

ACJS Today

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Wrongful Convictions and Criminal Justice: A Challenge and Invitation

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This article asks: (1) Should criminal justice and criminological research related to wrongful conviction be more extensive?; (2) What is innocence scholarship?; and (3) How have criminologists and criminal justice researchers contributed to the study of wrongful convictions and what are the paths forward? This article is framed by the observation that crime scholars play a small role in innocence scholarship (Leo, 2005; 2017), hence the challenge and invitation.

Should We Study Wrongful Convictions?

Wrongful convictions—of people entirely innocent of crimes committed by others or for “crimes” that never occurred—has grabbed popular attention. Media events like

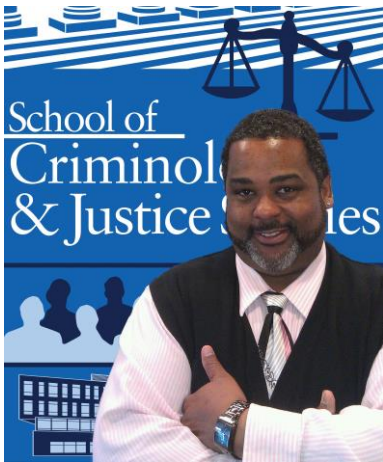
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SPECIAL ISSUE

THE DELICATE BALANCE BETWEEN CRIME CONTROL AND SOCIAL JUSTICE

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President's Message



*Lorenzo Boyd, President, ACJS**

Greetings colleagues and fellow ACJS members! As we ponder the recent peaceful transfer of power in our executive branch, we must note that today, like in most elections, there are still large numbers of people who are worried, afraid, upset, or just plain scared about the future of our country. With this new administration comes new opportunities, new challenges, and the appointment of a new attorney general and new division heads in the Department of Justice. Included in this is the appointment of a new director of the National Institute of Justice. Also with the new administration comes the report of proposed cuts to the Department of Justice programs such as the *Office of Community Oriented Policing Services (COPS)*, *Violence Against Women Grants* and the *Legal Services Corporation*, as well as the reduction in funding for its Civil Rights and its Environment and Natural Resources divisions. We must be extra-vigilant to support funding for sound research and programs.

The immediate past NIJ Director, Dr. Nancy Rodriguez, did an outstanding job over the last 23 months encouraging researchers to use science to further the cause of justice, policy, and practice. We must all do our part to help continue that mission in our own research. With this new transition of power, we need to do our part to make sure that issues of justice and equity are at the forefront of academically grounded, fully funded, science-based research. It is from the position of valid and reliable research that we can support the cause of equity in society.

One primary area of interest to me, and hopefully others in the academy, is the pursuit of social justice. For far too long, many in our society have been disenfranchised, criminalized, and marginalized. As a progressive society, we cannot let this continue. As we look back at recent riots in America, I think back to the precipitating events in Ferguson, Baltimore, and even Los Angeles. The common thread that runs through these situations is not simply poverty, or that these were primarily communities of color. The common threat that I wish to illuminate is the fact that these communities were operating outside of the 'American Dream.' Many of these residents, (these citizens of the U.S.), were left out of the political, cultural, and economic mainstream of America. Added to that, the claim by members of these communities is that their interactions with law enforcement were less than favorable. When you add social problems that becomes a recipe for disaster, a tinderbox waiting to ignite. Reverend Dr. Martin Luther King, Jr. (MLK) said that *riots are the language of the voiceless*. We must do our part to give voice to this population.

As we look towards social justice, let us remember that crime is not *THE* problem, crime is symptomatic of much larger problems in society. We must refocus our energies on combating the social issues that lead to criminality, or that help crime thrive. Gone are the days when we, as academics and academicians, can sit comfortably on our campuses and simply pontificate about issues of inequity, crime, and justice. Now is the time for many more of us to roll up our proverbial sleeves, take action and help combat the underlying issues that plague our cities, and to that extent, our society. Cities like Chicago and Memphis had record numbers of homicides in 2016, and media portrayals help perpetuate the stereotype of the ‘symbolic assailant.’

When dealing with the violence of the inner-city issues, I reject the term “Black-on-Black” crime. Using that term is problematic for two reasons: 1) the term further perpetuates a stereotype that is not helpful in understanding the core issues; and 2) it reduces the problem to that of race, as if some DNA, specific to people of color, causes these events. Using terms like these are akin to code-switching where the term race is coded as criminal. Let’s avoid the tendency to reduce problems to race and look beyond skin color to see the larger issues to include poverty, inequality, levels of addiction, mental health issues, lack of adequate education, poor housing, lack of access to employment, and so on. The social scientist in all of us should be chomping at the bit to try to discover and disseminate the true origins of these problems and start working together on solutions.

When we are faced with rhetoric and hyperbole like the term ‘*Make America Great Again*’, the questions should be asked, ‘when was America greater than it is now’, and ‘for whom

will we make it great?’ We must reject hollow promises and divisiveness in politics and society. As academics, we must reject the notion to walk away from the process because we do not like the outcome. We need now, more than ever before, to have seats at the table, to be part of the conversations. If we, as social scientists, do not champion the cause of social justice then who will take on that cause? If not us, who? If not now, when?

If we work together to put social justice and grounded research at the forefront of our agendas and work to make a difference in society, then our work will have real meaning and value. We must also make our research accessible to policy makers and practitioners alike. We cannot operate in a vacuum. The onus is on us to push forward to positively affect the lives of those around us. We must continue to let science drive the research in order to find techniques for increasing social justice, because to paraphrase MLK; “*The arc of the moral universe is long, but it bends towards justice*” and dare I say, social justice.

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Netflix's *Making a Murderer* (about Steven Avery) and the first *Serial* podcast (about Adnan Syed) have created a "sexy" CJ topic. Is wrongful conviction, however, a minor problem not worth extensive attention by crime scholars? I argue that it is a subject with major policy relevance because a significant number of miscarriages of justice occur and because innocence advocacy and scholarship drives important investigation, prosecution, forensic science, and adjudication reforms.

The few empirical studies of exoneree samples derived from known defendant universes demonstrate error rates in homicide, death sentences, and serious sexual misconduct cases to range from about 2% to 5% (Gross et al., 2014; Roman et al., 2012; see Zalman, 2014a). Empirically derived rates should not be simply extrapolated to all crimes, for which base-rate data do not exist. However, a criminal justice system with a weak track record of ascertaining truth suggests a plausible error felony conviction rate of at least 1% annually (Simon, 2012; Zalman, 2012). This translates to about 10,000 wrongful convictions a year, of which about 4,000 result in prison sentences. If this qualitative estimate were 2% or 3%, the numbers would be doubled or tripled. Innocence experts believe that America's prisons hold at least 50,000 innocent people (Gross, Jacoby, Matheson, Montgomery & Patil, 2005).

These numbers may seem improbable because only about 2,000 exonerees are listed (National Registry of Exonerations [NRE], n.d.). Yet, the enormous difficulty of achieving legal exonerations, the lack of official record keeping, and the rigorous definition of

exoneration makes the gap between wrongful convictions and official exonerations understandable. Since its inception in 2012, the NRE publishes well-authenticated exonerations at a steady clip.

