Criminological Highlights

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Criminological Highlights is designed to provide an accessible look at some of the more interesting criminological research that is currently being published. Each issue contains "Headlines and Conclusions" for each of 8 articles, followed by one-page summaries of each article.

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This issue of *Criminological Highlights* addresses the following questions:

1. Can we identify who is likely to become a high rate offender?
2. What do research findings suggest would constitute sensible responses to offending by youths?
3. What can the police do to improve the public's trust and confidence in them?
4. Why do people confess to crime they haven't committed?
5. Can effective programs be designed to reduce reoffending by young violent men being released from jail?
6. When are the judicial decisions of women likely to differ from those of men?
7. Are all police cautions equally effective?
8. Why would legally excluding someone from entering a McDonald's franchise trigger that person's exclusion from a nearby mortuary?

It is impossible to predict at an early age who will turn out to be a 'high rate' or serious offender. What can be predicted is that people become less likely to re-offend as they grow older no matter what their early pattern of offending looks like.

The results are consistent with previous findings demonstrating the futility of trying to predict in advance which offenders are likely to be high rate or chronic offenders. Although certain factors (e.g., low intelligence and psychological instability) predict early onset and chronic offending to some extent, the ability of factors such as these to identify high rate offenders is extremely limited. Hence policies based on early identification and treatment (or incapacitation) of high rate offenders are doomed to failure.

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The ways in which communities respond to offending by young people typically do not reflect what is known about youth crime.

These findings "highlight the importance of case work [with youths] focused on welfare needs and of educational inclusion rather than more narrowly circumscribed criminogenic needs…" (p. 200). In political debates it is often suggested that there is an "irreconcilable tension between tackling the broader needs of young offenders and delivering justice for communities and for victims of crime… [Clearly] these are not alternative strategies…" (p. 202). Providing reasonable policies for youth serves community *and* victims' interests.

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When the police directly provide citizens information about neighbourhood crime and disorder issues their reputation is enhanced.

Clearly the dissemination by the police of specific information about crime and disorder and police activities in local areas can affect the public's assessment of the police. At the same time, "there is an inherent risk that successes [in these communications] will be exaggerated and… that failures will be [ignored]" (p. 508). In the newsletters distributed by the police in this study, the information was designed to be directly relevant to local residents. It was not general 'public relations' information about the police.

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The reasons people confess to crimes they haven't committed are now known. Knowledge of the relevant factors can be used to reduce the likelihood of a false confession and to identify cases in which they are more likely to occur.

In the end, the problem with false confessions is that "once a suspect confesses, police often close their investigation and deem the case solved" (p. 23). Police – like non-police – have been shown to be quite poor in determining whether someone is telling the truth. Given that the conditions likely to lead to false confessions are known, it is possible both to reduce their numbers and to provide police, prosecutors, and courts with information that will allow them to make more accurate decisions on the basis of confessions that are made.

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The recidivism rate of young violent men who are released from prison can be reduced.

Compared to many correctional programs, this program was unusual on at least two dimensions: It targeted difficult offenders who were expected to have a relatively high recidivism rate and, similar to some other programs for offenders who are a concern to many citizens (e.g., see *Criminological Highlights,* 9(3)#6, 11(2)#6), it was very intensive. Nevertheless, it does demonstrate that programs aimed at those released from prison on some form of conditional release can be effective.

In criminal cases, decisions by U.S. federal female judges are more likely to favour the accused if the judge hears cases in a city with large numbers of other female federal judges.

This study suggests that the impact of appointing judges with varying backgrounds and perspectives may depend on the representation of members of that group at the court location in which they work. Gender differences between men and women judges who were all making *individual* decisions about criminal cases only became evident when there were more than a handful of other women judges working in the same building. It may be that the impact of diversity of judicial appointments more generally (on racial, ethnic, or ideological dimensions) will only become evident as their numbers, in specific locations, exceed a critical number. Token appointments, it would appear, will not be sufficient for diversity of backgrounds to make a difference.

Canadian police services use a wide variety of different wordings when cautioning those facing interrogation. These cautions vary considerably in their verbal complexity and the ability of listeners to understand their meanings.

