Critical Issues in Justice and Politics

Discussing the present - Influencing the future

Department of Political Science and Criminal Justice

Southern Utah University

Critical Issues in Justice and Politics

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Critical Issues in Justice and Politics is a refereed (peer-reviewed) journal which contributes to the theoretical and applied nature of justice and politics. We are a scholarly journal which requires all articles to undergo an extensive review process for both content and format. Our emphasis is on the exchange of qualified material in order to generate discussion and extend the often limited boundaries of scholarly exchange.

Critical Issues in Justice and Politics is sponsored by the Department of Political Science and Criminal Justice at Southern Utah University. The editorial board is comprised of faculty from the department as well as select faculty and practitioners from around the United States.

Published twice a year (March and September) *Critical Issues in Justice and Politics* focuses on emerging and continuing issues related to the nature of justice, politics, and policy. A special emphasis is given to topics such as policy, procedures and practices, implementation of theory, and those topics of interest to the scholar and practitioner alike.

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Because we publish online we provide a wider audience than most small, scholarly journals. The cost of other journals can be restrictive; often making purchase and use of the journal difficult for the average faculty member. With our electronic format we provide access to the journal at no cost to qualified subscribers. This provides a larger audience with increased opportunity for those who wish to publish.

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We are an electronic journal which is published using the Portable Document Format (PDF).

Submission Guidelines

Critical Issues in Justice and Politics welcomes submissions from anyone who can write a high quality scholarly article. We are especially interested in scholarly, critical, and constructive articles which focus on an emerging or continuing issue is justice and politics. We also seek review essays (reviews of recent literature on a given topic), reports of significant justice or political issues, book reviews, and position papers worthy of scholarly review and comment.

It is the editorial policy of *Critical Issues in Justice and Politics* to accept submissions from all disciplines so long as the material relates to justice and politics. We also encourage submissions from practitioners, students, and others who have an interest in the topics.

Simultaneous Submissions

We prefer manuscripts which are not under review by other journals or publications. We endeavor to review all manuscripts in a timely fashion, so simultaneous submissions are not usually necessary. Refereed submissions are submitted within forty-eight hours of acceptance and we generally ask reviewers to complete their assignment within 10 working days. In most instances an editorial decision may be reached within a month of submission.

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Review Process

All papers submitted for refereed publication will be sent to at least two reviewers. We use a blind-review process which submits papers in anonymous format. If there is a clear split between the reviewers then a third reviewer may be used when necessary for clarification or additional comment. We do rely very heavily on our reviewers for insight and recommendations. All of our reviewers hold the appropriate degree and experience to qualify them for the particular project.

Reviewers are asked to evaluate manuscripts on the basis of their scholarly competence as well as the potential contribution to appropriate theory or related areas. Authors may not contact reviewers during the process, and reviewer names are not disclosed unless the reviewer agrees for such disclosure.

Authors who dispute the findings or suggestions of a reviewer may submit their response in writing. Final decisions on publication remain the domain of the editorial board.

For more information or to submit an article or other material for review please see our webpage.

Journal Webpage: http://www.suu.edu/hss/polscj/CIJP.htm

From the Editor

Welcome to our first edition of *Critical Issues in Justice and Politics*.

The purpose of our new journal is very simple; give academics and practitioners a new outlet for their work. We extended that idea by refusing to narrow our focus to a single discipline. Our intent is to give voice to a wide variety of thoughts and positions. You might say that we have posted the Open sign on the doorway to the Marketplace of Ideas.

In our first opinion piece the mother of a United States Marine gives voice to the frustrations of modern veteran's affairs. This reminds us that while theory is always important, the real test of great thought is in the application.

AND WHY AREN'T WE ASHAMED OF OURSELVES?
Sandi Levy

The Walter Reed Scandal was everywhere (February 2007). It made TV, radio and newspapers. It was all anyone wanted to talk about for a while. Everyone unanimously agreed that it was abominable; mouse droppings and belly-up cock roaches on the floors; the entire place smelling like greasy take-out or bodily waste fluids; cheap mattresses and abandoned veterans. Everyone agreed it must be fixed, and fixed quickly.

But then the story disappeared. What happened? … Anyone? Yes, a general or two were fired. But did the care of our nation's heroes improve?

Sadly, this isn't a new story. It ran after World War I, World War II, Korea, Viet Nam, and now again. But this time perhaps is the worst. By now you'd think we would have learned from our actions of the past.

It isn't just Walter Reed. My son joined the USMC during a time of war to defend his country. He was injured while deployed, sustaining a myriad of orthopedic injuries (wrist, knee, shoulder, back). He was returned to his home base in North Carolina, since he was not fit for duty, to receive further treatment. Four surgeries to the wrist were unsuccessful, finally leading to fusion making it completely immobile. During this final surgery, his lungs were burned by the anesthetic, adding a pulmonary condition to the list. During his final six months of active duty, he spent his time visiting what was left of his buddies from his platoon who had been injured and were in the base hospital. When he was not doing that, he was serving as a pall bearer at the many funerals of those who had not been so lucky. The emotional trauma only deepened the already present PTSD[1].

When six months had passed, and it was determined that he would never again be "good enough" to be a Marine, he was given a medical discharge. The discharge came with no pension payment and difficult-to-acquire medical care. He was thrown into the VA rating system.

Months passed. He was unable to work, due to his injuries. He was evicted from the hovel he'd found to rent. His car was repossessed. His wife left him. Through many phone calls, we knew something was wrong, but not what. When he finally confessed that he was homeless, we bought him an airline ticket home.

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[1] Post Traumatic Stress Disorder

This delayed the rating process. Now in the VA in a different state, the examinations began anew. At eight months after discharge, he filed for bankruptcy.

By fourteen months after discharge, we were again sitting in the lobby of the VA hospital, a four-hour drive from our home. While our son was being seen by a rating physician, we struck up a conversation with the young woman sitting next to us. Her husband was also being rated… seems he jumped out of an airplane and his chute failed to open. They had appealed their rating decision, claiming that being confined to a wheelchair and unable to maintain a coherent train of thought, he was significantly more than 50% disabled. He had been discharged nearly three years earlier.

The mother in me became furious, knowing the whole process to be utterly ridiculous. I went on a campaign, which began with the VA Patient Advocate. Her attempt at help was to tell me, "You have to be patient; there are a lot of veterans coming into the system." Not the answer I wanted to hear.

My Congressman's office at least seemed to sympathize with my sad story. I was on a first-name basis with many of the staffers in the Veterans Affairs office on his staff. I am unable to definitively state whether or not their efforts made a difference. But at least I felt better knowing that someone else thought this whole scenario was as appalling as I did.

At eighteen months, the decision finally came. Not long after that, a check for thousands of dollars also arrived, representing the back pension he was owed. But at this point, so much damage had been done and compounded, we wonder if our son will ever fully recover.

Our story certainly isn't the saddest of all, probably not even close. But why should any of us be telling this story? Why do we continue to lead the lambs to slaughter, and then abandon them when they manage to survive? Why should our son, or absolutely any veteran, be forced to make a four-hour drive to get the care they need and deserve? When did the current administration last campaign for billions of dollars for the VA system? Doesn't financing the war *include* financing the care those ordered into it require?

Elections are fast approaching. The candidate who steps forward and flat-out says, "this is wrong - this will be one of my top priorities" is the candidate who will get my vote.

THE INTERVIEW AND INTERROGATION OF JUVENILE SUSPECTS AND OFFENDERS

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Police are often faced with the daunting task of interviewing and interrogating juvenile suspects and offenders. The interview and interrogation of suspected criminals is an integral part of the investigative process, and the component of an investigation that frequently leads to the arrest and conviction of a perpetrator. As important as the interview and interrogation process is, the criminal justice system must remain vigilant in protecting suspects' rights. When dealing with juveniles, police officers must be aware of additional protections afforded to juvenile suspects and offenders. This paper will identify constitutional protections afforded to juveniles, as well as potential problems specifically regarding juvenile suspects and offenders. These problems include undue pressure during the interview and interrogation session, and whether parents and guardians are the best advocate for child offenders. This paper will conclude with a murder case review that highlights the significant difference between handling adult and juvenile crime suspects in the interview and interrogations phase of an investigation.

Introduction

The successful detection and investigation of criminal events often hinges on an interview and interrogation of suspects and offenders. As important as the interview and interrogation process is to case clearance, investigators must always remain within the protections extended to suspects by the United States Constitution. In dealing with adults, these protections are fairly straight forward. The adult suspect, once read their rights as delineated in *Miranda v. Arizona*, may choose to speak with investigators, request an attorney, or say nothing at all. Each of these choices presents dangers and areas of opportunity for the suspect. The underlying presumption on the part of law makers is that once an adult suspect is advised of their rights, they are capable of making a decision regarding their subsequent cooperation with the police. Juveniles, on the other hand, present a problem that tugs at the presumption the offender is

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capable of making a decision that may affect the rest of their life. In other words, once a juvenile is faced with the decision to cooperate with the police, ask for an attorney, or remain silent, is that juvenile able to intelligently and maturely make such an important decision? This paper will explore juvenile suspect's and offender's ability to make such decisions, the added pressure that police may be able to put on juveniles in order to get a confession, laws and legal decisions concerning juvenile interviews and interrogations, and who should advocate for a juvenile if it is presumed children are incapable of making decisions regarding their constitutional rights.

Miranda V. Arizona

In 1963 Ernesto Miranda was arrested in Phoenix, Arizona for a kidnapping and rape after being picked out of a police line-up by the victim. Miranda was interrogated by the police and subsequently provided a written confession for the crime. Miranda's confession was a key piece of evidence and ultimately led to his conviction and sentencing of 20 to 30 years in prison. In appeals that reached the United States Supreme Court, Miranda's attorneys argued that Miranda was denied protections provided by the United States Constitution, specifically the Fifth Amendment protection against self-incrimination and the Sixth Amendment protection that provides the right to an attorney. The foundation of the appeal was that the police failed to advise Miranda of these protections. In 1966, the United States Supreme Court ruled that Miranda was denied his Fifth and Sixth Amendment protections because the police had in fact not informed him of his right to remain silent and that he could have an attorney present during questioning, and overturned his conviction. This decision was based on the issue that the United States Constitution provides these protections to all arrested individuals and that individuals must be made aware of and understand their constitutional rights in arrest situations. The *Miranda* decision now requires that arrested persons be advised of these protections before questioning by the police, and must acknowledge that they understand these protections (*Miranda v. Arizona*).

The Miranda decision was carried a step further in the 1967 *In re Gault Supreme Court* ruling that states juveniles are also guaranteed constitutional protections. Gerald Francis Gault, a juvenile, was taken into custody by police for making lewd telephone calls. He was not advised of his Miranda protections and his parents were not notified that he was in police custody. Gault subsequently made incriminating statements to the police which resulted in a juvenile hearing and his detention in a juvenile

facility until the age of 21. In Gerald Gault's case, this meant a period of confinement for six years. An adult committing the same offence would have been exposed to a maximum fine of $50 and two months in jail. At the time of the Gault arrest, the police worked under the assumption that since juveniles were judged as juvenile delinquents and not criminals like adults, they were not afforded the same constitutional protections. The Supreme Court, however, overturned the Gault sentence. The court ruled that Gault was not provided with adequate safeguards against self-incrimination and was denied his due process protections under the Fourteenth Amendment of the United States Constitution. The key issue of the ruling was that regardless of criminal or juvenile proceedings, juveniles are afforded the same rights and protections as adults (*In re Gault* 1967).

For the purposes of Miranda protections, two elements must be present to constitute an "arrest" situation; the person must be in custody and questioned by the police. Custody is typically defined as a situation where a person reasonably believes they are not free to leave. Even if the person is not advised that they are under arrest, if the police create the impression of custody such as transporting an individual to a police station or locking a door, Miranda protections would apply. With regard to questioning, if in a custody situation the police create an atmosphere where a reasonable person would feel compelled to talk, than Miranda would also apply. Therefore, anytime there is a custody and questioning situation, the police must advise the suspect of their rights as per the Miranda Supreme Court decision. In addition to the advising of Miranda protections, the police must make a reasonable presumption that the suspect understands their rights if the suspect wants to waive those rights and talk to the police. For example, in the case of mentally retarded individuals or persons who do not understand English where no interpreter is present, a reasonable assumption of understanding Miranda protections cannot be made (Holtz 2004).

The issue of understanding Miranda protections becomes complicated when dealing with children. Intelligence notwithstanding, can children reasonably understand their rights and make a sound decision on whether they should cooperate with the police? Suspects are advised of their Miranda protections with four warnings:

- They have the right to remain silent.
- They may refuse to answer any questions.
- Anything they say may be used against them in court.

· Thy have a right to have an attorney present before any questions are asked.

In a study often cited in Miranda defense arguments, "55.3% of juveniles surveyed failed to understand at least one of the Miranda rights. Only 20.9% of juveniles under age fifteen understood all four warnings, compared to 42.3% of all adults surveyed" (Farber 2004, p. 1278). Since nearly 80 percent of juveniles failed to understand all four components of Miranda warnings and only about half of the surveyed juveniles failed to understand even one aspect of their Miranda protections, can it be assumed that juvenile suspects meet the reasonable presumption of understanding as stated in the Miranda Supreme Court decision of 1966? Furthermore, if an assumption is made that a percentage of juveniles can understand their Miranda protections, we must then question whether juveniles should be subjected to a police interrogation. Does a juvenile possess the poise of an adult to stand their ground against making a statement against their own best interest, or worse yet; will a juvenile provide a false confession simply to end the interrogation session?

Interview v. Interrogation

In order to proceed with this discussion it is important to identify the difference between an interview and an interrogation, and when each is applicable. Typically, an interview is a fact-finding mission and may be applied to witnesses and suspects alike, whereas an interrogation seeks direct answers to direct questions. Since an interrogation seeks very limited answers, this approach to questioning is usually reserved for suspects, and if used correctly, occurs as part of the interview process. To explain further, an interview consists of open ended questions such as, "What were you wearing yesterday?" The closed ended version of this question might be, "Were you wearing a blue shirt yesterday?" A skilled interviewer will do little talking and use open ended questions as prompts to generate conversation from the person being interviewed. Once enough information is gained and an evaluation on the subject's truthfulness is made, the interviewer may move into an interrogation phase. At this point the interviewer will do most of the talking and often stop the subject from speaking until the interviewer is ready to ask a direct question that can only be answered with short responses. Once the interviewer gets the desired response the session may be moved back to an interview setting using open ended questions based on the elicited direct responses (Royal & Schutt 1976).

The important point in considering the difference between an interview and an interrogation is that an interview is usually less formal and less threatening. During an interrogation an investigator can employ various methods to elicit answers and apply pressure to the person being interrogated. This is in fact the purpose of the interrogation. A problem arises, however, when the person being interrogated is pressured to the point of violating their constitutional rights or pressured to the point of making a false statement. Absent police officers pushing to the point of violating a person's rights, this pressure has been recognized to elicit more false statements from juveniles due to the fact that they are indeed still children and more likely to be controlled by adults. In an article concerning the interrogation of children, the author states, "All children are vulnerable because they tend to lack the maturity, verbal skills and experience to stand up to the questioning process, they have limited confidence and may fail to understand the meaning of questions. Children are more likely to panic, to have limited ability to foresee the consequences of their actions, and may be more susceptible to psychological pressure." (Fernandez 2004, p 4).

Police officers interviewing and interrogating juveniles need to be cautious of false statements made as a result of the pressure they are applying in seeking the truth. Several studies have shown that children respond well to the open ended question format of an interview setting and tend to provide less false statements. These studies indicate that more information can be gained from children by providing questions as prompts and then letting the interviewed juvenile elaborate at their own pace. In a study of juvenile sexual assault victims, a group considered as unwilling to provide information as criminal suspects, researchers determined that open ended questions yielded almost three times as many details as closed ended questions (Hershkowitz 2001). The problem, however, is that interviews work well if the subject is cooperating and telling the truth. When individuals are not cooperating or telling lies, more pressure from the interviewer may be the only recourse if the session is to continue.

The Interrogation Process

We are all familiar with Hollywood interrogation scenes; the naked light bulb, good cop/bad cop routine, and a confession coming from an apologetic suspect after a beating at the hands of the police. Fortunately what makes for good movies is not routine in America's police departments. Granted there are improprieties committed, both intentional

and unintentional. Though these unfortunate situations make headline news, most police officers carry out their interview and interrogation duties in a professional manner. In fact interview and interrogation training has become an industry with numerous schools and seminars offered by public and private groups across the country. The good cop/bad cop routine, all too often overplayed in the movies, has given way to scientific approaches such as behavioral analysis questioning, theme development, and posing an alternative question.