Whether a 1% to 3% felony conviction error rate (i.e., up to 30,000 innocents convicted each year) is worthy of study is a normative question. Would diverting scarce research resources from issues like human trafficking, mass incarceration, or police shootings misallocate justice scholarship? Proponents of innocence reform emphasize the acute human suffering inflicted by wrongful convictions, a reality I set aside in this discussion. Crime victims may suffer great harm. Criminal behavior in its lesser forms is an annoyance, but serious crime (whether the street or white collar variety) imposes grievous harms and costs. Also, other justice system errors or injustices deserve attention. Still, a 1% (or higher) miscarriage-of-justice rate suggests an issue worth addressing.

The second reason for the criminological study of wrongful convictions is that they are not simply inevitable products of human fallibility. They are most often the result of CJ and legal system failures (Doyle, 2010). Much that has been learned by innocence scholars about the sources of wrongful convictions suggests that errors can be reduced by changes in policies, procedures, funding, and routines that affect police, forensic scientists, prosecutors, attorneys, judges, and juries (see IACP, 2013). Because wrongful convictions are palpable miscarriages of justice, their existence, when known, tends to force reforms in a system that is generally resistant to change. A more accurate justice

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system should improve the efficiency and effectiveness of its ability to apprehend and prosecute serious criminals, enhancing the system's legitimacy.

What Is Innocence Scholarship?

A full answer to this question requires an article or short book. Thousands of psychological experiments, legal articles, and forensic science studies comprise the bulk of innocence scholarship. I'll simply list key areas of innocence scholarship with only a few citations. (Interested readers can write to me for bibliographic leads.) The main disciplines are psychology, law, forensic science, narratives ("true crime" books about single or multiple miscarriages of justice), and serious investigative journalism.

Cognitive and social psychologists have revolutionized understanding of eyewitness identification and have fashioned new police lineup procedures that reduce errors (National Research Council, 2014). Other practices illuminated by psychological research include police interrogation; child witnesses and victim questioning; the no-better-than-chance ability of police and jurors to detect lying; cognitive biases and judgment among all system actors; effects on jurors of confessions, eyewitnesses, "secondary confessions" by jailhouse snitches, and alibi witnesses; and the legal system's lack of ability to accurately assess truth (Simon, 2012). This research was stimulated by wrongful conviction crises: DNA exonerations, false confessions, the child day care/satanic ritual sex panic of the 1980s, rampant perjury by jailhouse snitches, police error and perjury, and the growing awareness that cognitive biases inevitably influence even expert decision making, and more.

Many procedural and relatively low-cost reforms have emerged from these studies.

Legal scholarship covers the entire gamut of innocence issues, including those researched by forensic and psychological scientists. Often drawing on research findings, it has questioned the accuracy and efficacy of interrogations and confessions by adults and juveniles, eyewitness identification, the veracity of "repressed memory," and arson convictions. Legal scholarship has marshaled evidence against the so-called shaken baby syndrome; it has described the role of expert witnesses to challenge faulty scientific testimony; and it has dissected the dubious use of jailhouse snitches, the limits of polygraphs, problems with police investigatory misconduct, prosecutors' *Brady* violations, and concerns with serious problems in the forensic sciences.

The legal system itself is now examined as a wrongful conviction source (Zalman & Grunewald, 2015). Legal scholars raise doubts about the capacity of American-style adversarial trials to reach accurate verdicts, and they propose modifications. Plea bargaining scholarship has been given new life by increasing wrongful conviction concerns. Legal/empirical studies of misdemeanor justice have expanded the scope of innocence scholarship. Wrongful convictions are animating new studies about the chronic underfunding of indigent defense. Prosecutorial misconduct and a "crisis" of withholding exculpatory evidence from defendants in violation of the Constitution has generated substantial commentary and renewed interest in prosecutorial culture and the enabling force of harsh penalty laws. Legal scholars advanced the DNA testing of prisoners with claims of

innocence. Such laws now exist in every state, but their usefulness varies, begging for further inquiry. The arcane and hyper-complex world of legal appeals, state post-conviction review, and federal habeas corpus has itself been the subject of hundreds if not thousands of works parsing, among other subjects, the Supreme Court's "innocence gateway" to a new trial.

Wrongful convictions resulting from shoddy or fraudulent forensic science sent shock waves through that community, stimulating the National Academy of Sciences' report, *Strengthening Forensic Science*, and its recommended reforms (National Research Council, 2009). The National Commission on Forensic Science (n.d.) was established by executive action and includes innocence movement representatives working to reduce forensic error.

The forensic sciences are a diverse group of science-based and expert practices; collectively, Simon Cole (2014) views forensic science reform itself as a reform movement anterior and parallel to the innocence reform movement. Just about every issue of the *Journal of Forensic Sciences* directly or indirectly addresses wrongful conviction issues.

Interested readers can find advanced introductions to wrongful conviction studies in anthologies edited by crime scholars (Westervelt & Humphrey, 2001, early but still useful; Rossmo, 2009, emphasizing investigation; Huff & Killias, 2013, comparative and international; Redlich, Acker, Norris, & Bonventre, 2014, comprehensive; Zalman & Carrano, 2014, emphasizing innocence reform), by a psychologist (Cutler, 2012, psychological research), and by legal scholars (Lupária, 2015, comparative;

Ogletree & Sarat, 2009, diverse issues; Cooper, 2014, legal issues; and Medwed, 2017, comprehensive).

Criminal Justice Scholarship and Wrongful Convictions

The remainder of this article catalogs contributions to wrongful conviction scholarship by crime scholars and suggest ways to study underresearched areas. The best place to start is Leo's seminal review article and his recent reevaluation (Leo, 2005, in press), which provide a detailed overview. He views wrongful conviction as a coherent academic field and asserts that its study is central to understanding how the criminal justice system works. He argues that mainstream criminologists have largely ignored the issue. While wrongful conviction research is a very small part of the crime & CJ research enterprise, and while that research is at best treated as a sideline by innocence advocates and scholars (except perhaps for SEI, discussed later), a number of crime scholars have contributed to understanding wrongful convictions.

Paucity of Criminological Scholarship. Indeed, survey research could examine the reasons for the relative paucity of innocence scholarship in CJ and criminology. Only a few departments have been associated with innocence scholarship (e.g., U. Cal-Irvine; SUNY-Albany, and perhaps George Mason and John Jay), perhaps because they are more congenial to legal scholarship and the study of forensic science issues than is common elsewhere. Law and forensic science, after all, are peripheral research subjects in most criminal justice departments. Among scholars at those institutions prominent in wrongful conviction study, five have law (some plus social

science) degrees (James Acker; Jon Gould, previously at George Mason; Richard Leo, previously at U. Cal-Irvine; Evan Mandery; William Thompson); three are psychologists (Elizabeth Loftis, Cynthia Najdowski, Alison Redlich); one, Simon Cole, is a science and technology studies (S&TS) adept; and only one, Ronald Huff (now retired), may be viewed as a mainstream criminologist. I've located seven doctoral dissertations in the United States related to wrongful convictions written since the rise of the innocence movement; five emanate from these four departments (Bonventre, 2015; Harmon, 2000; McClure, 2015; Najdowski, 2012, Norris, 2015; Schnurbush, 2012; Shlosberg, 2012). Rattner's (1983) pioneering dissertation is omitted from this list, but his adviser was Huff, who migrated to Irvine. Another reason why crime scholarship may be peripheral to innocence studies is that criminology and criminal justice are relatively small research disciplines that address many topics, making for thin coverage of the entire gamut of potential research issues. Also, wrongful conviction scholarship focuses largely on investigation, apprehension, and prosecution. Police scholars have, for the most part, moved on to other policing issues (e.g., use of force, procedural justice), and a relatively small number of crime scholars study prosecution and adjudication.

