required to comply in order to receive federal monies create undue impediments in the implementation of programs to house juvenile offenders. Particularly, those policies regulating contact with adult inmates ("sight and sound" separation) and those necessitating separate staff specifically for supervision are counterproductive. ..Certainly it is evident that these federal regulations have a negative impact on a system desperately in need of juvenile facilitation. Our national recidivism rate borders on 80%. It seems illogical that the micromanagement involved in the only area that can eventually reduce adult crime is so overbearing. (U.S. Congress 1997:34).

Finally, the goal of the DMC provision(42 U.S.C 5633 (a)(22)), which recognized racial injustice in the juvenile justice system as an oppressive state practice but was always problematically vague, was further disabled by rhetoric of "color blindness" and "no quotas." Once required to protect youth from discrimination by reducing the number of confined minority youth relative to the state's population, states were now free from pursuing any type of "quotas" and the language requiring a reduction relative to total population was removed. A committee report that came out shortly before the final reauthorization commented that the youth justice system was "color blind", an outcome that was guaranteed as long as states were not required to make any meaningful, tangible numerical dents in the proportion of minority youth confined in the state system.

> The Committee believes the criminal justice system should be colorblind. Individuals charged for the same

crime under the same circumstances must be treated uniformly by the juvenile justice system. The modifications made by H.R. 1900 to the current mandate will help ensure our efforts eliminate the true bias in the juvenile justice system and does not create quotas (H.Rpt 107-203:29).

Again, with each of the revisions in the core mandates, we see the ideological shift in the construction of protection that moves away from shielding youth from punishment and destructive state actions to sheltering the state from responsibility for youth in their care. This is perhaps made no more salient than in the changes to funding penalties for failing to comply with the mandates under the new JJDPA. Under prior legislation, states out of compliance lost 25% of their federal funding per mandate. In the new Act, that amount lost was cut to 20% per mandate. In other words, a state could fail to comply with half the mandates and still receive a majority of their federal funds. With a weaker incentive to comply, the new JJDPA practically prompts states to ease up on their responsibility to protect youth in their care by sheltering them from financial "punishment" they might incur from failure to comply with federal law. "It is the view of the Committee that States should not be denied important financial resources…simply because they are having difficulties meeting the four requirements" (H.Rpt 107-203:30).

DISCUSSION

While the shifting political meanings of protection and punishment in the JJDPA can be traced in the legislative history, and are at least partly explained by the punitive turn that other scholars have critically analyzed (Currie 1998; Garland 2001; Rose 1996; Simon 2001, 2007; Tonry 2009), there is also an underlying philosophical weakness in our liberal legal system, whose perhaps hidden, but still powerful ideological impact merits critical review. I argue that key ideological forces inherent in legal liberalism enabled a conception of protection in the JJDPA that was by itself problematic and insufficient, rendering it particularly susceptible to the punitive politics of crime that gripped lawmakers during the revision of the JJDPA. The legal liberal model contains a relatively weak "individualized" notion of public duty that is further complicated by conflicting understandings of youth autonomy and culpability. While factors other than the ideal of legal liberalism also clearly influence the politics of law-making and the punitive changes in the JJDPA, notably the evolving political economy in the U.S., it remains crucial to understand how the underlying liberal ideology shapes the "political frame" and the manner in which lawmakers define problems and propose solutions.

While critical scholars like Bernard (1992) also emphasize the ideological force of various "myths of

delinquency" whose hegemonic status fuels a cycling political debate over time, I am suggesting that those myths originate in a deeper context that shapes the boundaries of the political terrain and the debates that occur there. It is not merely the myths that create the cycle; the cycle itself operates in a hegemonic "philosophical field" that acts as a "gatekeeper" of the discourse that continuously allows for shaping and reshaping of the youth justice debate. Here, the discourse surrounding non-intervention, protection and punishment during the evolution of the JJDPA occurred in a philosophical field defined by the liberal model's weak, individualized notion of public duty and variable understandings about youth's relative autonomy and culpability. While on the surface the meanings of protection and punishment appeared to change in dramatic and contradictory ways, the terms themselves were ideologically aligned in the liberal legal model, allowing for their political malleability and distortion.

The main tenets of legal liberalism, espoused by philosophers like John Locke (Dunn 2003), emphasize the principles of individual freedom and minimum government intervention. At its best, liberal legal government ensures and "protects" maximum individual freedom, which it accomplishes most productively by "staying" out of the private life of individuals, only intervening when it becomes necessary to protect the freedom of citizens or control that freedom when it threatens to harm others. If we define public duty in the liberal legal model as government action necessary to ensure individual freedom, it is effectively captured in three facets of government action: non-intervention or "staying out," protection, and control or punishment.

Liberalism not only influences the types of action that comprise public duty, it colors the nature and dynamics of those actions. In particular, the heavy emphasis on individual action and the principle of limited government create a relatively "thin" model of public duty where the sense of the collective is subordinated to the primacy of the individual. Root causes and macro level realities such as poverty, inequality, educational and community disinvestment, racial discrimination, and other social problems fall outside the scope of the public duty because they occur at the collective, rather than the individual, level. Thus, the liberal model's individualized version of public duty fosters an "ideological affinity" between non-intervention, protection and punishment in a way that expedites their rhetorical malleability and inter-changeability in political decision-making.

Consider the stance of non-intervention that originally infused the early versions of the JJDPA. While this idea has generated substantial critical attention and support (Lemert 1971; Ohlin 1987; Petrosino, Turnpin-Petrosino and Guckenberg 2010; Schur 1973), it also possesses an inherent weakness. It does nothing to shore up the collective sense to address social problems whose

staggering cost affects those at the bottom, particularly youth who do not have the same political, economic or developmental ability to "raise themselves." Getting out of the way does not readily stir up a sense of injustice over poverty, inequality, violence, and racial, class, and gender oppression whose toll is perhaps greatest on youth. Staying out could even shield those problems from critical public scrutiny. Early JJDPA advocates were aware of these systemic problems, and wanted to keep youth out to protect them from further harm. Yet, the infrastructure of support needed to shore up communities' shared sense of injustice and motivation to address the broader social problems influencing delinquency was insufficiently developed as well, and the ideology of non-intervention may even have unintentionally enabled an anemic response.

Under the thin public duty contained in the liberal legal model, a well-intentioned protective effort that relies on non-intervention may actually fail to protect, as it can merely leave youth in the place that they are, and that place is often the same one ridden with social problems that provoked delinquency in the first place. I would argue that this constitutes neglect instead of protection, and can instigate greater punitive control as the social conditions worsen, and the delinquency does not disappear. Here, the individualized version of public duty, as it applies to non-intervention, means that staying out of the way of social problems rather than building up a communal sense of public injustice to combat them leaves youth to face those problems, and their attendant consequences, alone. When delinquency persists or worsens, the punitive facet of public duty emerges to fill in dangerous gaps left to deepen during a climate of neglect. In the language of legal liberalism, dangerous actions of individuals prompt punishment in order to protect the freedom of others. Punishment is now justified to "protect" communities from the harms of dangerous juvenile delinquents, and the delinquents from themselves. In a sense, the liberal version of non-intervention fosters a paradox where the argument for non-intervention, or neglect, on one hand facilitates the argument to over-regulate, or punish, on the other, with both arguments equally capable of drawing on a rhetoric of protection to justify their position and doing little to substantively address the unjust social conditions that youth face in the midst of their delinquency.

Such an ideological paradox becomes especially salient when examining the shifting politics of the JJDPA over time. What began as a protective effort grounded in non-intervention became a punitive effort grounded in a different, but ideologically aligned version of non-intervention that also relies on the rhetoric of protection. In the early JJDPA, non-intervention was seen as a way of protecting youth from harmful state action. Youth needed protection from the unjust effects of punishment, and the state should 'stay' out in order to ensure their protection. In the later version, non-intervention was reconstituted to

mean getting out of the state's way to punish youth. States needed "freedom" and "flexibility" to punish youth in order to protect communities from delinquency and youth from themselves and their harmful choices. Both versions rely on the thin, individualized form of public duty where root causes, or macro-level social injustices that befall youth receive only peripheral attention. Essentially, the non-intervention and protective groundings of the original JJDPA were, by themselves, well-meaning yet inadequate in that they did little to expand the notion of public duty beyond its traditional liberal confines. By staying within the same political frame that encourages views of non-intervention, protection and punishment that ideologically "fit" with the thin public duty of the liberal legal model, the original meanings lent themselves neatly to political manipulation and punitive distortion.

While an under-developed public duty in the liberal legal model can frame the parameters of political debate and shed light on the shifting meanings of non-intervention, protection and punishment in the evolution of the JJDPA, the unstable social position of youth in the liberal model also played a role in the change. For individuals to merit and exercise maximum freedom idealized in the liberal model, they must also possess full autonomy and culpability. Children's dependent economic and developmental status complicates the legal interpretation of their autonomy and culpability, which raises another problem for the legal liberal model (Minow 1987). Even at its most zealous in protecting individual rights during the "due process revolution," the Supreme Court has remained reluctant to attribute full autonomy to children and afford them complete constitutional status (Fellmeth 2006; Zimring 1982). Children and youth are deemed variably autonomous and culpable, and fluctuating notions about when to treat them as autonomous and culpable and when to treat them as dependent and innocent also complicate the notions of when to "stay out," when to "protect," and when to "punish." The uncertainty of children's status within the liberal legal model coupled with the relatively "thin" notion of public duty contributes to the political malleability of the meaning of non-intervention, protection and punishment that transpired in the evolution of the JJDPA.

Advocates of earlier versions of the JJDPA saw children as less autonomous and culpable, preferring to emphasize their incomplete developmental status and susceptibility to peer and adult influences as worthy of protection, but by the most-recent authorization, advocates of a punitive version of protection conceived youth as a dangerous group of potential super-predators, stressing their autonomous decisions and need for sanction based accountability. One conception of youth in the liberal model prompts protection, and the other punishment, creating a shaky ideological foundation that permits quick vacillation from one to the other, particularly when the politics of crime control have gained sufficient traction.

The original JJDPA may have imagined youth as more dependent and innocent, but it did not take into account the potential for that idea to quickly shift, despite an articulated understanding of the hegemonic power of punishment and its political resonance with communities concerned with crime control.

CONCLUSION AND RECOMMENDATIONS

Despite the insufficiencies in the meanings of the early JJDPA, and its subsequent vulnerability to punitive distortion, it has served an important symbolic purpose and has been built into the infrastructure of youth justice. Even amid calls for the complete dismantling of the JJDPA, juvenile justice advocates on the ground actually called for stronger protections, not weaker ones, during the flourish of punitive rhetoric from politicians and certain branches of the criminal justice system that occurred throughout the reauthorization process. The strength of their resistance and the long-standing history of the JJDPA as a tool to help youth support the potential of the JJDPA to expand the notion of public duty and embolden ground level resistance and future policy reform. While I am arguing that the original goals of the JJDPA have been eroded with recent revisions to the Act, and that the weak conception of public duty contained in even the most robust version of the Act enabled its erosion during a punitive political era, I am also suggesting that the Act could still serve as a starting place for reform.

In order for reform to be meaningful, however, it needs to move beyond the confines of the traditional liberal model in two crucial ways. First, a deeper and more robust sense of public duty for youth is needed, and it must include the neglected elements of the existing political frame, namely sustained attention to broad social realities such as poverty, inequality, education neglect, community disinvestment, racial and class oppression among other urgent social problems. While ground level, "local" resistance can inspire similar changes in other areas, it is not enough to allow states the "option" or "flexibility" to expand their conception of public duty. Merely allowing states to handle youth in their communities as they see fit leaves the fate of individual youth vulnerable to the whims of particular states with varying degrees of political will and resources, generating a "justice by geography" approach which would likely leave youth in areas hardest hit by social problems such as violence, racism and community disinvestment particularly vulnerable.

Second, lawmakers need to sever the perceived degree of youth autonomy and culpability from the decision to improve unjust social conditions that befall youth. Put differently, notions of autonomy and culpability need to be untied from public duty. The degree of sophistication or innocence present within given youth should not dictate

whether the social conditions in which they are inevitably nested receive prompt and persistent attention.

Given that the JJDPA has already secured a position in the infrastructure of youth justice and enjoys broad support from practitioners and many legislators, it could serve as a starting point for reform. An initial option to shore up public duty that is not contingent on the perceived autonomy or dependence of youth would involve adding a "sustainable community" provision to the existing core mandates. Rather than pulling funds for non-compliance, the sustainable community provision would incentivize states for improving social conditions affecting youth and their families including, but not limited to decreasing poverty, increasing employment, providing for livable wage laws, providing universal, high quality child care, as well as educational and other social support programs that promote the intellectual and social development of children. Instead of receiving less money for non-compliance with the core mandates, states could maximize federal funding by full compliance with the core mandates and receive incentive funds by developing sustainable community programs. In the process, a deeper, more substantive conception of public duty obtains a foothold in the infrastructure of youth justice potentially expanding the political terrain on which youth justice policy debates occur, and opening an avenue for social justice with greater resiliency to political manipulation and distortion.

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Youth Justice Innovation on the West Coast: Examining Community-Based Social Justice Organizations through a Left Realist Lens

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Abstract*: This article uses a left realist lens to examine the philosophies and practices of three progressive organizations serving disadvantaged, 'at-risk,' or socially excluded youth—mostly of color—on the West Coast of the United States. Through face-to-face interviews with key organizational actors as well as qualitative content analysis of program materials, we highlight community-based organizations that, in line with some of the main tenets of left realism, take crime seriously, treat crime as a social and political phenomenon, focus on the economic roots of much serious violence, and value democratization of crime and social policy at the community level. While utilizing left realism as a way to begin organizing the diverse workings of these understudied organizations, we also discuss the promise and potential pitfalls that would likely arise if progressive criminologists were to work more closely with such groups.*

INTRODUCTION

Drawing on qualitative case studies of three youth-serving organizations on the West Coast of the USA, this article employs a left realist lens to draw parallels between these organizations and the theory. To date, there are few studies in the U.S. about community-based organizations outside of administrative criminological studies that assess 'what works.' Such administrative criminology has some value, but it tends to miss contextual and big picture issues—as do its 'evidence-based' policy recommendations. Our examination of three social justice-oriented organizations—in San Francisco, Seattle, and Los Angeles—allows us to shine light on community-based interventions that are cognizant and critical of big picture issues that impact the lives of marginalized young people, including the street violence, law and order policies, 'hard' dominant culture, and material inequalities conditioned by

neo-liberal capitalism. The recognition of these issues by organizations, and the desire to address them through collective organizing, parallels several of the main points in Elliott Currie's summation of the fundamental principles of "plain" left realism.

> Taking crime seriously; recognizing that it disproportionately afflicts the most vulnerable; understanding its roots in the economic disadvantages, social deficits and cultural distortions characteristic of (but not limited to) predatory capitalism; insisting that those conditions are modifiable by concerted social action, and acknowledging the usefulness of some smaller-scale interventions that stand the test of evidence—while rejecting as counterproductive and unjust the massive expansion of repression as a

response to crime: those are, I'd say, the fundamental principles of "plain" left realism (Currie 2010:118).