Many interview sessions incorporate all three of these techniques, as well as countless others in given situations. An interview and interrogation session may start with behavioral analysis questioning. This is a very low pressure interview-based process where the suspect is asked questions mostly about their feelings on the situation. The suspect's answers are then compared to the standard answers of known truthful and deceitful individuals. For example, the suspect may be asked, "What do you think should happen to a person who committed this crime?" A truthful answer is usually in the form of, "The person should go to jail." An answer indicative of deceit may be, "Perhaps the person made a mistake and should be forgiven." The premise of behavioral analysis questioning is that the subject subconsciously considers their own fate in answering the questions, and the interviewer can make a decision on the suspect's truthfulness (Reid 1993).

Theme development is the beginning of the application of psychological pressure. The interviewer poses scenarios to the suspect in the hope of finding a theme that touches the individual's moral conscience. An example would be telling the suspect that the victim of a murder deserves a Christian burial and the suspect's cooperation in locating the victim's remains would allow that burial to take place. The premise for this technique is that the suspect's feelings of guilt override their desire to conceal the truth and they provide a confession (Inbau et al 1986).

The greatest interrogation pressure is often applied in the form of an alternative question. At a late stage in the interview and interrogation session, usually at a time when the interviewer recognizes that the suspect is considering their options, an alternative question such as this is imposed, "A really evil person would murder someone in cold blood, on the other hand, during an argument things can get out of control and people make mistakes. Are you an evil person or just someone who made a mistake?" Obviously either answer is an indication of guilt on the part of the suspect (Inbau et al 1986).

These three techniques, and a host of others including lying to the suspect, are legally accepted methods of interview and interrogation. The above outline of a proposed interview and interrogation is a very brief example of how police may approach this process. It should be pointed out that an interviewer often has years of police experience and has attended countless police training classes. As for an interview and interrogation session, this is a process that routinely takes several hours. There is no court imposed time limit on an interview and interrogation session provided reasonable comforts and rests are afforded to the suspect.

For a mature and intelligent adult suspect the deck is stacked in the favor of the police. The conflict is exacerbated when children are subjected to the process. Juveniles may not respond to behavioral analysis questions in the same manner as an adult solely based on their lack of worldliness. They may assume everyone makes mistakes and should be forgiven as opposed to the truthful adult response of going to jail. In terms of theme development, police officers are often revered by children and moral themes may affect children in a greatly enhanced manner. As for the alternative question, an innocent juvenile faced with no viable choice may make the lesser choice since it would appear the only way out of the situation.

Issues of Parent Guardian Advice

The courts have long decided that juveniles are to be afforded the same constitutional protections as adults, regardless of whether they face adult criminal charges or juvenile delinquency charges. The courts have also decided that juvenile suspects and offenders must be viewed in a different light than adults by the criminal justice system in terms of their waiver of constitutional protections. Juveniles have been deemed as incapable of making a reasonably sound decision on the exercise of their rights, and processes have been put in place in an attempt to ensure a decision in their best interest is made. These processes take the form of a *totality of circumstances* or *per se* approach to how children should be interviewed and interrogated, and who can waive a child's constitutional protections. In the totality of circumstances approach, which is used by most states including New Jersey, the court views all aspects of the case in determining whether proper protections were in place for the juvenile offender. In these situations, very heavy weight is given to the issue of why or why not a parent or guardian was present during the waiver process and subsequent interview and interrogation. The per se approach, which has been adopted by only a few states, calls for set guidelines on

juvenile waiver of rights and parental contact prior to interviews by the police (Farber 2004).

In either process the most important issue is that a parent or guardian is present for any waiver of rights, and in most situations, for the interview and interrogation session. This calls into question whether a parent or guardian is a suitable advocate to protect and enforce the juvenile's rights. On the surface it would appear that parents and guardians would have the best interest of the child in mind, and most often they do. However, parents and guardians may not always be the best advocate for the child. In terms of understanding constitutional rights, as stated previously in this paper, a significant percentage of adults do not understand what Miranda protections imply. This ignorance may lead a juvenile offender into an incriminating situation, though the parent is very well-intentioned. For example, a parent may believe a matter can be cleared up by simply having the child tell the truth to the police. The parent may then pressure the child to make a statement not knowing all the circumstances known to the juvenile offender who would prefer to remain silent. In other words, the parent can make an intelligent decision based on what they know about the situation, but the problem lies in that the parent does not know the situation as well as the juvenile offender (Farber 2004).

Miranda protections allow for the presence of an attorney. This protection is based on an attorney's knowledge of the law and their neutrality in a given situation. Aside from not knowing the law, parental and guardian participation may present a conflict of interest. For example, if a juvenile is accused of killing their Aunt, their parental advocate would be the brother or sister of the victim. In this case, could the parent make an unbiased decision on behalf of the child or would they apply pressure to the child in order to get an answer for their brother's or sister's death? Another potential conflict for parents and guardians is a conflict of morality. Parents and guardians are responsible for imparting values and morals to their children. Telling the truth and trusting the police are often lessons taught to children by their parents. Telling a child to hide the truth can present a moral conflict that could impair a parent's or guardian's ability to make an unbiased decision on behalf of the child (Farber 2004).

A Real Life Example

During the late evening hours on April 19, 1997, Tony's Pizza in Sussex County, New Jersey received a call for a pizza delivery. The call came from a payphone at a local store and the caller advised that he and a

friend were remodeling a vacant house and they had no power or telephone service at the location where they were working. The house and street were in a remote area and the pizza shop owner, Giorgio Gallara, was somewhat suspicious. Since the night was coming to a close, Gallara decided to accompany the delivery boy, Jeremy Girdano, on the run. When they arrived at the location their car was approached by two individuals who both began shooting into the vehicle, killing Gallara and Girdano with multiple gunshots. The assailants then fled the scene, stopped by a local church to pray for forgiveness, and then went to their respective homes. The victim's vehicle and their bodies were discovered by a passing motorist who contacted the police and an investigation was initiated. Telephone records from the pizza shop led investigators to the store where the telephone call was made. Telephone records from the payphone at the store indicated that several other pizza shops were called prior to the call made to Tony's. Interviews of the other pizza shop owners revealed that they received requests for a delivery to the location of this incident, but refused the order due either to the late hour or distance from their business (Repsha 2006).

Further investigation at the store where the calls were made revealed Thomas Koskovich, age 18, and Jayson Vreeland, age 17, as suspects since they were observed making numerous telephone calls from the payphone at the time the pizza shops were called. Thomas Koskovich was subsequently picked-up at his residence and taken to the police station for questioning. He was advised of his Miranda protections and agreed to talk to the police. Koskovich ultimately provided a full confession, stating that he and Vreeland wanted to experience the thrill of killing someone. He stated that they obtained guns by burglarizing a local gun shop and planned the killing over a period of time. Koskovich told investigators how they made the telephone calls for the pizza delivery and how they both shot the victims, fled the scene to a local church where they prayed, and finally went home. Based on the statement made by Koskovich and supporting evidence, Vreeland was arrested. Vreeland was uncooperative and it did not appear that he would be willing to provide a statement. Following procedure, investigators located Vreeland's mother who later arrived at the police station. Vreeland and his mother were both advised of Jayson's Miranda protections. Mrs. Vreeland told investigators that there must be some mistake, that her son would never be involved in something like this. Not knowing Jayson's part in the incident, she insisted that Jayson cooperate with the police and provide a statement regarding his activities on the night of the incident. Jayson, responding to

his mother's insistence that he cooperate, confessed to his part in the killings in a statement that mirrored Koskovich's (Repsha 2006).

Conclusions

As a result of the confessions provided in the pizza murders investigation, the adult was found guilty and sentenced to death. That sentence was later remanded to life in prison with a 60 plus year parole ineligibility due to a technicality in the judge's sentencing charge to the jury. The juvenile was sentenced to life in prison as an adult with a 50 year parole ineligibility. The interesting point is that Koskovich and Vreeland committed the same crime together while being only a few months apart in age. This difference made Koskovich an adult at the time of the murders, while Vreeland remained a juvenile. The difference in age status exposed Koskovich to the death penalty, whereas Vreeland could only receive life in prison as a maximum sentence. Another interesting point is that although Koskovich voluntarily provided a statement before Vreeland, and that statement was provided after Koskovich had the chance to weigh his option to cooperate or not, he was still exposed to the death penalty. Vreeland, on the other hand, was somewhat uncooperative and provided a statement at the insistence of his mother, yet his juvenile status protected him from a death sentence. Vreeland's statement was ultimately used against Koskovich in trial after Koskovich attempted to withdraw his statement, citing it was coerced by the police. The question will always remain, would Vreeland have cooperated with the police had it not been for the insistence of his mother, and what would have been the outcome of the Koskovich trial without the Vreeland statement?

The interview and interrogation of juvenile suspects and offenders is an important matter that requires further consideration. A significant majority of crimes are solved and many convictions are obtained based on a confession that resulted from a police interview and interrogation (Conti 1999). If police lost the ability to interrogate suspects, certainly a great number of criminals would remain free to commit subsequent crimes. Nevertheless, police must be judicious in their approach to interrogations, and even more cautious in dealing with juvenile suspects and offenders. Police must be aware of the added protections extended to juveniles as well as consider the overall well-being of the juvenile, while balancing these concerns with protecting society from subsequent crimes if a case remains open. Also of concern is the role of parents and guardians as an advocate for juveniles in criminal justice matters. We must ask whether parents and guardians are capable of making sound legal decisions and if they can void themselves of bias that would prevent them from making a

decision that is in the best interest of the child. The interview and interrogation of juveniles is a necessary and integral part of the criminal justice process. However, all concerned must never forget that they are dealing with a child regardless of the seriousness of the crime. The human and legal rights of the juvenile offender must always be considered within the context of the situation at hand.

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THE MILITARIZATION OF THE AMERICAN POLICE FORCE: A CRITICAL ASSESSMENT

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This paper examines the militarization of the American police force as it pertains to the disruption and brutalization of the American community. The paper presents the notion that the militarization of the police exploits citizens by nurturing fear, violence, and mistrust, thus enabling the control of social life by police institutions. The paper begins with a brief history of the militarization of law enforcement. Following this, we detail the social significance and social consequences of the use of military actions in law enforcement. The paper concludes with suggestions on how to demilitarize law enforcement, thus making it more congruent with democratic principles.

Introduction

On November 5, 2003 a drug sweep at South Carolina's Stratford High School had the American public questioning police tactics. Surveillance video from Stratford High School showed 14 officers ordering students to lie on the ground as police searched for illegal drugs. Students who didn't comply with the orders were handcuffed and taken to the ground. Police, with weapons drawn, walked around and over them, while drug-sniffing dogs stuck their noses in and out of book bags. "I froze up," reported a student. "I didn't know what to do. I fell on the ground. Everybody thought it was a terrorist attack." (Leach, 2003).

This example highlights one of the most significant trends of law enforcement in recent years, its militarization. Borrowing from Kraska and Kappeler (1997, p. 1) militarization is defined in this paper as "a set of beliefs and values that stress the use of force and domination as appropriate means to solve problems and gain political power, while glorifying the tools to accomplish this [with] military power, hardware, and technology." The purpose and rationale of militarization, or get tough on crime measures, is the protection of the American citizen from criminal

harm. Its design and intent is the security of the average citizen by institutionalizing a driven quest for the identification and prosecution of hardened criminals.

The latent outcome of such militarization is the war it wages on average citizens. An aggressive paramilitary police force may perpetuate brutality against the citizenry and create a set of institutional norms that leads to greater violence by both police and their targets. Persons targeted as criminals become more violent in their interactions with the police because of the potential for increased harm, while citizens (perhaps seen by the police as a criminal in waiting) lose trust in the institution designed to protect them.

This paper examines the militarization of the American police force as it pertains to the disruption and brutalization of the American community. We argue that the militarization of the police exploits citizens by recruiting in them fear, violence, and mistrust; thus enabling the "control" of social life by police institutions. This paper begins with a brief history of the militarization of law enforcement. Following this, we detail the social significance and social consequences of the use of military actions in law enforcement. The paper concludes with suggestions on how to demilitarize law enforcement, thus making it more congruent with democratic principles.

The Militarization of Police Forces

We take as a starting point Sir Robert Peel's Metropolitan Police Act for London in 1829. As part of the Metropolitan Police Act, Peel suggested that police should be efficient and organized along military lines. As a result, many police agencies in Great Brittan and America are grounded in a paramilitary authoritarian and hierarchical composition (Palmiotto, 1997). In fact, some of the earliest examples of bureaucratic organizations are for military purposes (Alpert & Dunham, 1996). As such, the military and bureaucratic structured police organization has had a long and enduring history (Enloe, 1980). The paradox here is that police history, with its emphasis on the night-watchman and British bobbies, glosses over how civilian police often formed out of militia groups and military soldiers or, conversely, out of an acute fear of military control (Brewer, Adrian, Hume, Moxon-Browne, & Wilford, 1994; Kraska & Kappeler, 1999; Kraska, 1996; Kraska, 1994; Manning, 1977).

The theoretical perspective of police organization is based largely on the writings of Frederick Taylor and Max Weber (Hodgson, 2001). Taylor and Weber's classical organizational theory (i.e., organizations

indoctrinated along traditional lines; highly centralized, bureaucratic, and designed on the premise of divisions of labor and unity of control), has been the enduring model of organizational command and control adopted by American police agencies for most of the 20th century (Birzer, 1996).

The classical theory of organization, modified and refined during implementation by progressive era police executives, such as August Vollmer and O.W. Wilson, represented a reaction to the rampant corruption and other inequities that had plagued American policing since its early days (Patterson, 1995). To reduce the contaminating effects of local ward politics on line officers, the classical model centralized authority in police headquarters. In order to alleviate favoritism and petty corruption in neighborhoods, the classical model established beats and revolving assignments for patrol officers, and to ensure officers performed their assigned duties, the classical model instituted a military-style structure of authority and discipline. Furthermore, to encourage personnel to follow the rules established by headquarters, proponents of the classical model believed that line-level officers should adhere to a rigid chain of command and be supervised closely through massive amounts of written policy pronouncements (Birzer, 1996; Bopp, 1977).

In 1981 Congress passed the Military Cooperation with Law Enforcement Agencies Act. Since then the military has become increasingly involved in civilian law enforcement, and has been encouraged to share equipment, training, facilities and technology with civilian enforcement agencies (Weber, 1999). Similarly, in 1986, President Ronald Reagan officially designated drug trafficking as a "national security" threat. A year later, Congress set up an administrative apparatus, with a toll-free number, to encourage local civilian agencies to take advantage of military assistance, and in 1989 President George Bush created six regional joint task forces in the Department of Defense to act as liaisons between police and the military. A few years later, Congress ordered the Pentagon to make military surplus hardware available to state and local police for enforcement of drug laws. In 1994, the Department of Defense and the Department of Justice signed an agreement enabling the military to transfer wartime technology to local police departments for peacetime use in American neighborhoods, against American citizens.

Social Significance and Social Cost of Police Militarization

The sharing of military resources with civilian agencies has led to an alarming militarization of local law enforcement. Special paramilitary units in departments, known as Special Weapons and Tactics (SWAT)

teams, have proliferated the American landscape. One study by Kraska (1997) showed that 90 percent of cities with populations of more than 50,000 had paramilitary units, as did three-quarters of those with populations under 50,000. An increasing number of communities, especially smaller communities are gaining SWAT style paramilitary units. For example, the community of Jasper, Texas, a town of 2,000 people and a police force of seven, has been the beneficiary of seven M-16s, and an armored personnel carrier (Fager, 1997).

Of greater concern here is not the proliferation of SWAT style units across the nation, but rather the military style training that all "peace officers" now receive, and the socialization they undergo for war. Both SWAT and non-specialized police members are trained in organizational hierarchies and cultural models situated in military logic. Personnel hierarchy includes commanders, tactical leaders, scouts, and in many cases a sniper. Furthermore, the police structure comes to reflect, in uniformed attire, the commando units they model (combat boots, full-body armor in black or camouflage, and Kevlar helmets). What this has produced is a military mind-set that declares war on the American public.

Some argue that the paramilitary model of policing has created a myriad of problems in the general culture of the organization including stifling creativity, dogmatism, and impeding organization transformation (Lorinskas & Kulis, 1986), while some scholarship has pointed out that the paramilitary environment has created a warrior-like mentality on the part of the police. For example, according to McNeill (1982, p. viii):

> "The police constitute a quasi-military warrior class. In common with warriors generally, they exhibit bonds of solidarity [that] are fierce and strong indeed, [their] human propensities find fullest expression in having an enemy to hate, fear, and destroy and fellow fighters with whom to share the risks and triumphs of violent action.
>
> We reiterate our concern with the military mind-set, for in this mentality the metaphor of "war" becomes real life. American streets become the front, and American citizens exist as enemy combatants (Weber, 1999, p.10). Once an organization with a militaristic orientation becomes institutionalized, the members exist within a culture wherein they believe that they are literally engaged in combat."