Empirical Analysis of Wrongful Conviction Causes.

Moving beyond this navel-gazing exercise, crime scholars have contributed to a variety of interesting wrongful conviction subjects. Pride of place goes to empirical studies of the causes of wrongful convictions applying quasi-experimental designs to matched exoneree and accurately convicted samples. Such data are incredibly hard to gather (Leo, 2005), as demonstrated by Harmon's (2001) groundbreaking study, which

predicted death row exonerations compared to an executed sample. Her study began to qualify the "innocence paradigm"—a list of so-called "causes" inductively derived from case studies (Zalman, 2010/2011). Lofquist (2001) deepened the analysis of wrongful conviction using a case study method exploring organizational dynamics as a root cause of error overlooked by legally oriented innocence scholars. Harmon and Lofquist (2005) teamed up to study a sample of putatively innocent executed prisoners compared to a sample of death row exonerees, again qualifying the standard understanding of what causes wrongful convictions.

These important early studies exemplified Leo's (2005) call for a "criminology of wrongful conviction" that focuses primarily on the "major domain issues" of what causes wrongful convictions and how the causes can be remedied (Leo, in press). To this effect, he and Jon Gould suggested analyzing miscarriages via path analysis (Gould & Leo, 2010; Leo & Gould, 2009). They then completed an ambitious empirical study comparing 260 wrongful convictions with a sample of 200 acquitted and dismissed "near misses," finding that some traditional sources of error, like false confessions, were not predictive, while other factors, like a punitive state death penalty culture, had predictive power. This correlational study points to a justice process theory of wrongful convictions, but more work would be needed for a positivist theory to emerge (Gould, Carrano, Leo, & Young, 2013; spinoffs: Gould, Carrano, Leo, & Hail-Jares, 2014a, 2014b). From this research, Gould and Leo (2016) have opened a new line of inquiry by examining how exonerations come to light.

Although most research on the central wrongful conviction subject of false confessions is

conducted by psychologists, a few criminologists have contributed to the research. Drizin and Leo's (2004) comprehensive survey of known false confessions provided a sociological baseline for understanding this subject. Redlich (2010) drew on psychological literature to outline the susceptibility of juveniles to false confessions. More recently Leo, a leading expert on confessions, has advanced a psychological theory of false confessions (Davis & Leo, 2012).

Theory and Methodology. Following Leo (2005), Zalman (2006) proposed a broader array of research topics for justice scholars including, for example, studying innocence reform through public policy and social movement analysis. Burnett (2002) attempted to define wrongful conviction through a criminological lens. An earlier and valuable theoretical and methodological exploration of wrongful convictions, Forst (2004), places them into a larger social costs frame that posits an optimal justice center point between errors of impunity and errors of due process. Forst (2004) provides analytic strategies for parsing errors of justice. Schehr (2005) applied lens of state power theory to critique a particular innocence reform.

Other essays on theory and methodology proposed a variety of analytic tactics and a broader array of theoretical approaches, borrowing in part from Kraska's (2006) theoretical orientations (Bonventre, Norris, & West, 2014; Norris & Bonventre, 2015; Zalman 2014b). Marion and Zalman (2014) explored public policy theories to understand innocence reforms, while Cole (2014) extended this line of thought by examining forensic science reform using the advocacy coalition framework. An extensive data-informed theoretical exploration by Webster and Miller (2014/2015) draws on criminological

theory and amplifies knowledge of tunnel vision in justice decision making by applying "normal crimes" and intersectionality analysis to matters of gender and race in wrongful convictions. Zalman and Larson (2016) argue for a broader understanding of "cause" to include legal and ideographic as well as nomothetic cause in wrongful convictions, leading Leo (in press) to note that he did not suggest positive theory building to the exclusion of other conceptual frameworks.

The Innocence Movement. Although criminologists have not conducted the most critical research on the core issue of wrongful conviction incidence, they have contributed with surveys that assessed the opinions of justice system personnel (Huff, Rattner, & Sagarin, 1986; Ramsey & Frank, 2007; Zalman, Smith, & Kiger, 2008). While not dispositive of the question, these surveys shed important light on the scope of the wrongful conviction problem. Additionally, a survey of system actors' attitudes indicated weak support for innocence reform among police and prosecutors (Smith, Zalman, & Kiger, 2009).

Legal scholars generally eschew analysis of the innocence movement itself, but innocence movement leaders have recently offered useful descriptions about the movement's growth (Findley, 2014; Findley & Golden, 2014; McMurtrie, 2014; Mumma, 2014; Warden, 2012). Justice scholars have written reflective analyses of the movement, including Gould's (2008) study of the remarkable advocacy work and research by the nongovernmental, nonpartisan, and nonprofit Innocence Commission for Virginia; Zalman's (2010/2011) definitional, historical, and institutional outline; and Norris's (in press-a, in press-b) theoretically grounded empirical study of the development of the innocence movement as a

social movement. Bandes (2008) and Findley (2008) are also valuable for understanding the positioning and goals of the innocence movement. Zalman and Carrano (2013/2014) assessed the odds for sustained innocence reform. The innocence movement can also be studied by social historical analysis, suggesting that the context of criminal justice prior to the 1980s made innocence reform unlikely (Zalman, 2013). In addition, the comparative analysis of wrongful convictions and innocence movements are exciting areas of research for international crime scholars (Huff & Killias, 2013; Wu & Zalman, 2013; Zalman, in press-a, in press-c).

Zalman (in press-b) edited a special issue of the *Journal of Contemporary Criminal Justice* focused on analysis of the innocence movement by four justice scholars and an innocence movement leader. The issue includes Acker's (in press) analytic overview, Norris's (in press-b) social movement study, Konvisser and Werry's (in press) exploratory survey of the role played by exonerees in advancing innocence policy, Leo's (in press) review of research, and Findley's (in press) unique survey of the federal government's role in advancing innocence reform agendas.

The involvement of the National Institute of Justice [NIJ] should be especially important to criminal justice researchers. The NIJ convened a workshop of international leaders and scholars to gather ideas about ways to research wrongful convictions and assist in developing innocence reforms (Jolicoeur, 2010). This action and Findley's (in press) review needs to be tempered by a historical note indicating that the federal government's appetite for innocence reform may be shaped by the political priorities and culture of the current administration (Marion & Zalman, 2014).

In any event, following this conference the NIJ made a major investment in a sentinel events approach to justice system error, initially proposed by Doyle (2010). The Sentinel Events Initiative (SEI, n.d.) is motivated by the "normal accidents" paradigm. It holds that errors by competent professionals will occur because of organizational failures; understanding the system reasons for error can lead to error reduction, as has occurred in medicine and the airline industry. SEI is a major advance for it can be applied to a variety of justice system errors, not only those relating to wrongful convictions (NIJ, 2014, 2015; Shane, 2013).

Death Penalty. The innocence movement was powerfully driven in the 1990s by the concern with executing the innocent. To some degree, at first the innocence movement overlapped with death penalty abolition. Bedau and Radelet's (1987) pioneering study that identified 350 capital sentencing errors was unusual for the work of a philosopher and criminologist in that it drew the attention of and was attacked by the larger and more powerful legal community (Markman & Cassell, 1988). Continued research and writing in this vein (Burnett, 2002, 2010), amplified by the exoneration list maintained by the Death Penalty Information Center (n.d.), has weakened capital punishment support, a matter studied in depth by political scientists (Baumgartner, DeBoef, & Boydston, 2008). Acker and Bellandi (2014) speculate that the decline of the death penalty may paradoxically weaken the innocence movement.