Heretofore, left realism has not had significant impact in the design of community-based juvenile justice policy; however, we find that the approaches of the three community-based organizations—Homies Organizing the Mission to Empower Youth, the Seattle Community Justice Program, and the Youth Justice Coalition—parallel many of the tenets of left realism, including significant overlap between realist insights into the causes and control of crime. Therefore, left realism may serve as an organizing framework for these and similar youth justice organizations that share the following characteristics, all of which resonate with a left realist perspective: they take crime seriously, treat crime as a social and political phenomenon rather than just behavior, envision economic inequality as a catalyst of much serious violence, and value democratic influence over crime control efforts.

This overlap is ignored both from outside and within left realism, and we wish to mend this oversight.[1] In so doing, we hope to provide a bridge for future intellectual, practical, and organizational collaborations between progressive criminologists of all persuasions and the community-based organizations that are directly working with young people who are most 'at-risk' for violence and further entanglement in the harm-inflicting U.S. justice system. Thinking through what a progressive brand of intervention ought to look like is a crucial task for criminology, and a crucial task for a revitalized left realism. Elliott Currie echoes this:

> Sorting out what we wish to mean by rehabilitation—and figuring out what kinds of intervention are both effective and compatible with our values—is a complicated task that we've barely begun to tackle. What would these more socially conscious "rehabilitative" programs look like? Who would run them? Here, as elsewhere, left realists need to develop a greater capacity to create new kinds of programs—based on our analysis and our principles—and to evaluate them, accumulating our own base of knowledge about "what works" in this deeper sense (Currie 2010:120).

Building on earlier work (Goddard and Myers 2011; Myers and Goddard 2013), we examine here the form and function of a particular type of organization: namely, reformist, social justice-oriented organizations whose services run counter to the sort of coercive, risk-oriented, and exclusionary forms of crime prevention and intervention often condemned in critical criminology and punishment and society scholarship. One of our goals in this paper is to illuminate to a U.S.-based criminological audience some of the features of locally-driven preventive crime control, carried out by what we consider to be progressive community-based organizations (progressive in that these organizations are broad-minded, politically active, and offer 'interventions' to young people that counter some of the punitive and individualistic modes that now dominate U.S. youth justice policy).

COUNTERING 'SO WHAT?' CRIMINOLOGY

The task for left realist criminology is to take seriously—in its theory and policy recommendations—the social and economic inequalities that generate both street crime and repressive reactions to it (DeKeseredy 2011a). Realism stands in contrast to 'administrative criminology,' which separates crime from the political context, policing practices, and underlying root causes (Young 1994), and also with variants of critical criminology that fail to acknowledge the 'real' fear, pain, and suffering that results from street crime. For a realist, a progressive criminology that matters would acknowledge that crime is sparked by socially and politically conditioned actions and reactions—the consequences of which often result in pain and suffering for disempowered populations. According to left realism, the gap between the 'haves' and 'have nots' in a capitalist society is theorized to be at the root of much street violence: a society that abandons and punishes its poor—while promoting a culture that celebrates greed, individualism and exploitation—is at greatest risk of producing individuals who "suffer relative deprivation, frustration, and anger, which they express through disrespect and violence inflicted on each other" (Henry and Lanier 2006:297).

When it began in the United Kingdom in the 1980s, the left realist movement was in many ways a reaction to the dominant critical left-leaning criminological scholarship of the day, which focused predominantly on how street crime was created by a biased criminal justice system, and its scope 'overblown' by a sensationalist mass media (Walklate 2007). Realists concede—then and now—that crime is in part generated by a biased criminal justice system (Henry and Lanier 2006). But serious street crime is also a 'real' enough phenomenon for citizens living in socially excluded communities where interpersonal violence is heavily concentrated (Currie 2010). To only focus on the socially constructed nature of crime, or to dismiss interpersonal violence as unconscious political protest, is a 'left idealist' position (Young 1992): such a view may seem reasonable to comfortable academics, but it is an untenable one for citizens at the bottom of the economic ladder who must negotiate communities where repressive crime control and violence remain everyday realities.

Moreover, as the founding left realists pointed out, when left-leaning crime scholars fail to take seriously intra-class violence and self-abuse at the bottom of the class structure this leaves the question of 'what should be done' about crime to the political right. Although the vast

inequalities generated by capitalism give rise to myriad sources of street crime, for a realist, to sit and wait for the end to this unjust social order before doing something about violence is intellectually wrongheaded and morally indefensible. And that is because, as a discipline, we know quite a bit about the sorts of programs and policies that can buffer families and communities from the ravages of predatory neo-liberal capitalism in ways that reduce violence (Currie 2010). Of course, in order for it to be realist in nature, a criminologist's policy recommendations must take social and political context into account (Young 1994); however, to dismiss all manner of small-scale crime prevention and intervention as politically doomed or socially insignificant from the outset is shortsighted: without a progressive voice in the crime policy arena, the crime problem is left to the blinkered vision of technocratic criminology and the lively imaginings of those on the political right.

Unfortunately, the intellectual shortcomings that initially gave rise to left realist thinking are still evident in modern criminology. As it stands now, much of the scholarship on rehabilitative treatment and community efforts at intervention are made up of highly technical studies that seek to determine 'what works' without taking into account social or political context (Michalowski 2010). Far and away, the dominant variant in U.S. criminology is this sort of administrative criminology, which separates political and moral considerations from the business of determining an 'evidence-based' approach to crime control. To quote Edwards and Hughes (2012): "[these studies] bracket political analysis off from the science of explaining crime and 'what works, what doesn't and what's promising' for prevention (Sherman et al. 1998). And it is in this sense that such criminology can be depicted as 'administrative' (Young 1994)."

Administrative criminologists rarely open up the black box of treatment or crime prevention; however, this is a clear shortcoming because much of what gets called 'treatment' or 'crime prevention' is morally troubling when seen firsthand. Some interventions, for instance, equate treatment with degradation; others offer such thin 'help' that the word does not seem applicable. In fact, our interest in studying these more hopeful, more liberating community-driven forms of prevention and intervention was sparked by seeing what 'treatment' looked like in juvenile institutions and what youth crime prevention looked like in communities. For example, in a recent study of his own, the second author interviewed detained young women about, among other topics, their histories with rehabilitative programming. Given the number and magnitude of the life problems young women faced, the interventions they were offered had a sort of absurd quality to them, in that what treatment actually entailed often did little or nothing to address these problems. The following exchange highlights one young woman's experience with

group treatment at an alternative school built specifically for 'system-involved' youth:

What kind of lessons did you learn?

None. Well, I mean, you know, the counselors would teach us stuff about, or tell us stuff about, you know, films and how to enjoy a good film, and like why–

How to enjoy a film?

Well, like, take 'The Fast and Furious,' it has no real moral value or anything. It has a lot of, you know, action—well, what our minds want to see because it, it makes us excited. They call it a…uh, they called it pornography... [be]cause, it really has no moral value. And, they're not really good actors. You know what I mean? And, it's just a lot of uh, loud crashing and banging and fighting, and blood and guts, or whatever, you know?

What was the point of the lesson?

That uh, we don't—it's what our minds want, you know, we don't know how to enjoy a good movie. I don't know. I'm not really sure.

Out of context, this sort of programming is perhaps a bit humorous; however, given the number and magnitude of the real world problems that this young woman faced—in particular, her addiction to very potent pain pills, her entanglement in an abusive relationship, and in the fact that she had few marketable skills and no safe and sober place to live upon release—this sort of 'welfare inaction' was no laughing matter: given her location on the wrong end of numerous social inequalities, it is very likely she will be exposed to many gendered risks for violence as well as further self-destruction and criminalization upon release.

Other responses to crime are troubling in our view because they ignore the material inequalities at the root of so much real violence, often while feeding-off of and furthering the 'othering' processes that play into a hard culture prone to social exclusion (Young 1999). For example, during recent fieldwork of his own, the first author came across a faith-based youth-serving organization that envisioned delinquency and crime as a consequence of the moral impurity of immigrant residents. This excerpt from a field note captures the words of the program's director as he detailed to a public audience the crime prevention services that his organization offered 'the community':

During his presentation the director explained that: 'We go to where the crime is; we circle the area, lock arms, and pray together. We do this because the cause

of crime is in the soul, and we are the experts of the soul.' In the pictures shown, those praying appeared middle-class, and predominately white. The inhabitants of this high-crime apartment complex where they circled and prayed were predominately Latinos living in poverty.

We are well aware of the troubling qualities apparent in many rehabilitative and preventive efforts; there is much to be critical of. And, indeed, there is no shortage of critical scholarship on treatment and crime prevention. We are sympathetic to many of the critiques levied by critical scholars. However, we feel that much of it paints the field into a corner by tying on-the-ground workings to indomitable social forces while having little to say about what a more humane alternative might look like, meaning that it could be construed as a variant of 'So What?' criminology.

As realists routinely remind us, critical accounts that speak *only* to the expansion of a punitive ethos and the suffusion of crime control policies into all manner of civil society do little to advance our claims on either theoretical or political grounds, as sites for resistance or reform are theorized out of the picture (Matthews 2005). And such a constricted lens sidelines progressive criminologists when it comes time to suggest policy reforms (Currie 2007; Jacobson and Chancer 2010; Matthews 2009; 2010).[2] Policy relevance is inherent in the realist project, and such a focus could inform other modern criminologies. A revitalized realism, for instance, could stand alongside, learn from, and inform, cultural criminology and aid in a project that cultural criminologists have been relatively silent on up till now: namely, "the identification of viable alternatives, together with strategies and visions of how these alternatives could be realized" (Matthews 2010: 130).

Realism remains an important orientation in part because it entertains the possibility of progressive change while remaining critical of the construction of crime categories and all forms of social inequality. It sidesteps both variants of 'so what' criminology discussed here; that is to say, it avoids the blinkered view of administrative criminology and the impossiblilism of most—though not all—critical criminological work. It is a refreshing and necessary perspective for this reason. And while it might not be generating the number of collected works and journal articles that it did twenty years ago (e.g. Matthews and Young 1992; Young and Matthews 1992) realism is indeed alive and well. For instance, a realist lens has recently been brought to such subjects as terrorism (Gibbs 2010), gendered violence (DeKeseredy and Schwartz 2002; DeKeseredy 2011b; Mooney 2000) and anti-feminist fathers' rights organizations (Dragiewicz 2010). Moreover, well-known realists have recently assessed the health of left realism (Schwartz and DeKeseredy 2010) and

weighed-in on what a reinvigorated realism ought to look like (Currie 2010; Matthews 2009; 2010).

While realists remain critical of the material inequalities and hard cultures generated by neo-liberal capitalist arrangements (e.g. DeKeseredy and Schwartz 2010), they also acknowledge that fundamental social change must begin somewhere. And the subjects of our study make it clear that resistance and creativity live on in the world of community-based youth justice intervention. We would suggest that these locally-driven programs may serve as a template for a more hopeful sort of intervention (Currie 2012), or even as catalysts for broader social and criminal justice reform (Goddard and Myers 2011); indeed, these organizations show promise for organizing marginalized communities around crime issues in ways that might bring about social justice (Matthews 2005). To be sure, their funding sources and how they are held accountable have been shaped in meaningful ways by neo-liberal governance and a responsibilization agenda; however, such an agenda has not erased all manner of resistance or creativity—at times, it has sparked it or at least allowed it enough space to grow. In short, we use a left realist lens to make sense of the common practices shared by three youth-serving organizations, and to begin imagining how progressive academics and critical community-based organizations might learn from each other.

THE MAIN TENETS OF LEFT REALISM AND AN OVERVIEW OF THE COMMUNITY-BASED ORGANIZATIONS

The three progressive youth-serving organizations have four defining characteristics in common. In this section we describe the sort of innovative work being done by these groups, while also arguing that they share four overlapping characteristics that are in line with left realism. These characteristics include the following:

1. All three organizations treat crime as a social and political phenomenon rather than *just* behavior (In their own unique ways, each group pushes back against the criminalization of young people);

2. All three treat 'street' crime as 'real' phenomena. While each of the three groups is critical of the criminalization of youth, each takes violence seriously as well;

3. All three of the organizations focus on the economic roots of much serious violence, and;

4. Each values the democratization of crime and social policy at the community level.

The Organizations

In the field of crime control, these organizations work to *prevent* youth and gang violence, *intervene* on 'negative' behavior, and increasingly *reintegrate* young offenders back into the community. The youth involved in these organizations are not the so-called 'good kids.' Many have been expelled at least once, if not from several schools; others are returning or have spent time in juvenile or adult facilities; some participants are currently under formal supervision; some are currently detained; and some are former or active gang members. Common to all the youth is their experience with concentrated disadvantage, hyper-surveillance by law enforcement, and brushes with the law. The vast majority are young men and women of color (primarily from African-American, Latino, Central American, and Indigenous populations). Although we do not have precise demographic data, after spending time at these organizations it is understood that the young people come from low-income families and that their lives have been shaped by relative deprivation (Young 1999). In what follows, we give a brief overview of the three organizations, followed by the linking of left realism to the goals, characteristics, and activities of the three organizations.[3]

Homies Organizing the Mission to Empower Youth (HOMEY). Founded in 1999, and located in the Mission District of San Francisco, the organization works with young people, primarily between the ages of 14 and 22, who are from low-income neighborhoods. At any given time, HOMEY serves between 30 and 50 youth, with a particular focus on Latino youth—many of whom are considered by law enforcement as being active gang members (a term not used by the organization). As a youth violence prevention service for the City of San Francisco, HOMEY designs its intervention through a lens of social justice—specifically, by teaching Latino history and culture, political education, activism, and community organizing skills. In addition to several private donors and grants from foundations, HOMEY funds itself through contracts with the city and the county juvenile probation department to provide these non-traditional counseling and case management services to youth.

The Seattle Community Justice Program. Founded in 2000, and located in the Beacon Hill neighborhood of Seattle, Washington, the Seattle Community Justice Program works with 300 and 400 young people, ages 15 to 21, each year. The participants are primarily African-American and Latino, and there are a large number of indigenous young people. The mission of the Seattle Community Justice Program is to develop youth leaders for social change and work to end racial disparities in the juvenile justice system. Drawing from the civil rights struggles, the organization operates the Tyree Scott Freedom School, a multi-day workshop that offers an historical understanding of how race and racism was constructed in the U.S. Through the lens of race, the program uses non-traditional counseling to teach youth how to avoid harm when confronted by the criminal justice system, and it describes the history of activism. Building on lessons from the past, participating youth also learn about social justice-oriented and community-focused responses to crime and violence. The organization recently conducted Freedom School lessons with youth inside state-level juvenile prisons and was looking to expand the scope of this program. Along with financial support from private donors and grants, the Seattle Community Justice Program is a part of the American Friends Service Committee.[4]

The Youth Justice Coalition (YJC). Founded in 2002, and located in South Los Angeles, the Youth Justice Coalition serves youth who have been expelled from mainstream and other alternative schools and whose lives have been shaped by U.S. criminal and juvenile justice policy (directly and indirectly). Some of the young people affiliated with the YJC have been imprisoned in adult facilities, while many have spent time in the juvenile justice system. One of its goals is to build a youth-led movement to challenge race, gender, and class inequality in the Los Angeles County juvenile justice system. The organization currently serves between 100 and 130 youth, ranging from the ages of 14 to 22. A key component of the Youth Justice Coalition is the charter high school that it runs, Free Los Angeles High School, which the federal government funds through the Workforce Investment Act, and which is accredited by the John Muir Charter School Program.