When police organizations train officers to act and think like soldiers they alienate them from the community of which they are supposed to be a part. A law enforcement officer is ultimately a member of a community, and a member of law enforcement is subject to the same laws as their fellow citizen; a soldier is not. Weber (1999, p.10) writes, "the job of the police is to react to the violence of others, to apprehend criminal suspects and deliver them over to a court of law. A soldier on the other hand, does not think; [he/she] initiates violence on command and doesn't worry about the Bill of Rights."

The divorcing of community by police institutions may lead to particular abuses. In specific, we highlight the use of excessive force, mistakes, and boundary extension (marking nonviolent offenses for harsh punishment).

Military Abuse: The Use of Excessive Force

In war, casualties happen, and the warring public often accepts death (especially the death of enemy persons). Consider the following causalities of war:

· Four officers from the NYPD's uncover street crimes unit fired 41 shots at Amadou Diallo, a 22 year old Guinea immigrant. Diallo, who spoke little English, was hit 19 times while reaching for his wallet to offer his identity to the police. Police later ransacked his home... in a desperate search for drugs, weapons or anything that might comprise the dead man and justify the shooting. They came up empty handed (Parenti, 2000, pp. 108-109).

· Masked police commandos kicked in the front door of 56 year old Charles Potts during a narcotics raid. As the police entered the home, Potts jumped up from his card game and was killed by police automatic fire. No drugs were found in the search (*Greensboro News & Record*, 1998).

· In Portland, Oregon, police commandos shot it out with a suspect. By the time the raid was over two officers were wounded and a third killed. Dragging out the wounded suspect, they stripped him on the lawn in full view of a television camera crew and lashed him to the tailgate of an armored vehicle and paraded him like a dead buck (Dodge, 1998).

As noted, in war, casualties are accepted so long as they are the enemy's or are casualties made in the act of vanquishing the enemy. The

problem here however is the fact that the American public has been named the enemy, thus incurring the casualties of war.

Collateral Damage, Mistaken Identity, and Self Injury

In war, a number of noncombatants will be injured or killed. The important question that both citizens and social scientists need to ask is: Does waging a war protect our citizens or produce for them a greater risk of harm? Consider the following:

- Under the rule of probable cause [the police] stopped a group of people coming home from church. They were stopped at a gas station where gangs hang out, and the police made them all get on the ground, lie in the dirt and oil, all of them- in their Sunday best (Parenti, 2000, p. 118).

- A civilian police review board plans to investigate the shooting of an innocent bystander in Albany, N.Y. when two police officers opened fire at a suspect's car on New Year's Eve. Police said the suspect drove his car in reverse toward officers who opened fire with 8 shots. The driver lived; the bystander did not (Newsday.com, 2004).

The citizens in these news reports are examples of collateral damage in law enforcement's war on crime. Such overzealousness may create the potential for civil rights violations and civilian harm or death. Likewise, this aggressive nature can lead to mistaken identity. There have been numerous incidents where the police mistake an innocent citizen for a "bad guy." For example, misreading the local address, police raided the home of what they thought was a drug dealer. No drug dealer was found however. Instead, they entered the home of a 64-year old retired farm worker. When he reached for a pocket-knife he was shot 15 times (Bier, 1999).

The suspect too can mistake the unannounced police home invasion for criminal activity. Such was the case when a Pierce County, Washington deputy was shot and killed by a suspect who swore that he opened fire only because he "thought his assailants were burglars" (Parenti, 2000, p. 128). Sometimes officers trained for war become their own worst enemy. During tactical operations officers often mistake each other for the suspects they are pursuing. Instances include:

- Officers Rafael Borroto, Javier Gonzalez and Brian Wilson fired a combined 19 shots - in an apparent crossfire - at an unarmed

Nicholas Singleton. Singleton was being chased by officers on foot after he bailed out of the passenger side of a stolen Jeep Wrangler. All three officers [converged] on different sides of a building where the fleeing Singleton had climbed onto the roof. Mistaking each other's gunshots and muzzle flashes as coming from Singleton, all three officers opened fire. Firearms Review Board had concerns about whether officers had placed themselves in danger needlessly by creating crossfire (Herald.com, 2002).

· While serving a search warrant on a dwelling that turned out to be empty, SWAT team members stormed the building, and in the confusion caused by aggression and smoke grenades, mistook each other for gun wielding suspects. Team members opened fired on each other killing one of their own (MacGregor, 1998).

Boundary Extension: Marking Nonviolent Offenses for Harsh Punishment

The mentality of war has further consequences for the American community. We argue that police are trained to resemble soldiers at war. Soldiers at war operate under a code of domination, not service. Thus, all actions (or perceived offenses) by civilians must be handled by domination, force, and control. Stated boldly, no longer do police officers operate as officers of the law; they act as the law itself, and laws are applied arbitrarily without the validation of civilian voices and the courts. Consider the following:

· When police officers woke Ann Robinette at home in Centralia, MO, just after one o'clock in the morning, she feared that someone was hurt or a relative had died. Instead, the officers arrested her for failing to pay a $2 ticket for parking in a zone reserved for police cars. The bust led to a series of events including another parking ticket, a federal lawsuit, and the realization that parking in the spot was not really illegal after all (stl.com, 2003).

Police officials also attempt to justify arrests (and violence) by giving explanations that speak to affronts of civilian resistance to police authority:

· Cpl. Alita V. Robinson was wearing her police uniform while moonlighting as a security guard at a Popeye's Fried Chicken restaurant when she saw a customer walk up to the counter with something perched behind his ear; something that looked like a

blunt (a marijuana-stuffed cigar). She said she watched the man, Daniel Jose Torres, a 32-year-old construction worker, for about 20 minutes as he waited for an order of french fries. When she confronted him, the object behind his ear was gone. Robinson commanded Torres to look on the floor for the alleged contraband, thinking he had dropped it. He complied at first, but when he tried to walk away, Robinson ordered him to his knees. Torres resisted, and the officer shot him. Police later charged Torres with second-degree assault and resisting arrest. Prosecutors tacked on two more charges: failure to obey a police officer and drug possession. Police said they found marijuana in the restaurant but not in Torres's possession (Whitlock & Fallis, 2001, p. A01).

Social Significance and Social Cost of Police Militarization: Destroying Community Trust

The paramilitary model of policing destroys the very fabric of social life… trust. The issue of trust is not an insignificant issue. For example, Lewis and Weigert (1985) assert that trust enables social life while mistrust destroys it. They assert that "[Trust] is a collective attribute, it is the fundamental prerequisite for the possibility of society" (1985, p. 968). Simmel (1990, p. 178) argues that, "without the general trust that people have in each other, society itself would disintegrate." The only alternative to trust is as Luhmann (1979, p. 4) argues, "chaos and paralyzing fear."

In more structured terms, trust may be conceptualized as a set of expectations and obligations built in the exchange of resources. Goulder (1960, p. 124) notes that trust is defined by and developed in "the general norm of reciprocity... the mutual or satisfactory exchange of desired resources between parties." Fukuyama (1995), and Putnam (2000) term this norm of reciprocity "social capital." Putnam (2000, pp. 19-21) writes:

> Social capital refers to connections among individuals, social networks and the norms of reciprocity and trustworthiness that arise from them. Social capital is akin to what Tom Wolfe called the 'favor bank' in his novel *The Bonfire of the Vanities.* It is also expressed in the T-shirt slogan used by the Gold Beach, Oregon, Volunteer Fire Department to publicize their annual fund-raising effort: "Come to our breakfast, we'll come to your fire."

Though colloquial, Putnam's words are powerful. These words remind us that trust, and hence police-community relations, is built in reciprocal action. Indeed, trust is a faith, an obligation between various parties made in the exchange of valued resources. Thus, if trust is a reciprocal action between two or more partners, what goods and resources could ever possibly be exchanged between police and community members engaged in war? The answer is nothing except fear, hatred, an increased lack of cooperation and growing violence.

A number of recent surveys (Fukuyama, 1995; Culbertson, 2000; Putnam, 2000; Rashbaum, 2000; Nagourney & Connelly, 2001; Fine, et al., 2003), report that in some communities, residents distrust and fear the police. This is crucial information, for the police cannot stop or control crime without the help of citizens, and citizens won't help the police unless they trust them.

Improving Police-Community Relations

Citizens and police authorities alike often believe that police-community relations will be improved by purging insensitive and vicious officers from the police service. Assuredly these officers are part of the problem, but Culbertson (2000) notes that pointing fingers at individual officers does not help much. One cannot assign all of the blame to a few aggressive officers. The answer cannot be encapsulated by removing the bad apples from the police force. We argue that the current paramilitary culture may actually nurture these destructive officers. We recommend the removal of aggressive, military-style crime-fighting tactics and replace them with other proactive forms of police work.

Recommendations

We present the following three recommendations as a venue for the re-engineering of the paramilitary police culture: (1) implement community policing as a mechanism for trust building initiatives; (2) end the over-reliance on technology, and (3) make symbolic changes in uniforms and messages of control.

Implement Community Policing as a Mechanism for Trust Building Initiatives.

Community policing has been presented in the literature as constituting a viable entity for effective change within police organizations while at the same time being applied with the goals of detecting and preventing crime (Kerley-Kent & Benson, 2000; Mastrofski

& Ritti, 2000; Oliver, 2000; Yates, Pillai-Vijayan & Humburg, 1997). Community policing requires strategic change in almost all areas of policing. It also requires that police officers identify and respond to a broad array of community problems such as crime, disorder, fear of crime, drug use, urban decay, and other neighborhood concerns.

Community oriented policing is a strategy that entails crime prevention, problem solving, community partnerships, and organizational transformation (Bennett and Lupton, 1992; Eck & Spelman, 1987). With community policing, the police take on a role of being more community oriented and the citizens take on a role of being more involved in assisting the police with information (Thurman, Zhao, Giacomazzi, 2001). Likewise, police officers will be expected to become partners with the community in maintaining social order (Carter & Radelet, 1999).

Considerable theoretical scholarship on community policing has speculated on the importance of the police to work in partnership with citizens, and other private and public organizations in order to solve problems and improve the quality of life in neighborhoods. For example, Trojanowicz (1990, p. 125) observed that "community policing requires a department-wide philosophical commitment to involve average citizens as partners in the process of reducing and controlling the contemporary problems of crime, drugs, fear of crime and neighborhood decay; and in efforts to improve overall quality of life in the community."

Recall that the paramilitary and bureaucratic model of policing assumes a high level of technical expertise in controlling crime and places very little reliance on partnerships between the police and citizens. This had serious consequences including victimizing many sectors of society in the sense that the police often missed the opportunity to view these segments in positive circumstances (Thurman, Zhao, Giacomazzi, 2001). We argue that through the strategic implementation of community policing strategies, specifically the organizational reengineering element, which entails minimizing the paramilitary command and control culture, will strengthen ties between the police and communities. Community policing by its very nature is designed to flourish under a corporate-like managerial structure that nurtures a participative-employee oriented department and community partnerships (Oliver, 2004).

Technology vs. People: End the Over Reliance on Technology

Historically, many American police officers walked a beat, conversing with citizens in face to face settings. Over time, police tactics shifted in large numbers from foot patrol to patrol cars. Though necessary

and efficient (one can drive quickly to the scene of a crime when the dispatcher calls and they protect against physical harm), the patrol car does not easily allow for community service. As a result, police-citizen contact is primarily crime scene investigation, or reactive in nature. When police officers respond only to incidents of crime they see community members as criminals in waiting. Such settings negate the two-way contact that is needed to create mutual respect and understanding. As Zellner (1995, p. 16) reminds us, "well-trained officers walking a beat learn their neighborhoods and are often able to prevent trouble. There is considerable merit in the old saying, "an ounce of prevention is worth a pound of cure."

Make Symbolic Changes in Uniforms and Messages of Control

As an important symbolic step, law enforcement should give up their military style clothing and gear. Camouflage and black or near-black uniforms should be replaced with a color more consistent and symbolic of democracy, such as ordinary blue. Powers (1995), a scholar of the psychology of clothing, explains that black law enforcement uniforms tap into associations between the color black and authority, invincibility, the power to violate laws with impunity. Moreover, the militarized appearance of the police is an act of symbolic violence. Conceived traditionally, violence is any physical act committed against a person or object for the purposes of instilling harm. Symbolic violence, on the other hand, is a cultural action used to inspire fear and subservience. Symbolic violence is used to suppress the beliefs and behaviors inconsistent with the interests of the dominant order (Bourdieu, 1977; Bourdieu & Passerson, 1977). Consider the following example:

> In Jerusalem in September, 1996 an Israeli miscalculation triggered riots which led to the deaths of scores of Palestinians and Israelis. The government [under Prime Minister Benjamin Netanyahu] opened a tunnel for tourists along the edge of a sacred Moslem site. The tunnel was a symbolic violation of Palestinian and Islamic self-respect. It was an act of symbolic violence, reminiscent of many other Israeli actions, including a military sweep that attracted almost no press attention: the army went into a Palestinian town and killed all the dogs. Someone with a macabre sense of humor had read Kafka: at the end of The Trial, Josef K. declines to commit suicide and is stabbed to death by government officials. His last words as he

expires: 'Like a dog.' The Israeli message to Palestinians: 'You are like dogs to us. Today we kill your dogs, tomorrow it will be you.' A government that typically hesitates, just slightly, about committing real massacres commits symbolic massacres instead, to prove its point (The Ethical Spectacle, 1996).

We contend that the militarization of the police uniform is an act of symbolic violence. The militarized appearance is used to transform police-community interactions to an outcome of distance and control. Specifically, the removal of traditional police colors attacks the policing of the police. Manning and Singh (1997, p. 347) write:

> An important irony is that much state violence in the past (i.e., policing) was largely covert and, although public, not subject to review or criticism. The increase in the mobility of television cameras, satellite feeds, and constant television news coverage, means the probability of viewing, backstage activities, the untoward, the violent, the corrupt, and the venial may readily become front page news.

The removal of traditional police uniforms are symbolic acts used to distance outsiders (e.g., the community) from the practice of policing. The police, as a control agent, are made legitimate when their ability to use violent and sometimes fatal force goes unquestioned. However, when public scrutiny is made to enter this arena, the police's central role (the threat of applying violence) becomes questioned. Conceived here, the militarization of symbolic forms is an act of violence used to structure social relations dominate (the police) and subordinate (the community). We argue that the militarization of police uniforms function to maintain an internal legitimacy within the department by enhancing their role as enforcers of public violence, and serve to symbolically construct a hierarchy between the police and the public.

Conclusion

This paper discussed the societal harm perpetuated by police militarization. In particular, the authors argued that the military model of policing operates on the principle of authoritarian control, with no room for consensus, dissent, or for democracy. Those who operate under such models organize a world that is ill-fitted to the ideals of due

process, democracy, diversity, and values on which civilian law enforcement must be founded.

In response, we suggest the reformation of the American policing system within a broader system of organization that focuses on community service, trust building, and changes to the police's symbolic order of social control. In the end, we hold that such measures could prevent the needless loss of life and victimization of persons by law enforcement in the United States.

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TRACKING THE BEAST:
TECHNO-ETHICS BOARDS AND GOVERNMENT SURVEILLANCE PROGRAMS

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Democratic nation-states are experiencing a surge in surveillance programs as a result of terrorist attacks in the United States, Spain and the United Kingdom over the last six years. With the growth of surveillance operations comes a need to ensure that not only the security of the state is protected, but also the civil liberties of the populace. This paper examines methods of accountability, transparency and oversight that can be applied to monitor and control such efforts through heightened cooperation between government surveillance entities and established oversight practitioners. In particular, the primary recommendation made here is for law enforcement organizations across levels of response to consider developing and implementing Techno-Ethics Boards in order to ensure that the ongoing practice of surveillance in a free society can be scrutinized and held to an acceptable standard for a democratic country.

Introduction

In Thomas Hobbes' 1651 treatise, "Leviathan," he examined the condition of man, government and the human spirit. Hobbes' work and thought lives on today among realist, neo-realist and conservative political thinkers. His ideas are continuously referred to in international relations theories and discourse as a jumping off point for scholars and practitioners alike. Hobbes saw the legitimate power of government as vested in the sovereign, once the commonwealth had agreed to such power transference. The sovereign could then apply their will and power to mitigate a natural world of anarchic behavior among human beings that pitted each against all. This natural world left people in a quandary, facing a myriad of problems within a state of constant war that would impact on survival. Noting among the chief threats:

"and which is worst of all, continual fear, and danger of violent death; and the life of man, solitary, poor, nasty, brutish, and short." (Hobbes, 1968, p.186).

