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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. There are six issues in each volume. Copies of the original articles can be obtained (at cost) from the Centre of Criminology Information Service and Library. Please contact Tom Finlay or Andrea Shier.

Contents: "Headlines and Conclusions" for each of the eight articles. Short summaries of each of the eight articles.

Criminological Highlights is prepared by Anthony Doob, Tom Finlay, Rosemary Gartner, John Beattie, Andrea Shier, Carla Cesaroni, Carolyn Greene, Myles Leslie, Jane Sprott, Sara Thompson, Kimberly Varma, and Carolyn Yule.

Comments or suggestions should be addressed to Anthony Doob or Tom Finlay at the Centre of Criminology, University of Toronto.

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

1. Do Canadians *really* want mandatory minimum sentences?
2. Do laws that give prosecutors the power to try youth cases in adult court deter youth crime?
3. What do 'gangs' look like in Toronto, and are immigrants especially likely to be members of gangs?
4. What is the impact of taking a paid job while still in school on the likelihood that a 16-year-old will be involved in offending?
5. Do restrictions on where former sex offenders are allowed to live make sense?
6. Did the U.S. federal government's program of direct grants to police departments reduce crime?
7. What is the relationship, in the U.S., between support for harsh criminal justice policies and 'symbolic' racism?
8. Can judges eliminate the impact of inadmissible evidence by instructing jurors to ignore this evidence?

© Centre of Criminology, University of Toronto, Toronto, Ontario, Canada M5S 3H1

Telephone: 416/978-6438 x230 (Doob), 416/978-6438 x236 (Finlay) Fax: 416/978-4195

Electronic Mail: anthony.doob@utoronto.ca, tom.finlay@utoronto.ca Courier address: 130 St. George Street, Room 8001

Canadians do not want strict mandatory minimum sentences of the kind that exist in the Criminal Code of Canada. They prefer to leave some discretion with judges on whether the mandatory minimum sentence should be imposed.

It would seem that the Canadian public wants Parliament to give some guidance on sentencing. If told that there are only two choices – no guidance on minimum sentences or mandatory minimums – they will choose the latter. On the other hand, if the public is given a middle ground option of what is in effect a presumptive minimum sentence – an option similar to those available in other countries – Canadians clearly prefer a sentencing structure that blends guidance and discretion. Most Canadian politicians, however, in the past two years of minority governments, appear to have been too busy to listen carefully to Canadians to find out what kind of sentencing structure they prefer. The public, it would seem, agrees with most sentencing scholars that rigid sentencing structures are likely to create unnecessary injustices.

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Giving prosecutors the power to determine whether a youth is tried in youth or adult court has no deterrent impact on crime.

The U.S. Supreme Court, in a recent decision holding that youths under age 18 who commit homicide should not be executed, “restated the Court’s position... that the same characteristics which make juveniles less culpable than adults are the same characteristics that make them less susceptible to being deterred” (p. 1469). Given the almost complete absence of data supporting the presumed deterrent impact of ‘direct file’ waiver laws, it would seem that, once again, social scientists have demonstrated that politicians cannot reduce crime with simple deterrence-based legislative initiatives.

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Are immigrants responsible for youth gangs in Toronto?

Gang membership is more prevalent among the poor and certain disadvantaged racial minority groups. It is, however, more or less independent of current immigration status. “The implication is that social policies designed to reduce serious gang activity should target those disenfranchised segments of the population that suffer from the greatest levels of inequality and social disadvantage – regardless of immigration status” (p. 34).

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Controlling for pre-existing differences in their offending and substance use patterns, youths who start working at age 16 while still in school are not more likely than other youths to be involved in crime or drug abuse. For some youths, taking on work may reduce offending.

“The apparently harmful effects of intensive work [found in previous studies] appears to be largely due to pre-existing differences in the developmental trajectories of the problem behaviour of first-time intensive workers at age 16 compared with their counterparts who refrain from intensive work” (p. 87-8). Indeed, “working intensively may be helpful... for some youth who at any early age are at risk of antisocial behaviour” (p. 88).