A caution given to a person who is being arrested or interrogated is only effective if its meaning is understood. This paper suggests that some Canadian police services have been more successful than others at developing effective cautions. More importantly, perhaps, this paper suggests that police services (or governments) could, if they were interested, develop *and test* the effectiveness of their warnings. This process is straightforward, but not necessarily easy. For example, the "model" warning created by the authors of the paper was not as effective, *on some criteria,* as warnings currently in use.

Banishing people from certain areas of cities, without the need for a formal determination of wrongdoing, has become a new way of controlling those deemed to be disorderly.

Banishment orders are justified as methods of creating order. But for the banished, "Being excluded was often a powerful emotional experience, one that confirmed their sense that they were no longer considered citizens, even fully human, by other residents of Seattle…. The use of [these orders] rendered the lives of some of Seattle's most vulnerable residents more difficult and precarious. The insistence that these exclusion orders are nonpunitive in nature is thus in marked tension with the experiences of the banished" (p. 34). There was, on the other hand, no evidence that banishment had any positive impact on those subject to them or the community at large.

It is impossible to predict at an early age who will turn out to be a 'high rate' or serious offender. What can be predicted is that people become less likely to re-offend as they grow older no matter what their early pattern of offending looks like.

There is a good deal of research demonstrating that offenders are typically relatively young and that even relatively high rate offenders eventually slow down or stop offending (see, e.g., *Criminological Highlights* 6(4)#3). However, some policy makers appear to believe that because, in retrospect, it can be shown that a small portion of the population was responsible for a disproportionate amount of past offending, early identification and incapacitation of high rate offenders would be an effective crime control strategy. Such a belief is based on a lack of understanding of the problem of predicting rare events.

This paper focuses on an interesting sample: all of those convicted of criminal offences in the Netherlands in 1977. It then examines their previous offending patterns as well as their offending for the next 25 years. From a practical perspective, then, it allows one to answer two questions: (1) What are the various 'patterns' of offending of those who are in contact with the criminal justice system? (2) Can one predict with any useful level of accuracy who, in the future, is likely to be a high rate offender?

Starting with those who were convicted in 1977, and looking back to records of offending from age 12 onwards and forward for decades, there was, not surprisingly, a relatively early peak in the overall offending rate of this group in the late teens and early 20s and a gradual dropoff after that. The rate of violent offending was, as is normally the case, somewhat flatter, but did show a gradual decrease with age. Those offenders whose offending careers began relatively early in life (age 15 or younger, or, in a separate analysis, age 13 or younger) obviously had, overall, higher rates of offending. However, the shape of the curve was the same as that of other offenders:

peaking in early adulthood followed by a decline thereafter. Similar declines were found for those who were early and high rate offenders: rates of offending dropped off after the late teens or early 20s.

When offenders were divided into four groups (according to their patterns of offending) there were some differences across groups. Chronic offenders (the 4% of the group with relatively high rates of offending throughout their 20s and 30s), were more likely to have started offending early in life at a high rate, to have a low IQ, and to have been assessed as unstable psychologically. One might think, therefore, that they could be accurately identified in advance. That turns out *not* to be the case.

In a two stage validation study, a descriptive model identified a small group of 'low rate offenders' (14% of the total sample) – those who continue offending at a low rate for relatively long periods of time. However, the best predictive model that would have been available to identify them would have picked out only 3 out of 328 of them. More important was the inability to identify the 'chronic offenders' – those with relatively high

rates of offending for long periods of time. Of the 84 who were identified as such on the basis of actual offending patterns over their whole lives, only two could have been identified in advance using the best predictive model that would have been available when they were young.

Conclusion: The results are consistent with previous findings demonstrating the futility of trying to predict in advance which offenders are likely to be high rate or chronic offenders. Although certain factors (e.g., low intelligence and psychological instability) predict early onset and chronic offending to some extent, the ability of factors such as these to identify high rate offenders is extremely limited. Hence policies based on early identification and treatment (or incapacitation) of high rate offenders are doomed to failure.

Reference: Bersani, Bianca E., Paul Nieuwbeerta, and John Laub (2009) Predicting Trajectories of Offending over the Life Course: Findings from a Dutch Conviction Cohort. *Journal of Research in Crime and Delinquency, 46* (4), 468-494.