As the post September 11, 2001 world of New York City and Washington D.C., the post March 11, 2004 world of Madrid, Spain, and the post July 7, 2005 world of London, England show us, democratic nation-states and their people are once again facing fear of violent death in a seemingly anarchic world without rules – and searching for answers to this plight. The current response has been to strengthen an emerging surveillance society in many respects, encouraging wider electronic surveillance techniques, increasing data mining and manipulation, and enhancing profiling and recognition initiatives (see American Civil Liberties Union, 2004, for an example of the experience in the United States). This is Leviathan's legacy – the beast with a million eyes and ears, threatening a true Hayekian nightmare (Hayek, 1976). But does it need to be so?

Enhanced surveillance is considered as warranted by many under the current circumstances, but such practices come with a responsibility (Lyon, 2003). The responsibility to weigh and balance the individual rights of the populace against the security needs of the state. Accomplishing such a goal is complex and multi-faceted. One element of the puzzle to put into place involves establishing accountability and oversight mechanisms that can help create transparency of government run surveillance operations to the public. To date, both discussion of this matter and its implementation have been found wanting.

Looking at electronic surveillance one finds a multitude of techniques that are now at the disposal of those in power to monitor and examine both individual and population wide practices (Marx, 2002: pp. 12-13). From closed circuit television (CCTV) to video and computer monitoring, to polygraphs, to data aggregation and manipulation, wiretapping and enhanced eavesdropping methods, a web of surveillance is being woven around people within society (see Muller and Boos, 2004: p. 162, for one such example in Zurich, Switzerland). The impacts are varied, as are the success rates.

Regarding advances with technology such as CCTV alone, we find a variety of strengths and weaknesses resulting from application. Clearly, after the London train and bus bombing in 2005, it was obvious that CCTV was invaluable in tracking down terrorists after the attack. The roving monitoring system provided police with quick and effective

tracking evidence that allowed for a swift and capable operational response. This incident should make plain that CCTV has something to offer society, yet all the news about CCTV may not be good. Does CCTV have any preventative capabilities for stopping terrorist attacks before they take place? Or are we simply inundating our surroundings with cameras for the sake of after the fact evidence gathering? If so, at what price to our everyday freedoms are we allowing our fears to push us? Further still, Goold notes that the effect of CCTV on police behavior can be both positive and negative, and that there needs to be a means of ensuring that the police do not interfere with the processes of complex surveillance regimes to protect themselves from charges of misconduct (Goold, 2003: pp. 200-201). Muller and Boos also point out that there are a variety of dimensions to consider when reviewing CCTV systems simply for their effectiveness, and that the dimensions and sophistication of CCTV systems can impact on its overall value (2004: pp. 165-171). Given the above questions, many consider it necessary to begin developing means of accountability and oversight that can ensure correct usage of this technology in a way that the public can feel both safe and secure with. And this is only a brief discussion of one type of surveillance system. There are many, with equally weighty concerns to ponder.

Ultimately, the question first becomes one of ends. Although there are no doubt those who would disagree, it is assumed here that the purpose of said surveillance is at least intended to be benign, and aimed at protection of both the individual and state despite the negative externalities that may arise. But what are the goals we are seeking to achieve when contemplating managing the growing surveillance world? Is it to control what we are creating so that we strike a balance between security and liberty? Or, are we seeking to give these tools and their users flexibility outside of our oversight capabilities in order to calm our nerves and assuage our fears? Despite the compelling needs associated with protection and security, the only answer that a democratic society can provide is the former. With this position clarified we can then move on to the questions of means.

Oversight of Surveillance Programs

Central to the discussion of accountability of government surveillance programs is the question of what methods of oversight are at our disposal to ensure surveillance technologies, techniques and results are reasonably controlled and monitored? And more importantly, how can these methods of oversight be implemented productively? For instance:

- How can auditing of surveillance activities best serve to create public transparency without sacrificing operational secrecy?

- How can program evaluations be developed to provide information to elected officials, administrators and citizens as to the success or failure of surveillance efforts without compromising their effectiveness?

- Do contracts with independent vendors need to require that their work on building new surveillance systems undergo scrutiny by independent ethics boards familiar with the complexities of the technology?

- Should RFPs stipulate that such new efforts take place within frameworks of ethics requirements determined beforehand by numerous entities with expertise in the field in question?

- Should deployment and implementation of surveillance tools undergo ongoing scrutiny by entities comprised of internal and external monitors to ensure compliance with acceptable standards and norms of application in a democratic society?

Answering these questions, and more, holds the future of this field in the balance.

Some of these methods can be used up front (RFPs, contracting requirements and formative program evaluations) and others can appear throughout the life of surveillance operations (performance and financial audits, interim and summative program evaluations, and performance measurement reporting). The problems arise with the willingness and ability to structure these activities into the logic of ongoing surveillance operations across levels of government. Are such oversight activities mandated and expected to happen in regular patterns with regular reporting to elected officials and the public, or simply desired and left to occur at the will of the agencies and oversight bodies involved? It appears that the latter is the case more often than not – and this needs to change. The question is how?

To date, hard law and regulation have served as a less than ideal means of managing surveillance activities across levels of government where oversight responsibilities are concerned. While such legal tools hold a necessary place among the approaches to monitoring and controlling such operations after long and detailed public discussion is engaged in (such as developing actual law, and codified rules of practice for established techniques such as wiretapping), it has at times proven

ineffective in certain areas of practice and has required that effective oversight is needed to rectify emerging problems. For one recent example we need look no further than problems the Federal Bureau of Investigation (FBI) has encountered with their surveillance practices. While the USA PATRIOT Act has authorized the use of National Security Letters, essentially administrative subpoenas, by the FBI in investigations of international terrorism and foreign spying (Doyle, 2006), a Department of Justice, Office of Inspector General (OIG) report identified that there was insufficient monitoring of the implementation of this tool by its field offices in the earlier part of this decade. These findings raised questions of impropriety and illegality in the resulting FBI surveillance activities (Associated Press, 2007). It is important that this step was taken by the OIG before waiting for problems to find their way into the court system for settlement through judicial review of administrative operations. And it is just this type of occurrence that points out the weaknesses and openings for abuse that can develop between the development of hard law and regulation and its resulting implementation.

In other situations, developers of hard law and regulation can find themselves struggling to offer the insight required to do the job of managing surveillance activities effectively where newer forms of technology are involved. For example, unique expertise that exists among private sector professionals developing technology and innovations within certain fields, such as facial recognition imaging, enables them to operate at such high levels that without commensurate knowledge at their disposal government regulators and elected officials may find themselves challenged to create control mechanisms that are on point. Understanding these shortcomings, a more flexible means of ongoing oversight needs to be sought out that can provide stability as implementation of hard law and regulation requirements are pursued.

One approach to managing our growing surveillance society is to heighten flexible governmental regulation and oversight activities through the exploration of what has been termed "soft law" and/or "soft regulation." Discussions of soft law and soft regulation can be considered as a part of an emerging discussion on the overall value of regulation and governance that has recently come to the foreground (Braithwaite, Coglianese, and Levi-Faur, 2007).

Soft law and soft regulation are inexact terms that cover a multitude of quasi-legislative, often non-binding instruments used to enhance government efforts to regulate service delivery areas. These instruments hopefully enable policy changes to emerge and harden

through voluntary application and adherence in both confrontational and politicized atmospheres where a wide array of players from the public, private and non-governmental sectors are involved (see Brandsen, Boogers and Tops, 2006: p. 550-551; and Mameli, 2000, p. 203-204). Such tools have been referred to broadly as "unofficial guidelines" that deliver information to those being regulated (Brandsen, Boogers and Tops, 2006: p. 546). Some of the instruments that communicate these ideas include codes of governance, quality standards, letters of advice, handbooks, manuals, reports, declarations, recommendations, guidelines and resolutions, to name a few (see Brandsen, Boogers and Tops, 2006: p. 546; and Mameli, 2000, p. 203). The result is hopefully a collaborative effort at ensuring quality service delivery by all parties involved in the process. Sometimes they can even result in the drafting of binding legal agreements after a slow process where policy diffusion is accepted and validated by the players affected.

In the case of government surveillance programs construction and delivery of mutually acceptable guidelines for the ongoing management and oversight of these activities would likely enhance their reliability in the eyes of the public. Among the guidelines provided could be agreement to the need for time driven audits and program evaluations, ongoing development of relevant performance measurement indicators, public reporting expectations, and the use of Techno-Ethics Boards to resolve issues of ethical concern while developing advice for carrying out surveillance activities from the beginning of operations through to their conclusion.

However, while such an approach promises to relieve problems and pressures that have surfaced with surveillance programs there are quandaries to overcome as well. Quasi-legislative instrumentation of the nature discussed here is voluntarily adhered to and presents an uncertain edict to those on the receiving end. The intent is obvious. The authors believe that others should follow these "suggestions" and upgrade their operations accordingly. Yet there is no mandated action to be taken. These are not new laws or regulatory rules that must be followed, they are something else indeed. Important enough to be taken note of, but ignored at one's own professional and personal peril (Brandsen, Boogers and Tops, 2006: p. 550-551). Complicating matters further, soft law and soft regulation often suggests that new implementation norms be followed and attested to through self-reporting by the entities that are charged with providing a particular service. Yet given that a gap exists between hard law and regulation and implementation in this sensitive policy area, I

believe such an approach to remedying some of the complications involved may very will find success if crafted carefully.

This conundrum frames a central discussion point that needs to be entertained here. How does soft law and soft regulation consistently result in something more than soft, or even abdicated, governance? Even if governance was found lacking before, does this yield a better answer? How can you be sure you have not let the fox guard the henhouse when you are counting on the fox to give you a daily testament to his/her actions? Given this problem, it is important to begin by noting that there are two sides to the coin of soft law and soft regulation.

The first side of the coin views the use of such unofficial guidelines as necessary tools to distribute new information to agents perceived as needing to update and improve their services while still creating room for innovative practices to flourish. This view assumes good faith on the part of those being regulated to honestly pursue addressing the suggested course of action, or to offer a better path to follow. The other side of the coin is one where the suggested changes are not implemented due to a lack of comprehension or ability on the part of the receiver, a lack of leverage on the part of the sender, or worst of all, a desire to engage in fraud, waste or abuse by keeping loopholes open and outside eyes closed by one or both (see Brandsen, Boogers and Tops, 2006: p. 547-548 for a nice break out of possible paths regulated parties can take in reaction to unofficial guidelines). Both sides of the coin are relevant aspects of the discussion about the implications these instruments pose for practitioners of soft law and soft regulation in complex environments.

In unpacking these concerns it is important to first examine weaknesses that complicate the process, and then note how particular forms of collaborative (rather than adversarial) interaction between oversight entities and those being inspected can improve possibilities for progress through enlightened, triangulated oversight. Next, addressing elements of performance measurement and management that can be used in constructing transparent and accountable partnerships between oversight agents and those being inspected must be further examined. Together, these efforts represent an attempt to stretch the current discourse on regulating new and complex surveillance technologies into less well traveled areas of thought. Considering a role for oversight personnel in government surveillance operations that runs counter to the logic of reaction and punishment that often permeate such discussions, and then offering a tool to build trust between these parties and enhance capacity to achieve success, this framework can hopefully create room for free

thinking and discussion about soft law and regulation in regard to the surveillance society of the future.

Techno-Ethics Boards And Government Surveillance

The use of soft law and soft regulation opens doors to programmatic innovation and improvement when constructed well. In practice it can serve to mitigate administrative confusion and folly when implementation of perceived surveillance norms, set out in hard law and regulation, founders due to imprecise understandings of how to accomplish desired ends. However, it is also true that political stressors and unclear messages from central authorities regarding unofficial guidelines can drag down the potential gains of the process by causing those being regulated to stifle innovation and simply toe the line in order to avoid being cited during inspections and oversight – even though these are not clear infractions that they will be called on (Brandsen, Boogers and Tops, 2006: p. 550-551). In such a scenario, the process that should lead to an active interchange of ideas between the center and the periphery that results in continuous improvement only leads to a game of follow the leader, or worse, resistance. Further still, poorly developed unofficial guidelines that do not provide effective problem resolution can also allow for abuse in application by practitioners.

We should be striving to shut off the mains that allow illegal activity to flow forward by crafting useful soft law and regulation that also improves results. In the world of surveillance operations such a goal is of great value in and of itself given the threats to liberty, privacy and civil rights that hang in the balance. The question that emerges becomes: How can the relationship between those sending the soft forms of guidance and those receiving it be made to work better? Can we ensure transparency, attain accountability, improve effectiveness, prevent misconduct and enable innovation all at once?   And, can individuals charged with overseeing surveillance programs help this development along in a front to back process? The answer seems to boil down to partnership and how to achieve it.

If creative interchange between all parties is what is desired, then trust must be created to allow the interchange to flourish. But the trust needs to run through the entire process.   Trust must exist in the formulation of the quasi-legislative instruments and advice up front, and then in the oversight process that is created afterward. However, it is hard to create that level of trust when there is resistance to oversight in

sensitive areas of national security (involving surveillance operations, or any other activity).

Certainly the recent problems between the United States Central Intelligence Agency and its own Office of Inspector General, where the former challenged the investigative methods of the latter in politically sensitive reviews, attest to this dilemma (Mazzetti and Shane, 2007). Indeed, at the time of this writing the agency has successfully managed to create two new positions to oversee the actions of it's own internal watchdog (Miller, 2008)! Yet oversight and accountability of national security activities must exist, and so the conundrum surrounding trust is laid bare. One undeniable finding from the CIA's situation so far is that a lack of trust in oversight operations distracts an organization from accomplishing its mission, at the very least. Therefore, it seems clear that trust needs to be established early on rather than as an afterthought or result of a crisis if government is to function effectively.

Trust can be developed in a number of ways at the beginning of the process when advice is crafted and distributed to surveillance practitioners in soft or hard forms. The first model that could be accessed to accomplish this is where the public sector defers to nongovernmental parties from the start in the development of said guidelines (see Brandsen, Boogers and Tops, 2006: p. 552; and, Bernstein and Cashore, 2007 for other examples). This is similar to a model of rulemaking that Weimer refers to as "private rulemaking" (Weimer, 2006: p. 569). It is important to note that the private rulemaking model is different than "negotiated rulemaking," where external parties engage in the process but don't control it, or "agency rulemaking," where experts and advisory boards are only invited in to offer their insight and support (Weimer, 2006: p. 569). Yet while these approaches can create buy-in early that will help to ease relationships in the future, and should also be pursued when developing soft law, it does not fully address the negative reactions to oversight discussed above that follow down the road. Another level of trust needs to be developed in order to get over this hurdle. And, it is incumbent on the personnel charged with such oversight to help facilitate that trust. But how can this be achieved when thinking in the world of inspection is colored by expectations of adversarial relationships, rather than collaborative ones?

One way is to explore the creation of a means that will ensure constructive engagement between the parties who could be involved with such a process from front to back. To achieve this purpose I am suggesting developing Techno-Ethics Boards. Akin to Institutional

Review Boards (IRBs) in universities, and Bioethics Boards in health settings, Techno-Ethics Boards in law enforcement settings would be charged with advising surveillance practitioners on how to go about implementing hard law and regulation on these matters. They would also be responsible for addressing ongoing questions of acceptable practice that would evolve as technology (and crime) changes. However, different from IRBs, they would not have the ability to prevent the implementation of surveillance programs. Due to the need for security, and the sensitive nature of information that may need to remain protected even from the Board itself, final calls on implementation would still remain with law enforcement personnel directly involved with the activity. Hence, the Board's oversight of said surveillance operations would still have limits. Yet this additional layer of scrutiny would no doubt aid in clarifying problems and halting preventable errors through the application of soft governance built on soft instrumentation.

        IRBs have been used within universities for decades in order to protect human and animal subjects from research abuses (Neuman, 2003: p.129). While the protections of subjects and procedures for construction of a Techno-Ethics Board to provide guidance to government surveillance programs might indeed differ from an IRB, it is no doubt a worthwhile enterprise to begin exploring. Could such a body stop abuses from happening where law enforcement is trying to protect national security, but going beyond acceptable norms of practice? If so, it is at least worth the effort to take a hard look at the possibilities for such Boards. Why risk making the error of creating a new type of Stanley Milgram scenario, where both surveillance practitioners and their subjects become victims of overzealous observation efforts, if it can be short-circuited (Singleton, Jr. and Straits, 2005: p. 519)?

        As with federally mandated IRBs a Techno-Ethics Board would require a spray of appropriate expertise and talent, with a membership of at least five parties (Singleton, Jr. and Straits, 2005: p. 530). My recommendations would include, at a minimum: one lawyer, one ethicist, one technology expert, one oversight expert, and one field practitioner. As with IRB appointments, sensitive demographic information would also need to be taken into account in the development of a Techno-Ethics Board in order to ensure a balance of backgrounds are represented (O'Sullivan, Rassell and Berner, 2007: p. 261). All may come from government circles, or none. However, there are complications that come with including non-governmental entities in security driven operations that makes for a quandary in this regard. It is more likely, given the

information and context that surveillance reviews would take place under, that personnel would need to be drawn from across differing law enforcement agencies (and perhaps levels of government) more so than from outside parties. Regardless of who is chosen to serve however, the goal, of course, would not be to create a confrontational atmosphere but rather a mutually supportive one where professionals concerned with surveillance and its implications could gather to address real world implementation concerns.