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Residency restrictions imposed on sex offenders in the community make little sense.

The approach many jurisdictions take toward sex offenders who are not in prison is to look for ways of banishing them from ‘respectable’ communities. The idea seems to be to force former sex offenders to live elsewhere – but ‘elsewhere’ is not defined and may not exist. Generally speaking the restrictions that are placed on sex offenders are not tailored to the individual offender. Indeed they tend to be based on stereotypes (e.g., the out-of-control demon who will attack any attractive target) that have little basis in reality.

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Between 1995 and 2000 the U.S. Department of Justice dropped \$8.8 billion into local municipalities so that they could hire more police officers and improve community policing. These cash grants had no impact on crime.

Multiple analyses, looking at the data in various ways, failed to find evidence that federal government grants to local police forces for the purpose of hiring more police had any impact on crime. “It is not encouraging to find that some \$8 billion of taxpayer dollars may have done little reduce crime” (p. 183). On the other hand, the findings are not terribly surprising when one considers one other fact: Grants to these municipalities averaged only \$407,515 per year. This constitutes only about ½ of 1% of fiscal expenditures for policing in these communities. When one considers that few additional police officers can be hired with a grant of that size, and, therefore, the impact of such a grant on ‘police on the street’ at any given moment is tiny, it is not surprising that the grants had no impact on crime.

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Support for harsh criminal justice policies and opposition to preventive crime policies within the American white community are each associated with symbolic racism.

The findings suggest that “in a present-day society in which there is broad general support for abstract principles of racial equality..., the influence of racism remains important, even on ostensibly race-neutral issues like crime policy” (p. 449).

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Telling jurors to disregard inadmissible evidence does not erase its impact.

Taken as a whole, it is clear that judicial instructions do not effectively eliminate jurors’ use of inadmissible evidence. Juror non-compliance is particularly likely when a reason for rejection of inadmissible evidence is not provided or rejection of the evidence is justified with an unexplained technicality, or if the evidence was illegally obtained and [the judge simply indicates it] must be dismissed. In contrast, a smaller effect (greater impact of instruction) is apparent when judicial reasoning is provided [that describes the evidence] as unreliable, as hearsay, or as irrelevant to the case. The data indicate that jurors resist giving up evidence that they believe is probative” (p. 487).

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Canadians do not want strict mandatory minimum sentences of the kind that exist in the Criminal Code of Canada. They prefer to leave some discretion with judges on whether the mandatory minimum sentence should be imposed.

In Canada, as in the U.S. and other countries, legislators from various political parties have been enthusiastically implementing mandatory minimum sentences for certain serious offences. Although they often make the argument that these will reduce crime (by way of general deterrence), the evidence strongly refutes this argument (e.g., see *Criminological Highlights*, 1(6)#7, 3(4)#6, 6(2)#1). But politicians have another justification: they often suggest that the public wants mandatory minimum sentences. For these and other reasons, then, mandatory minimum sentences may be more effective politically than they are as crime prevention measures. It would appear, however, the public's support is more nuanced than the politicians would lead us to believe.

This paper looks carefully at public support for mandatory minimum sentences in the context of a larger inquiry into public attitudes to sentencing. Over the past 30 years, about 60-80% of Canadians have told pollsters that they want the courts to hand down harsher sentences. When asked which specific crimes are sentenced too leniently, about 80% of Canadians in a recent poll answered 'gun crimes.' These are interesting findings in a country in which there are no national sentencing statistics for crimes generally or for crimes involving firearms.

However, Canadians do not appear to be as enthralled with deterrence-based sentencing as some might expect. When asked to rate the importance that they would give to various sentencing purposes, Canadians' most popular choice was "making offenders acknowledge and take responsibility for crime." General deterrence ranked a distant fifth in Canadian citizens' priority of sentencing purposes.