Police Investigation Studies. Major areas of innocence scholarship and action do not examine the entirety of the investigation enterprise but focus instead on three discrete areas of police investigation: identification procedures,

interrogation, and the handling of informants, which correspond to concerns with mistaken eyewitness identification, false confessions, and perjury by jailhouse snitches. Simon (2012, pp. 17–49) sets these areas aside and provides a comprehensive review of psychological research that explains the limited ability of current investigation practices, generally, to be more accurate. Murray, Gegner, and Pelton (2014), in a rare exploration of policy factors that may contribute to police errors, suggest that error-reduction law enforcement policies may have little purchase, especially in small departments. Zalman (2014) reviewed three kinds of policing literature. Wrongful conviction analyses put police in a highly negative light; narrative literature skews police work in a favorable light; and only social science studies of police investigation provides a balanced understanding of the quotidian reality of police investigation. A more balanced view is necessary to develop practices that will make investigation more accurate. Zalman and Larson (2016) advocate studying police investigation in general through an analysis of a convenience sample of serial crimes that led to wrongful convictions.

While innocence scholarship has not explored police investigation generally, policing scholarship, which has trended away from investigation, has not paid much attention to the problem of wrongful convictions, with the notable exception of the chapters in Rossmo (2009; see also Blair & Rossmo, 2010). Recently, researchers at Sam Houston State and American University have indicated an awareness of innocence movement issues. Teaming up with psychologists, they have researched lineup techniques in the field that challenge the proposed reform of sequential lineups (Wixted, Dunn, Clark, & Wells, 2016). A case study indicates that inefficient processes can

undermine the accuracy of an otherwise well-equipped forensic laboratory (King & Wells, 2015). In this vein, an essay by Maguire, King, Wells, and Katz (2015) speculated that removing forensic laboratories from law enforcement control, a proposed innocence reform, may make them less efficient, without considering the cognitive bias problem that underlies the proposed reform. A close examination of victim credibility assessment by law enforcement by Campbell, Menaker, and King (2015) can help to shed light on the accuracy of critical judgments by crime investigators. These lines of research, even when they push back against conventional innocence reforms, add welcome empirical analysis to criminal justice functions that affect the accuracy of convictions.

Psychological Impact of Wrongful Conviction, Victimology, Restorative Justice. The sole empirical research ground for understanding the impact of wrongful conviction was conducted by a psychiatrist but initially published in a criminology journal (Grounds, 2004). Konvisser (2012, 2015) has reviewed and extended consideration of psychological effects through a posttraumatic stress and resilience model applied to women exonerees. Westervelt and Cook (2008, 2012) engaged in a wide-ranging exploration of the impact of false conviction on an in-depth study of a population of death row exonerees. Burnett (2005) proposed a restorative justice approach. Williamson, Stricker, Irazola, and Niedzwiecki (2016), in a study funded by the NIJ, empirically explored the impact of wrongful conviction on the original crime victim. This study coincides with a growing concern for the emotional well-being of exonerees *and* the original crime victims in the innocence movement (Thompson-Cannino, Cotton, & Torneo, 2009; Healing Justice, n.d.). This area of research

should be embraced by victimologists and criminologists who study juvenile and adult rehabilitation.

Compensation for the Wrongfully Convicted. This topic is closely related to the psychological effects of wrongful conviction, given the extensive material needs of exonerees. Most research on this topic is found in legal literature, but Norris (2012, 2014) has contributed valuable analytic, policy-oriented, and closely descriptive views that draw on state harm and diffusion-of-innovation theories. To this work, Shlosberg, Mandery, West, and Callaghan's (2014) empirical study of a sample of exonerees finds a significant correlation between compensation amounts and reoffending by exonerees. The innocence movement supports a web-based effort to provide all manner of assistance to exonerees, from emergency aid on prison release to finding medical insurance (After Innocence, n.d.).

Women Exonerees. As noted, Webster and Miller (2014/2015) have applied intersectionality theory in an essay richly descriptive of the process by which women are wrongfully convicted, offering research approaches that may be congenial to criminologists. Ruesink and Free (2005) is an early descriptive study. Konvisser (2012, 2015) has studied women exonerees through survey and in-depth interviews, providing a research guide for interested scholars; her work overlaps a focus on women exonerees and analysis of the psychological effects of wrongful conviction.

Race Effects. NRE data indicate a disproportionate number of minorities among

exonerees, but a question not fully answered is whether the wrongful conviction of African Americans and Hispanics exceeds their conviction rates. Data showing the disproportionate wrongful conviction of African American men for the rape of white women is well established (Gross et al., 2005; Johnson, Griffith, & Barnaby, 2013), although whether due to deliberate racism or the same-race identification effect, or some combination, is not entirely clear. Webster and Miller (2014/2015) and numerous case studies demonstrate racial bias resulting in the wrongful conviction of minorities. Free and Ruesink (2012) provide only descriptive data. Harmon's (2004) logistic regression analysis of a matched sample of exonerated and executed death row defendants finds that nonwhite defendants convicted of killing whites were significantly more likely to be exonerated compared to whites convicted of killing whites, suggesting that prosecutors are more likely to pursue weak cases against minority defendants. Smith and Hattery's (2011) tabular analysis of DNA exonerations strongly support the findings of a racial effect for rape and tend to support Harmon's findings for homicide.

Citizen Attitude Surveys. A number of criminologists have conducted citizen attitudinal surveys generally finding awareness of wrongful convictions and support for reform measures (Bell, Clow, & Ricciardelli, 2008; Bingham, Cochran, Boots, & Heide, 2013; Clow, Blandisi, Ricciardelli, & Schuller, 2011/2012; de Keijser, de Lange, & van Wilsem, 2014; Ricciardelli & Clow, 2012; and Zalman, Larson, & Smith, 2012).

Criminological Approaches. Cole's (2009) theoretical case study demonstrates the ability of wrongful convictions to shape societal ideas about crime. Shlosberg and colleagues (2012, 2014) demonstrate the challenges of expunging exonerated defendants'

records and the factors that are associated with offenses committed by exonerees after release. Although few in number, these innovative studies suggest research approaches to fellow criminologists.

Wrongfully Convicted Prisoners. A topic that, to the best of my knowledge, has not been researched is the state of imprisoned innocent defendants. If the estimates of wrongful convictions are correct, tens of thousands of prisoners are innocent of the crimes (or “crimes”) that landed them in prison. Before completing his PhD on another topic, David McClure (2011) proposed a method for surveying prisoners to explore barriers to exoneration grounded in prison deprivation theory and to estimate a proportion of prisoners who have stopped seeking exoneration. This is a subject well-suited to criminological research. Given the growing awareness of the prevalence of wrongful convictions, it is plausible that some correctional authorities would accede to a similar study.

Conclusion

This survey indicates that crime scholars have established a toehold in researching wrongful convictions. But they have not explored some subjects—like perjury by informants—at all. Moreover, except for a handful of scholars who primarily research wrongful convictions, criminologists’ involvement has been episodic, despite Ronald Huff’s (2002) call for more research in his ASC presidential address. I’ve suggested a few research avenues in this short review. I expect that innocence research by crime scholars will continue at its present pace and perhaps pick up

a bit. However, given the large number of other pressing issues available to criminologists and criminal justice researchers, the nature of their graduate training, and the relatively limited size of the crime research community, I do not expect a surge of innocence research, although I’d like to be proven wrong.