Evaluating the difficult choices that must be made by governmental entities where adherence to protections of civil rights and liberties are concerned is no easy task. Given that matters of security are at stake, such parties granted entrance to a given Techno-Ethics Board at any level of government should not be chosen without careful consideration. As such, it is important to turn to those that have clearance to be involved with these matters to begin with. One such participant could be found within OIGs.

By taking some time to look at the theory that underpins OIGs in the United States, we can begin to see how one type of inspection and oversight body's personnel can be deployed constructively and justifiably to a Techno-Ethics Board. If welded together carefully with other relevant members, surveillance practitioners can be provided with a feeling of comfort that they remain free to innovate solutions to crime and surveillance problems despite the existence of the Board. Further still, they will feel that they have somewhere to go for support and guidance as tough decisions arise.

OIGs have become more common entities on the oversight landscape in the last 20 years than perhaps ever before. In the United States these offices can be found existing at all levels of government. With increasing realization that the costs of corruption and abuse are devastating all sectors of society, there has been an increasing reliance on oversight bodies such as OIGs to step up and ensure accountability and transparency. Yet, OIGs do not only need to be retroactive in their work and seek out wrong doers for punishment. OIGs can also be proactive and can become engaged in constructive efforts to ensure that processes of change occur smoothly and that innovation is encouraged without fear in select circumstances. As such, there is an increasing role for OIGs in the public, private and voluntary sectors that can facilitate soft governance by engaging in a type of consultative soft oversight. For the purposes of this discussion, they would be seen as participants on Techno-Ethics Boards.

OIGs have a straightforward purpose that is reflected in the United States Association of Inspectors General (AIG) explanation of their role:

> "Accountability is key to maintaining public trust in our democracy. Inspectors general at all levels of government are entrusted with fostering and promoting accountability and integrity in government. While the scope of this oversight varies among Offices of Inspectors General (OIGs), the level of public trust, and hence public expectation, embodied in these offices remains exceptionally high. The public expects OIGs to hold government officials accountable for efficient, cost effective government operations and to prevent, detect, identify, expose and eliminate fraud, waste, corruption, illegal acts and abuse." (Principles and Standards for Offices of Inspector General, 2004).

The AIG further notes some of the qualifications and skills that should exist in these offices include:

> "Skills needed to evaluate the efficiency, economy, and effectiveness of program performance within the OIG's area of responsibility…and State-of-the-art technical skills as needed such as computer auditing, detection of computer fraud, review of information technology design requirements, statistical sampling and analysis, factor analysis, trend analysis, systems and management analysis, undercover techniques, and covert surveillance. (Principles and Standards for Offices of Inspector General, 2004).'

While the language above casts OIGs in a retroactive inspection role to those they are overseeing, it does not have to be this way when part of a Techno-Ethics Board. Certainly where compliance efforts are voluntary to start with, rather than mandated, members of OIGs working on Techno-Ethics Boards can take on more of a proactive and capacity building face than they might normally do when they maintain their regular oversight watches. In fact, the skills identified above can be put to use in a multitude of ways to build operational understanding. As part of Techno-Ethics Boards abilities brought to the table by OIG personnel can enhance adherence to unofficial guidelines up front, or at least increase understanding of why such guidelines are being ignored or improved upon by the parties being asked to implement them, through partnering with the

practitioners early on in the process. Under such rationale, members of OIGs on Techno-Ethics Boards could view themselves as being in position for getting ahead of problems rather than trapped behind them. And the parties being asked to conform to such soft law advice would feel that they are being worked with, rather than being worked over. This would be especially true if surveillance practitioners were given time to comment on Board advice prior to it being finalized. In addition, OIG personnel would not find themselves totally out of the loop as implementation (or the lack of it) as time moves forward. Finally, when OIG personnel on Techno-Ethics Boards receive the self-reported attestations of those being regulated, they will have a much better understanding of what is being presented in the final documents. How they would then address issues of non-compliance and enforcement could proceed with greater understanding (see Decker, 2007 for some thinking on this matter from private sector examples). Similar levels of benefits would likely be gained for, and from, all participating members of a Techno-Ethics Board.

Conclusion: Techno-Ethics Boards and Performance

Once a Techno-Ethics Board has offered advice to surveillance practitioners, and some sort of understanding has been reached on the position a subject will take toward a certain piece of advice, the two parties can begin to work together to determine how accountability for achieving the changes can best be tracked. One logical way to do this would be to establish goals, measures of performance, and reporting timeframes that are mutually acceptable. Included in such a discussion would be established periods for audits and program evaluations to take place.

Performance measurement has become a feared buzzword, and a sought after framework for improvement in government circles since the early 1990s. In the aftermath of Osborne and Gaebler's "Reinventing Government," (1993) and Vice President Al Gore's "National Performance Review," using performance measurement to determine public sector programmatic, organizational and community service delivery effectiveness has been explored by local, State and federal government entities. These techniques have also made their mark in the private and not-for-profit sectors.

An outcome based performance measurement system relying on the continuous reporting of input, output, quality, efficiency and outcome measures that are used to define effectiveness according to a pre-identified vision of success would aid both Techno-Ethics Board personnel and

surveillance professionals gauge the worth of their efforts   Such a system would operate in a cyclical manner. Starting from a mission statement or statement of purpose, a strategic plan is then developed. Then the desired surveillance program's goals and objectives are identified. Measures or indicators are then selected. Data is collected and reporting takes place. The analysis of the findings should lead to what has been called "managing for results," where this new information is used to update and modify the strategic plan. From here, the performance measurement cycle continues to spin on and on (see Hatry, 1999, for clarification on systems of performance measurement).

To date there has been a great deal of progress in isolating the processes of sound performance measurement, and determining how performance measurement techniques could best support government efforts. However, little time has been spent on analyzing the politics surrounding how performance measurement is used, or how it can impact on this often times idealized technocratic vision of a quantifiable self-help system. When trying to understand how an organization is actually performing, the politics behind the measures selected, the way data are collected and reported, and the means by which they are packaged for release, must all be taken into account and managed to ensure successful results. Collaboration throughout the process between producer of the information and reviewer of it can cut down on many of the problems that surface in future discussions. In the case of building performance systems for surveillance programs it is expected that this terrain would be especially important for Techno-Ethics Boards to cover carefully.

In total, this article suggests that soft law and soft regulation of government surveillance programs can successfully address and contain abuses of power that occur through negligence, overzealous application, or outright abuse. The primary recommendation made here is to develop intermediary bodies called Techno-Ethics Boards to provide advice and guidance at points between those who create hard law and regulation regarding surveillance operations and those who practice its implementation. Future research in this area should, at the very least, further explore: 1) The possibilities for such enterprises to be developed; 2) The procedural hurdles that would need to be overcome to make such a body a reality in law enforcement settings across levels of government, and; 3) the selection of proper participants in such endeavors.

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RACIAL DISPARITY BEGINS IN CHILDHOOD: HOW DISPROPORTIONALITY IN CHILD ABUSE CASES IMPACTS ADULT JUSTICE SYSTEM INEQUALITIES

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Racial disparities are abundant throughout the criminal justice system. Much research has been devoted to inequalities within the adult justice system, followed shortly thereafter by research in the area of juvenile delinquency. Time and again, the statistics indicate that African Americans are disproportionately represented at multiple stages of the process. More recently, researchers have begun to discover that African Americans are over-represented in child abuse and neglect cases as well. This paper explores the links between child abuse and neglect and later criminal behavior and illustrates how over-representation early in life can impact later inequalities. Suggestions for improving the system are made, primarily by increasing the focus on child abuse prevention. Further steps for improving the system, such as changing the media and increasing legitimacy, are also suggested.

Introduction

"*Racial disparities appear at virtually every point in the criminal justice system.*" (Cole, 1999, p. 139). Cole is one among many who have noted that the criminal justice system is wrought with racial disparity, particularly biased against African Americans. As he states this fact, he suggests that racial disparity exists across the system in terms of decisions to arrest, prosecute, convict, and sentence. I would argue that the disparity goes beyond that. Disparity is not only ever-present in adult criminal court decisions but also in decisions of the juvenile court, and in decisions related to child abuse and neglect cases, making disparity an issue that begins years before it is fully recognized in the system.

Consider current statistics on the adult population. Despite the fact that only 12.9% of the population is African American (Census Bureau, 2000), the current prison population is 37% African American (Bureau of Justice Statistics, 2002). This disparity is well documented across multiple aspects of the adult criminal justice system (e.g., arrest rates, prison rates) and has been noted for years. Disparities are also well recognized in the juvenile justice system. Among the juvenile population, African Americans comprise 16.4% of the general population, while representing 27% of juvenile arrests. Yet, to really address this issue, it is important to

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begin at the beginning and devote attention to the oft overlooked aspect of the justice system where disparity also exists - within the juvenile dependency system. In 2003, more than 5.5 million children were referred to child protection services. Just over 900,000 were substantiated as victims of child maltreatment and 20% of these children were African American. What the statistics fail to show is the link between child abuse and neglect, juvenile delinquency, and adult criminal behavior.

This paper seeks to address racial disparity across the justice system, by examining disparity across juvenile dependency, juvenile delinquency and adult criminal justice systems and determining how each stage can impact the next consecutive stage of criminal justice, beginning with the impact of child abuse and neglect on juvenile delinquency and adult criminal behavior. In order to address disparity in the system, it is important to focus efforts on preventing disparity where it may have the most impact on child abuse victims. Implications for policy are addressed and recommendations for improving the system are made.

Racial Disparity in Child Abuse and Neglect

Child abuse and neglect is a large scale social issue. More than five million children are referred to child protection each year because of suspected abuse and nearly one million are substantiated. There are many opportunities throughout the system for bias to influence decisions and create disparity. The general process of a child abuse and neglect case begins when reports come to child protection services (CPS). CPS then decides to screen the report to be investigated. Investigated referrals are either dismissed or substantiated. At this point CPS can offer voluntary services or take more drastic measures and involve the court. CPS may remove the child from the home, whereby the child can be placed with a relative, in foster care, or in a group home. Then the courts must decide, across the life of the case, if the child can be reunified with the parent or some other plan to achieve stability as necessary. Racial disparity can occur at any point in the system and has recently come to the forefront of attention in juvenile dependency.

What has long been studied in other domains is now of interest in child abuse and neglect cases. The United States Government Accountability Office (USGOA, 2007) found that although 15% of youth are African American, 34% of children in foster care are African American. Other studies have found similar results. Hill (2006) compared 2000 Census data to the 2000 Adoption and Foster Care Analysis Reporting System (AFCARS) data and found that the population is 15.1%

African American but African Americans in the system represent 36.6% of children, more than twice the national percentage.

Also, state level examinations have found disparity particularly within counties with lower minority rates. In Michigan, the state population is 17.5% African American, but the foster care system is 53% African American youth (Michigan Advisory Committee, 2006). The issues with disparity start at the beginning of the dependency process and continue through the conclusion. Research has found that African Americans are more likely to be reported as compared to whites, but the disparity in substantiation was not that great (Ards et al., 2003).

The disparities are frequent throughout the system. Individuals are more likely to report African American suspected maltreatment than whites (Hampton & Newberger, 1985; Pittsburgh, Nelson, Saunders, & Landsmen, 1993). They are also more likely to be screened by child protection than whites (Zuravin et al, 1995) and more likely to be found substantiated (Ards et al., 2003). Even when controlling for other case variables, such as child characteristics and type of reporter, substantiation rates are still higher for African Americans than white children (Ardes et al., 2003). Further African American children are more likely to be placed in foster care (U.S. DHHS, 2005), less likely to be reunified (Lu et al., 2004) and receive less services to children (Courtney, Barth, Berrick, Brooks, Needell, & Park, 1996). These disparities can have serious impacts on youth. Youth in foster care are taken away from their parents and often placed with strangers. If suitable foster homes are not available, they may be placed outside of their home district and with a family of a different race. This disruption can have serious negative consequences on youth. Further, the longer it takes to find a permanent home for the child, the more instability he or she will experience. They may be moved in and out of homes, communities, and schools which can impact their psychological, social, and educational needs.

The negative impact of child abuse and neglect also extends beyond the immediate consequences to the child and family. Children who are abused and neglected as compared to matched sample of children are 4.8 times more likely to be arrested as juveniles, 3.1 times more likely to be arrested for a violent crime in general and twice as likely to be arrested as an adult (English, Widom, & Brandford, 2002). These children also begin breaking the law at younger ages and commit more offenses than non-abused children (Widom, 1992). Therefore, being a victim of child abuse and neglect actually enhances the risk of becoming a juvenile offender.

Racial Disparity in Juvenile Delinquency

The Office of Juvenile Justice and Delinquency Prevention (OJJDP, 2006) conducted a thorough analysis of juveniles and found that despite the fact that black juveniles only make up 16.4% of the population, 38% of minorities in custody are black. These disparities were across the entire system. Twenty-seven percent of arrested juveniles were black, with a high disparity in violent crimes. However, it should also be noted that the disparity has reduced in recent years, although not ameliorated. The disparity was also present in juvenile delinquency dispositions (27%), juvenile detentions (25%), and residential placements (27%).

These statistics are supported with state-level analysis of the same problem. The Michigan Advisory Committee Report (2006) found that African American youth were more likely to be arrested, more likely to be referred to juvenile court, less likely to be placed in a diversion program, more likely to be found guilty of a delinquent offense, less likely to receive probation and more likely to be incarcerated in a secure correctional facility than whites.

Unlike the juvenile dependency system, much research has been conducted in the area of racial disparity in the juvenile delinquency system. Race plays a significant role in decision-making in the juvenile dependency court even when holding other variables constant (Arnold, 1971; Wordes, Bynum & Corely, 1994). The effects of race can be both indirect and direct and may interact with other factors (Kurtz, Giddings & Sutphen, 1993; Leiber & Fox, 2005). For example, the race of the juvenile may impact perception of the individual's demeanor, which influences case decisions (Kurtz et al.). When police officers are primed with black stereotypes, they attribute more negative traits to a neutral juvenile case, expect recidivism and endorse harsher punishments. These stereotypes may influence decision-making, on an unconscious level and may be a large part of why disparities exist. On a similar note, probation officer's reports demonstrate differing views of the cause of a crime between black and white offenders, which influences perception of risk of re-offense (Bridges & Steen, 1998). Thus, decisions made by key court officers can influence disparity in the system.

While the varying punishments of the juvenile delinquency court can result in dismissal, probation, or confinement, at the most extreme end of juvenile delinquency is the possibility of a transfer to adult court. Also called a judicial waiver, transfers to adult criminal court allow juveniles who have committed a crime to be tried as adults in adult criminal court. As established in *Kent v. United States* (1966), in order to

transfer a juvenile to adult criminal court, judges should consider dangerousness, amenability to treatment, and sophistication and maturity of the juvenile in the decision. It should come as no surprise then, in light of the previously mentioned research, that African Americans are also disproportionately transferred to adult court. In fact, racial disparity in waivers has increased between 1986 and 1995, and blacks are waived at higher rates than whites in all offense categories. Between 1990 and 1994, 67% of transfers to adult court were black (Bishop, 2000).

Unfortunately, juvenile delinquent behavior also has implications for adult criminal behavior. Twenty-five percent of juveniles, who offend as juveniles, also commit crimes as adults (OJJDP, 2006). Those who are transferred to adult court are particularly susceptible to recidivism. Juvenile transfers to adult criminal court re-offend faster than matched groups in the juvenile justice system (Bishop Frazier, Lanza-Kaduce, & Winner, 1996). Further, transfers were associated with higher rates of violent crimes as adults (Bishop et al.). Thus, it seems that being a juvenile offender and being transferred to adult court both increase the risk of later criminal behavior. Since African Americans are disproportionately represented as juvenile offenders and adult court transfers, it also follows that adult criminal behavior will have a disproportionate number of African Americans.

Racial Disparity in Adult Criminal Behavior

Racial disparities in the adult criminal court have long been documented by researchers (see e.g., Piliavin and Briar, 1964). Despite the decades of research on disparity and the abundance of proposals to fix the problems, racial disparity is still ever apparent in the adult justice system. The 37% of African Americans currently in prison (Bureau of Justice Statistics, 2002) is almost three times the percentage expected given the current population rate of 12.9% African American. Black males are at a higher risk to be imprisoned than whites (Pettit & Western, 2004).