The ways in which communities respond to offending by young people typically do not reflect what is known about youth crime.

Western countries vary considerably in the manner in which they respond to offending by young people. In addition, communities vary in the programs and policies that they have in place that have an impact on youth crime. This paper examines four lessons that should be learned concerning the manner in which juvenile justice systems might be structured. The 'lessons' are based on the findings of a large study of Edinburgh youth that examined, among other things, self-reported offending.

The first important fact youth justice systems need to take into account is that "persistent serious offending is associated with victimization and social adversity" (p. 185). Violent offenders, for example, were found to have been more likely to experience a range of problems prior to being identified as offenders. These included economic deprivations, problems at school, various health related problems (e.g., alcohol or drug use, self-harm) and crime victimization as children. The exact factors varied somewhat for girls and boys. Though some of these risk factors are structural (e.g., social deprivation), others relate to interactions with peers, families and other adults. These findings would suggest that if one were interested in reducing persistent serious offending, broad based interventions directed at improving the lives of children (generally) would be important.

Second, the study demonstrates that early intervention of at-risk children is not likely to be very helpful and may, in fact, *increase* the likelihood of offending. Only a third of those involved in persistent serious offending at age 17 (according to their self-reports) were ever known to the social work or youth justice systems. On the other hand, most of those who had been *convicted* of an offence by age 17 had been formally identified as being 'at risk' prior to age 15 and nevertheless ended up in the criminal justice system. Being identified as having problems does not mean that these problems can be eliminated. Indeed being labelled as an 'at-risk' child is likely to create a self-fulfilling prophecy. Of the 105 youths identified with behavioural problems by age 5, between a quarter and a third of them were persistent serious offenders between age 13 and 17.

Third, there are ways in which interventions might be effective. Early onset offenders who continued to offend after about age 15 differed from those whose offending rates decreased. One important difference related to their experiences at school. Being excluded from school at some point between age 13 and 15 appears to be a key way in which society can *increase* offending by those at risk. Formal involvement with the police also seemed to *increase* subsequent offending. Hence, as other studies have suggested, a focus on schools may be more effective than a focus on 'bad' youths and youth justice interventions.

Finally, diversionary strategies facilitate (or, minimally, do not inhibit) the process by which youths stop offending. Because police in Scotland often (but not always) divert youths away from the formal youth justice system, the study was able to examine the impact of formal contact with the youth justice system, while controlling for previous contact with the police and earlier involvement in crime. "The deeper young people who were [known to the police] penetrated the youth justice system, the more likely it was that their pattern of desistance from involvement in serious offending was *inhibited*" (p. 198).

Conclusion: These findings "highlight the importance of case work [with youths] focused on welfare needs and of educational inclusion rather than more narrowly circumscribed criminogenic needs…" (p. 200). In political debates it is often suggested that there is an "irreconcilable tension between tackling the broader needs of young offenders and delivering justice for communities and for victims of crime… [Clearly] these are not alternative strategies…" (p. 202). Providing reasonable policies for youth serves community *and* victims' interests.

Reference: McAra, Lesley and Susan McVie (2010). Youth Crime and Justice: Key Messages from the Edinburgh Study of Youth Transitions and Crime. *Criminology & Criminal Justice, 10* (2), 179-209.

When the police directly provide citizens information about neighbourhood crime and disorder issues their reputation is enhanced.

It is well-established that the police rely on the public for information in order to carry out policing responsibilities successfully. Such a statement implies, however, that direct communication of information about crime is only in one direction – from the citizen to the police. At the same time, however, "Trust, confidence, and legitimacy [with respect to the police] are … vital not only on normative or ethical grounds but because they foster support and cooperation. The extent to which people have trust in the police and [view the police as being legitimate] will impact on their propensity to cooperate with, and defer to, officers across the whole range of policing activity…. Trust and legitimacy are developed through and expressed by police activities – treating people with fairness, dignity and respect – that communicate to people shared group membership with the police" (p. 492).