Respondents to a nationally representative survey were given a detailed definition of 'mandatory minimum sentence' and then were asked to name which offences,

other than murder, had mandatory minimums. 43% could not name any of the 31 offences that carry mandatory minimums, and only 19% mentioned impaired driving offences. Only 6% mentioned any of the firearms offences that currently have these penalties. Nevertheless, 58% of the respondents in the national poll indicated that they thought mandatory minimum sentences were a 'good idea' – a finding that echoes similar research in the U.S. and Australia.

After being asked a number of other questions relating to mandatory minimum sentences, respondents were asked whether they "agree or disagree that there should be some flexibility for a judge to impose less than the mandatory minimum sentence under special circumstances" (p. 96). The results show "strong support for the concept of judicial discretion" (p. 96): 74% agreed with the idea (30% strongly agreed, and 44% somewhat agreed). Similarly, 72% agreed with the idea that a court should be allowed to impose a lesser sentence if the judge had to provide a written justification for a decision in which he or she goes below the mandatory minimum sentence. 68% agreed with the idea that judges should be able to sentence

below the mandatory minimum term "if Parliament had outlined clear guidelines for the exercise of discretion..." (p. 97).

Conclusion. It would seem that the Canadian public wants Parliament to give some guidance on sentencing. If told that there are only two choices – no guidance on minimum sentences or mandatory minimums – they will choose the latter. On the other hand, if the public is given a middle ground option of what is in effect a presumptive minimum sentence – an option similar to those available in other countries – Canadians clearly prefer a sentencing structure that blends guidance and discretion. Most Canadian politicians, however, in the past two years of minority governments, appear to have been too busy to listen carefully to Canadians to find out what kind of sentencing structure they prefer. The public, it would seem, agrees with most sentencing scholars that rigid sentencing structures are likely to create unnecessary injustices.

Reference: Roberts, Julian V., Nicole Crutcher and Paul Verbrugge. (2007) Public Attitudes to Sentencing in Canada: Exploring Recent Findings. *Canadian Journal of Criminology and Criminal Justice*, 49, 75-107.

Giving prosecutors the power to determine whether a youth is tried in youth or adult court has no deterrent impact on crime.

The use of adult court for juveniles is frequently seen as a solution to the problem of youth crime. However, various studies have shown that those youths who are tried in adult court are at least as likely to re-offend as are comparable youths tried in youth court (see *Criminological Highlights*, 1(3)#2, 1(5)#5, 2(4)#3, 3(5)#5, 5(5)#3). In addition, it has been shown that when legislatures make blanket decisions to exclude certain types of offenders from juvenile court, there is no general deterrent effect of this legislative change (*Criminological Highlights* 8(4)#7). This study examines the impact on crime of legislation that gives the prosecutor the power to decide, on a case-by-case basis, whether a case should be tried in juvenile or adult court.

These so-called 'direct file waiver laws' were, as of 2003, in place in 14 states and the District of Columbia. Typically, they are described as being a mechanism to achieve harsher penalties than would be handed out in juvenile court. It is not clear, however, whether youths who are 'waived' to adult court with such a mechanism are, in fact, punished more harshly. Nevertheless, the theory seems to be that youths will know that they will be tried in adult court if they commit certain serious offences and will be deterred from crime as a result.

This study looked at the impact on crime of the direct file laws in those 14 U.S. states in which they had been implemented. Using an interrupted time series design, the study separately examined each state's monthly violent crime juvenile arrest rate (as well as, in another set of analyses, the state's homicide rate). If an effect was found, then the same type of analysis was carried out on two nearby states that had not implemented 'direct file' or 'statutory exclusion' procedures. The period of time that was the focus of the study was a period of general decline in

arrests of juveniles for violent crimes. Hence, it was important that the study use statistical techniques that took into account these pre-existing trends and examined drops in crime that were larger than one would have expected, given the general decline already in place.