There is still much debate regarding the discretion of police arrest and racial disparity. It is difficult to determine if bias exists and what impact it has on decisions. While most believe that blacks are more likely to be arrested than whites, there is little consensus as to why the disparity exists (Smith, Visher, & Davidson, 1984). Some argue that the disparity exists due to race-based suspect descriptions. Utilizing race as a descriptor is discriminatory and allows police officers discretion that can be used in a discriminatory manner (Walker, 2003). On the other hand, there is some evidence that the disparity is not in arrest rates, but in reported crimes

(D'Alessio & Stolzenberg, 2003). These varying studies, while clearly indicating that racial disparity does exist in arrest, fail to adequately pinpoint the how and to what extent this disparity exists. The role of disparity in sentencing is a little less ambiguous.

Black males have an incarceration rate much greater than their total population (Blumstein, 1982). This difference exists largely because of the increased disparity in certain types of crimes, namely drug crimes. Statistics over the years clearly indicate that the majority of the disparity comes in admission to prison for drug offenses (Blumstein, 1982; Iguchi, Bell, Ramchand, & Fain, 2005). This is furthered by the fact that African Americans often get longer sentences than whites (Bushway & Piehl, 2001). Even when controlling for factors such as court appointed counsel and the given charge, race accounts for a significant portion of sentence severity (Sidanius, 1988). African Americans are also more likely to get the death penalty than whites, particularly depending on the race of the victim (Baldus, 1983). Of course, this too is subject to criticism. McAdams (1998) makes the argument that many studies fail to account for the fact that the number of black murderers is equivalent to the number of black males on death row and that statistical portrayals of racial disparity often fails to portray the complete picture.

Overall, the research clearly indicates that racial disparities do exist in multiple opportunities across the justice system. From civil cases, such as child abuse, to juvenile delinquency to adult criminal courts, African Americans are over represented. Of course, researchers do not always agree on why or to what extent these disparities take place. Much of this confusion can be explained by simply calling into question the varying methodology and data sources used by researchers. Early on, researchers have determined that disparities might be difficult to detect due to methodological and conceptual reasons (Thomson & Zingiff, 1981). Obviously, from an aggregate level, the difference in population percentage and prison percentage demonstrates a clear disparity. Disaggregating the data may tell a different story, such as determining that the type of crime makes a difference (Blumstein, 1982) as does the minority make-up of the jurisdiction (Bridges & Crutchfield, 1988). However, these distinctions, albeit important, still clearly demonstrate that, on a whole, the justice system is disproportionately punitive to black defendants at all levels. The reasons for this disparity are still somewhat unclear, although speculations as to the root cause are fairly common.

Why Does Racial Disparity Exist?

System Problems - One opinion of racial disparity is that the discretionary capabilities of our justice system are conducive to discrimination. The American courts were created and run by middle class white males. It should, therefore, come as no surprise that minorities are at the more punitive end of discretion than whites. Changes in laws and policy both demonstrate a bias toward African Americans. The perfect example is the large mandatory crime sentences for crack cocaine, a drug predominantly associated with poor urban minorities. Unlike powder cocaine, which appeals to richer individuals, crack was more a drug of choice for the poverty-stricken. The mandatory sentencing laws which provided harsher punishment to crack addicts and crack dealers predominantly affected blacks. The law itself was not biased, but the consequences clearly were (Cole, 1999). If the justice system systematically changes in ways that are not overtly biased, but are clearly punitive toward minority groups, then racial disparity will continue.

Poverty - An alternative explanation is that poverty is the true underlying factor. According the to the Census Bureau (2000), 25% of African Americans live in poverty, more than twice the amount that would be expected given the population. Poverty has the potential to influence multiple aspects of crime at the juvenile and adult level. For example, a disproportionate number of child abuse and neglect cases come from families living in poverty. Families living in poverty may have trouble meeting the basic needs of the children, which is considered a form of abuse and neglect. At a juvenile delinquency level, the predictors often associated with juvenile crime, such as poor parental supervision, large family size, and social economic status can all be tied to poverty (Farrington, 2004). One must also consider the fact that poor families often live in poor communities where is there are few community supports in place, which could work as protective factors for children (Farrington).

This concern easily translates into adult crime. Poor neighborhoods often offer little hope of legitimate employment, an important factor related to crime trends (Currie, 1998) and provide the basis of social learning whereby youth learn illegal behaviors, such as drug trade (Farrington). Living in poor, high-crime areas may also draw more attention from the police and hot-spot policing programs which increase the likelihood of someone getting caught committing a crime (Sherman, 2004). This can be especially detrimental to African Americans. Considering the above statistics, African Americans will be more likely to be arrested and prosecuted than their white counterparts. At trial, poor

minorities who cannot afford counsel will be provided with a court appointed counselor, a counselor who is probably overworked, underpaid and completely inadequate to meet the needs of his client because the standards are set so low (Cole, 1999). Due to inadequate counsel and biases already inherent in the system, the individual will likely be convicted and sentenced to a longer term in prison than would occur if he were white. In jail, the individual has little opportunity to address any underlying problems, such as substance abuse or mental health that may have also contributed to the case, and he has little opportunity to learn skills that will be needed to function in society (Cole, 1998). Serving time for a felony also limits legitimate job opportunities and results in a return to illegitimate ways to make ends meet. Thus, the downward spiral begins.

Media - A final consideration as to why disparity exists lies within the media. Individuals often use the media as a reference point to understand what is going on in the world. The news stories that run, as well as television programs, are often a reference point which can influence someone's world view. If the media constantly bombards the public with negative stereotypic images of blacks and other minorities as criminals, then the public will be more inclined to believe this. These negative stereotypes can influence police officers, probation officers, and jurors, which can enhance discrimination in the justice system in a completely unconscious manner.

The media also has the ability to induce what Cohen has termed a moral panic. A moral panic occurs when people hold a false opinion, often coinciding with exaggerated media portrayals, regarding risk. The risk could be the risk that a certain crime will occur, such as child abduction and murder, or the risk that an out-group (e.g., African Americans) is dangerously deviant and plaguing society. Unfortunately, moral panics have been ultimately responsible for a great deal of policy changes in the United States. The case of Polly Klaas is a perfect example. The young girl was kidnapped, raped, and murdered by Richard Allen Davis, a multiple offender released from jail. The public misconception that terrible crimes like this are more common than they actually are provided an ideal opportunity for the legislature to follow public opinion and resulted in the passing of the three strikes laws (Gest, 2001). Similar high profile crimes which have captured the attention of the American public have also resulted in the passage of new laws and policies (e.g., Amber Alert, Brady Bill, Megan's Law, Jessica's Law). If the media can frame issues in a way that causes citizen to panic, it can easily sway opinions regarding race, by portraying African Americans as drug dealers and criminals.

In sum, the criminal justice system itself, the media and poverty of individuals all might play a significant role in why racial disparities exist. These three factors may interact with each other to further encourage disparity. Media may influence public perception, which influences law makers and results in new laws, of which the consequences are fully understood. With so many factors working toward disparity, it is important to have something to work against it. One such thing is focusing on child abuse and neglect.

Why Focus on Child Abuse and Neglect?

It may seem strange to address disparity that is present across the system by focusing on one specific group, but there are several reasons to do this. As Currie notes "the evidence is compelling that this is where much of the violence that plagues us begins," (1998, p. 82). Victims of child abuse and neglect are more than twice as likely as their counterparts to become juvenile offenders, engage in violent crime and go on later to become adult offenders. Juvenile offenders are also more likely to be adult criminals, particularly if they are transferred to adult court. Since African Americans are disproportionately represented at every level of the justice system, making changes which reduce the incidence or impact of child abuse and neglect should successfully reduce the amount of disparity in the system. This is not such a simple task. The research on child abuse and neglect interventions and preventions is still relatively new. Unlike the Blueprint programs identified in the juvenile delinquency courts' research which specifically identify promising practices and empirically support programs, the juvenile dependency court system has little empirically validated research to support what works and what does not.

The majority of research that has been conducted in the field of juvenile dependency court has been very applied in nature. It has examined data and outcome variables but failed to take into consideration important theoretical assumptions that would allow for better understanding of why a program works and thus increase probability of replication at other sites. Many of these studies also lack advanced statistical methodologies which give their results the desired credibility. In order for prevention strategies to be effective, it is first important to identify the risk factors which are necessary for child abuse and neglect to occur (Tolan, 2004). The majority of the studies already conducted have failed to control for important confounding variables, such as the multiple impact that poverty may have on the individual. It is well know that poverty is linked to child abuse and neglect. In order to better understand

the exact dynamics at work and to target the factors which have the most detrimental impact on children, these factors must be demarcated in the research, which most studies systematically fail to do. However, there is some research which has been conducted which provides an excellent first step in finding ways to prevent child abuse and neglect.

Preventing Child Abuse and Neglect

The focus on prevention is not a new idea. Many researchers, both federally and on a state level have identified the need to prevent child abuse and neglect. Prevention is a major focus of the U.S. Department of Health and Human Services (DHHS), Children's Bureau. Their Office on Child Abuse and Neglect launched a Child Abuse Prevention Initiative in 2003 which, among other tasks, documented emerging practices in the field (DHHS). Federal funding has been allocated through the Child Abuse Prevention and Treatment Act which funds programs. The research takes a public health perspective and identifies three types of frameworks which target child abuse and neglect. These programs can be primary, which are directed at society in general, secondary, which are targeted at high risk groups, or tertiary, which targets families in which abuse has already occurred. The first two are of the most interest to this paper as they are prevention strategies.

The first strategy then, is to address global factors which may influence child abuse and neglect (DHHS). One such method to prevent child abuse and neglect is to enhance the community (Tolan, 2004). The community can impact the level of neighborhood involvement and perception of support from neighbors, which has been linked to parenting abilities (Tolan, Gorman-Smith,& Henry, 2000). Enhancing the community can also lead to economic gains for community members which can reduce crime, create more legitimate job opportunities and encourage a sense of community, which can safeguard against potential criminal behavior. These global programs may also include public service announcements that encourage positive parenting, general parenting education programs, family support and strengthening programs, and public awareness campaigns (DHHS).

A second strategy is to target the at-risk family directly. There are several ways in which to do this. One such way is to target parents early on, by targeting at-risk pregnant mothers. As an example, the Prenatal-Early Infancy Program (PEIP), which is conducted in Elmira, New York, serves at-risk women. Registered nurses go to the expectant mother's home during her pregnancy and up to the first two years of the child's life.

They provide mothers with parenting education, linked the family to social services as needed, and provided social support to the parents. When compared to a matched group of children who did not receive the same services, these parents were more likely to have jobs, and were less likely to have more children. Even more exciting, these children were significantly less likely to be reported as victims of child abuse and neglect than the matched group (Currie, 1998). Other similar, although not as extensive, programs have also found similar results (Currie) such as the Healthy Start. The Healthy Start Program takes a comprehensive approach to dealing with the issue by spending considerable time with parents, teaching and helping them with problem-solving of issues that arise. Healthy Start has also had consistent positive results in reducing child abuse and neglect.

While the intensive, in-home treatment appears to have significant results and is highly cost-effective, it is not widely practiced. Other strategies to target at-risk parents include providing specific parent education courses, targeting social skills, problem-solving skills, and beliefs regarding aggression (Tolan, 2004). Overall, the research indicates that the most effective strategies involve a focus on the family, particularly parenting and targeting multiple issues that the family may encounter (Tolan). The evaluation of promising practices conducted by DHHS found little common thread in the programs identified, although they did note that the most effective programs seemed to target both parental knowledge and practice.

These prevention strategies provide some of the best first steps in beginning to address the dramatic child abuse and neglect problem in the United States and are certainly a step in the right direction. However, they are not enough. In order to target a national problem, there must be more programs and more diversity. The PEIP program primarily targeted white females. This leaves out a large portion of the population as child abuse and neglect victims are disproportionately African American. In order to address this, prevention programs must be targeted toward minorities. They must include culturally competent workers and be designed to consider racial and ethnic differences. This also means that programs must be available in poor neighborhoods, where many of the at-risk population live.

Further, these programs need to be evaluated with a level of statistical and methodological rigor that few studies have. Even the DHHS study noted that differences in staff could have significant impact on the outcomes achieved. This means that controlling for extraneous variables,

replicating findings at multiple sites, and tying theory into practice are all key components that must be present to move research and the field forward. Improved quality and quantity of research is essential to increasing positive and effective prevention strategies.

Other Steps

Prevention, although highly important, is not the only step that can be taken to reduce racial disparity across the system. Making improvements in the current state of the media and working to legitimize the system can also make a difference (Cole, 1999). The media's influence on perception of risk (Tyler & Cook, 1984) and perception of youth crime (Mendel, 2000) has been empirically validated. Individuals in society look to the media to determine how to perceive the world. If the media is constantly showing images of African American criminals and sensationalizing isolated incidences of crimes, the public will get the wrong message. This can have serious consequences. Therefore, another good step along with reducing racial disparity is to ensure equality and truth in media, at least in the news. By running stories about white criminals and reporting accurate statistics to coincide with crimes, the media may not have such a detrimental impact on the public.

Another consideration is to legitimize the system. A great many people in this country follow the laws, not because of fear of punishment, but because of they consider the government a legitimate authority (Tyler, 2006). Legitimacy of a system occurs when people assume that the system is right, proper, or within a socially ascribed set of norms. If individuals see authorities as legitimate, their rules and decisions will be considered fair and will be more likely to be followed (Tyler, 2001). The perception of legitimacy often follows from decisions which are perceived as fair; whereas unfair decisions may make authorities seem less legitimate.

For example, trust in police officers is impacted by perceptions of fairness. This trust is essential in encouraging willingness and cooperation with the police (Tyler, 2005). African Americans report less trust in the police (Tyler, 2005), which can have serious implications. If African Americans do not view the police, and the larger justice system as fair, they may not be as inclined to follow the laws, and cooperate with the police as needed. Other individuals who see racial disparity in the system may be more inclined to see lost trust in the system and thus not obey the laws. This can be seen when juries nullify testimony, witnesses fail to come forward or testify, and people fail to cooperate with community policing efforts (Cole, 1999).

All is not lost, however. There is hope to regain trust and encourage the public to view the system as legitimate. This has to be accomplished by creating fairness (Cole, 1999). This means that non-minority criminals will need to be arrested, prosecuted, convicted, and sentenced at rates equivalent to their population. They must be held accountable for all types of crimes. The focus of the justice system cannot be on crimes which target minorities, but on providing true equality. Conceptually, this is problematic, especially when the justice system does not overtly recognize racial disparity and systematically blocks all attempts to challenge the status quo (Cole, 1999). Increasing prosecutions against non-minorities and providing more opportunities for African Americans appears to be good place to start.

Conclusion

In sum, equality is clearly not achieved in the American justice system. Despite the lack of overt discrimination, racial disparities exist beginning with the civil court handling of child maltreatment cases and continue to death row. At every decision-making stage allowable, African Americans are over represented in the justice system. The reasons behind racial disparity are unclear. It may be macro-level influences of poverty and media, or more individual factors, such as stereotyping which play a major role. Clearly, more and better research is needed to address this complex social issue. Yet, while this research is being conducted, preliminary steps can be taken to address the problem. Specifically, targeting child abuse and neglect prevention can help to reduce racial disparity at all levels of the system by preventing children from initially entering the system. These prevention services must be intensive, and multi-modeled, addressing parenting abilities and helping with basic problem-solving tasks. They must be available, in a culturally competent structure, to at-risk minority families. Finally, the system may also be enhanced by improving the media which would increase the legitimacy of the system.

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"HE AIN'T MY BROTHER… HE'S MY FRIEND" FRIENDSHIP IN MEDIUM SECURITY PRISON

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The goal of the current research was to investigate inmate relationship formation, assimilation into the inmate culture, and norms of the current inmate culture. Qualitative investigations were employed to examine and to gain a better understanding of these views. Data collection procedures consisted of open-ended, unstructured interviews with twenty inmates at a medium security prison in Ohio. Analyses of interview transcriptions suggest that the inmate culture of this institution is built around trust and respect. The key factor in converting an acquaintanceship into a friendship was trust. Friendships among inmates provide needed emotional support, which prison staff cannot provide. Prison administrations are encouraged to distinguish between such beneficial friendships and harmful gang affiliations when attempting to regulate relationships among inmates.

Introduction

> Mark**:** I done kicked it with a lot of people, man, but this is the only one, that, I guess, cuz we in the pod together and we just play cards together and we kick it. We play pool together. We just became close friends. From him I learned everything I needed to know. Like how things work around here, who to avoid and where to get things.