This study looks at a simple question: How can the police communicate effectively with the public in such a way that their reputation among members of the public is enhanced? Separate and distinct newsletters for each of three London (England) wards were developed. These came directly from the police and contained information about local crime and disorder issues and outlined what steps the police were taking to deal with these concerns. The communications made it clear that the police were aware of local issues. Details about how people could talk to the local police team were included. The overall purpose of the newsletter was not to 'educate' the public about the police. Rather it was designed to inform people about what the police were doing at the local level.

The newsletter was distributed in three London wards (the test wards) during another larger survey such that, on a random basis, one group of citizens was interviewed prior to the distribution of the newsletter and another group was interviewed afterwards. In addition, people in four separate 'control' wards were interviewed at the same times to ensure that changes could not be attributed to events that might occur around the same time as the distribution of the newsletter from the police.

Overall confidence that the police were doing a good job in the local area increased in the wards in which the newsletter had been distributed. Confidence in the police did not change in the control wards. Similar results were found (improvement in the test wards but not in the control wards) for 'police community engagement' (whether the police can be relied on to be there when needed; views that the police understood the community, etc.).   In both the test and control wards, ratings of police effectiveness decreased, but the decrease was considerably larger in the control wards. This overall drop appears to have occurred because of accusations of racism and news stories about stabbings that appeared in the London newspapers. What is important, however, is that the decrease in police effectiveness was less for the test wards than in the control wards. There was no effect on the perception of police fairness,

which may be because this dimension was not relevant to the message in the newsletter and that the public assesses this on the basis of direct (or vicarious) contact with the police.

Conclusion: Clearly the dissemination by the police of specific information about crime and disorder and police activities in local areas can affect the public's assessment of the police.   At the same time, "there is an inherent risk that successes [in these communications] will be exaggerated and… that failures will be [ignored]" (p. 508). In the newsletters distributed by the police in this study, the information was designed to be directly relevant to local residents. It was not general 'public relations' information about the police.

Reference: Hohl, Katrin, Ben Bradford, and Elizabeth A. Stanko (2010). Influencing Trust and Confidence in the London Metropolitan Police: Results from an Experiment Testing the Effect of Leaflet Drops on Public Opinion. *British Journal of Criminology, 50*, 491-513.

The reasons people confess to crimes they haven't committed are now known. Knowledge of the relevant factors can be used to reduce the likelihood of a false confession and to identify cases in which they are more likely to occur.

It is estimated that about a fifth of convictions of those subsequently exonerated as a result of DNA evidence are based on false confessions or admissions. Indeed, false confessions are among the leading causes of wrongful convictions, the others being eyewitness misidentification, faulty forensic science, and false informant testimony.

The problem of false confessions starts with the fact that interrogations by police are not generally designed to discern the truth, but rather to "elicit incriminating statements, admissions, and perhaps a full confession in an effort to secure the conviction of offenders" (p. 6). Interrogation methods are "stress-inducing by design – structured to promote a sense of isolation and increase the anxiety and despair associated with denial relative to confession" (p. 6). Said differently, interrogations are designed to induce defendants to say what the police want them to say, not to tell the police what happened. Warnings concerning the right to silence have not been shown to reduce the incidence of confessions, in part because many accused people, especially adolescents, do not adequately apply the warning to their own situations. False confessions appear to be most likely to be given by youths and those suffering some form of mental impairment.

"Today's interrogators seek to manipulate a suspect into thinking that it is in his or her best interest to confess" (p. 12) in one of two ways: by using a "cluster of tactics designed to convey the interrogator's rock-solid belief that the suspect is guilty and that all denials will fail" and/or by "providing the suspect with moral justification and face-saving excuses for having committed the crime in question" (p. 12). These techniques may or may not involve deception.

Three risk factors have been identified for false confessions: First, long interrogation times (typically, obviously, in unfamiliar settings and isolated from all external contact). Second, the presentation of false evidence that drives people to see a particular outcome as inevitable. "At times, American police will overcome a suspect's denials [of guilt] by presenting supposedly incontrovertible evidence of his or her guilt… even if such evidence does not exist. In the U.S. it is permissible for police to outright lie to suspects about the evidence… – a tactic that is recommended in training [manuals]" (p. 17). Evidence from controlled experiments and from studies of actual interrogations support the conclusion that false evidence can increase dramatically the rate of false confessions. Third, it would also appear likely that "people who stand falsely accused tend to believe that truth and justice will prevail and that their innocence will become transparent to investigators, juries, and others" (p. 22). Innocent people, therefore, are to be more likely to waive their rights of silence and to submit 'voluntarily' to interrogation. "People have a naïve faith in the power of innocence to set them free" (p. 23), and therefore say whatever is necessary to end a stressful interrogation assuming that others will be able to see that the confession is false. Ironically, of course, this means that those who have *most* faith in the fairness of the criminal justice system are, in fact, *most* vulnerable to its errors.