The three organizations are not formally connected, but they share much in common in terms of philosophy and practice. All three groups campaign on social justice issues that pertain to the criminal justice system, community-driven crime control, racism, and grassroots activism; each articulates these ideas into a critical curriculum aimed at contextualizing students' understandings of personal troubles. In the following section we connect some these specific organizational activities to some of the central tenets of realism as a way to illustrate left realist principles in action.

LEFT REALISM IN ACTION

Treating Crime as a Social and Political Phenomenon Rather than Behavior

Building on labeling theory and early critical criminology scholarship, left realism's position is that crime is, in part, a social construction—it is one part action, one part reaction (Lea and Young 1984). Given this, according to left realism you would want to chip away at *excessive criminalization* and assist youth to *negotiate U.S. crime control*. These are precisely the activities these organizations carry out. For example, practitioners and

youth organizers at the Youth Justice Coalition work to combat the excessive criminalization of young people of color. According to an organizer at the Youth Justice Coalition, this includes reforming "the current overuse of suspension and expulsion to address willful defiance" in schools, and organizing efforts to rescind the Los Angeles Police Department's Special Order 1 and 11.[5] In another recent action, the Youth Justice Coalition developed a way for young people to challenge civil gang injunctions by submitting a form to the city prosecutor to review (until the Coalition worked with the city to develop the form, there was no way to remove oneself from a gang injunction—an anti-gang strategy that restricts non-criminal activities such as loitering at schools, carrying pagers, and riding bicycles). These actions by the Youth Justice Coalition typify the de-criminalizing work of these organizations: youth-driven actions that lack a taken-for-granted perspective of crime and its control, and attempt to revise local policies.

In addition to pushing for change at the policy level, all three organizations educate youth on how to negotiate traditional crime control efforts in their neighborhoods and schools. For instance, the Seattle Community Justice Program teaches young people at their Freedom School about their rights in encounters with law enforcement. Moreover, it schools young people in what one respondent called "commonsense survival skills" such as not making sudden movements or asking too many questions of the officers. Similarly, the Youth Justice Coalition recently developed a pamphlet that helps youth "stay cool but not have their rights violated during an encounter with the police." As the pamphlet says:

> So at all times when a cop approaches you, no matter how friendly or innocent the situation might seem, give the police your name, address and picture ID. Beyond that, be cool, be calm, be polite and flip the script: "No disrespect officer but I will not answer any further questions without speaking to a lawyer."

The practitioners at these organizations relate a great deal of the tension with law enforcement to historically rooted race relations (Alexander 2010; Glover 2009), including the contemporary manifestation of what they consider the overly broad use of the label 'gang member.' All three organizations contest the use of the word, and they see it as a political construction—one defined by those with the power to name certain groups and individuals as gang members. Respondents at HOMEY explicitly told us they never use the words 'gang' or 'gang member.' Since cultural practices (e.g. music, clothes, body language) of young people in these neighborhoods are often criminalized, or at least thought to be associated with practices of gang members, the organizations attempt to decouple gang behavior from minor delinquent behavior (e.g. tagging), law abiding behavior (e.g. standing on a

street corner), and skin tone. And for those who are, in fact, active gang members, the organizations humanize the image of a gang member—rejecting the image of a remorseless, marauding thug, who prefers violence to a conventional lifestyle. In these ways and others, these organizations aim to combat crime by changing the reactions of law enforcement and shifting the cultural backdrop that normalizes the criminalization of young people in the U.S. And in these ways—like left realist scholarship—these organizations view crime, and the criminal, as a social and political phenomenon.

Treating 'Street' Crime as a 'Real' Phenomenon

Left realists view crime as a genuine observable fact that is felt disproportionately by the powerless. Therefore, they argue, you ought to take violence and its victims seriously. Our interviewees at all three organizations spoke about the violence that the young people in their programs are exposed to. The director of HOMEY described how violence is an added challenge during the already challenging time of adolescence: that is, youth who commit violent acts still experience the same angst, relationship problems, and concern over looks as other teenagers. The director qualifies these young people's experience in the following way:

> The difference is that they are often targets, you know, and that's the tough part, you know, that's the part of being targets of either police, or other young people, or whatever, and it is what we try to get them away from, and try to steer them away from.

Similarly, organizers at the Youth Justice Coalition stress that 'high risk' populations of young people are at high risk of becoming victims of street crime as well as state-sanctioned violence:

> We have come to recognize our legitimate voices not just as people who have direct experience with school push-out, arrest, court, and custody, but as people who have also been regular and long-term victims of violence, crime, and PTSD.

In this way, Youth Justice Coalition's actions aim to not only scale back social control, but also shape civil society in a way that will (or should) lead to less violence. The Youth Justice Coalition recognizes, however, that there is a need for safety in places where young people spend time, and they conduct safety-oriented activities such as a workshops series called 'Respect: Ending the School-to-Jail Track.' They describe this workshop as a "skills and action planning workshop to have safe schools without pushing students out."

Thus, it is not that these organizations see crime as overblown or that they underplay the experiences of

victims of crime. Rather, like realists, they see the problem of crime as being exacerbated by the crime control reaction, particularly to public order crimes, and point out that people overlook that offenders and criminalized young people are usually (direct and indirect) victims of violent street crime as well. As with attempts to change societal reactions to young people's behaviors, the views of these organizations regarding violence point to, albeit in a less cogent manner, left realism.

Economic Inequality Breeds Violence

Given the assertion by left realists that inequality relative to others in society is a formula that engenders violence, organizations ought to help youth to *understand, negotiate*, and *change* these criminogenic economic realities. Paralleling this central left realist tenet, the organizations linked violence to economic inequality and (in less overt ways) relative deprivation. All three groups helped youth understand the nature and effects of racialized social and economic inequality. For instance, the director of the Seattle Community Justice Program described one of its consciousness-raising interventions—one which took place in a locked juvenile facility—in the following way:

> We will take them through a process of looking at the conditioning of socialization—how we're all conditioned, and the mediums in which we're conditioned…Then we'll take them through a power analysis—really lookin' at the institutional relationship to poor communities. Lookin' at every institution, from the media to insurance industry, and especially education and criminal justice, which most impact these young people. Then we'll look at the internalization of racial oppression. The internalization of racial inferiority and superiority. The individual messages that people of color get in our society and that white people get in relationship to each other, and how we can play out those messages unconsciously.

Providing young people with a sociological understanding of inequality and its internalization was a goal of all three groups. In HOMEY's mission statement, it states that the organization "addresses and combats internalized oppression, discrimination, dis-enfranchisement, and other social ills that have common roots in poverty and lack of education and resources." The director described to us his view of the relationship between poverty and violence in the working-poor neighborhood of San Francisco where the HOMEY office is located:

> I see street violence, and like domestic violence, and all those kinds of different, you know, *ills* as

symptoms and not as root causes of what's goin' on in those neighborhoods, right? So, in my neighborhood, that's not the root cause of why people shoot themselves. The root cause is because people don't got no money.

The Youth Justice Coalition also makes links between inequality and violence. In many of its campaigns for justice-system reform, the Youth Justice Coalition critiques the justice system for not taking into account the complex social issues at the root of crime. In a 2012 flyer to mobilize community members to pack a courtroom to protest the sentencing phase of a trial in which a14-year-old boy faced 300 years in prison for an alleged drive-by shooting, they point out that in the courtroom the "root causes" of violence cannot be discussed in a way that allows the "complexities of community relationships" to be understood.

For all three organizations, we see an attempt to complicate simple, dominant individualized explanations for violent crime by providing an alternative explanation that connects multiple factors and the unfair allocation of resources that operate on one another—creating a 'toxic brew' for many U.S. communities (Currie 1997). Our informant in Seattle spoke to what made the programing his organization conducts in juvenile detention unique from the dominant approaches young people usually encounter behind bars.

> There's no one else talking about social issues in the way in which we're talking about social issues. So, that's, that's the major difference. We're coming in… with a desire to revolutionize kids, you know? And, that's, most people aren't comin' in with that sense. So, we're really trying to encourage them to become political actors. Inside and outside. Help them to get a sense of their own power that they can change some of these issues that are impacting them. And, again, helpin' them to make better choices in their own lives. I mean, every one of them, you know, I'd say the majority of them aren't gonna be, you know, community organizers, or what we would call anti-racist community organizers, but they all can do something in their own sphere of influence that can make their community better. And that's what we want them to see.

The ultimate aim of the organizers we spoke to is to empower young people to become agents for social change, personally and collectively; however, one byproduct of this effort may be a changed self-concept for the young person that is less prone to the sort of self-destruction and intra-class violence that is most likely to land them in the U.S. criminal justice system. Such actions are real-world examples of a more principled form of intervention (Currie 2010; 2012).

The Solutions to Crime Ought to be Democratically Determined

Last, a left realist policy agenda must include a horizontal decision making arrangement.[6] The organizations spoke to the importance of having solutions to crime come from the bottom up. This can include having elements of a program designed or informed by youth themselves. For instance, HOMEY's *Kalpulli* program is a social justice, youth organizing group that meets weekly. Through *Kalpulli*, HOMEY staff educates and facilitates activism through youth-led leadership development and political organizing around issues that are important to the youth. At the Youth Justice Coalition, too, campaigns target social issues that youth identify, and young people largely design the campaign tactics used. Such youth-led aspects are another difference between these alternative forms of intervention and what normally occurs under the name of treatment or prevention.

Beyond valuing youth-input in the shaping of program workings, key informants all spoke to the more general need for responses to crime to be informed by the community. For instance, in our interview at the Seattle Community Justice Program, the organization described the need for a more holistic and community-driven approach to crime prevention and social intervention:

> If you have easy access to guns, if you have unresolved mental health issues, potentially, unresolved trauma issues, unresolved issues in terms of just everything we talked about with the society, that creates a toxic mix. And no one's really had the foresight to really dig in and deal with all those issues that are swirling around for our young people. You know, typically, the approach has been we'll have some youth violence programs, and we'll have more of a police response. And, that's not to say we don't need those two components, but it needs to be more holistic. And, that's the conversation we're trying to push forward. How do we have a more holistic, community-based response to what these young people need?

Similarly, on its website, the Youth Justice Coalition describes how it "believes in self-determination and empowerment of our communities and all oppressed peoples…" During face-to-face interviews, respondents at the Youth Justice Coalition explained to us that, "We do not feel that the current social, cultural, political, economic, and other forms of governance represent, or have ever represented our interests, our means of existence, freedoms, or liberations." And their particular treatment focus is to "mobilize the voice, vision, talents, and power of young people, through direct action organizing, advocacy, issue education, and activist arts." Reflecting this last parallel with left realist criminology,

the director of the Seattle Community Justice Program described to us how the purpose of the freedom school is to "raise the consciousness of young people in social justice issues and create young anti-racist community organizers." Thus, alongside their activist educational pedagogy, these organizations work to build a youth-led movement to challenge race, gender, and class inequality, particularly in crime legislation, its enforcement on the street, and in the correctional system. We predict that the success in this area, will impact, more than any other, the success of the other three areas we see as parallel to left realism. And we can only wait to see, over time, how these groups will fair in the current 'culture of control' (Garland 2001).

PROGRESSIVE POSSIBILITIES?

This article casts light on the critical and progressive work being carried out by community-based organizations that have to this point been largely overlooked by criminologists. As a first step in calling attention to this alternative brand of intervention, we have tried to organize what holds these groups together in terms of practice and outlook. Our examination of the guiding philosophies and daily workings of the three organizations revealed four defining characteristics which can be usefully construed as being in line with the main tenets of left realism: crime as political, violence as 'real,' inequality as a generator of violence, and intervention as democratically informed. Drawing such parallels might serve as an avenue for a bottom-up sort of public criminology—one that works actively with agents for social change. Moreover, this work should serve as a reminder to criminologists that progressive policy innovation can be achieved at the popular level and not just by doing 'policy relevant' work that sways the actions of those already in power at the state level (Michalowski 1983). Indeed, to the extent the subjects of our case studies are not aberrations, further exploration of locally-driven, locally-designed crime control efforts may serve as a starting point for a more compassionate approach to juvenile crime control. Should collaborative relationships be formed, we see the possibility for meaningful and impactful form of "deep prevention" (Currie 2010)—since not only does the theory parallel, albeit imperfectly, practitioners' own views and lived experiences, but for critical scholars these organizations have the access to, and the trust of, the most hard to reach 'high risk' young people.

This article provides new directions for left realism by highlighting a policy area where the theory can operate and be impactful—somewhat unfettered by government filters and negligence. Along these lines, we show optimism for left realism as a viable theory for informing juvenile justice policy. However, we should point out that the promise of these organizations might be greater than their actual delivery, as they face subtle hindrances, economic

obstacles, and potential political backlash (Myers and Goddard 2013). Opening a youth center on every street in an area facing fundamental social problems is not the answer. However, it could be part of the answer. And, because these organizations envision crime and punishment as shaped by larger social forces, they may serve as catalysts for broader social change. How this process may unfold—or not—ought to be a subject for critical or progressive criminologists to think hard about.

What is for sure is that we have observed left realism in action. But this raises an important question—possibly a danger. If we are to democratize preventive crime control decisions, how do we integrate the knowledge of critical and left realist criminology with local knowledge of the youth and the senior practitioners from these organizations? That is, how can progressive academics work alongside community-based actors in ways that are helpful to bringing about the sort of social change that both groups generally agree is necessary? O'Malley (2008) has argued we subject expert definitions of problems and solutions to 'lay' critique—although in the above findings we see that there is a great deal of agreement already in place. Where disagreements do arise, however, there would need to be opportunities for negotiation in instances where the left realist and the local organizations both have something to offer, as O'Malley, again, suggests. For if you lose the local voice and decision-making capacity, you lose the local organizations.

Through a slightly different lens, though, this seeming tension between academics and local organizers could be repurposed as a clear strength. Academics and oppositional movements critical of neo-liberalism and its consequences might work together in order to more clearly chart a path towards a world that is more equal and socially just. Harvey (2005:198) notes that in creating a plan for social change there are "two main paths to take": you can "engage with oppositional movements" and attempt to "distil from and through their activism the essence of a broad-based oppositional program" or you can engage in theoretical and practical exercises in the hopes of deriving alternative models through engaged scholarship. While tensions will surely arise when these two paths cross, the relative strength and value of either one does not need to be built on de-valuing the other.