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Justice Quarterly Review

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All the Pieces Matter: Using *The Wire* to Teach Students about Crime and Inequality

Jason Spraitz, University of Wisconsin – Eau Claire*

For years, a good friend and fellow professor implored, “You have to watch *The Wire*.” While shopping one day in 2014, I impulsively bought Season 1. I ordered Seasons 2 and 3 after watching one episode and Seasons 4 and 5 soon thereafter. While binge-watching the series’ 60 episodes, I knew I had to teach *The Wire*. I asked my department chair if I could offer an upper-level Special Topics course, he obliged, and CRMJ 491 (Crime & Inequality Viewed Through HBO’s *The Wire*) was scheduled for the spring 2016 semester. The following addresses the learning objectives for the course, student response to the course, and benefits of using popular media as course content. First, I discuss the viewpoint from which I approached the course.

In 2013, David Simon, the creator of *The Wire*, described the “two Americas” as he saw them. One was viable and “connected to its own economy,” and the other only 20 blocks away did not have a “plausible future for the people born into it.” This inequality between “haves” and “have nots” was what I wanted to focus on because *The Wire* portrays this systemic failure so well. The show does not solely focus on racial or ethnic or social class inequality. The show focuses on all those issues, but it also focuses on the inequalities faced by actors within societal institutions: the criminal justice system, labor, politics and policy, schools, and

the media. Even though *The Wire* is a crime drama, it “deglamorizes crime fighting by emphasizing...the sheer overwhelming hopelessness of the battle against crimes rooted in flawed social institutions, deep rooted moralities, and deprivation” (Penfold-Mounce, Beer, & Burrows, 2011, p. 154). Knowing that was how I wanted to use the series to discuss inequality in our criminal justice system and broader society helped me develop course learning objectives.

Course Learning Objectives

Using themes from each season as guideposts, I set five learning objectives for students. First, students discussed how criminal organizations are structured similarly to noncriminal organizations. They did this by comparing the structure of Avon Barksdale’s drug operation, and even Marlo Stanfield’s organization and the international crime syndicate run by “the Greek,” to the structure of the fictionalized Baltimore Police Department and strong mayor system that governed Baltimore. In doing so, they learned that each of these organizations includes “haves” and “have nots” as well as a chain of command. Whether legal or illegal, many organizations are governed using a top-down approach, with those at the bottom susceptible to the whims of those at the top. Similarities were further exemplified during discussion of D’Angelo Barksdale’s iconic “the king stay the king” scene when he explained chess (and life) to two young dealers during the third episode (Simon & Medak, 2002).

Second, students discussed how deindustrialization, poverty, and criminal behavior are tied together. This was illustrated in Season 2 through its focus on stevedores at the Port of Baltimore. This allowed us to read parts of Wilson's *When Work Disappears* and Dudley's *The End of the Line*, which details the closing of a Chrysler plant in Kenosha, a mere four hours from UWEC down I-94. We related deindustrialization to population declines in major cities, especially Baltimore, and discussed how that leads to economic distress, neglect of neighborhoods, and criminal behavior. Using Levine (2000) as a guide, students were critical of the growth of low-skill low-paying service sector jobs that had no trickle-down to the most marginalized areas of the city. This led to greater understanding of why criminal behavior, specifically drug dealing, is one of the only available means of earning money.

Third, all of the seasons, but Season 3 especially, helped students explain the difficulty in enforcing drug policy while preventing the proliferation of street-based drug organizations. Much of the discussion of this issue focused on *The Wire*'s depiction of "Hamsterdam," a series of three zones that fictional Major Colvin created for drug use and distribution (Pelecanos & Dickerson, 2004). Students debated drug legalization and decriminalization. With the assistance of related readings, notably Hamilton and Block (2013), students complemented their debates with discussion of harm, demand, and supply reduction strategies. Relatedly, when discussing enforcement of drug policy, the class used the 25 techniques of situational crime prevention (Cornish & Clarke, 2003) to identify how those in the drug game use these techniques to avoid arrest; this was eye-opening for the students because they had only viewed the situational crime prevention techniques as a tool for crime control.

The final two objectives tie together: discuss the relationship that crime has with criminal justice, educational, and social policy; and discuss how the creation of all these policies can lead to disparity and inequality in our criminal justice system. While these issues are complex and interdependent, a single line from the sixth episode served as a guiding force during discussions: Detective Freamon explains the importance of seemingly trivial details gleaned from the wiretap by telling Detective Pryzbylowski that "all the pieces matter" (Simon & Bianchi, 2002). This does not solely refer to the case they are working; rather, it applies to the entire show and the lessons *The Wire* teaches. In this case, the intersection of criminal justice, educational, and social policy. This was wholly apparent in my classroom when we discussed interrelated issues of mass arrests and mass incarceration; deindustrialization; redlining and other predatory housing practices; and education policies such as school choice, voucher programs, and standardized testing. Individually and as a whole, students exceeded these learning objectives and, upon completion of the course, provided valuable feedback on the benefits of the course.

Students' Response

Student feedback was positive. One student reported, "[The course] opened my eyes to the real injustices that have contributed to the inequalities we see today." In my opinion, which is admittedly biased, that feedback alone justifies the existence of the course. Yet, the class helped other

students in other ways. Some students appreciated being able to integrate what they saw on the screen with the articles and in-class policy discussions; this led to a greater understanding of the course material. Others focused specifically on content related to drugs and addiction. One student stated that the course provided “excellent insight” on the drug problem. Another student admitted that the class “helped open my eyes so that I can help addicts...not hurt them” while working in the criminal justice system. Similarly, a student said, “It gave me a powerful new perspective to look at criminal justice with. I’ll definitely use some of this knowledge in the future.” To circle back to the ideas of disparity and inequality, feedback from two students mirrors that of the student who talked about injustice. One student reported, “I understand more about how [bad] the criminal justice system is for people of color,” while another revealed, “It made me take a closer look at institutional racism.” Given that the overwhelming majority of our students matriculate into the criminal justice field as practitioners following graduation, I am proud of the positive effect this course had in introducing complex concepts related to discrimination and prejudice in our system and the way that students worked through these concepts during the semester. I am hopeful that they will do themselves and their undergraduate program proud in the future.

Benefits and Lessons Learned

While most of us incorporate media into our courses, it is much different to make an entire television series the focus of a semester-long class. In doing so, I learned many things. First, traditional course content, such as readings, must be matched well with the media content. Two students mentioned this: “Favorite part was having the articles heavily tie into what we were watching” because it “made doing the homework and readings

a little more easy.” This takes planning. Thankfully, there were a number of previously used syllabi available online from courses focused on *The Wire*. Yet, it took me the better part of one year to identify relevant readings and not only pair them with specific episodes, but also tie them in with each other. Second, watching the show cannot be the focus of class meetings. This class met twice a week for 15 weeks; each class meeting was 75 minutes. Spending 60 minutes viewing one episode would not have been conducive to achieving the course learning objectives. Thus, it was important that I had specific scenes cued up to discuss during class. This took planning in the form of meticulous, down-to-the-second notes about each episode. Fortunately, my university owns the entire series, and with help from our technology services department, students were able to stream all episodes through our learning management system. This also meant I was able to have scenes ready to show in class. One student remarked that it was “really nice to have episodes cued up to play...really helped see the inequality/injustice.” Third, having great students helps a lot. They submitted two discussion questions for each article each week and picked a scene that was related to each article. I relied heavily on the questions that were submitted, and a list of talking points that I created, to guide our meetings. Students responded well to this. One student admitted, “Having the discussions every class kept people involved instead of a boring lecture.” But, preparation by the instructor is important as well, as another student mentioned, “If we didn’t have something to say, [Dr. Spraitz] would bring up a topic to spark the conversation and then add on to what we said.”