Conclusion: In the end, the problem with false confessions is that "once a suspect confesses, police often close their investigation and deem the case solved" (p. 23). Police – like non-police – have been shown to be quite poor in determining whether someone is telling the truth. Given that the conditions likely to lead to false confessions are known, it is possible both to reduce their numbers and to provide police, prosecutors, and courts with information that will allow them to make more accurate decisions on the basis of confessions that are made.

Reference: Kassin, Saul M., S.A. Drizen, T. Grisso, G. H. Gudjonsson, R. A. Leo, and A. D. Redlich. (2010). Police-Induced Confessions: Risk Factors and Recommendations. *Law and Human Behavior, 34*, 3-38.

The recidivism rate of young violent men who are released from prison can be reduced.

Although imprisoning offenders is seen by many politicians to be a good way to reduce crime, it has three large problems: it is expensive and inefficient (see, e.g., *Criminological Highlights*, V3(1)#1); it may increase subsequent offending (e.g., *Criminological Highlights 11*(1)#1, 11(1)#2); and eventually most prisoners are released. This paper addresses the third problem: what can be done to reduce subsequent offending by serious violent offenders being released from jails.

The Boston Reentry Initiative (BRI) initiates contact with jailed inmates within 6 weeks of their entering the Suffolk County House of Correction. Inmates are chosen for the project on the basis of assessments (objective and subjective) that they are at high risk of involvement in violent crime upon release. Factors used to choose candidates included current offence, arrest history, gang membership, whether the inmate is from a violent neighbourhood or is seen to be likely to be involved in firearms incidents in the future.

While in jail, inmates meet with representatives of criminal justice agencies (e.g., prosecution, probation, parole departments), social service agencies, and faith-based organizations. The representatives of these organizations explain the services they could provide inmates upon release. Inmates are then assigned staff caseworkers and faith-based mentors from the community. Mentors' salaries are paid by the program and typically stay connected with BRI participants for 1-1.5 years. A plan for release is developed for each inmate, and enrolments in programs (in jail) are

chosen to meet each inmate's needs. On release, arrangements are made for the inmate to be met by a family member or a mentor at the door of the jail.

In this study, the average inmate, upon release, had 7.3 contacts with mentors and about 40 hours of programming in the community. Services in the community included such matters as obtaining shelter, clothing, a job, counselling, etc. Inmates were steered to 'community partners' (e.g., career centres, half-way houses) that had proved to be successful in linking inmates to jobs and communities. A somewhat imperfect control group was created consisting of jailed inmates who were matched to the treatment inmates on their propensity-to-offend scores (based on age, race, current offence, criminal history, and gang involvement).

Within a year of release 20% of the BRI participants and 35% of the comparison group had been arrested for a violent crime. 36% of the BRI participants and 51% of the comparison group were arrested for any crime within a year. These

differences – less offending by program participants – were evident two and three years after release.

Conclusion: Compared to many correctional programs, this program was unusual on at least two dimensions: It targeted difficult offenders who were expected to have a relatively high recidivism rate and, similar to some other programs for offenders who are a concern to many citizens (e.g., see *Criminological Highlights,* 9(3)#6, 11(2)#6), it was very intensive. Nevertheless, it does demonstrate that programs aimed at those released from prison on some form of conditional release can be effective.

Reference: Braga, Anthony A., Anne M. Piehl, and David Hureau (2009). Controlling Violent Offenders Released to the Community: An Evaluation of the Boston Reentry Initiative. *Journal of Research in Crime and Delinquency, 46* (4), 411-436.

In criminal cases, decisions by U.S. federal female judges are more likely to favour the accused if the judge hears cases in a city with large numbers of other female federal judges.