> To take the latter path in no way presumes that existing oppositional movements are wrong or somehow defective in their understandings. By the same token, oppositional movements cannot presume that analytical findings are irrelevant to their cause. The task is to initiate dialogue between those taking each path and thereby to deepen collective understandings and define more adequate lines of action (Harvey 2005:199).

What is clear is that the understandings of progressive criminologists resonate with the logics and practices of these already established alternative organizations. And, it seems reasonable that lines of communication ought to be established since both sides have important and unique contributions to make towards increased understanding and social change. However, if stable bridges are to be built between progressive outposts in the academy and critical organizations in the community, this will need to be done in spite of an academic reward structure that does not value such work (Currie 2007). Moreover, such an effort will be at odds with a long history of academic silencing in the US-based social sciences generally and criminology in particular (Young 2011). While doing social science and doing campaigning politics simultaneously is certainly not without risk or contradiction (Carlen 2012), it is seems clear that criminologists with progressive values have much to learn from ground-up efforts that oppose mass incarceration and racialized economic inequality. Thus, such sites ought to inform theories for social change, and the multiplication of such organizations outside the traditional policy arena ought to become a part of critical scholars' policy suggestions. Moreover, such organizations could serve as sights for a 'policy relevant' critical criminology that is somewhat buffered from the political and economic interests of the powerful (Michalowski 2010). From the point of view of community-based organizations, an important litmus test for whether they would want to pursue a closer relationship with the academy is whether academic work has a reasonable chance at improving the community being studied. As our informant in Seattle put it:

> The work you do in the academy needs to be connected to organizing out in the community. The whole purpose of y'all doin' your work is to make this a better country, right? A better world. So, how do you do your work in that way?

As neo-liberal capitalism continues to deepen inequalities and harden cultures across the globe, a transformative critical criminology that speaks to real world issues is needed now more than ever (Reiner 2012). While rates of homicide have dropped in recent years, the U.S. remains a very violent place when compared to Western European countries (Hall and McLean 2009). And this violence remains concentrated within communities facing similar constellations of social problems—problems that have been exacerbated by the heavy-handed crime control policies that stand in place of a progressive public policy that would allow all young people access to the meaningful work and social supports needed to live lives free of violence and coercive crime control. Given the nature, scope and depth of these real world problems, a left realist perspective—in theory and in action—is needed now more than ever.

Notes

[1] Although we do not engage fully in the complicated history of left realism in this article, see Walklate (2007) for an excellent review of the theory and an informative discussion of the differences between UK and North American strands of thought. See also Henry and Lanier (2006) for a good general overview of the theory.

[2] Our claim here is not so much that one critical approach is better than another, but simply that left realism can inform juvenile justice policy, thus remaining a useful orientation—and one that is compatible with building a sociologically-inclined criminology committed to progressive values. Moreover, the value of a realist perspective does not need to be built by the wholesale denigration of other approaches, be they critical or mainstream; in fact, one of the strengths of realist authors has been in synthesizing large bodies of administrative criminological studies into more contextualized accounts of crime and punishment, and in their ability to incorporate such findings into their own policy recommendations.

[3] Although the sample is small, there are scores of similar organizations operating in the U.S. For example, the national organizations All of Us or None, Barrios Unidos, and YouthAction; the Los Angeles-based organizations The Advancement Project and El Joven Noble; the San Francisco-based organizations Community Justice Network for Youth, The Center for Young Women's Development, and United Playaz; the Oakland-based organizations Critical Resistance, SOUL (School of Unity and Liberation), and The Center for Third World Organizing; the Chicago Freedom School and Project NIA in Chicago; Malcolm X Grassroots Movement, DRUM (Desis Rising Up and Moving), and Sista II Sista in Brooklyn, New York; and The Children's Defense Fund in Washington DC, to name a few.

[4] The American Friends Service Committee is a Quaker organization that includes people of various faiths who are committed to social justice, peace, and humanitarian service.

[5] According to the Youth Justice Coalition, the two Special Orders allow Suspicious Activity Reports to be issued for non-criminal behavior such as using video cameras, taking notes, or using binoculars.

[6] The idea is increasingly being supported at different levels of U.S. government, as the 'turn to' communities is being re-introduced in crime control as the best formula for preventing and intervening on 'street' crime in urban neighborhoods.

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Faculty-Student Collaborative Research:
Experiencing the Ethics of Joint Publishing with Gilbert Geis

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Keywords: ethics, faculty-student collaborative research, joint publishing, white-collar crime

This article is a reflection on Gilbert Geis' article focusing on faculty-student collaboration with publishing. Gil Geis was the supervisor of my Ph.D. while I attended the University of California, Irvine and we co-authored a number of manuscripts during that time. The lessons I learned about collaborative publishing from him at that time continue to influence me during my academic career, which included more collaborative work with him.

Probably the most important "lessons" I learned about publishing while I was in the Ph.D. program in Social Ecology during the late 1970s and early 1980s occurred while I was talking to Gil Geis either in his office or walking with him to a variety of locations around the campus. It was during these occasions that Gil questioned, reasoned, debated, instructed, and informed me about numerous academic-related matters. Rarely during these instances did we talk about formal academic matters, such as my dissertation and if we did start discussing it, the topic quickly changed. On many occasions, our discussions were about the two issues that he raises in his paper, 'Observations on Student-Faculty Collaborative Research and the Ethics of Joint Publishing' (Geis 2012), namely the logistics and ethics of faculty-student collaborative research and various aspects of what he regards as problems with the processes involved in the publication of criminological articles.

At the time I listened intently, and assumed that most of what he said to me about these two issues was the norm among the academics I would work with in the future. It was these lessons (discussed below) that I took with me as

I started my career. As my career progressed, and as I met more people in my field of white-collar/corporate crime, I became associated with a number of academics who represented the best of what Gil stood for – including such notable individuals as Piers Beirne, Frank Cullen, Chuck Reasons, Neal Shover, and Peter Yeager. Over the ensuing years, however, I have been exposed to an ever increasing number of (mostly) undergraduate students who complained to me, in private, about professors who made questionable ethical decisions which had the impact of excluding them in a variety of ways (e.g., not identifying them as co-authors when much of the idea(s) or data collection in an article was theirs, or a significant portion was written and analyzed by the student). In such situations, I always reflect back to what Gil talked about, specifically about the ethics of faculty-student collaborative research. My advice to the students always mirrors the lessons I was taught by Gil.

In terms of elaborating upon his lessons and relating them to the ideas in his article, probably the best way is to discuss our joint work on Edwin H. Sutherland. This is because when Gil talked, he most typically made his points by telling me 'stories' as opposed to giving me any strict guidelines. When I first arrived at the University of California I had a few ideas for my dissertation topic that I submitted to Gil. None of them really impressed him to the point that he thought that any one of them would be suitable. It was during a meeting where we were going over one of my ideas for my dissertation that Gil mentioned that he had a research topic that he would like a

graduate student to do. The topic he had in mind was: why was it that Edwin Sutherland had created the term white-collar crime and how had that idea been developed by him until his death in 1950. I informed him that I wasn`t interested, as I wanted to pursue a topic related to the area of the Sociology of Law. Later that semester, as we were walking from class back to his office, Gil mentioned to me that he was scheduled to present a paper at a conference in a few months and was concerned whether he would be prepared on time. I told him I could help him prepare the materials if he wanted; Gil accepted and informed me that the paper was about Edwin Sutherland and his work in the area of white-collar crime.

I was briefly given some topic areas that Gil wanted researched and assessed based on the current status of his paper, but was told that it was really up to me to determine what I should be doing. Soon I was in the university library, researching biographical accounts of not only Sutherland but many other individuals who lived at that same time. I can vividly remember taking some relevant information to a department meeting and placing it in front of Gil, who at that time was involved in a rather prolonged intense debate about the future course of Social Ecology. While another faculty member was attempting, in a rather harsh manner, to refute some of the things Gil had just mentioned, he read over the file I had handed to him and turned to me, saying that he was impressed with what he had just read. He then launched into a rather long critique of the comments just made by the other faculty member.

Over the next few weeks, while I continued my research of historically-relevant materials, Gil began to ask my opinion about Sutherland's history and career. Initially I was taken aback, but then slowly began to offer a number of suggestions, a number of which were immediately rejected, while others were discussed in great detail. On one day at the end of the term, Gil again asked me if I wanted to write about Sutherland's work in the area of white-collar crime for my dissertation, and I agreed that I would.

In any case, my work finding materials on Sutherland continued, and on the first day of classes at the start of the second term, Gil handed me his almost completed paper—with my name as co-author. I told him that he didn`t have to do such a thing, but he insisted, saying that I had contributed in so many ways to the final product. The final title of the paper was "Edwin H. Sutherland: A Biographical and Analytical Commentary," which was presented at the White-Collar and Economic Crime Conference, held between February 7-9, 1980, at State University of New York, Potsdam. The article (Geis and Goff 1980) was published among a collection of papers presented at that same conference – *White-Collar and Economic Crime*, edited by Peter Wickman and Timothy Dailey. My role in the final version of the manuscript was minimal, as Gil correctly observes in his introduction to his book, *On White-Collar Crime* where he noted that the

"biographical piece on Sutherland was largely (his) work, though Colin Goff helped greatly with the research and discussion of ideas" (Geis 1982: xxi). Of course, by the time the book was published I was well into my dissertation about Sutherland's work on white-collar crime.

On numerous occasions (usually when I have had a graduate student facing seemingly unresolvable issues in their work) I have reflected on how Gil managed to involve me in taking on Sutherland and his work on white-collar crime for my dissertation, but also the process of how he developed my analytical skills when writing an intellectual biography. There were constant meetings, working sessions, moments of indecision and too many rewrites. As I now understand it, Gil was insuring that it was my decisions, my insights, and my analysis that appeared in my dissertation. Always quick to question me and inquire further, Gil was making me take on the role of an independent and original researcher. Yet, by the time I had finished my dissertation, at least to my satisfaction, another issue related to co-authorship presented itself. This issue began when, in mid-summer 1982 (a few months prior to my leaving the University of California for my first teaching job), I was discussing issues related to my final dissertation rewrite with in Gil in his office. During our conversation, he received a phone call from Gladys Topkis, an editor at Yale University Press. She told Gil that they were starting a new series on white-collar crime, which was to be under the general editorship of Stanton Wheeler, then a professor in Yale Law School. They were planning a series of books that looked at various issues in the area, and were looking for a manuscript that would provide a general introduction to the field – she asked if Gil had one available. Gil replied that he didn't, then looked at me and asked if I knew of anyone who was working on such a project? I shook my head that I did not, but then quickly mentioned to him that Yale should publish the original manuscript of *White-Collar Crime* (Sutherland 1949) which contained a number of chapters that were excluded from the original edition of his book. Gil ignored the comment, and was starting to end the call when I literally threw myself across his desk, asking him to tell her about Sutherland's original, unpublished manuscript. After Gil mentioned it, Gladys immediately indicated her interest, and soon everything was in place for the manuscript to be the lead book for their series on white-collar crime.

Gil was asked if he wanted to write an introduction to the book. Gil accepted, but only if I was to be the co-author. Soon we were writing the introduction, feeling the strain of writing 20 to 25 book pages in virtually less than a month. Not surprisingly, Gil and I decided to include a substantial amount of what I had written for my dissertation into the introductory section. This was published as the 'Introduction' chapter in *White Collar Crime: The Uncut Version* (Geis and Goff 1983). Later, a

significant issue related to co-authorship presented itself. Gladys was coming to Southern California on related business and was bringing the contracts for the introduction with her. At the meeting held at Gil's house in South Laguna Beach, Gladys raised the issue of who would be the lead author. Gil immediately told her that I was to be the lead author, given that so much of the material in the manuscript was from my research. I immediately opposed Gil, suggesting that, given the significance of the publication of Sutherland's original manuscript after 34 years in a revised format, it was he who should be the lead author. I also noted that given his status in the area, it was only fitting that he takes on that role. After some more discussion, and despite his reluctance to accept it, he ultimately agreed (much to the relief of Gladys, I might add). To me, having my name associated with Gil and the publication of Edwin Sutherland's original manuscript was more than sufficient. To Gil, it was more a matter of insuring that the appropriate credit was given in the listing of the authors. It was only with a great deal of persuasion that he agreed to his name being listed as lead author.

Since that time, of course, my research career diverged – for example, studying Aboriginal gangs on site in Northern Manitoba and working in the area of Aboriginal justice – but I always asked Gil to be a co-author when I was asked to write a paper related to the history of criminology. On these few occasions when I co-authored a paper with Gil, I was the lead author since I wrote the bulk of the manuscript. But a few years ago I had the opportunity to work again with Gil on a biographical piece on a famous criminologist I wasn't totally familiar with. During the writing of the manuscript, I experienced the exact same process that occurred during the writing of my dissertation. This occurred when Frank Cullen contacted me in 2008 to write two articles for an upcoming book (*The Origins of American Criminology*) he was editing with several others. One chapter concerned Edwin Sutherland and his development of the theory of differential association (Goff and Geis 2011a), while the other was to feature Thorsten Sellin and his work in the area of culture conflict (Goff and Geis 2011b). While I quickly wrote up most of the piece on Sutherland, I wasn't as familiar with Sellin's work on culture conflict. As soon as this paper began to materialize, I realized that Gil was making me the lead author, not just by writing the article, but also by doing most of the research. It wasn't long before I was making key decisions about the development of the article as well as the analysis. When we completed the paper, I remember telling Gil that I had placed his name as the lead author on the final manuscript I was sending to Frank. Gil refused, and told me that I was to be the lead author as I had done the bulk of the work.

Beyond the transformative experiences of working with Gil as a graduate student and later on in my career, Gil steadfastly maintained the highest levels of integrity.

What I experienced, no doubt, is what others did too. I cannot express how important it was to know Gil throughout my career. I was lucky to have his association. Joseph T. Wells, the founder and Chairman of the Board of the Association of Certified Bank Examiners, in his foreword to a collection of essays about Gil (*Contemporary Issues in Criminal Justice,* edited by Henry N. Pontell and David Shichor) noted that he had "only one regret about (his) experience with Gil; that (he) didn't meet him sooner " (Wells 2000: xi). And I wholeheartedly agree with him when he states "there is simply no one like him."