The current population of individuals incarcerated in the United States is over two million (Harrison and Beck 2004). These individuals were caught violating the legal code and have been sentenced to prison. They have been deemed so deviant that society can no longer tolerate their being free. It would seem logical that institutions holding deviants would be out of control. There are periods when prisons are out of control and overrun by deviants; however, these periods are extremely infrequent. The reason that inmates are not running wild in prisons is the same reason that there is not utter chaos in society generally: people live by rules in all cultures. Just as in society, prison inmates, not the staff that enforces the formal rules, control activities on a daily basis. Time spent in prison does not occur in a vacuum. Inmates' views of the self, the situation, and others around them are likely to have a major impact on their

imprisonment. Qualitative investigations were employed to examine and gain a better understanding of these views. Specifically, their views on friendship networks were investigated.

Pertinent Literature on Inmate Friendships

To gain an understanding of the inmate culture, inmate friendship processes will be investigated. As inmates attempt to forge an identity, learn about and participate in social relationships and develop an understanding of a prison subculture, they will do so through the friendships that they form throughout an institution (Giordano 1995). It can be argued that an investigation of friendship formation, maintenance, and functions is an efficient way to assess key components of the inmate subculture.

Only one study (Shrivastava 1973) has explored male prison inmates' friendship formation and functions. The objective of the study was to identify and describe patterns of friendship groups in prison. In that study, the results suggest that a majority (83.4 percent) of inmates were involved in some form of friendship ties to other inmates. Friendship formation was based on several factors. Pre-prison relationships, region of origin, nature of crime, length of sentence, and social caste were consistent factors in determining friendship development. These results would suggest that social backgrounds and characteristics prior to incarceration are the main influences on the development of friendships. The second major goal of Shrivastava's study was to examine the function of inmate friendships. The major functions or objectives of forming and maintaining friendships in prison were based on inmates' needs. Inmates that feared other inmates often banded together in protective alliances. Inmate alliances were also used to intimidate and exploit weaker inmates.

Shrivastava's study does not provide a satisfactory basis to draw conclusions about contemporary American prisons. First, Shrivastava's study was conducted more than thirty years ago. Second, the population used in Shrivastava's study was from a prison in India. It is possible that inmates in the United States are likely to have different reasons for forming and maintaining friendships.

Other studies on the topics of friendship formation, maintenance, and function outside of prison generally focus on children and adolescents. The few studies that focus on adults are based on elderly individuals or college students (Lindzey and Byrne 1969). Studies of friendship choice by adults exist; however, these studies (Adams 1988 and 1987; Adams and

Blieszner 1998 and 1993; Blieszner 1993 and 1989; Blieszner and Adams 1992; Curtis 1963; Finchum and Weber 2000; Gottlieb 1994; Matthews 1986; O'Connor 1992; Verbrugge 1977) are not as applicable to the current investigation of friendships, as most focus on females, kinship, and elderly individuals.

Several functions of friendship have been reported in recent literature. Gottlieb (1994) argues that friendships and acquaintances provide valued feedback about the performance of our daily social roles. Maintaining a sense of continuity, whether it is in self-identity or in familiar settings, remains important as adults experience life transitions. Friends provide various kinds of help and support. Friends meet cognitive needs by providing stimulation through shared experiences, activities, and exchanges of ideas (Finchum and Weber 2000). Relationships also provide a frame of reference through which the world can be interpreted and meaning found in experiences.

Methodology

To understand the current dynamics that exist within the prison community it was necessary to conduct a two-part investigation. The first stage of the research was composed of a pilot qualitative examination of inmates' accounts and narratives. One way to better understand the impact of prison life on individuals is to explore the personal meanings inmates portray through their stories. These accounts, stories, and narratives can serve both as ways of interpreting experience and as means of communicating to others (Baumeister and Newman 1994). According to Orbuch (1997 p. 455) accounts, stories, and narratives "represent ways in which people organize views of themselves, of others, and of their social world."

Investigations of accounts, stories, and narratives might yield results that are biased due to the subjective nature of the data. They do, however, "…represent the person's subjective evaluation about the event. These stories may not be totally veridical, in that people often selectively construct, retrieve, and distort narratives to fit their self-concepts, but they do represent what the person believes is important" (Heatherton and Nichols 1994 p.665). Inmates' accounts, stories, and narratives are the best available data that can be used to map the current normative prison subculture.

Pilot Study

The data collection procedures consisted of several open ended, unstructured interviews. The format of the interviews included substantive areas such as perceptions of prison prior to incarceration, perceptions of prison experiences, perceptions of friendships, and perceptions of others' prison experiences. Ten subjects were interviewed in private rooms with only the interviewer present. No prison staff or other inmates could overhear the interview.

Themes relating to friendship formation and maintenance related to the geographic region of origin, institutional occupation, and free time activities. Respondents consistently mentioned the importance of an inmate's hometown in forming friendships. Institutional occupations and free time activities were also mentioned as a basis for developing and maintaining friendships. Respondents also discussed crime of conviction and institutional status as reasons for developing and maintaining friendships. These themes were less consistently mentioned, possibly reflecting either actual trends of friendship formation and maintenance within the institution or the line of questions used in the pilot study. Therefore, it was necessary to investigate these reasons further.

The Current Investigation

Interviews were conducted at a medium security prison. The target sample size was approximately fifteen to twenty-five subjects. Interviews were conducted until themes became repetitive and no new information was gained.

The data were analyzed through the investigation of accounts, stories, and narratives. The collection and analyses of these data could contribute to the literature on the inmate cultures and possibly develop the literature on inmate friendship networks. Early sociological influence on accounts can be seen in Goffman's (1959; 1971) work regarding presentation of the self after a transgression has occurred. Accounts were used to correct behavior or to counteract the negative implications of wrongdoing. Sykes and Matza (1957) used accounts as a tool to counteract negative consequences or implication of behavior. They describe the process by which individuals rationalize deviant acts and behaviors when reproached. Accounts and narratives may be used to provide justifications or excuses for deviant forms of behavior. The techniques of neutralization developed by Sykes and Matza include denial of injury, denial of victim, denial of responsibility, and condemnation of the condemners.

Accounts, however, are not limited to negative situations. Scott and Lyman (1968) utilize a more concise conception of accounts: individuals use accounts whenever their actions are subject to "valuative inquiry" (p.46). Individuals use excuses to deny personal responsibility for their actions, choosing instead to attribute behavior to external factors. Conversely, justifications are used to accept responsibility while downplaying any relationship between behavior and personal disposition (Crittenden 1983). Garfinkel (1956) examines accounts in the context of more mundane experiences and argues that in everyday life, individuals continuously use accounts to describe, criticize, and idealize specific situations. Moreover, actors are apt to use entitlements to claim credit for desired outcomes and enhancements to increase the value of their behavior (Forsyth 1980).

Baumeister and Newman (1994) view narratives as a tool or a means to achieve a particular goal. They argue that many interpersonal motives for and patterns of storytelling depend on the particular social context or audience. First, stories can be told by actors in an attempt to obtain a particular goal. Baumeister and Newman (1994) state, "stories can manipulate other people's perceptions, emotions and inferences, and so describing events in particular ways can increase an individual's chances of obtaining desired rewards" (p. 680). The way in which an actor is able to present information will alter the perception of the audience. For example, a story may be used to elicit respect, fear, and/or sympathy from the audience. Second, stories can be a tool for the transmission of culture. As a medium for socialization, narratives are often employed to teach others. Polkinghorne (1988) argues that narratives transmit norms, moral beliefs, and cultural values. Finally, stories can be used in an attempt to validate identity claims. Individuals may employ techniques such as altercasting and impression management to achieve validation. "Our self-evaluations are affected by the evaluations others have of us, and more importantly, by how we perceive those evaluations" (Gecas and Schwalbe 1983, p. 77). Social interactions are therefore vital to construction of identity. This research, in essence, will focus on the prison inmates' perception of the cause of relationship formation, code violation, status violation, as well as the factors influencing these attributions, and the actor's perceived reactions to the friendships, code violations, and status violations.

Sampling

For the purpose of this study the subjects were adult males incarcerated at a medium security institution in Ohio. The number of subjects included in this study was based on theoretical and temporal considerations. The target sample size was approximately fifteen to twenty-five subjects.

In order to gain access to the medium security institution, a research proposal approval form was submitted to the Ohio Department of Rehabilitation and Correction Human Subject Research Review Board and the warden and deputy warden at the institution. In general, the proposal included a statement of purpose, methodology, sampling and confidentiality consent forms.

Subjects were randomly selected by institutional staff through the use of their Department of Rehabilitation and Correction number. The institutional staff members selected thirty institutional numbers at random from a list of all inmates incarcerated for the given interview schedule. Inmates that were selected were then asked to volunteer for the interview.

The data collection procedures consisted of open-ended, unstructured interviews. At the time of the interviews, subjects were asked to sign a consent form, which is based on the guidelines mandated by the Bowling Green State University Human Subjects Review Board and the Ohio State Department of Rehabilitation and Corrections Human Subjects Review Board. With the subject's consent, the interviews were audio-taped. The researcher transcribed these tapes and the tapes were destroyed in order to ensure confidentiality. These issues were addressed in the consent form.

All subjects were guaranteed confidentiality. No names were associated with the resulting transcription of the audio-taped interviews. The subjects were advised prior to the interview to avoid the use of real names throughout the interview. If an actual name was inadvertently used, it was replaced with a pseudonym in the transcription. Actual subjects and the institution are referred to by pseudonyms at all times in the transcripts. Only the researcher had full access to the raw data.

The risk to the subjects was minimal. The topics covered included general questions pertaining to the inmates' background, friendships with other inmates and those outside the walls, perceptions of inmate hierarchies, unwritten rules, and expectations for release. Any information that could jeopardize the subjects' legal status was collected. The questions were not intended to be threatening or anxiety-producing. The

interview, however, could have posed a slight emotional risk. The risk was minimized or further reduced for the following reasons:

1. Subjects were informed of the nature and confidentiality of the questions so that they could have declined participation.

2. Subjects were informed that at any time during the interview, they may terminate the interview or decline to answer a question.

3. Subjects were notified to the existence of resources that can be utilized if unexpected emotional distress occurs as a result of the interview or the questions.

Results

Several themes associated with inmates' experiences while incarcerated were explored through this study. Specifically, the following broad themes were the foci of this study: friendship processes, processes of assimilation into the inmate culture, and descriptions of current inmate culture. The purpose of this study was to uncover the content of prisons' cultural norms. After analyzing the transcriptions of the interviews, several themes emerged. This section will discuss the themes under investigation as well as unexpected themes that developed.

Process of Forming Friendships

Discussions with respondents revealed several different processes of forming friendships inside the institution. Processes of friendship formation were similar in interests and experiences, living arrangements, institutional occupation, and process of observation and evaluation. Each of the themes relating to the processes of friendship formation is presented here.

Similar Interests and Experiences - In this sample, some of the respondents reported that friendships formed based on similar interests or what many of the respondents termed "commonalities." In general, respondents felt that friendships formed because of understanding each other.

> **Mike:** What it was, some are musicians n' play the guitar. When I come in, I seen them playing his guitar and I walked over there and started talking to him, he said, "Oh you play the guitar." I said "yeah." I started playing and showing 'em some different things. From there we started getting together. Then this guy got a guitar so we start

playing with each other. And we been on this road for twelve years.

David: I guess through commonalities. One guy, he used to be a clerk up here. I don't know how many years he was clerk up here, but after so many years of being around somebody. And he had a quick wit and I'm kinda witty so we kinda hit it off like that. Plus we used to play basketball together all the time. Some common ground.

Jake: From similar backgrounds, same home town kind of things. Definitely if you have somebody, that gives you something to talk about. That's usually how you become closest with somebody at first. One of the first questions they ask you is where you're from. What part of the state, what city, what major city, or whatever. People that hang together is based on the cities they're from. That plays a big part in it.

Martin: Sports, I guess. Commonalities, you know? Drew for instance, came in and was overweight, heavy set. Standing back on the fence watching us playing. So he come and ask me one day to teach him to play that handball. So I spent weeks with him. Improving on his left. He's a right hand dominant. Now he can beat me (laughs). And we pretty tight now. And I discovered we have plenty of commonalities.

Mark: It mainly started at church. And we kinda just went from there. We started talking at church and then we seen each other on the yard, out walkin' around, and got to know each other a little bit.

Some of the respondents suggested that participating in similar experiences while incarcerated spurred the formation of friendships. Respondents expressed the idea that similar experiences while being incarcerated allowed for the ability for inmates to identify with one another. For example, a respondent suggested completion of degree programs brought them together.

> **Kurt:** The one person I've known for four years, Anderson, since I've been here. He's been in for 17 years. I been in for twelve years. You know, his accomplishments, he finished school. He went to college he got two degrees. We did these things together. Him and I can communicate. In that type of level. So we became closer.

Another respondent suggested that simply having been incarcerated with the same person over an extended period led to sharing similar experiences and encouraged friendships.

> **Keith:** A friend, me and a friend, we done known each other for years, process of being in a penitentiary. I don't know, we eat together; we talk about our outside lives, either since we've been locked up or when we was out. So we somehow got an emotional bond because we opened up to each other. Let each other know how we feel about things.

When respondents formed friendships, the process included having common interests and/or shared experiences. For many respondents being involved in the same free time activity provided a common arena for inmates to interact and begin the formation of friendships. Specifically, time spent in recreation, religious services, and hobbies provided avenues for initial conversation topics. For example, respondents who lifted weights during their recreation time suggested that conversations relating to technique, types of exercises, amount of weight, and requesting assistance form others were often early topics of conversation. Respondents suggested that acquaintanceships formed from these brief encounters and eventually led to friendships. For other respondents, shared experiences were viewed as catalysts in the process of forming friendships. Respondents revealed that participating in similar activities allowed for mutual understanding of one another. In addition, inmates that had been incarcerated for extended sentences or at multiple institutions seemed to congregate.

Living Arrangements - Many respondents suggested that living arrangements provided situations conducive to forming a friendship. As would be expected, those individuals with whom respondents had a higher frequency of interacting, such as cellmates, had an increased the likelihood for friendship formation.

Mike: The one white guy that gave me that information to get into GED and all like that. I met him at CRC; he was my bunkie. See, you didn't get to move around there, so I was getting some information from him because he just done seven years. And since he helped me out so much, we became like friends.

The institution where interviews were conducted has a separate housing unit for offenders forty-five years of age and older. This sample contained three inmates who were housed in the older offender unit. For some of these respondents living arrangements were an important factor in forming friendships.

Don: I'm in what they call the older offenders dorm, which is that white bubble-shaped thing over there. So, all the guys in there are like forty-five to, like we've got a few who are in their sixties. I'd say maybe seven of the guys that I associate with a lot are right in there. So, we've got a lot in common, you know, and a lot of similar interest and past experiences you know.

Jason: I'm a little older so probably more than half the people I started to associate with because I'm in the older offender dorm. They have a dorm just for older guys, forty and over so I know a lot of the men there. Although I don't have many friends, close friends in there.

The process of forming friendships often began because of the respondents' living arrangements. Many respondents suggested that living arrangements provided situations conducive to forming a friendship. As would be expected, those individuals with whom respondents had a higher frequency of interacting with, such as cellmates, were more likely to become friendship choices. The cell or dormitory provided for some the means to begin a friendship. On average, two hundred inmates resided within each dormitory. This arrangement provided respondents with an ample selection of possible friends and opportunities to forge a friendship.

Institutional Occupation - For some respondents, institutional occupations provided the opportunity for friendships to form. Analyses

revealed that interactions during work hours contributed to the process of forming friendships.

> **Don:** So, you know, it's a small world. (laughs) And there's a couple black guys down in four house that I've been real good friends with ever since they came into the institution. I worked with them through the tutoring in GED program. You kinda have to talk to them if you're tutoring them. One guy worked up here as a clerk. That's when we became tight. Now he works in OPI [Prison Industries].

> **Patrick:** We worked over at OPI together. Prison industries over there. We started talking, you know, and then, next thing I know he was like, "Work out or somethin'?" So we started working out a little bit.

For some respondents institutional occupations provided the opportunity for friendships to form. Inmates are often assigned to an institutional occupation for long periods. Therefore, it is likely that inmates work among the same group of individuals. Similar to the situation in open society, individuals that work together often form relationships. Analyses revealed that interactions during work hours contributed to the process of forming friendships.

Observation and Evaluation - Many respondents revealed that formation of friendship involved a process of observing and evaluating other inmates. Once respondents observed and then evaluated others as being an individual with whom they could envision having some form of a relationship, respondents would initiate forming a bond. The initial bond seemed to be simple small talk.

> **Jerome:** I make a judgment on them. I'll watch somebody, and there's a lot of people that I don't care to have any conversation with whatsoever. The people I'm friends with, I've never been let down by them.

> **Jason:** I went through ah, just simply observing them at first. Maybe meeting them and seeing them around a little bit and seeing what they're doing, with their time here. It's not completely like society, you have to be more selective.

At least I do. And if they seem like alright people, you know?

Turner: Basically settin' back, viewing how they reacted, how they did things. How they looked at things. Realizing that we have things in common.