Looking at total crime, in 9 of the 14 states there was no effect whatsoever. In four states there was an *increase* in crime after the direct file provisions were brought in and in one state there was a decrease. When homicide was examined, the only significant change (in one of the 14 states) was an increase in one state. This increase, although immediate, was only temporary. Given that there was no explanation for these seemingly random effects (especially the increases in crime that coincided with the 'tough' laws), the conclusion that "direct file waiver laws have had little [deterrent] effect on violent juvenile crime" (p. 1467) appears to be a reasonable inference from the overall findings. Similarly, the conclusion that "there is no evidence in support of a deterrent effect on homicides committed by

juveniles resulting from direct file waiver laws" (p. 1466) flows directly from the findings.

Conclusion. The U.S. Supreme Court, in a recent decision holding that youths under age 18 who commit homicide should not be executed, "restated the Court's position... that the same characteristics which make juveniles less culpable than adults are the same characteristics that make them less susceptible to being deterred" (p. 1469). Given the almost complete absence of data supporting the presumed deterrent impact of 'direct file' waiver laws, it would seem that, once again, social scientists have demonstrated that politicians cannot reduce crime with simple deterrence-based legislative initiatives.

Reference: Steiner, Benjamin and Emily Wright (2006). Assessing the Relative Effects of State Direct File Waiver Laws on Violent Crime: Deterrence or Irrelevance? *Journal of Criminal Law & Criminology*, 96(4), 1451-1470.

Are immigrants responsible for youth gangs in Toronto?

Youth gangs in Toronto and other Canadian cities have received a lot of attention in the past few years, in part because of a relatively small number of highly visible violent acts. One problem in understanding the nature of gangs is that there is no single definition of what constitutes a gang (see *Criminological Highlights* 3(1)#5, 4(1)#8). What distinguishes a group of youths from a gang of youths?

This study surveyed approximately 3400 high school students and 400 youths living on the street in Toronto during a two year period ending in 2000. Consistent with census data for Toronto, almost half (46%) of the high school students were not born in Canada and about half of those born outside of Canada had lived in Canada for less than five years. Fewer than half (45%) identified their racial background as 'white' or European. Although 11% of the high school students and 27% of the street youth indicated that they had *ever* belonged to a gang, only 5.7% of the high school students and 16.4% of the street youths indicated that they were, at the time of the survey, gang members.

The term 'gang' generally implies involvement in criminal activity. One rarely, for example, hears references to a gang of violinists, bridge players or even NHL hockey players. However, of the 11% of high school students who indicated that they had at one point been a member of a gang, about a third – 3.5% of the total sample – indicated their involvement in the gang was only social. Indeed, about a quarter of the students who were *current* gang members appeared to be only involved in 'gangs' only for social rather than criminal activities. Although substantial portions of 'gang members' were engaged in illegal

activities within the gang context (e.g. 39% admitted to selling drugs, 40% engaged in property crime, 57% fought against other gangs) gang membership provided other benefits as well. Most (78%) of the gang members indicated that they used the gang for protection. Many gang members (64%) played sports, socialized (83%), or went to parties or clubs (73%) with other gang members.

Not surprisingly, current gang members were considerably more likely than former or social gang members to indicate that they had been victims of crime in the previous 12 months. In addition, although about a quarter of the former gang members or non-gang members reported that they had been in a physical fight in the last year, most (91%) current gang members reported having been in a fight.

Canadian-born high school students were more likely than foreign born students to report that they were currently members of gangs (5%, 4%, respectively). There were, however, group differences in the likelihood of involvement in gangs, with 8% of Black youth, 7% of Hispanic youth, 6% of Aboriginal youth but only 4% of white youths reporting criminal gang involvement. Furthermore, the longer immigrants had spent in Canada, the more likely it was that they had been involved in gang activities.