Doing this requires the professor to confidently hand the reins over to the students and know when to take them back. It also means trusting that the students are prepared and willing to interact during class. I got the best of all worlds with the 16 students enrolled in this class.

Despite the benefits of incorporating popular media into the course, there were some things I might do differently. First, I might consider focusing on one or two seasons instead of four. At some points we explored a wide breadth of content but not as much depth. This is the inherent difficulty in using an entire series during one semester; as Moore (2011, p. 1) states, "Television—because of the length and complexity of its narratives—can only ever be studied piecemeal, an episode here, a scene there." This is why I required the students to watch the episodes outside of class, though I might be able to make more time for in-class viewing if a semester-long course focused on fewer themes. Second, doing so would allow me to assign more books. During the semester we read chapters, but not entire texts, from Moskos' *Cop in the Hood*, Anderson's *Streetwise*, and Collins' and Brody's *Crime & Justice in the City as Seen Through The Wire*. Reading entire texts would add to the depth of content. Overall, it was a successful course with overwhelmingly positive feedback that allowed students to confront complex issues via a compelling medium, *The Wire*, they may not have otherwise confronted.

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Book Review

Scott Jacques and Richard Wright, *Code of the Suburb: Inside the World of Middle-Class Drug Dealers*. Chicago: University of Chicago Press, 2015.

In their book, *Code of the Suburb: Inside the World of Middle-Class Drug Dealers*, ACJS members Scott Jacques and Richard Wright examine the social milieu of young, suburban drug dealers. Both authors are associated with what has been referred to as the “St. Louis tradition” of studying active offenders (see Lasky, Jacques, & Fisher, 2015). The lead author, Scott Jacques, is a protégé of Richard Wright, an ethnographic researcher, who is well known for interviewing a variety of characters ranging from gang members to stick-up artists. In this book, the researchers turn their attention from the inner city to the suburbs and demonstrate that underground drug markets have the potential to thrive in affluent communities, even in those that are overwhelmingly White and seldom, if ever, identified with illegal activity.

The methodology employed throughout *Code of the Suburb* is unique in that the first author had a preexisting relationship with many of his research subjects. Jacques was friends with 18 of the 30 interviewees, all of whom were young suburban drug dealers. This aspect of the book is, in and of itself, fairly interesting, especially in light of a recent scholarly examination of “friendship as a method” (Owton & Allen-Collinson, 2014). Jacques’ friendships with key informants proved to be quite advantageous. For example, aside from giving participants the occasional six-pack of beer, it was not necessary or appropriate for Jacques to provide them with any type of monetary

compensation. The respondents also referred Jacques to their friends, a strategy that was successfully employed by the second author in his classic examination of residential burglars (see Wright, Decker, Redfern, & Smith, 1992).

It is evident from reading this book that the research respondents trusted Jacques. The subjects were quite forthcoming as they responded to a series of open-ended questions. All of the interviews were audio-recorded, transcribed, and then analyzed for themes by both authors. The respondents ranged in age from 18 to 23 years old, and virtually all of these middle-class drug dealers were enrolled in a college or university. Given that members of racial minorities disproportionately make up the bulk of those who are arrested for drug offenses (see Alexander, 2012; Goffman, 2014), it is also noteworthy that all but one of the participants in this study was White (one subject was Asian).

From the opening pages of *Code of the Suburb*, the authors candidly examine the motivations of young, middle-class drug dealers. As Jacques and Wright argue, in spite of having privileged lives, most middle-class youth lack a professional career that is sufficient to generate a meaningful amount of income. As a result, these actors are largely dependent upon their parents and know it will take several years for them to achieve a sense of social status in their own right. The authors contend that high school is an arena where teenagers attempt to campaign for respect from their peers; “in-school

assessments affect who hangs out together and who is (dis)respected during and outside of school hours” (p. 7).

According to Jacques and Wright, some middle-class adolescents perceive that they can resolve the dilemma of peer respect by using drugs as a way to demonstrate their attractiveness and likeability.¹ In the chapter titled, “The Pursuit of Coolness,” the authors describe how adolescents living in the suburbs use drugs as a strategy to become popular and achieve short-term success; they argue that young people use drugs to become “cool” and enhance their social status. For example, drug use gives others the impression that an individual likes to have fun and rebel against parental authority. As a result, many suburban youth immerse themselves in the drug subculture in order to gain acceptance and respect from their peers.

Though Jacques and Wright contend that most suburban youths are content to merely use illicit substances (as opposed to selling them), they explain that some actors decide to make the transition from drug user to drug dealer. The authors assert that dealers can be generous with their friends, which helps elevate their status among their peers. Respondents reported that they made concentrated efforts to show their friends that they had the highest quantity and quality of drugs. This was done primarily to impress others (including potential customers), which in turn boosted their coolness factor.

The suburban drug dealers depicted in the book had unique motivations for peddling illicit substances. For example, many of the respondents reported to Jacques that they dealt drugs not to make money per se but rather to “smoke [marijuana] for free” (p. 10). Being a dealer

permitted them to buy drugs in bulk and subsidize their own consumption. Unlike drug dealers who work within the inner cities, many of these suburban dealers were not overly concerned with making a profit. Instead, drug dealing was merely a means to obtain extra spending money and buy creature comforts, such as fashionable clothing, smart phones, and expensive electronic devices. Most of the subjects reported that they did not perceive dealing as a way to make a substantial amount of money. They sold marijuana, mostly, and to a lesser extent, ecstasy, cocaine, and hallucinogenic mushrooms. None of the respondents sold crack cocaine or heroin.

According to the book, very few young suburban dealers are willing to become involved in the dangerous, albeit more lucrative, business of selling drugs to other dealers. Jacques and Wright explain that this is because there are far fewer legal and extralegal risks associated with being a low-level dealer. In many cases, dealers reported that they were able to cultivate relationships with supplier-colleagues who were a few years older than they were. Often, these suppliers were perceived by respondents as individuals who failed to become successful adults. Dealers reported that they preferred to obtain drugs from suppliers who were coworkers or friends of friends. The dealers did not trust African American suppliers and avoided them at all costs. Of course, this was fairly easy to do, for all of the dealers lived in an affluent suburb (referred to as “Peachville” in the book) where 9 out of 10 residents are White (non-Hispanic). It is also apparent from reading *Code of the Suburb* that dealers were getting these drugs locally rather than

from the inner-city. As the authors write, “It is unlikely that many of the sellers had ever visited a ‘ghetto’; there certainly were not any such areas anywhere near where they lived” (p. 33).

Jacques and Wright describe the process by which suburban drug dealers sell illicit substances to their customers. According to the authors, once a drug dealer gains access to a connection, he or she (Jacques interviewed two female dealers) must then establish a customer base. This is mainly done through a network of friends, and most of the respondents do not seek out buyers beyond their close social circle. The authors suggest that social networks are established through school, extracurricular activities, or through their jobs. Friends who are deemed to be especially cool will often be given better deals because this will help to increase the dealer’s status and reputation.