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Collaborative Lessons Learned under the Tutelage of Gilbert Geis

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Keywords: criminology, medical fraud, occupational crime, white-collar crime

In 1995, when I faced the critical decision of selecting a dissertation topic, Dr. Paul Jesilow introduced me to Emeritus Professor Gilbert Geis. This encounter, whether by chance or intentionally orchestrated by Paul, resulted in collaborations with Gil that changed the course of my academic career. My work with Gil taught me many valuable lessons about academic scholarship. Gil was a mentor and role model for students because of his exceptional talent and willingness to help aspiring, and, at times, struggling scholars. Those of us fortunate enough to have collaborated with him learned the importance of persistence, organization, and skilled writing. My initial work with Gil created substantial anxiety and presented a somewhat intimidating challenge. Most writers are insecure about their work and I am no exception. What could I possibly produce on the first draft that might be acceptable to a professor of such high caliber? In the end, I can only assume all was good based on my continued collaborations and friendship with Gil.

Lesson 1: Red ink is a sign someone cares. Gil is infamous for his red inked edits and comments. Despite my initial trepidation and shock at the marks on my articles, I quickly came to realize the value of his editing. Gil never failed to delete the one sentence or paragraph I believed to be the most powerful and articulate in the paper or chapter. Ultimately, the deletion turned out to be a wise choice made by a fine editor. We all fall into bad habits and good collaboration means sharing strengths and weaknesses in our writing styles. Gil was quick to note needed changes, particularly my fondness for commas.

Collaborating with other scholars, students, and practitioners helps us to remember to write clearly and concisely. Gil conveyed to me a respect for the power of words. His vocabulary potentially exceeds John Updike and I'm always amused after a student admits to having a dictionary in hand when reading one of Gil's articles. I cherish feedback on my writing and rather than automatically clicking "accept changes" on an edited paper, I examine what went wrong and why. Any negative images of Gil's red ink were erased for me when I embraced the bleeding on my paper as an opportunity to learn.

Lesson 2: Collaboration inevitably results in disagreement. Gil and I co-authored *Stealing Dreams* (Dodge and Geis 2003), co-edited *The Lessons of Criminology* (Geis and Dodge 2002), and worked together on other publications. Not once did we stumble over any of the ethical issues or problems he presented in his commentary, though once or twice we disagreed on the order of authorship. Gil was true to his word and preferred (stubbornly insisted may be a more accurate description) on placing students or young academics making their way through the tenure and promotion process as first authors. After completing our last publication titled *Global White-Collar Crime* (forthcoming), I urged Gil to take lead authorship, but he adamantly insisted otherwise and made me promise to see the article through to the end as first author should anything happen to him. I respected his wishes. Avoiding the pitfalls of ethical dilemmas in collaborations, particularly related to authorship, may present challenges,

but when communication and respect are valued and placed at the forefront of the endeavor the chances of disagreements are lessened.

Lesson 3: Students provide insightful, new perspectives on research. Scholars often become myopic or weary of writing after researching a particular subject for a lengthy period of time. Collaborating with students offers a unique opportunity to serve as a mentor and see novel approaches. Students are incredibly talented and come to the table with innovative ideas. Faculty can build student relationships toward a mutually beneficial goal through collaboration. I still remember my first journal publication co-authored with Dr. Edith Greene (Dodge and Greene 1991) and the excitement of seeing a tangible product resulting from hours of research and writing. This publication would not have occurred during my undergraduate studies without the collaboration of a talented senior scholar.

Lesson 4: Accept the frustrations of revise and resubmit. Gil often commented on the insidious manner in which publications were deemed worthy of attention by leading journals. His acknowledgement of Dr. Don Gibbons is testimony to the right way to approach manuscript reviews. Gibbons, for those unfamiliar with his work, is a masterful editor. In fact, I often find myself revisiting his work as a reminder of the importance of superior writing skills (see e.g., Gibbons and Farr 1998; Gibbons 1995). While we mentor our most talented students on publications, we are also obligated to a generation of college students who desperately need help developing writing skills, which is unlikely to occur by giving multiple-choice tests. Consider, for example, a professor so despondent and tired after years of reading poorly written assignments in a master's level program he decided matching tests were an acceptable option. Admittedly, all the students reported his matching tests were wickedly difficult, though none believed the experience held much educational value. Students learn through the process, and whether or not the work is publishable or readable, they need feedback at all levels to become better writers.

Rejection is never easy, but it frequently happens to even the best of scholars. A faculty member may feel responsible for dashing the hopes of a student, but persistence will pay off. After a series of rejections on a particular article, I received Dr. Frank Cullen's (2002: 18) contribution to the *Lessons of Criminology*. I took to heart his three-day policy after a rejection: "one day to weep; one day to find a new journal; and one day to send the manuscript out again" continues to serve as inspiration for not giving up. I also believed if Cullen, one of the finest scholars in our field, could be rejected by 39 publishers on a submitted book persistence counts. His book eventually was published and recognized for a distinguished scholarship award.

Collaboration with students is essential to strengthening our work. To truly understand the advantages of collaborations, I encourage all graduate students to read the essays in *Lessons of Criminology* (2002), which emphasize the importance of co-authored publications and offers insight from the leading scholars in our field. Dr. Frank Scarpitti (2002: 85) also noted the importance of working with students and eloquently stated: "Working with students, sharpening their skills, influencing their thinking, and assisting their careers are the ways most academics leave a meaningful and lasting legacy." The value of working with students should never be underestimated.

Lesson 5: Do the right thing for your students. A graduate student recently came to me for advice on publishing. Currently, he is learning to navigate the intricacies of academic publishing and is determined to succeed in these murky waters (admittedly, a recent reviewer called my writing verbose, but I take no umbrage over the comment). This student had completed a paper for a class, and the professor noted its potential for publication. This is an example of excellent mentoring; however, the student was unsure of his next step. He was torn in his decision to collaborate with the faculty member or attempt a publication on his own. I was unable to give him any pat answers. What I did tell him was to consider the pros and cons of the situation. On the one hand, collaboration with an established scholar has many advantages and can assist in making the process of publishing a peer-reviewed article easier. His work, on the other hand, is sophisticated and publishable as a solo-authored piece. Ultimately, he would need to make the choice based on the best possible scenario for his continued studies. Ideally, collaboration offers a true learning experience when undertaken in everyone's best interest.

Lesson 6: Collaboration with students is an essential part of teaching. Though many scholars may not face the ethical "surprises" that develop in collaboration with students, Gil's message serves as a harbinger to faculty about the pitfalls of self-absorption. His words describe the pleasure and disappointment of equally sharing our successes and failures (even revise and resubmits) as a learning experience. Consider, for example, the current push by some publishers to encourage senior scholars to author a textbook at the expense of junior scholars who are tasked with doing all the work. This marketing scheme strikes me as unethical, and I am confident Gil would agree. Faculty members hold a position of power over students and untenured assistant professors; taking advantage of one's position is unethical and unforgiveable.

The opportunities for misconduct in research and publications among faculty are numerous. I'm reminded, for example, of a professor who routinely sent students out as a classroom exercise to conduct qualitative interviews, which he would later publish as his own work. This

behavior, as noted by Gil, should be "scrupulously avoided." In another instance, this professor told anyone willing to listen, including the university's retention and promotion committee, the co-author on several publications merely served as a typist. Not surprisingly, gender played a role in the process; the complaining author was male and the "typist" female. How unfortunate it would be if in the future we require specific contractual agreements for collaborative work. Gil warns us to respect and value student and colleague collaborations yet be ever vigilant to the egotistical nature driving our endeavors.

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Hands in the Clay: Mentoring, Students, and Criminological Reformation

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INTELLECTUAL WORK, if it is to be first rate, requires fresh and iconoclastic thought. Otherwise, it is apt to become prey to the technicians, who vie with each other in attempts to do the same thing, only better. They never question the endeavor itself, never ask whether in truth they are tackling the most important problems or, indeed, whether they are examining a problem that is of any importance at all. Their single-minded aim is to accomplish the task with consummate skill, and to awe their fellows who might have done the same work less satisfactorily. (Gilbert Geis 1992). "Foreword" to *Myths That Cause Crime.*

In this brief commentary I share insights on the faculty-student mentoring relationship. This endeavor finds its origin in an essay by Gilbert Geis (2012). Aptly, then, I will allow myself to meander, as he does, through various tales of experience on the topic that together comprise, to a significant degree, the path of my own understanding.

First, some relevant disclosures. I am a "product" of the University of California-Irvine School of Social Ecology and Department of Criminology, Law & Society. My doctorate was earned under the supervision of Professor Emeritus Gilbert Geis. This association certainly makes me less than objective about the man as man, scholar, and mentor. On the other hand, it also permits me perhaps more depth in discerning aspects of his message.

By way of self-appraisal, as a mentee, I have often found myself somewhat thin-skinned and aloof, and thus maybe not the easiest person to mentor. Since these qualities are not rare among academics, insights derived from my experiences may be of more than parochial interest.

A final acknowledgement is that I am a reformed felon and a founding member of the Convict Criminology group. This may mean many things, but principle among them here is the suspicion that my GRE scores alone may not have sufficed to place me in graduate school, just as the number and quality of my scholarly publications did not seem enough to land me a tenure-track job. What I mean to imply is that entering into a mentoring relationship with me, or people like me, for that matter, may not be for the risk averse.

In this regard, to this day I applaud both my alma mater and principal mentor for their courage. I suspect, however, that the stresses and strains of mentorship we endured were not ours alone. I have found, in fact, that beneath the surface of many students of crime and justice (professors included) lays a perhaps unwieldy, fiery passion to contribute and be of service. Maybe this passion is directed at understanding human behavior. Maybe it is as simple as striving to "put away the bad guys." Either way, it is this underlying energy to serve and to know and understand, that may be as intimidating as it is inspiring. Today, in the classroom, I face the inspiration carried by students of my own. At times their contributions may appear latent, but it is their energy that uplifts me nonetheless. This is so, even as my awareness of the often hard realities of law and society anchor me to solid ground.

GRADUATE SCHOOL

At UC Irvine, and in Gil Geis, I found a meritocracy fused with doses of generosity and deep compassion (in the case of the department, this was true most of the time). In that environment, I was able to thrive. The university setting was itself something of a continuation for me, as I had long resided in institutions. Still, the social and learning environments were quite a change. At times I felt ill at ease, out of place, and wondered if I really fit in. Like for many, I suspect, graduate school for me was a time of being "re-formed" (many have had a hand in the clay; Gil's mark, deeply felt, is I hope unmistakable).

The mentoring of a criminologist or student of criminal justice carries burdens not so evident in other fields. I say this because criminal justice, by and large, deals with pain, intentionally inflicted and otherwise. Our so-called "offenders" very often act out of pain—think of the child molester who was himself a molested child; or think of the gang member raised in structural and interpersonal violence and relative deprivation. So too, crime "victims" are, by definition, recipients of harm.

But it is the criminal justice system itself that is most problematic. It does its work ostensibly on behalf of citizens and in the name of justice, yet its methods and outcomes leave much to be desired. Phrases well known within the field, such as, "malign neglect" (Tonry 1995), "the pains of imprisonment" (Sykes 1958), and "penal harm" (Clear 1994), give voice to a reality stated by countless others: that criminal justice dispenses pain, harming individuals and certain groups terribly. This understanding informed the work of Gil Geis, as it does my own. This awareness was something we shared, a source of our bond, and something we agreed was important to pass on to students who may lack this sensibility. I noted in Gil a commitment to discern and name harm and suffering, whatever the source, and to be judicious in presenting it to students and readers. Gil modeled the dictum to make the suffering apparent, but not to lay it on too thick.

Important to Gil as well, perhaps ironically, was to have fun. He told me your life is yours alone to live, so not to be overly concerned with the opinions of others. He also said that if an opportunity to do something fun, exciting, or different came along, to go for it. As academics, our years often blur and pass quickly; it is important to enjoy the ride, and to make memories that will endure. Gil coauthored rich and varied publications with over 120 persons, and much like his travels to over 120 countries, he did so for "fun": to keep learning and growing, as a criminologist, and as a being on the planet. It seems he knew that, as professors, our students are our most numerous colleagues, and so perhaps the principal agents of our continued growth and reformation.

AS MENTEE

I began at UC-Irvine as the student of Paul Jesilow, a paraplegic and, I suspect, owing much to the pains of that condition, an especially insightful man. Paul was himself a student of Geis. This made me right from the start a third-generation Geisian. Jesilow allowed me much leeway in navigating my first two years at Irvine, but after I roamed the campus taking courses in most every discipline save criminology, he felt it time to rein me in. Jesilow asked what I might like to undertake as a dissertation focus, and whether or not it included primary data collection. I hedged on choosing a research topic, but felt I could say with certainty that the thrust of my work would be theoretical. No, I did not plan to administer surveys or perform quantitative analysis. Upon hearing this, Jesilow said that I ought to find another adviser.

I bumped around a bit meeting with faculty and looking for a good fit. None made itself apparent. I was offered placements in other departments by faculty who thought I would find a congenial home there, but I persevered in holding on to criminology, not least because of my incarcerated past and my commitment to contributing to justice system reform. One day Jesilow asked if I had yet met Gil Geis. When I replied that I had not, he suggested that I should. And so I was passed up a chronological and criminological generation. One lesson I take from this occurrence is that Paul understood that his interests, and perhaps temperament, were not a good fit for mine, and that perhaps a mellower soul—an elder—might be better for me.

Gil seemed to know that I might be awed by his reputation and did much to put me at ease. We met over lunch in unpretentious places, him buying always. He asked me open-ended questions concerning what I wanted to study, and he approved of everything. It seemed that if the topic was interesting and important to me, then it was to him as well. What I gained from this was the feeling that he placed much more importance *in me* than in the subject matter.

I settled on a fascinating study of interpreting the beginnings of what would come to be called "mass incarceration." I thought to do so through the lens of postcolonial theory. Gil thought that sounded great. Soon I was off to Berkeley for a conference on Critical Resistance and the Prison Industrial Complex. There, I attended a session on private prisons. I was quite disturbed by what I heard. At our next lunch I described some of this to Gil. Not long after, he asked if I was interested in co-authoring a book chapter on private prisons with him. Of course I said yes, but not without some unease.

Besides the daunting prospect of having my work instantly assessed by this master of the craft, the project also put me in the awkward position of producing something useful to the mainstream. I had become comfortable in my student's way of habitually attacking

and deconstructing from the sidelines, sometimes reveling in the feeling of hopelessness. That we would be contributing to the body of applied knowledge was both troubling and exciting. I agreed to go for it because I trusted Gil. My trust came in part, I think, because I felt he trusted me.

I found myself ennobled by the task. And, to add to my good fortune, Gil insisted I be named first author (Mobley and Geis 2000). In all honesty I can say that his contribution to the piece dwarfed my own. But he was adamant that my insights into the nature of imprisonment and the vulnerabilities of especially cost-conscious penal regimes were paramount. Who was I to argue? The piece did indeed make a contribution, as it has been reprinted and cited a respectable amount.

Our research into prison privatization produced no shortage of treasures. The material was so compelling, in fact, that I changed course and made it my dissertation topic. Gil and I (along with David Shichor) produced another related piece that attracted some controversy (Geis, Mobley and Shichor 1999).