It has long been suspected that characteristics of judges have some effect on the decisions that they make. Thus, for example, there is some evidence that in certain types of cases, the decisions by women are somewhat different from the decisions made by men in comparable cases. This paper examines the possibility that women will only make judicial decisions that are different from those made by men when there is a critical mass of other women judges in the same workplace.

The theory behind this hypothesis is straightforward: an isolated woman will be influenced largely by those around her. But "once a certain level of minority representation… has been reached, group interactions will change and substantive differences in the behaviour of the involved groups will begin to emerge…. Once minority groups reach [a] critical mass, their members will become more assertive in their shared interests and perspectives, and, consequently exhibit more distinctive behaviour" (p. 264).

The study looks at decisions made by federal (district) court trial judges between 1977 and 2000 that were published in the *Federal Supplement*. Cases that are published are "intended to reflect those disputes that have substantial import beyond the parties to litigation" (p. 276) and are therefore more likely to involve 'legal' than 'factual' matters. In criminal cases, the outcome was coded as favouring the accused ('liberal decisions') or favouring the prosecutor ('conservative decisions'). (Other types of cases (civil rights and labour/economics) were also examined, but won't be discussed

here). Various control variables were used including an estimate of the judge's ideology (based on the political views of those responsible for the appointment), the ideological orientation of the appeals courts under which each judge operates, and whether the judge was a member of a minority group.

Judges' own ideologies had a clear impact: judges estimated to be more conservative were more likely to favour the prosecution. Minority judges were more likely to render liberal decisions than were white judges. Holding all other variables constant, it was found that as the number of female judges in a specific court location increased, female judges became more likely to hand down decisions favouring the accused . For criminal matters, there was no difference between the decisions of male and female judges if only one or two female judges worked at a particular location. However, "at a court [location] with four women, a female judge is 7% more likely to render a liberal decision compared to a male jurist" (p. 273). In a court location with 8 female judges it was estimated that a

female judge is 20% more likely to make a decision favouring the accused than a male judge.

Conclusion: This study suggests that the impact of appointing judges with varying backgrounds and perspectives may depend on the representation of members of that group at the court location in which they work. Gender differences between men and women judges who were all making *individual* decisions about criminal cases only became evident when there were more than a handful of other women judges working in the same building. It may be that the impact of diversity of judicial appointments more generally (on racial, ethnic, or ideological dimensions) will only become evident as their numbers, in specific locations, exceed a critical number. Token appointments, it would appear, will not be sufficient for diversity of backgrounds to make a difference.

Reference: Collins, Paul M., Jr., Kenneth L. Manning, and Robert A. Carp (2010). Gender, Critical Mass, and Judicial Decision Making. *Law and Policy, 32* (2), 260-281.

Canadian police services use a wide variety of different wordings when cautioning those facing interrogation. These cautions vary considerably in their verbal complexity and the ability of listeners to understand their meanings.

Canadian police are required to tell those who are facing a police interrogation that they have the right to remain silent and they have the right to consult a lawyer. Accused people can waive these rights if they have been informed that they have these rights and if they appreciate the consequences of waiving them. However, there does not appear to be a standard warning that is given to accused people across the country. Individual police departments (or provincial bodies) have developed their own warnings. This paper examines warnings used by Canadian police services with a goal of understanding whether the variation in the wording of the warnings might be associated with variation in the ability of Canadians to understand and appreciate the meaning of these warnings.

American research has demonstrated that the so-called *Miranda* warnings vary considerably in their length, readability, complexity, their use of unusual words, as well as the length and complexity of the sentences. Using cautions collected from across Canada, the first step in this study was to examine the cautions for "readability." Perhaps the most frequently used technique for this is the "Flesch-Kincaid" score – an estimate of the (English language) reading level necessary to understand the warning. It has been suggested that no higher than a Grade 6 reading level should be acceptable for these warnings (i.e., that a person who could read at the Grade 6 level or higher would be able to understand the warning).

Using this standard most of the right-to-silence cautions (15 of the 19) were found to be acceptable. What is interesting, however, is the variability: it was estimated that someone with slightly higher than a Grade 5 level could understand the Halifax right-to-silence caution, whereas a person

would need more than a Grade 8 education to understand the British Columbia caution. There was similar variation on the right-to-legal counsel cautions. It was estimated that a Grade 5 education was sufficient to understand the Charlottetown Police Department's caution, whereas more than a Grade 8 education was needed to understand Calgary's caution.