The authors found that it was typical for young suburban dealers to use the technology provided by their parents as a means to arrange drug deals. Most transactions occurred in public, often in fairly busy places. These locations afforded the dealers with an ideal spot to complete an exchange inconspicuously; if the locations were often frequented by young people, this helped dealers blend in even more. According to the authors, dealers seldom conducted business in one place; instead, they had several alternate spots where they could set up transactions with their customers. Also, Jacques and Wright found that speed was crucial to a successful transaction in a public place. The transaction had to be carried out quickly in order to minimize the chance of being seen and caught.

Though Jacques and Wright contend that both police and parents can play roles in stopping

adolescent drug dealers from making illegal transactions, they note that respondents were more afraid of being caught by the police. When adolescent drug dealers reported being caught by their parents, the consequences varied from the parents doing nothing, talking about the problem with an expression of concern, withholding privileges, and, in some instances, taking the drugs and cash. None of the parents called the police on their wayward children. Nevertheless, many dealers stated that they were still afraid of being caught by their parents, for this would create feelings of embarrassment and disappointment.

In *Code of the Suburb*, Jacques and Wright provide an interesting discussion of victimization. Suburban drug dealers who are involved in an illegal activity cannot approach the police for assistance whenever they are assaulted or ripped off; therefore, like dealers in the inner city, they implement strategies to reduce the possibility of being victimized. Respondents reported taking protective measures, such as locking the door during a deal, stashing away possessions in a safe place, and only dealing (or not dealing) with certain individuals. In this situation, when it came to customers, dealers reported that there were certain types of individuals to avoid—unknown, sketchy, as well as shady individuals. One racial prejudice that was consistent among the dealers was based on the stereotype that Black customers were dangerous and should be avoided at all costs. In spite of the fact that dealers refused to do business with African Americans, many respondents still indicated that racism was wrong.

The authors provide an in-depth discussion of the conflict management strategies employed by suburban drug dealers. These measures ranged from tolerating, avoiding, negotiating, “sneaky payback” (imposing secret punishments, such as fraud, vandalism, or unseen theft), and last but not least, “hitting back.” Hitting back was the strategy that was least used, even in the face of real victimization. When the suburban drug dealers did decide to retaliate (or hit back), there was not an overbearing use of violence as there often is in the inner city (see Anderson, 2000; Jacobs, 1998). With that in mind, dealers preferred to use toleration, avoidance, negotiation, or any strategy that was nonconfrontational.

Jacques and Wright also discuss why suburban drug dealers tend to stop peddling illicit substances. According to the authors, the reasoning behind their decision to stop selling drugs was closely tied to a preference to mitigate risks. Like inner city drug dealers, one of the perceived risks included the possibility of being violently victimized. However, suburban dealers were also afraid of being arrested and getting a criminal record, which could limit their future opportunities. The respondents interviewed in this book were affluent and White and preferred to solve their conflicts through negotiation rather than violence. The fact that the overwhelming majority of the respondents were able to deal drugs and quit doing this without the stigma of even an arrest should give academics pause that within the United States there are still two systems of justice: one for the rich and one for the poor.

Drug dealers in the inner city often come from disorganized communities with low levels of collective efficacy (Fagan, Wright, & Pinchevsky, 2014). They are less committed to the status quo, and it is much harder for these actors to quit “slinging

dope,” as they are limited in legitimate job opportunities with a low likelihood of achieving conventional success as adults (Decker, 1995; Goffman, 2014). This is, of course, why some minority males, particularly those in urban settings, may view drug dealing as their primary occupation (Venkatesh, 2008). Despite the fact that drug dealing carries numerous risks and limited rewards, many urban drug dealers nevertheless see this as a viable strategy to attain monetary success. This is likely to continue, so long as individuals living within the inner city have limited education, low literacy, and reside in communities where jobs are scarce (Clear, 2009).

Code of the Suburb is an important work for two reasons. First, it provides readers with a glimpse into the lives of young drug dealers who come from affluent communities, a topic, which up until now, has received very little attention. More importantly, however, this book illustrates that individuals who are White and middle-class wield considerable power and are simply not subject to the same laws as those who are racial minorities. Today, in the United States, African Americans are overrepresented in prisons and jails by a ratio of 5:1 and often receive significantly longer sentences than Whites or even Hispanics (National Research Council, 2014). There is also a 60% likelihood that Black males who do not graduate from high school will spend at least some time in prison. Anyone who reads *Code of the Suburb* is likely to see that there is systemic racism and inequality within the American criminal justice system.

Jacques and Wright do an excellent job of demonstrating through real-life examples how drug dealing in suburban communities is often a form of recreation with few, if any, repercussions or interference from law enforcement. *Code of the Streets* is masterfully written and very well-researched. It is risky, innovative, and groundbreaking and explores exciting new areas, which have been largely neglected by drug researchers. We strongly recommend this book.

Notes

¹ This is essentially the crux of the book and reminded us a bit of Albert Cohen's (1955) famous observation that poor adolescents, especially those who are judged unfavorably by the "middle-class measuring rod," may form alternative subcultures in order to obtain a sense of belonging and purpose.

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A Call to Disrupt Institutional Racism: Racial and Ethnic Inequality in the Criminal Justice System



Robert J. Duran*

Nationwide, issues involving racial and ethnic inequality have taken the forefront on new stories, social media, and conversations in the United States of America. Stories ranging from Michael

Brown, Eric Garner, Tamir Rice, Walter Scott, and Alton Sterling, who were killed by the police, to citizen murders such as Trayvon Martin or suspicious deaths occurring while detained: Sandra Bland. In these cases, along with many similar, agents of the state or those utilizing laws preferential to Whites were rarely criminally charged for their actions and, if indicted, seldom found guilty. In such a social climate, the “Black Lives Matter” movement has arisen to challenge the denial of equal treatment under the U.S. Constitution for individuals of African ancestry. Such a movement has received opposition from a dominant ideology advocating “All Lives Matter” (White people) or maybe “Blue Lives Matter” (police lives). Proponents of these counterarguments ignore disparity data, refuse to question White preferential treatment, or lack the desire to alter hierarchy-enhancing institutions (Sidanius & Pratto, 1999).

The numbers by themselves are disheartening: People of color in the United States continue to struggle at levels different from Whites in the 21st century and must learn to

survive in divergent social worlds (Peterson & Krivo, 2012). In addition, the racialized oppression of Native Americans and Latinas/os has often been hidden in our colonized country known as the United States through a Black/White binary (Delgado & Stefancic, 2012). Walker, Spohn, and Delone (2012) have examined the argument of racial and ethnic inequality in the criminal justice system within a discrimination-disparity continuum. On one end of the continuum is pure justice and the other systematic discrimination. As someone who has been teaching the college course Race, Crime, and Justice for the past decade, I situate such a discussion within the confines of institutionalized racism and shift the conversation toward critical race theory (CRT) and colonization to provide additional theoretical tools for critiquing racialized oppression. In this article, I’d like to begin with CRT’s voice of color thesis (my Chicano story) and then outline how a war on gangs along with officer-involved shootings and disproportionate minority contact continues to impact people of color in the United States. This is a call for the discipline to acknowledge disparity and continue efforts to eradicate various forms of institutionalized racism.