The issue was "conflict of interest." We had discovered a Florida professor and criminologist, Charles Thomas, making substantial profits from his activities advising and essentially advocating for a private prison company. The principal insight of the article was that privatization, with its profit incentives, had the potential to corrupt, or appear to corrupt, the impartiality of academic research. This point was well supported by the evidence. The article was published in *Crime & Delinquency* and generated some professional discussion, including a testy response from the entrepreneurial Florida professor and some colleagues (who appeared, I should add, not to share in his financial largesse) (Lanza-Kaduce, Parker and Thomas 1999). It was then that I understood why this time Gil had *not* offered me first authorship. He knew that the subject matter could bring controversy. Rather than expose me to the brunt of any backlash, he put himself first.

A second aspect of this experience was that our article contained a factual error, albeit contextual. We had erroneously identified a study of juvenile corrections facilities as dealing with adults. Even though this mistake was unrelated to our main points regarding the relationship between supposedly independent researchers and for-profit companies, it provided an opening for attack to those wishing to defend their interests. As the researcher most immersed at the time in the topic of privatization, I blamed myself for not exhaustively fact-checking everything about the piece. But I also relished the opportunity to now redouble our efforts by responding with another article that might expose additional potential improprieties. Gil would not hear of it. Bringing the issue of privatization and conflict of interest to the attention of the field, he said, was what mattered. Rather than continue digging, he suggested we compose a follow-up "letter to the editor" of the journal in question. In that letter we would admit our error

and urge readers not to be distracted by it—or by the case study of Thomas' activities itself—from seriously considering the financial conflicts of interest that increasingly challenged (and still challenge) the discipline.

Through these experiences, I always felt myself the junior colleague. I felt both lifted through "colleague" status, and sheltered by being a "junior." My views were respected, my areas of contribution well defined, my learning the craft through apprenticeship transparent, and my future prospects made a priority. I also learned not to get drawn into personal squabbles or led by my own sometimes fervent ambitions. We were scholars for reasons that did not include individual "takedowns," or even elevating our own professional profiles. Our purpose was to serve society, and especially those least served. How to do so remains for me an area of cautious deliberation.

ON THE JOB

Now, as a faculty member myself, I try to put into action the lessons I learned from Gil—and it's not easy. In my graduate seminars I ask my students to form a circle and invite each to talk about their research interests. Although this may seem a simple matter, I have found that most have seldom, if ever, been asked this question. I find the exercise consciousness-raising, as it gives the students a chance to see themselves and be seen by all as researchers. I believe this reminds us to take seriously not only the subject matter, but also ourselves.

If I run across materials or opportunities that align with a student's interests, I will bring them to their attention. Sometimes this includes opportunities to publish. Before I was awarded tenure, I found myself tempted to list myself as first author in these collaborative ventures, for obvious reasons. Still, I put the student first. In one instance, a short book review, the publisher informed me that only one author was allowed. I removed my name. As I say, none of this was easy. My application for tenure was shaping up to be a marginal case, and I found a small voice in my head telling me that even book reviews could matter. But in the end it was the voice of Gil Geis, via his example, that reminded me of my position as teacher, and of my responsibility to put the interests of my junior colleague before my own.

Another insight provided by Geis was acquired simply by pouring over his vita. Gil had hundreds of publications spanning dozens of subjects. The variety of his research, and his penchant for interdisciplinarity, meant that whatever the particular subject, his writing was informed by the whole of his body of work. In other words, the span of his knowledge gave him the ability to "see the big picture," and "connect the dots." Even so, he did not feel the need to be heavy-handed about it. For example, in the introductory paragraphs of our book chapter on private prisons, he writes that although we discourage the use of

prisons, if they are to exist we think they ought to remain a function of the state and not private industry. As state concerns, prisons might remain relatively free of motives frequenting the pursuit of profit. I note that as a scholar of white-collar crime and thus knowledgeable of the ways of business, how could Gil feel otherwise?

I will conclude with a few more lucid lines from Gil's contribution to Jesilow and Pepinsky's (1992) *Myths That Cause Crime.* May his words continue to inspire scholars, young and old, to reach beyond themselves and touch the lives of others in a good way.

> Occasionally, though, scholars will stand aside from the passing parade and begin to ask fundamental questions: Are the suppositions that guide the research themselves supportable? Is the received wisdom of the field merely folklore entrenched by years of repetition? Whose interests are served by what propositions and are those interests necessarily commensurate with the well-being of the entire society? What, after all, is going on here? Where does truth lie? (Gilbert Geis 1992). "Foreword" to *Myths That Cause Crime.*

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Five Reasons Why I Agree with Gil Geis: Publish with Your Students

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I was deeply saddened by the passing of Gilbert Geis. I am proud to count myself among Gil's 124 coauthors. I am also privileged to know many of his coauthors, including Henry Pontell and Mary Dodge, with whom I shared our mutual grief at Gil's death when we met at the 2012 American Society of Criminology conference. As I think of that moment, I am reminded that one way that Gil's influence was felt was through the scholarly networks he helped to create, which were importantly nourished by his co-authorship with its members. Henry, Mary, and I were part of that network.

In fact, as I read Gil's essay on collaborative research, I found myself agreeing with virtually all of his conclusions. I suspect that this is because of the persuasiveness of his argumentation, but I must confess that some homophily—birds of a feather flocking together—might be at work. Thinking like Gil Geis is hardly a bad thing, whatever the reason. His writings avoided foolishness and vacuous ideology. With great clarity and wit, he would unmask objective reality. But underlying this commitment to truth was a warm heart. Gil was capable of being direct, but he did not have a mean bone in his body.

In embracing Gil's views encouraging student-faculty collaborative research, I feel compelled to add two important caveats. First, I am not preaching that publishing with students is appropriate for all faculty. I favor student collaboration because I do it and enjoy it. But other faculty might find working with students an invitation to headache and criticism. If so, then student co-authors are best avoided. Second, I am not unmindful that

collaboration can foster ethical lapses and risk the charge of exploitation. Still, not working with students can lead to their neglect or, in some cases, to students' belief that they should have been included on a publication but were not (e.g., completed tasks on a project as part of a graduate assistantship). My simple point is that collaboration with students has no inherent ethical status—whether one does or does not. It is all in whether the choice and resulting actions are principled.

Below, I outline five reasons why I agree with Gil Geis that student-faculty collaboration is to be encouraged. I share my views as a way of honoring Gil's memory and his enduring legacy in the field.

REASON #1: RICHARD CLOWARD

Richard Cloward was my academic father—my mentor for whom I retain a deep affection. I still list him on the first page of my vitae as my dissertation advisor. How I came to work with him was somewhat serendipitous. During my first year at Columbia University, I wandered over to the School of Social Work, where he was a faculty member, and enrolled in his course on "Deviance and the Social Structure." I said little and was content to sit amidst the student crowd and hear Professor Cloward lecture. I was heartened that my one assignment for the course, a term paper, received an A+ with only two words of commentary added on the front page—"Good job." On the hope that he did not hand out A-pluses to everyone, I marshaled the courage to ask him for a readings course—a request to which he agreed.

I could not imagine my good fortune and thus worked diligently to read everything he assigned carefully and in record time. In our third meeting (or thereabouts), Professor Cloward (I would later come to call him, awkwardly, "Dick") asked if I wanted to write my dissertation under his direction. I said that I would have to think about it, and then agreed twenty seconds later! I was not a fool; I understood the opportunity that I was being afforded.

Professor Cloward was an amazing mentor. He constantly encouraged me to "see the larger issue" at hand. He told me: "Frank, let the other people do those shitty little studies. You make sense of them." One day, I was at his apartment to help him on a grant he was writing on theoretical ideas. He would go into his study and type a page, and then emerge and have me read it. It was like watching Picasso paint, stroke by stroke. I lacked the hubris to imagine that I could do what he was doing. But I now had a glimpse of how a great mind fashioned an argument persuasively.

To this day, I do not have SPSS on my computer and do not do statistics. However, I do have some talent in framing arguments and seeing the larger picture. I owe this academic style to Professor Cloward's mentorship. He taught me how to think.

Because my experience with Richard Cloward was so positive, it made sense to mirror my mentoring style after his. Sometimes, plagiarism is a good idea! Two features of his mentoring shaped my practice. First, I try to select students who I wish to mentor in the first year or two of doctoral study. In this way, I have a chance to work with them for an extended period of time, including in collaboration with older students of mine. Second, I pay a lot of attention to how my students think and how they write.

Still, there was one gift not given to me by my mentor: co-authorship. Cloward did not publish any articles with me. I never felt resentful because he helped develop the most important skill an academic can possess: the ability to publish independently. Nonetheless, I very much hoped he would do so. At the time, my main concern was finding a good job and moving up the academic hierarchy. Were I to have had a few "Cloward and Cullen" articles, I surely would have had an easier time of it. Looking back, I also realize that working closely with him for an extended period of time would have taught me a great deal. My scholarly skills would have been sharper.

Thus, from this omission, I developed one further mentoring principle: Offer students the opportunity to publish with me! Rarely have these invitations been refused.

REASON #2: BEYOND MONEY

I do not write research grants to major funding agencies, except when I can be a free-rider on the tails of another prominent scholar, such as my Cincinnati colleagues Bonnie Fisher and Mike Benson. It is not that I dislike having the government purchase my release time and pay me "extra compensation"; I welcome such luxuries! Further, my involvement in federally funded research projects has resulted in some major publications, such as on the measurement of sexual victimization (Fisher, Daigle, and Cullen 2010) and on the local prosecution of corporations for criminal offenses (Benson and Cullen 1998). But unlike major "grant-getters," I have not been driven to have money pouring into my coffers. It seemed that throughout my career, I never wanted to stop what I was already doing and write grants. The money was not that important.

Despite having no money to offer anyone, I have had 190 co-authors, about one-third of who were, at the time of the published writing, current or former students. Why do people, especially students, wish to work with me? It is not a function of my supposed status. I started teaching at age 25 at Western Illinois University, where I stayed six years in relative obscurity (with my job applications rejected at a rate of 30 to 40 per year!). Yet even at this time of my profound academic anonymity, 10 different students collaborated with me on projects that were eventually published.

Notably, none of these students—or those that followed them as Cullen Co-Authors—worked for me for money (unless Bonnie and Mike were paying them!). I have often joked with colleagues that I sit at the peak of a publishing pyramid scheme, with various sets of authors all out in the world producing data and articles for me. Fortunately, the scheme does not collapse, and it does produce a lot of research.

So, again, why are students drawn to work with me on projects, when I offer them zero monetary compensation? For doctoral students, there is the practical consideration that I will help them acquire publications and advance their careers (we can call this an indirect monetary influence). But I think something more is involved. Most graduate students crave the chance to create knowledge. They are tired of sitting on the side-line, taking notes in an endless roster of courses. They want to make the transition from consumers of knowledge to producers of knowledge. They are excited about the chance to explore the criminological world and to have their thoughts make a difference.

What I offer them, in short, is *academic fun*. Of course, various aspects of research require hard work and, at times, are tedious. Still, I have always had a deep gratitude to the American taxpayer for affording me the unique opportunity to study virtually anything that I wished. To this day, I remain excited about developing ideas, testing my views, and bringing works to print. If that is not fun, I do not know what is (see also Cullen 2002)! Students recognize this fact and want to hang out in my research playground. Collaboration thus is a conduit

to students enlivening their academic lives—a chance to do what they came to graduate school to do.

REASON #3: BETTER SCHOLARSHIP

I do not mean to suggest that collaborating with students is a one-way deal—that I provide them with fun and publications and get nothing in return. I try to be a nice person, but I am not stupid. Put another way, I believe that altruism (helping students) and self-interest (what I get in return) are not mutually exclusive. In fact, I think that both of these motives work best when joined together.

Above, I suggested that collaborating with students (and others) allows me to have a high rate of publication. But here I am suggesting something different: that my co-authors bring special skills to projects that enable me to write works of more consequences. My individual experience is not idiosyncratic. In fact, research reveals not only that co-authored publishing is increasingly normative (Fisher, Vander Ven, Cobane, Cullen, and Williams 1998) but also that collaborative articles earn more citations (have a higher impact) than solo-authored articles (Wuchty, Jones, and Uzzi 2007).

Let me give one example of what I mean. I now list the "organization of knowledge" as one of my research specializations. In part, this reflects my training in graduate school at Columbia University where Robert Merton, one of my professors, emphasized understanding the growth and dissemination of knowledge. Sensitized to issues of this sort, over the years I have grown wary of the field's fetish for the single article. Such publications are important, but only if they contribute at some point to our organizing them and deciding what we know about the topic. Taken individually, they are testaments to personal ingenuity but they do not move the field forward (Cullen 2011).

A little over a decade ago, I wanted to make this point about the need to organize criminological knowledge. It seemed obvious to me that one means of doing so was through meta-analysis, a parsimonious way to explore the size and robustness of empirical associations. Alas, I had one problem: I did not have a clue how to do a meta-analysis. I might have forfeited this research idea, except that I was fortunate to have an extraordinarily talented graduate student at that time, Travis Pratt. Travis had the statistical talent and persistence to learn how to do meta-analysis. We joined our talents—mine for making a point and his for demonstrating it empirically—to publish in *Criminology* a meta-analysis that organized the extant knowledge available on self-control theory (Pratt and Cullen 2000). At last check on Google Scholar, this article has achieved a whopping 738 citations. It also led us to conduct additional meta-analyses organizing theoretical knowledge that are, I would maintain, of value (see, e.g., Pratt and Cullen 2005; Pratt et al. 2010).

I think that the point is clear: No Travis Pratt, no theoretical meta-analyses calling for and demonstrating the organization of knowledge with Cullen's name on them! Students do not just leech off professors and achieve "undeserved" publications. They also provide invaluable talent, labor, and support that make research projects come to fruition and produce knowledge at a level that would not have been possible otherwise. In short, faculty-student collaboration leads to more and better scholarship that advances the field of criminology.

Let me add a collateral point. Collaboration also provides a certain kind of training to students. Much graduate education implicitly embraces a Bell Curve view of education. Teach statistics and methods, and let the bright students go forth and produce valuable research—while leaving the less talented behind. Of course, this model is true to a degree. Some students are good at figuring out the research process and become very good at it; some are not. However, there is a growing body of research showing that high-level skills can be learned not just by the talented few but by a fairly wide range of people, *if they are taught the right way* (Colvin 2008). We can break the Bell Curve; the normal distribution is not destiny!

This magical teaching technique is called *deliberate practice* (for a full discussion, see Ericsson, Krampe, and Tesch-Römer 1993). The gist of this approach is that students are taught the components of complex skills step by step in a very systematic way. Each step pushes the student to exert effort to learn the skill in a more advanced way. Often, it can take ten years to achieve true expert performance, whether the skill is something more physical such as tennis or something that is more cognitive such as chess. Now, obviously, we cannot devote a decade of individualized training to graduate students. Still, why we would think that our current model of classroom instruction would allow most students to actualize their potential to master complex research skills is beyond me.