Jake: I would say precautiously. Because you have two guys, you'll meet each other and you'll kind of watch each other and you might just speak to that person for maybe a month or so. And then you'll see them, and you might engage in a little small talk here and there. And so you start looking forward to the next time you can actually get together with this person and have a conversation.

Some of the respondents suggested that the evaluation was based on any potential benefit derived from the formation of friendships. For example, a respondent revealed that forming a friendship would not negatively affect their sentence.

Steve: Like my friend Jonesie. It was like a character bond. It was something about our character that kinda intertwined us so, they, they feel how I was doing my time, and I thought they were doing their time, so we really felt like it wouldn't be a downfall for a friendship and doing our time, so, because we bonded that way.

The process of forming friendships for many respondents involved a process of observing and evaluating other inmates. Respondents suggested that inmates needed to be very selective when choosing individuals with whom to form friendships. For many the evaluation was based on a cost-benefit analysis. Respondents felt that, if forming a relationship would negatively affect their incarceration, they would not initiate a conversation; however, respondents also suggested that, if a relationship could benefit in some way, they would initiate a conversation.

Process of Forming Acquaintanceships

Many respondents discussed the process of forming acquaintance-ships inside the institution. The processes of forming acquaintanceships are very similar to the processes of forming friendships. Discussions with

respondents revealed that living arrangements and geographic origin are viewed as factors leading to acquaintanceships.

Living Arrangements - Many respondents suggested that they do not have control over their cell assignments. Therefore, relationships with their cellmates were relationships of convenience and tolerance. Cellmates were often viewed as acquaintances.

> **Steve:** Some of 'em I consider associates, some of 'em I, like my cellie, you know, you can't really get so personally involved with guys around here because this is just another individual you're doing time with. And you'll probably never see them again in life. So you going to take situations so personally, because these guys, it's a lot of manipulative guys, and you don't never know what kind of bags they coming out of.

> **Kevin:** Like my cellie and me, we have our differences. We get along; I guess cuz we have to. Cuz we're in a smaller than this office here together, almost all the time. We chitchat about this and that.

The processes of forming acquaintanceships in regard to living arrangements were very similar to the process of forming friendships. Many respondents suggested that living arrangements provided situations conducive to forming an acquaintanceship. As would be expected, frequency of interaction, such as would occur with cellmates, increased the likelihood that an acquaintanceship might form. However, many respondents argued that they do not have control over their living situation. Therefore, relationships with cellmates were relationships of convenience and tolerance. Respondents suggested that cellmates were often viewed only as acquaintances.

Geographic Origin - The geographic area from which an inmate originates was revealed by some respondents as another contribution to the development of acquaintanceship.

> **Stu:** I'm from out of state. So there's a few guys from out of state here, from my city. I'm from Detroit. I know all of 'em. One of 'em I can relate to more because he has just as much time as I do in, and we from the same place. It would be the closest thing to a friend because we can relate a

whole lot differently than I relate to a whole lot of other guys.

Brad: When I have homies come in, guys form Cleveland. You are somebody from Cleveland here. So you know, you'll greet em. I'll meet this guy and be like "You need anything? Y'all need some toothpaste, bar of soap, bag of chips, and whatnot?" And pretty much they'll just hang around us until they get to know everybody else. But we accepted them just on the basis of, they was from our home city.

Some respondents revealed that acquaintanceships were initiated because of inmates having similar geographic origins. "Homies," as the respondents termed other individuals from the same geographic area, were sought out for direction and assistance. "Homies" served as a quick fix for lost relationships; however, respondents suggested that these relationships were often temporary.

Differentiation Between Friends and Acquaintances

A major theme that emerged from the investigation of the transcription is the process that inmates used to differentiate between friends and acquaintances. Discussion about how respondents differentiated between friends and acquaintances raised a number of closely related issues, including trust, personal discussions, and emotional bonds.

Trust - Many respondents suggested that the differentiation between friends and acquaintances is based on the level of trust. Those inmates whom respondents feel they could trust are the individuals they consider friends.

Don: Just the relationship that we've got going back and forth and everything. It's just like, if one of these guys came up and asked me if, you know, he needed something for a couple weeks. Yeah, I'd give it to him and not even think about, you know, I'm getting it back, you know?

Stu: I would consider them more guys that I'm all right with. Because friend, that's a kina committed relationship where these guys. I trust them to an extent, as far as like

things that go on around here. And if I have something that they need like maybe some food or something, they can get it because I know I can come back and get it from them, and I know it's not like no rules thing. But as far as confiding then I don't really go that far.

Patrick: Trust. I mean if something were to happen to you. Say if you got into some trouble or something with somebody else and they, a bunch of guys was going to run down on you. Would they be the type of people that would go to war with you, so to speak? You know?

Martin: A friend is like somebody that's loyal, and there through thick and thin. They're always there to constantly encourage you and trying to build you up instead of putting you down and getting you in trouble. Whereas your associates, it's just like, they're impassionate, you know. "How you doin'? What's up? Lets go over here and do this for a while, do that". And all of this for me, all this with positive reasons or something. It's cool.

Prison provides an environment that is comprised of individuals that society has deemed too deviant to remain free. Trust, therefore is a highly sought after quality in a friendship. Many respondents suggested that they differentiated between friends and acquaintances based on trust. Being able to discuss personal matters, borrowing items, loyalty, and reliability were provided as reasons respondents felt they could trust individuals.

Personal Discussions - Differentiations between friends and acquaintances focused on the conversation topics. Some respondents felt that they shared discussion about personal topics only with their friends. Respondents acknowledged that they needed to guard their conversations with acquaintances.

Patrick: It's more with my workout buddy it's more of a personal level. You know what I'm sayin'? Like, I can sit here and talk to him about my family. Things like mom and dad that he knows about.

Jake: Yeah. It's more guarded with associates. You let your guard down more when you around friends.

Steve: Well, something that was bothering you, you wouldn't want it to get out to the wrong person because someone in here may try to use it against you or try to bring it up to you just to try to see if it upsets you more.

Keith: It's a real conversation. It's easier to play with them because ya'll know that it's a level, but it's not like, associate it be this level, this level, this level. With a friend, it's just this level (reaches up high with hand to illustrate a higher level.) You know where to take it. You know your boundary lines with a friend. But with an associate there's really nothing to tell me how far you can take it, because they might be misleading, unstable. That's the point in time when you don't know it. So, anything might set them off.

Kevin: Like my cellie and me, we have our differences. He'll bring up stuff about stuff that's happened on the outside to him and ask me what my view on it. Different things, ordinary feedback. Basically. Nothing that's important. Especially in here, you don't want the wrong thing to get out to the wrong person.

Another respondent disclosed that the differentiation was determined by the willingness of other inmates to listen to the respondent's personal problems.

Kevin: Oh, I look at it the same as I would on the street. I mean a friend is somebody that's there, willing to talk with you, even good and bad. Where an acquaintance doesn't want to hear your problems. He just wants you to be there for his problems.

Differentiations between friends and acquaintances focused on the topics of conversation. Some respondents felt that they shared discussion about personal topics with only their friends. For some of the respondents, discussions relating to family issues, dreams and aspirations, and legal matters regarding their cases were generally reserved for friends.

Respondents believed that they needed to guard their conversations with acquaintances. As a result, conversations revolved around events occurring throughout the inmate population and popular culture.

Emotional Bonds - Some respondents pointed out that they formed emotional bonds with their friends. For example, some of the respondents felt that the friendships they formed were similar to family ties.

> **Max:** And you take a liking to a guy. I've had some that I, I love as if they was my sons. And I would probably do anything in the world for 'em. I have a friend in [a different institution] now that, best friend I ever had in my life. And he showed me what friendship is truly like and I respect this guy, and I look to him like he's a son. He's a lot younger than me. But he looks up to me, and I look up to him. And, we have a real good friendship. So much so even his family has adopted me into their family as part of their family.

> **Jake:** Three or four guys in here I consider almost like blood brothers. Like they're real relatives. I know I could tell them anything, show any side of me, whatever. If it hurt, you know, if something bad happens at home.

Some of the respondents differentiated between friends and acquaintances due to emotional bonds. These emotional bonds were described as being very similar to family bonds. Respondents reported that they felt like brothers and some offered that they had formed a parental type bond with their friends.

Conclusion

Choosing friends involved noticing similarities, sharing experiences, engaging in conversations, building solidarity, and participating in emotional exchange. This process is similar to the process of forming friendships outside prison. Respondents felt that they first found something in common with another individual or experienced the same social phenomenon prior to engaging in conversations. For example, Martin suggested that his most important friendship began when Drew first took an interest in handball. "So he come out and ask me one day to teach him to play that handball." From their first encounter on the handball court, Martin and Drew's relationship grew into a friendship.

For such initial encounters to occur, a similar interest or a shared experience must generally be present.

Inmate relationship processes share many of the same qualities as those outside prison. However, a discrepancy exists in the emergence of trust. In society, individuals generally form friendships and then build trust over time; whereas, in prison trusting an individual precedes defining him as a friend. Respondents who commented on the necessity to get to know others by observing and evaluating them further emphasize this point throughout the discussions. The nature of prison makes individuals feel as if they need to find quality rather than quantity in relationships.

The process of forming friendships consisted of noticing similarities and shared experiences. This pattern is consistent with the literature on friendship formation (Adams 1988 and 1987; Adams and Blieszner 1998 and 1993; Blieszner 1993 and 1989; Blieszner and Adams 1992; Curtis 1963; Finchum and Weber 2000; Gottlieb 1994; Matthews 1986; O'Connor 1992; Verbrugge 1977). Overwhelmingly, these studies argue that people who form friendships are congruent in social and demographic statuses, attitudes, interests, intelligence, and personality traits. The findings of this study, contribute to the literature on friendship formation by emphasizing trust, topics of conversation, building solidarity, and emotional exchange. It is possible that these components are present in the formation of friendships not only in prison but also in society.

Implications For Practictioners

Departmental policies that exist to disrupt the development and maintenance of gangs should remain in place. Some of the respondents asserted that the gang activity throughout Ohio's prisons has decreased significantly and that gangs do not possess the power they had previously throughout the system. The efforts of the state to disrupt gang activity seem to be beneficial to the stability of the institution.

Respondents suggested that inmates needed to seek out small groups of friends to help pass their time. Institutions should therefore, differentiate between the small friendship networks and larger gangs. The smaller friendship networks contribute to the stability of institutions. For many of the respondents, their friendships provided an emotional outlet for issues that troubled them. Inmates could vent and discuss their personal problems with their friends. With the budget restrictions under which prisons are forced to operate, they are often understaffed or are cutting support staff. Friendships often provide a counseling-like service for the inmates. Staff should therefore, recognize differences that exist

between non-deviant inmate friendship groups and those groups that are deviant.

Limitations and Suggestions for Future Study

The current study endeavored to investigate relationships between inmates. While the perceptions of the respondents in this sample may not represent those in other prisons, the information presented may instruct future efforts.

A basic limitation of this study is related to sample size. The pilot study was limited to ten subjects and the current study was limited to twenty subjects for both temporal and practical reasons. While the sample in the current study was selected randomly and was approximately representative of the institutional population, respondents for the pilot study were selected because the staff viewed them as "talkative." Two of the subjects were eliminated from the sample of the follow-up study for lack of ability to expand on their answers. Participation in both studies was strictly voluntary. The experiences of the respondents that chose to participate in the interviews may be different from respondents that did not participate.

The data are comprised of the respondents' own words and expressions as told to the interviewer. Attempts to validate claims made by the respondents were limited to information similar to the vignettes provided in Appendix A. The Ohio Department of Rehabilitation and Correction maintains an offender database website. This public access website contains information such as conviction offense(s), length of sentence, time served, and date of birth. The information found at this site was used in an attempt to verify the information provided by the respondents. In a few instances, respondents provided false information about their conviction. For example, Jason stated during the interview that he had been convicted of a violent offense; however, the database stated that Jason had been convicted of a sexual offense (Ohio separates these offenses on their offender database). The norms that exist in the inmate culture might have influenced respondents' willingness to disclose specific types of information. Although respondents were assured confidentiality, some may have withheld information they considered incriminating or embarrassing.

The processes of friendship formation and assimilation into the inmate culture should be examined further. More detailed information about the quantity of friendships and assimilation into the inmate culture, in addition to personal characteristics of the respondents, could facilitate a

broader understanding of the inmate culture. The gap in the literature on the inmate culture needs to be closed. Very little recent research has focused on the inmate culture, assimilation into the inmate culture, or behavioral norms. Even less research has focused on inmate friendship processes. The results of this study suggest that these concepts are closely related. Further qualitative and quantitative research should be conducted on the description of the inmate culture and processes of assimilation into the inmate at all security levels, so that a more comprehensive picture may be drawn.

Finally, inmates might be thinking about their future outside the fences; however, their relationships while incarcerated can have a major impact on their lives. The need for a study on the long-term effects of inmate relationships cannot be understated. The support provided by others may influence inmates' self-perception, which could be related to behavior after release from prison.

Appendix A: Inmate Pseudonyms

Pseudonym of Respondent: Mike 1) Race: African American 2) Age: 46-50 3) Length of sentence: 15-40 years 4) Amount of time served: 11-15 years 5) Conviction: Violent 6) Previous incarceration: Close	Pseudonym of Respondent: Don 1) Race: White 2) Age: 50-55 years 3) Length of sentence: 5-25 years 4) Amount of time served: 11-15 years 5) Conviction: Violent, Sexual 6) Previous incarceration: Close
Pseudonym of Respondent: Keith 1) Race: African American 2) Age: 20-25 years 3) Length of sentence: 0-5 years 4) Amount of time served: 0-5 years 5) Conviction: Violent, Drug 6) Previous incarceration: Close	Pseudonym of Respondent: Jason 1) Race: White 2) Age: 50-55 years 3) Length of sentence: 5-35 years 4) Amount of time served: 11-15 years 5) Conviction: Sexual 6) Previous incarceration: Close
Pseudonym of Respondent: Kurt 1) Race: African American 2) Age: 60-65 years 3) Length of sentence: 5-15 years 4) Amount of time served: 11-15 years 5) Conviction: Violent 6) Previous incarceration: Medium	Pseudonym of Respondent: Kevin 1) Race: White 2) Age: 20-25 years 3) Length of sentence: 0-5 years 4) Amount of time served: 0-5 years 5) Conviction: Property 6) Previous incarceration: None

Pseudonym of Respondent: Max 1) Race: White 2) Age: 46-50 years 3) Length of sentence: 5-25 years 4) Amount of time served: 6-10 years 5) Conviction: Violent 6) Previous incarceration: Maximum, Close; Medium	Pseudonym of Respondent: Jerome 1) Race: African American 2) Age: 20-25 years 3) Length of sentence: 15-20 years 4) Amount of time served: 6-10 years 5) Conviction: Violent 6) Previous incarceration: Close
Pseudonym of Respondent: Stu 1) Race: African American 2) Age: 30-35 years 3) Length of sentence: 15-Life 4) Amount of time served: 6-10 years 5) Conviction: Drug 6) Previous incarceration: Medium	Pseudonym of Respondent: David 1) Race: White 2) Age: 30-35 years 3) Length of sentence: 10-50 years 4) Amount of time served: 10-15 years 5) Conviction: Violent 6) Previous incarceration: Close
Pseudonym of Respondent: Patrick 1) Race: White 2) Age: 26-30 years 3) Length of sentence: 6-10 years 4) Amount of time served: 0-5 years 5) Conviction: Drug 6) Previous incarceration: Medium	Pseudonym of Respondent: Jake 1) Race: White 2) Age: 30-35 years 3) Length of sentence: 15-Life 4) Amount of time served: 10-15 years 5) Conviction: Violent 6) Previous incarceration: Close
Pseudonym of Respondent: Carl 1) Race: African American 2) Age: 26-30 Years 3) Length of sentence: 10-15 years 4) Amount of time served: 0-5 years 5) Conviction: Property 6) Previous incarceration: None	Pseudonym of Respondent: Turner 1) Race: African American 2) Age: 20-25 years 3) Length of sentence: 21-25 years 4) Amount of time served: 0-5 years 5) Conviction: Violent 6) Previous incarceration: Maximum, Close
Pseudonym of Respondent: Mark 1) Race: African American 2) Age: 20-25 years 3) Length of sentence: 0-5 years 4) Amount of time served: 0-5 years 5) Conviction: Drug 6) Previous incarceration: none	Pseudonym of Respondent: Steve 1) Race: White 2) Age: 26-30 years 3) Length of sentence: 0-5 years 4) Amount of time served: 0-5 years 5) Conviction: Drug 6) Previous incarceration: Medium
Pseudonym of Respondent: Brad 1) Race: White 2) Age: Under 20 3) Length of sentence: 11-15 years 4) Amount of time served: 0-5 years 5) Conviction: Drug 6) Previous incarceration: none	

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