A limited number of cautions concerning the right-to-legal counsel were compared by having these cautions read to undergraduate students in Canada. Once again, the most important finding was that there was variability across cautions in how complete the students' understanding was of the various warnings. On some criteria, relatively few people understood the meaning of the warning; and on other criteria, there were large differences across different wordings.

Conclusion: A caution given to a person who is being arrested or interrogated is only effective if its

meaning is understood. This paper suggests that some Canadian police services have been more successful than others at developing effective cautions. More importantly, perhaps, this paper suggests that police services (or governments) could, if they were interested, develop *and test* the effectiveness of their warnings. This process is straightforward, but not necessarily easy. For example, the "model" warning created by the authors of the paper was not as effective, *on some criteria*, as warnings currently in use.

Reference: Eastwood, Joseph, Brent Snook, and Sarah J. Chaulk (2010). Measuring Reading Complexity and Listening Comprehension of Canadian Police Cautions. *Criminal Justice and Behavior, 37* (4), 453-471.

Banishing people from certain areas of cities, without the need for a formal determination of wrongdoing, has become a new way of controlling those deemed to be disorderly.

"Recently… social control strategies aimed primarily at spatial exclusion have enjoyed a surprising renaissance" (p. 2). These strategies are enabled by legal tools that allow police and others to issue orders which exclude certain people from certain areas of cities. Like 'anti-social behaviour orders' in England (see *Criminological Highlights* 10(5)#7) or a Chicago law making it an offence to remain in any one place without apparent purpose (*Criminological Highlights* 10(4)#3), the violation of these banishment orders may lead to serious consequences, even though there are no due process safeguards on the original placement of these orders or on their enforcement. They appear to be based on two notions. First, these strategies seem to assume that if one can push or keep an 'undesirable' person out of an area, the problem will disappear. Second, they seem to assume that there are no undesirable consequences of doing so.

This study examines laws in Seattle, Washington, that, among other things, allow police officers to prohibit people from certain properties (e.g., parks) for up to a year if the police see someone using the facility "without legitimate purpose" (p. 7). More familiar to criminologists are the orders not to enter certain areas that those on parole, probation, or pretrial release often have placed on them. In some cities, for example, those under some form of criminal justice control are routinely ordered to stay out of areas in which drugs (or, depending on the case, prostitutes) can be found. In Seattle, designated "drug areas" constitute *all* of the downtown area and approximately half of the city's land mass.

One of the problems with these orders is their breadth. In Seattle, people banished from certain specific locations because they were found there 'without legitimate purpose' are banned from other specified commercial operations in that 'zone.' This can lead to peculiar results. A

resident banished from entering a McDonalds (perhaps because he overstayed his welcome in the McDonalds) can be automatically banished from a bank, a drug store, or mortuary down the street.

Interviews with 41 residents who were subject to one or more banishment orders demonstrated that about two thirds of those subject to banishment orders often violated their orders. The reasons were simple. Compliance with the order would have meant almost complete social exclusion for those subject to the orders. More generally, it would leave those with the least resources almost nowhere to go. For many, compliance with banishment orders would have meant that they were excluded from various social services (including in some cases food and shelter) that they depended on. For others it meant that they could not (legally) work. Non-compliance, however, had its costs: those subject to banishment orders were constantly avoiding being caught.

Conclusion: Banishment orders are justified as methods of creating order. But for the banished, "Being excluded was often a powerful emotional experience, one that confirmed their sense that they were no longer considered citizens, even fully human, by other residents of Seattle…. The use of [these orders] rendered the lives of some of Seattle's most vulnerable residents more difficult and precarious. The insistence that these exclusion orders are nonpunitive in nature is thus in marked tension with the experiences of the banished" (p. 34). There was, on the other hand, no evidence that banishment had any positive impact on those subject to them or the community at large.

Reference: Beckett, Katherine and Steve Herbert (2010). Penal Boundaries: Banishment and the Expansion of Punishment. *Law & Social Inquiry, 35* (1), 1-38.