The punch line, of course, is that working with students on research articles is the closest we come to instruction that involves deliberate practice. Because we have a direct stake in the outcome of the joint work, we train student co-authors to do things the right way—from the collection and analysis of data to the writing of manuscripts. Students see how many iterations a survey instrument or a draft of a manuscript go through. They see how ideas emerge and then deepen as the relevant research is read and carefully synthesized. And if we work with the same student on several projects over a period of time, then their skills are refined repeatedly and deliberately by us. The more skilled they become, the more responsibility we can give to them and the more we can push them to a higher level of performance. The result is the training of scholars who can contribute better scholarship to the field. Again, mere classroom learning will not accomplish this outcome to the same degree.

REASON #4: FATHERSHIP AND FRIENDSHIP

I have been blessed to have had the opportunity at the University of Cincinnati to mentor wonderful students. My roster of Ph.D. students that I have advised is remarkable—so good, in fact, that if we all worked together, we might comprise a nationally ranked department! My students include, in order of receiving their doctorates: Velmer S. Burton, Jr., R. Gregory Dunaway, T. David Evans, Liqun Cao, John Paul Wright, Brandon K. Applegate, Jody L. Sundt, Thomas M. Vander Ven, Amy B. Thislethwaite, Michael G. Turner, Travis C. Pratt, Elaine K. Gunnison (co-chair with Paul Mazerolle), Kristie R. Blevins, Leah E. Daigle, Brenda A. Vose, Matthew D. Makarios, Cheryl Lero Jonson, Rachel McArthur, Lacey Schaefer (now finishing her dissertation), and Jennifer Lux and Murat Haner (soon to start their dissertations).

These are my academic children. Kristie Blevins, in her down-home Tennessee style, came to call me "Daddy C." I did not discourage this appellation, in part because it captured not only her respect for me but also my affection toward her as one of my special students.

I am not saying that publishing with one's students is a precondition to academic fatherhood. But it has worked for me. With but two exceptions, I have published writings with all of my former doctoral students, typically multiple times and typically both before and after their graduation from Cincinnati's doctoral program. I have discovered that working on research projects not only produces knowledge and vitae lines, but also is the kind of quality time that builds personal closeness. When conducting a study and writing an article, contact with my co-authors—often a "Cullen Student"—is extensive and, at times, daily. Students visit my home, eat Subway sandwiches with me, play with my dogs, and receive uninvited lessons on how to hit a tennis forehand! Some have stayed to two o'clock in the morning, finishing up work. If not in my home, then they are on the phone with me—for hours on end. The e-mails flow back and forth. We are involved in one another's lives with an intensity that is rarely matched in another forum. Our relationship grows and is transformed into an enduring attachment.

When students are still at Cincinnati, I tell them that I am "not your friend. I can still fail you!" This remark is both true (I must maintain an edge of distance) but also disingenuous—they are, in fact, becoming my friends. So, collaboration with students leads to fatherhood, perhaps at first, and then ultimately to friendship, as co-equals in the profession and when working on articles. Upon graduation, most do not ride off into the academic sunset never to be seen again. Instead, we stay in touch. And when we find reason to collaborate, it is like old times. The excitement over ideas returns, we plot and scheme how to bring a work to print, and our friendship—and my

fatherhood—are nourished! No wonder that I cherish the opportunities I have to write with my academic children.

REASON #5: GIL AND CHERYL

Pam Wilcox and I had no idea what we were getting into when we agreed to edit Sage's *Encyclopedia of Criminological Theory*. Under the cover of two huge volumes, we had to solicit and edit over 280 selections. Being compulsive sorts, we did a pretty good job keeping everything straight, but there were a few glitches along the way. One involved our assigning two essays on Donald R. Cressey—one dealing with his work on white-collar crime and another with his work on embezzlement. As these essays began to unfold, we realized that they would overlap to a distressing degree. What to do?

Fortunately, we knew both essays' authors quite well. Cheryl Lero Jonson was my doctoral student (now a faculty member at Xavier University) and the other was Gil Geis! We asked if they might merge their efforts. As expected, Gil was magnanimous and immediately agreed to do so—and as the piece's second author. Cheryl had no choice but to agree, but the prospect of working with a famous criminologist caused her considerable trepidation. She did not want to disappoint Gil or embarrass me.

The collaboration—faculty member (Gil) with a student (Cheryl)—turned out wonderfully. One by-product was an excellent essay on Cressey (Jonson and Geis 2010). But more important, working with Gil proved to be a truly memorable experience for Cheryl. She witnessed how a scholar at the top of his discipline was nonetheless kind and thoughtful. Gil would give guidance to Cheryl and have her draft materials. Cheryl would then watch as Gil transformed her more-than-competent text into something that was simpler in words but deeper in meaning—something that somehow became, at once, more accessible and more eloquent. Yes, Gil was a master craftsman—a writer of almost unparalleled skill.

As her advisor, I enjoyed watching this mentoring from afar—Gil in California, Cheryl in Ohio. Understandably, Cheryl was a touch reluctant to share her writing with Gil, for she knew that the draft she would receive in return would bear only a slight resemblance to what she had sent to California. But as I explained, Cheryl was enjoying a rare privilege—and something that I, her mentor, had experienced when I co-authored articles with Gilbert Geis! Writing with Gil was a special learning experience and an opportunity to be cherished. Cheryl, of course, did. More than this, though, she also established a new friend—someone to say hello to at the next meeting of the American Society of Criminology. She was now officially one of Gil's 124 co-authors, a status that few would ever regret.

CONCLUSION

Academic work in general is, I suspect, much like other kinds of work: It can be performed well or poorly, and it can improve or exploit lives. It is all in how it is done. Collaborative research with students—one slice of the academic enterprise—is no different. When undertaken well and ethically, it can lead to high-quality scholarship and to the creation of social capital that improves students' lives in many ways. Notably, Gil Geis worked jointly with others the right way. He used his passion for ideas, technical brilliance, erudition, criminological imagination, and fundamental decency to ensure that publishing with students was a conduit for enjoyment, friendship, learning, and the creation of knowledge. If we follow his example, then I am persuaded that our students—as Gil's now do—will have nothing but fond memories when they reflect on their collaboration with us.

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Comparative Observations on Collaborative Research and Joint Publishing:
A Response to Gilbert Geis

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Keywords: authorship, collaborative research, joint publishing

Let me suggest from the beginning of this comparative essay that the territory covered under the umbrella of collaborative research and joint publishing may be very subjective and idiosyncratic. Let me also suggest that the territory travelled here can be more complex than the late Gilbert Geis alludes to in his short essay on the subject. This is especially true today when one considers the numerous venues available for publications that are not explored by Geis. Next, let me suggest that I think Geis came to believe that joint publishing had become the norm or natural order of social sciences like criminology and criminal justice. Finally, it seems to me that Geis implies that contemporary collaborative research and joint publications are less a matter of rational choice decisions made by aspiring authors to disseminate their work than they are the products of some kind of imaginary or inexorable demand to do so.

In the course of this essay I will try to follow the general flow of Geis' self-reflections and thematic narratives. Along the way, with most examples, I will not name names nor leave any significant identity markers to the individual or those parties involved because she/he/they might have objected to my going public with this information had I given them a heads up or sought their permissions to do so. Such are the ethics or parameters of writing an essay on the relative absence of the transparency of academic evaluation, publication, and recognition. At the same time, I will name names or leave markers in a couple of examples where I do not believe the individual parties involved will care that I have.

At the tail end of the Vietnam War when I first began writing for publication, it was still customary for scholars to write articles alone, although co-authored work was probably as common then as now. By contrast, multiple (three or more authors) or joint-authored articles are certainly more common today. This has probably been the case for nearly twenty years or since the publication of multi-authored articles began to "take off" with the adoption of the almost exclusive use of quantitative research and large data sets by mainstream criminologists and criminal justicians. Without doing any calculations, however, I would argue that while the number of joint-authored publications has definitely grown, these still do not constitute anything approaching the majority of published works, especially when one considers the exhaustive listing of publishing venues.

In other words, I disagree with Geis when he asserts "it is somewhat unusual to see an article in a criminological journal with a single author." Actually, it is really a matter of where one looks and what one reads. While Geis' claims are undoubtedly true for some venues, especially those narrowly positivistic-oriented journals like *Criminology* or *Justice Quarterly*, this is not the case for many other journals that incorporate a broader conceptual and theoretical lens like *Theoretical Criminology*, *Critical Criminology*, *Crime, Media, and Culture*, *Criminology and Public Policy*, *Social Justice*, or *Crime, Law, and Social Change*.

When it comes to publishing my own work, I have generally but not always (depending on the nature of the

research and/or writing venue) preferred to go it alone rather than to collaborate with co- or joint authors, whether colleagues or students. However, when it comes to publishing the work of others, specifically involving that of budding young scholars, I have found the means to assist them to publish independently. As an editor or in the role of what I have come to think of as the "invisible co-author," those authors and I have found a way to avoid in many instances the commonplace ethical dilemmas of joint publishing broached by Geis. Accordingly, based on my invisible co-authorship roles as an editor of one kind or the other (e.g., Book Review Editor at different times for *Social Justice* and *Critical Criminology*, Series Editor of Issues in Crime and Justice for Rowman & Littlefield, and Editor of seven books as well as a two-volume encyclopedia), I claim the right to pontificate here. All in all, in these combined editing capacities I have worked with more than 175 authors to assist them in bringing their work to published fruition.

In terms of my "oddest" experiences with co-authoring and joint-authoring, allow me to refer to a brief illustration of each. In the case of one failed co-author venture with a younger scholar who shortly thereafter became a prolific author in the field, we submitted for publication an "integrated general theory of…behavior" first to *Criminology* and second to a journal that I cannot recall the name of (as this was back in the 1990s). Rejected by both journals, this co-authoring team "broke up" and went our separate ways. A few years later, the other author wrote a highly regarded book framed by the same basic theoretical formulation, including our illustrations and so on that had been previously submitted and rejected by those journals without ever mentioning any of my input. Admittedly, he was the first author and I the second as he was savvy enough to seek me out, thinking incorrectly in this instance that it would be easier for him to publish his ideas with me than without me. Over the years, our paths have crossed from time to time and I have never called him out for not acknowledging my contribution to his theory. What's more, after his theory had appeared in at least two published venues, I highlighted it as an exemplar of integrated theories in one of my two criminology textbooks without ever mentioning my contribution (until now).

More recently, at the other end of the publishing spectrum, I jointly published in 2009 an article with seven other authors in *Critical Criminology*, "That was Then, This is Now, What about Tomorrow? Future Directions in State Crime Studies." Subsequently, when the lead authors of this piece invited me to contribute to an updated version of that article, I declined as I never felt that I was particularly engaged in, or had contributed much of anything, to the first statement. My obtuse points are that I have been more engaged and have contributed more to the work of others where my name has not been listed as a co-

or joint author than when it has appeared, as in this instance.

More generally, the inexact science or rather art of publication and the proper or fair recognition of the achievement obtained by two or more authors are even more complex to assess if and when consideration is given to the various activities that might (or might not) have taken place with a manuscript during the editing processes. For these and other reasons, I pragmatically encourage young scholars to go it alone whenever possible. If one can publish by oneself, then one can bring something of value to a research project when the opportunity or time comes to collaborate and jointly publish. Those who publish primarily or exclusively as members of teams of five or six without learning to do so alone, often find it difficult to make the transition to solo publishing, which vastly limits opportunities for disseminating their work.

Without addressing the assorted sites for publication, allow me to continue with the observations of the "invisible editor" who may be present or absent as a co- or joint author in publishing ventures. More specifically, as the editor of the publication of more than 100 original chapters in my anthologies, I am very much present in many of those pieces written typically by single authors and occasionally by two. In terms of some of these chapters, usually because they have required the most work (for whatever reasons) on my part to get them ready or acceptable for publication, these become even more reflective of the invisible editor as co-author.

Similarly, when awarding or giving credit to jointly authored articles or textbooks in general, where some of the co-authors become absent from either the research or the writing dimensions of the project or in rare instances from both, there is virtually no accountability. Not unlike the legendary cases in academia and the one anonymously cited by Geis of the two economic graduate students who had agreed to put each other's name on everything they published, the same may also be the case when it comes to apportioning out the credit for multiple editions of books with several and/or changing authors over time.

In terms of the faculty member offering a valuable gift to his graduate student that Geis refers to, I can definitely relate and believe that this illustration applies equally well with respect to junior tenure-track faculty. In a similar manner, this may not be all too different from the significant roles played by faculty who formally and informally contribute to the development and chapter rewrites of master's theses and doctoral dissertations as well as to those subsequent articles that may be generated as a result of the invisible editing or co-authoring processes experienced by those emerging scholars.

As for many of the other issues raised by Geis, I do not disagree with or have anything of significance to add about academic plagiarism, the writing of letters of recommendations, whose name appears first or second in a publication and the meaning given to this ordering of

authors versus the value of solo-authored publications, the insularity of most college and university departments, the value of doing collaborative cross-disciplinary work whether one is a student or a faculty member, as well as the difficulties, precautions, and flexibilities that are associated with, and necessary to take, when conducting collaborative research and joint publishing. I also agree with Geis when he says that he is "not impressed with the whole process of manuscript review" and that he finds the distinction between "whether a journal is or is not peer-reviewed silly, since it is the quality of the material that is of essential importance." I would add further that the distinction between peer-reviewed versus non-peer reviewed publications is not always as it appears. In many instances, publications in the former have actually been solicited up front from the editors by way of an invitation to the authors, including from "top tiered" journals, to write an article that the journals' editors are looking for.

Allow me to close out this commentary by echoing and expanding upon what Geis had to say about collaboration in general and in relation to law journals in particular. In writing about one of my own joint publishing experiences, I hope to shed some light on or to capture some of the rational choice decision-making process that I believe enters into whether or not an author/ researcher/scholar publishes his or her work alone or with others regardless of venue. One of the most satisfying collaborations and joint publishing ventures that I have had during my forty-year academic career was when I conducted research with one graduate student who also happened to be a felony trial judge and a part-time lecturer in constitutional and criminal law and with one colleague, a newly hired tenure-track assistant professor.

Let me underscore from a rational choice perspective that neither the student/lecturer, the Honorable Donald Shelton, the junior faculty member, Young Kim, nor myself as the senior full professor could have carried out the research and published the subsequent articles (Shelton, Kim, and Barak 2007; Kim, Barak, and Shelton 2009; Shelton, Kim, and Barak 2009; Shelton, Barak, and Kim 2009-10) without the participation from the other two collaborators. Together, however, it was relatively easy for us to accomplish the required tasks. In this illustration, we were all fully engaged and worked hard on the project from start to finish. Over the course of four years of collaboration, this included the designing, pre-testing, and administering of survey questions to more than 2000 subjects at two different courthouses, the coding and entering of data (thanks to my graduate assistant Katie Martin), and several analyses of our research findings. Part of the analysis included the squaring of various theories from the subfields of criminology, communication studies, and law and criminal justice, which allowed us to elucidate on juror decisions to acquit or convict in relation to the popular legal myths of the so-called "CSI effect" for seven different criminal scenarios.