What better professional organization to discuss racial and ethnic inequality in the criminal justice system than the Academy of Criminal Justice Sciences (ACJS)? This organization seems to have the most criminal justice and juvenile justice practitioners mixed with academics. I attended my first ACJS conference in the spring of

2005 in Chicago, Illinois. As a young doctoral student at the University of Colorado, I participated in my third professional conference by presenting research titled “Manufacturing Gang Fears: A Critique of the Police Suppression Industry.” After my presentation, an older African American man walked up to me and said I was maverick for presenting on a topic with a different twist. I presented findings that Black and Latino youth were harassed and profiled by the police and that segregation was used to concentrate the brunt of aggressive law enforcement through the use of gang labels. Despite this one positive review that made me feel unique, my overall reception by the primarily White audience produced confusion. The day before my presentation, I walked through the book exhibit room and came across a booth of self-identified gang researchers. I began looking through their display materials and they asked whether I studied gangs. They were holding a social event during the weekend and told me they had invited a lot of presenters. I told them my name and they looked me up in the ACJS booklet, but my name wasn’t circled. Awkwardly they told me they would stay in touch. The longer I have been in academia, the more I have come to understand they did not understand my approach because they primarily viewed gangs as criminals (the dominant ideology regarding gangs). My angle for studying gangs was not mainstream nor was my entrance into academia. I was still a youngster in their social world. Not yet 30 years old, I was presenting gang research from Denver, Colorado and Ogden, Utah. I was a former gang member, born and raised in Utah to a family of mixed heritage: Mexican (native and poor) and Anglo (immigrant yet economically advantaged). I had interviewed gang members, police officers, and community members in an

attempt to understand structural patterns. I grew up with gangs as both protectors and a threat to Black and Brown residents, whereas the police were an untouchable White gang. College provided me the opportunity to transform my life, and my social inclusion was enhanced by working in child and family services, juvenile probation, and youth corrections. My previous life experiences were crucial for understanding the experiences of the juvenile justice clientele but also troubling as to whether simply working in this occupation replicated many of the disproportionate outcomes I despised. Toward the end of my practitioner career, I desired an opportunity to become a professor who was a scholarly activist or, in other words, interested in using research to contribute to society (Durán, 2011; Morris, 2015).

My investment in research over the past two decades has led to several empirical observations. First, public officials have used problematic gang lists to target marginalized individuals with enhancements, deportations, injunctions, and racketeering. Fear-based conceptions of gangs have legitimized aggressive policing and concentrated racialized oppression through segregation (Durán, 2013). Law enforcement officials continue to define gangs as primarily Black or Latino. In addition, the communities in which these groups form have experienced decades of discrimination, and in response, some residents have organized to provide physical support. Over time, isolation and societal exclusion has created a context for these groups to perceive themselves as the enemy (Fanon, 1963). Groups with social power have never been labeled as gangs, as discovered with the Ku Klux Klan or legitimized state institutions and its employees. Current ideologies, resources, and psychological investments have prevented

public officials from altering the structural conditions in these neighborhoods along with the ongoing racism that has continued to marginalize particular racial and ethnic groups through incarceration, family disruption, and maintaining a problematic setting for attaining an average life expectancy.

It is in such a context that death at the hands of law enforcement holds important implications for which lives matter in this country. According to *The Guardian*, in 2015, there were 1,146 individuals killed by the police. Of those killed, 51% were White, 27% Black, 17% Latino, 2% Asian, and 1.1% Native American (“The Counted,” 2016). When comparing these numbers to current demographics in the United States, we find Blacks and Native Americans the most overrepresented, Latinos slightly overrepresented, and Whites and Asians less likely to be killed by the police. In addition, the number of deaths reported by *The Guardian* were much higher than averages compiled by the Department of Justice’s Bureau of Justice Statistics, ranging from 373 (officer-involved shootings per year) to 419 (arrest-related deaths at the hands of law enforcement; Brown & Langan, 2001; Burch, 2011). Based on *The Guardian*’s data, there are persistent problems of underreporting by public officials regarding how many deaths occur at the hands of law enforcement each year. Researchers have been complaining for decades about the importance of improving data collection on this topic (Fyfe, 1988; Takagi, 1974). Such frustration led the Stolen Lives Project (1999) to initiate efforts in the 1990s to document killings. My own research has examined controversial officer-involved shootings in Denver, Colorado during a 30-year period, and I have encountered challenges branching out to other counties in the Southwest

and Southeast. My work with Oralia Loza (2017) has taken qualitatively coded data and turned it into quantitative analyses that compare differences between Whites shot by the police compared to Blacks and Latinos. Such efforts build on Takagi’s (1974) proposed two-trigger-finger thesis regarding police officers using one trigger finger for Whites and another for Blacks. Our research has found support for such a conclusion but also found the law itself is part of the problem, as noted with several controversial cases in Denver (Durán, 2016). The Justice Department’s initiative to collect data on use of force by law enforcement can begin the much-needed process to increase understanding, but data collection needs to move beyond simply capturing official justifications. As social protests erupt nationwide, our society must do something to address a problem that continues to challenge whether we live in a democracy.

So where do we begin to change things? Some might argue it begins with improving the life experiences of our youth. Data regarding the school-to-prison pipeline contributes to a concern that patterns of institutional racism begin at an early age, and the study of disproportionate minority contact has been one of the most direct ways to assess whether there is overrepresentation of youth of color in a particular state and then implementing best practices to reduce it. From these data, we often find Blacks and Latinos overrepresented in arrests, referrals, cases resulting in secure confinement, and cases transferred to adult court. They were also least likely to have their cases diverted, which is a preferential outcome in the juvenile justice system. National data on Native Americans was more mixed, but several studies found overrepresentation at the middle

stages (cases involving secure detention). Attempting to address inequality at the point of our youth is a good faith effort, but it appears some states are more invested than others, and White youth continue to receive preferential treatment through the process of diversion.

In summary, studying some of the most institutionalized efforts against people of color and marginalized groups in the forms of aggressive policing, higher levels of juvenile justice and criminal justice inclusion, along with legitimated forms of state violence continues to produce a psychological ambiance of pessimism. Nevertheless, members of my community hold onto strategies of resistance and agitation that have provided hope to colonized people for centuries. The current presidential election of Donald Trump does not provide me any greater comfort nor does the reporting of White males and White females voting overwhelmingly in support of this Republican candidate and Blacks and Latinos voting for the Democratic candidate. Some patterns are a repetition of history whereas other events seem to usher in a new age of propaganda and hate. The purpose of my essay is to remind the ACJS membership of the central importance of racial and ethnic inequality in the criminal justice system and how solutions require advocacy. It is duly noted that many of our institutions replicate practices that produce inequality with or without intentions to cause harm. During this time, many academics remain consumed by analyzing criminality while at the same time failing to place such arguments in a larger racialized and historical context of inequality. Thus, while many criminologists look at the symptoms of the problem, they fail to examine the root causes. Sometimes I worry the lives of most criminologists are too far removed from the social worlds they study and

practitioners are kept too embedded in a role that prevents tinkering and punishes “whistle blowing.” It is my hope that forms of social justice will persist and such efforts will continue to inform whether we live in an era of a “dream” as expressed by Dr. Martin Luther King or a “nightmare” as articulated by Malcolm X, and hence, the necessary level of resistance required to respond to such a moment in time.

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