The take away here is that each of us had a fundamental and overlapping understanding of the problem and the questions that we were tackling. But more importantly, each of us brought to the venture a unique set of skills and expertise that were absolutely essential not only for evaluating the so-called CSI-effect on both the behavior of attorneys and jurors, but also for explaining at the same time how the inter-relations of culture, media, and law were affecting the due process of criminal adjudication in everyday courtroom practice.

As Geis notes, compared to publishing in social science journals, law journals are another matter altogether. What's more, these journals "tend to be highly erudite (though not always), but have the advantage that there are more than one hundred and they permit multiple submissions." Authors may, accordingly, receive multiple offers to publish their manuscripts within a couple of weeks or less after submission. Each journal's offer to publish is usually conditional for a period of time; so authors find themselves in the unique position of weighing the pros and cons of deciding which journals to accept or reject for their publications. It's also a more open process than in the social sciences and a lot more fun compared to sitting around and waiting for at least a month or two before a publishing decision is rendered—one submission at a time—by an individual criminology or criminal justice journal.

From the beginning of our collaboration I had decided that since the judge and my junior colleague, for different but related reasons, needed the publications (and I did not) that one of them would be the first author on whatever we jointly published from our research. Moreover, as Geis stresses the first author has the burden of navigating the world of online publishing, which can be cumbersome when submitting to numerous law journals at the same time. In effect, by deferring to my colleagues here, I had the judge to run interference with respect to the articles that ended up in law journals and Kim to do the same with respect to our criminal justice publication. During the course of our research and writing together, the full-time working judge and part-time instructor, managed to complete his M.A. in Criminology and Criminal Justice and subsequently his PhD. in Judicial Studies. He also authored the first of his two books, *Forensic Science in Court: Challenges in the Twenty-First Century* (2011), published in my Issues in Crime and Justice Series for Rowman & Littlefield.

Finally, and quite revealingly, during the time of our two research studies and the joint publication of our articles, Kim was tenured and promoted to associate professor. However, this did not occur without differences of opinion between the personnel committee and the department head over Kim's contributions to our collaborative venture. Fortunately, as luck would have it, I was also the chair of the personnel committee at the time and was able to make the affirmative case on Kim's behalf.

Had I not been positioned where I was in his evaluation process, the tenure and promotion decision might have gone the other way. Such are the vulnerabilities of collaborative research and joint publishing when one is not the "lead" or first author in the listing of names.

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On the Ethics of Collaborative Authorship: The Challenge of Authorship Order and the Risk of "Textploitation"

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With the possible exception of marital conflict and divorce, few relationships create more interpersonal animosity than when co-authors lose trust and respect for one another; power and partnership can be mutually reinforcing or mutually destructive. The problem with authorship is that it is a highly prized academic reward. It is the measure of much of what we do, from securing an appointment, to obtaining grant funding, to obtaining research release time, to being granted sabbaticals, to being recommended for tenure and promotion, and ultimately to academic prestige and reputation. Authorship is a mark of one's contribution to the field and academic legacy. Publications and the academic's role in authoring them, reflected in one's place in the authorship order, are thus highly contested. Ideas and research disseminated through publications are the oil of academia, and they are often fought over tooth and nail. Indeed, like other collaborative partnerships, co-authorship is best approached with what might be seen as the equivalent of a pre-nuptial agreement so that, if there are ever questions about who is to be the first author on an article or book, or who is even an author at all, there is some reference to an existing contract that provides guidelines and clarification. But we are getting ahead of ourselves. The first question to ask is: "What is collaborative authorship?"

The way we consider authorship has, not surprisingly, varied over time and cross-culturally, let alone varying among "academic tribes." The insights from historians of "the book," remind us that the idea of a book being a sole-authored work is a peculiarly Western notion that resonates with the ideology of individual accomplishment and achievement. Unless books are literally written by one person, edited by the same person, and also printed by that person, then multiple hands touch the book, book chapter and, for that matter, the scholarly article. These comprise various uses of others' work and interventions through the book or article editorial and production process that give many of a book's contributors a claim to "authorship" of the final written form. Therefore, being designated "the author" implies that other contributors, including editors, reviewers, and publishers, regardless of how influential they are in shaping a written work, are both less than, and marginal to, "authorship." By authorship we mean the person or persons who write an article, chapter, or book manuscript, and we do not include as co-authors any of the source authors who wrote words that are quoted in this work (unless the book is, for example, on Marx, or on Foucault), or any of the contributing players from editors to colleagues whose subsequent commentary on the work changes it in significant ways.

Collaborative authorship implies that there is more than one author. Just how many authors is an open question depending on the academic discipline. In the humanities it is the norm to see sole authorship, but certainly not to go much beyond two collaborating authors, whereas in science there can be as many as five or six co-

authors and sometimes many more than that. In the social sciences, and criminology and criminal justice in particular, co-authorship can range from the low numbers to the high numbers. An example of the latter is the 2009 JFA Institute publication *Unlocking America* which has no less than 9 authors!

What role multiple authors play can also vary from literally writing separate halves of an article, or separate chapters of a book, to mutually collaborative writing in which a short draft of the article containing its central thesis is written around a discussion among the collaborating authors, and subsequent iterations result from each author, in turn, reworking the whole manuscript before giving it over to the collaborating author(s) who does the same. In other cases, a more industrial division of labor is taken, whereby the concept of a paper is divided into specialized sections and each section is allocated to the co-author who has most expertise in the area. In this case, one co-author might be responsible for framing the overall argument, and perhaps also interpreting the results, with attendant discussion and implications for further research, policy, etc. Another co-author might be sophisticated at placing the core concept and research in the contemporary literature, particularly theory; and another may be adept at methodological and statistical techniques. The research, especially if grant-based, might employ one or more graduate assistants responsible for data gathering and coding and who might also run a program to generate or render data into consolidated interpretable results. Then, if none of the collaborating team is the grant-getter for this project, but the project could not have gone ahead, nor would the authors have data to write about without it, the question arises as to whether the Principal Investigator's (PI) name goes on the article. So, now the collaborating author team is faced with the question of not only who goes on the article as its authors, but in what order they appear.

The first question at this point is one of inclusion or exclusion and on what basis such decisions are made. In writing an article some tasks are considered more important than others and if so, should the authorship order be determined by the importance of tasks the co-authors contributed? Are the initial concept for the paper, and the original ideas of its overall thesis, sufficient to be the most significant, and so the other authors remain secondary and/or tertiary because they were merely implementers of an original idea that was not their own? Do some tasks, such as statistical data entry or coding of data, warrant only a footnote of acknowledgement or are their contributors deserving of full co-authorship? Does the seniority of the author affect this decision? If coding and data entry are done by graduate assistants, would they be more likely to be given a footnote, while similar work done by a major scholar in the field would warrant authorship? There are no fixed views on what criteria are sufficient to co-authoring an article; these priorities for

authorship order are social constructions that change over time.

The second question, therefore, is what is the norm in the field or in particular disciplines, such as criminology and criminal justice, for recognizing the role and contribution of the authors to an article, and how does this affect the authorship order? Several principles exist that criminologists might refer to as primary rules by which to determine author order. (Here we assume that being first author is most important, as it is in criminology and criminal justice; in some fields being last author is most important).

1. Significance of contribution (as above, the authors are listed in the order of the importance of their contribution)
2. Volume of contribution (the authors who write the most are listed first)
3. Seniority of faculty (authors are listed in the order of their seniority)
4. Reversal of hierarchy (based on professional need/affirmative action: junior authors, women and racial/ethnic minorities always come first)
5. Alphabetical (by last name first in alpha order)
6. First drafter (the author who writes the first draft is the first author; all others are secondary)
7. Alternating authorship (a series of articles/books planned and the authors switch authorship position with each new publication)
8. Grant writer or PI (the author under whose name the grant is listed and who is the principle investigator is first author)
9. Data owner (the owner of the data on which the analysis was based is the first author).

Of course, these are not mutually exclusive and several might be factored together in determining authorship order.

Apart from being listed alphabetically, each of the other principles requires a set of secondary rules in order to decide authorship order. For example, judgments about the *significance* of an author's contribution might seem obvious, but unless there are rules to assess significance, there can be major conflicts of interpretation. If significance is based on *volume* of writing, the issue can be decided by a word count; if so, the challenge then is to know how to count statistics and charts, graphs and formulae compared to prose. *Seniority* might also seem obvious, but the basis for seniority can vary: age, academic rank, impact on the field, number of publications in peer review journals. Even if this can be determined, how do we take account of the in-built gender and race bias in such

estimation? Finally, the question of seniority ranking can be challenging where the major substance author has a different interpretation of the data or theory than the senior. In some cases the senior may want to move down the author order so that she is not seen as being responsible for a concept or interpretation with which she disagrees.

In dealing with seniority, authorship order can employ the *reversal of hierarchy* approach, with the added complication that if a junior author, regardless of basis, is placed first, this may be seen as gratuitous and might offend junior authors since, in giving them first authorship, the senior author is devaluing their genuine contribution to knowledge production. Moreover, because of their seniority or previous knowledge production and reputation, senior second authors may always be seen as "the real author," and the now elevated, but effectively devalued junior first author, is seen as the mere assistant. And this goes for reversal of hierarchy authorship order on gender and race, also. And let's not forget age. When is it appropriate in a reverse hierarchy authorship order to give priority to an elder and higher-ranked author (e.g. administrative professor) who has hardly ever published? The argument that they "need the first-authorship" hardly applies since they are not going anywhere in the academic promotion stakes, so this may make a statement about anti-ageism and respect for elders, but it also comes with the caution that such seniors may feel undeserving and, thereby, undermined by their honorary first authorship position.

While *alphabetical* might seem the most neutral, it gives an arbitrary bias as first author to those whose last name is A-L and this is skewed to mean that the last named A-C-ers have an especially superior place in authorship order through inheritance (of a name), and those unfortunate XYZ-ers are the proletariat of the authorship order hierarchy based on this principle alone. Fortunately, in many disciplines, alphabetical ordering has come to be seen to mean equal contribution, whereas non-alphabetical ordering always implies that the lead author is the senior author of the book or article.

The *first drafter* as first author seems to solve a lot of problems because it takes into account originality and load contribution, and is independent of rank and other complicating factors. It seems, indeed, to be an equal opportunity leveler for all contributing authors.

Finally, there is the question of whether PIs should be listed authors when they may not have written any of the article or book; this takes us back to the value of an author's contribution. Some would argue that only those who co-*write* the article should actually be co-authors; others would make the case that if the PI had not obtained the grant funding there would be nothing to co-author. This issue becomes particularly problematic when graduate students or junior faculty seeking tenure are the sole authors of the article, which leads to a fundamental underlying issue with each of the primary rules of

collaborative authorship order discussed above: the issue of co-authorship is often as much about power and control as it is about collaborative partnership.

The problem with the contested terrain of academic authorship is that rarely are collaborating authors of equal standing. Sometimes the differences are marginal and co-authors are roughly equal. The problems occur when one or more collaborating author feels that the original agreement is being violated, or worse, where there was no original agreement about authorship order. This happens more often than we might like to admit. "You mean you agreed to co-author that book, and now the cover is going into production you are fighting over whose name will appear first?" Seriously, academics often avoid the authorship order question because it is difficult. There is a false hope that it will work out and that everyone will be reasonable, which means do right according to your criteria of what is justice. But given the range of models discussed above, each collaborating author might be on a different page! Where there is a power differential in the author relationship, as in most cases of power differentials, the potential for abuse of the less powerful partner is huge; no more so than where student co-authors are involved with their theses or dissertation advisors. I refer to this abuse of power as textploitation, which I define as the exploitation of collaboratively written texts to the benefit of one partner and to the repression of the collaborating partner. Where gender or race differences are also involved this can be very harmful. There can be huge psychological consequences, let alone loss of future earnings, employment and promotion prospects.

The dilemma is perhaps obvious. The junior faculty or graduate student needs the senior faculty to support their professional growth and development. The senior faculty needs the graduate assistant or junior faculty to help deliver their projects and publications. Because of rising expectations, this means faculty members are under greater pressure each year to commit to more projects and publications and to deliver more output. The alluring solution is the collaborative partnership and co-authorship. However, because of the differential power relationships, the temptation is often to accrue the maximum from the less powerful party.

Such textploitation is facilitated by developing a sequence of rationalizations that justify the harm: "Without my advice/grant/data the junior would not even have the opportunity to publish;" "They need to be the understudy before they can play the lead;" "They have to pay their dues before they can become the lead author;" "Making them first author is futile since everyone knows, or will believe, this is my work;" "They only contributed a part of the project; I oversaw the whole thing and gave it guidance and direction, without which it would never have been completed;" "They are helped, not hurt, by being seen as my collaborative author; they get to publish in prestigious places with me;" "I am exposing them to numerous

opportunities and learning experiences that will stand them in good stead for years to come, so they can replicate this in their own projects;" "They need me. I don't need them. I could replace them in a heartbeat with someone just as good. Researchers are lining up to work with me;" "They have created all kinds of problems on the project that I have had to manage—they don't really deserve authorship, let alone first authorship." With such justifications for textploitation, authors in the more powerful positions are able to neutralize any moral qualms or ethical considerations and feel morally free to take first authorship, regardless of the other criteria that might be used to develop a different authorship order.

For these reasons, at San Diego State University, we strongly advocate that the collaborating authors develop a pre-contract. This is a written agreement that emerges from a discussion between the collaborating authors that specifies the conditions of any publications from the research they are conducting together. It specifies the principles or primary rules governing collaborative authorship for publication and, where possible, it specifies the order of authorship in the case of future publications. We have found this particularly valuable in the case of master's thesis students and those writing doctoral dissertations, where it is part of the initial signed agreement for faculty to serve on the student's committee or serve as their thesis or dissertation chair. The language

of this agreement is: "Plans for publication of the results of the thesis should be discussed to include identification of an appropriate outlet, authors and order of authorship, amount of effort expected and timeline for completion." The faculty and students are encouraged to specify author order before they sign the form.

At every stage of the process, the ethics of collaborative authorship depend on making decisions to enhance, rather than undermine, your collaborating partner. These decisions cannot be reduced to a formula, nor can they simply involve a commitment to a certain set of ethical values. They require a continual attention to concern about the effects of your actions on others. Ultimately, as one dimension of this process, author order is deeply dependent upon trust between collaborating authors, who usually exist in a differential power relationship. Some authors in such relationships are generous and caring, as was Gil Geis whose paper inspired these commentary articles; others are less so; they are sometimes controlling, self-interested and self-aggrandizing. In these latter relationships, trust breaks down and time and effort invested by the negatively affected partner may have been wasted. Unfortunately, there are many more academics of the second type than the first, which was one of the reasons that Gil Geis was so well-respected as a collaborator, scholar and mentor.

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