Nevertheless because of the size of the white community in Toronto, most gang members in Toronto (36%) are white, with 26% being black, and no more than 11% belonging to any of four other groups (Aboriginal, South Asian, Asian, or Hispanic). Blacks, Aboriginal, and Hispanic gang members were most likely to report being from poor families and/or living in public housing. Gang members were more likely than others to come from single parent households. In addition, gang members were more likely than others to believe that their group suffered from discrimination.

Conclusion. Gang membership is more prevalent among the poor and certain disadvantaged racial minority groups. It is, however, more or less independent of current immigration status. "The implication is that social policies designed to reduce serious gang activity should target those disenfranchised segments of the population that suffer from the greatest levels of inequality and social disadvantage – regardless of immigration status" (p. 34).

Reference: Wortley, Scot and Julian Tanner (2006). Immigration, Social Disadvantage, and Urban Youth Gangs: Results of a Toronto-Area Survey. *Canadian Journal of Urban Research*, 15(2), Supplement, 18-31.

Controlling for pre-existing differences in their offending and substance use patterns, youths who start working at age 16 while still in school are not more likely than other youths to be involved in crime or drug abuse. For some youths, taking on work may reduce offending.

Although 'getting a job' was once seen as an all-purpose cure for adolescent problems, research carried out in the past 20 years has suggested that taking on paid work may increase the likelihood of youths experiencing various social problems: absenteeism, doing poorly in school, and having a relatively high likelihood of involvement in delinquency and alcohol or drug use. The problem, of course, is that there are large pre-existing differences between those who work while still in high school and those who do not. These pre-existing differences may account for the relationship between being involved in paid work and delinquent behaviour.

This study controls for pre-existing differences in offending patterns by examining the 'trajectories' of substance use and criminal behaviour in a representative sample of American youths. They were interviewed repeatedly from age 11 to age 17. Youths were divided into four statistically distinct patterns – youths who were low rate offenders throughout the period ending at their 16th birthday, youths who started off as low rate offenders but soon increased their rates of offending somewhat, youths who started offending at a relatively high rate at age 11 but then showed declines, and youths who started their involvement in offending early and continued to increase their rates of offending until their 16th birthday. There were, then, four 'trajectories' of criminal behaviour, and four 'trajectories' for substance abuse resulting in a total of 16 groups when these two forms of behaviour were combined.

The study examined the offending pattern of those youths who had not worked prior to their 16th birthdays. The main comparisons were between

those who, shortly after their 16th birthdays, started paycheque-generating work averaging more than 20 hours a week and those who did not start working during the year following their 16th birthday. Without imposing any controls for pre-existing differences between these two groups, overall rates of offending and substance use were higher for those who were working. However, when the effect of the different patterns of offending were controlled for, and those who started working substantial numbers of hours after age 16 were, in effect, compared to others who had similar offending backgrounds but did not take on paid employment at age 16, there were no overall effects of working on crime or substance use.

Moreover, when looking at the group of youths whose offending started early and continued to increase until their 16th birthdays, taking on work at age 16 appeared to *reduce* their rates of offending. "These results suggest that the effect of intensive work during the school year may not be uniform, but it is dependent on the prior developmental history of the

worker. That is, the effect of work on subsequent behaviour depends on the youth's developmental history" (p. 84-5).

Conclusion. "The apparently harmful effects of intensive work [found in previous studies] appears to be largely due to pre-existing differences in the developmental trajectories of the problem behaviour of first-time intensive workers at age 16 compared with their counterparts who refrain from intensive work" (p. 87-8). Indeed, "working intensively may be helpful... for some youth who at any early age are at risk of antisocial behaviour" (p. 88).

Reference: Apel, Robert, Shawn Bushway, Robert Brame, Amelia M. Haviland, Daniel S. Nagin, and Ray Paternoster (2007). Unpacking the Relationship between Adolescent Employment and Antisocial Behaviour: A Matched Samples Comparison. *Criminology*, 45 (1), 67-97.

Residency restrictions imposed on sex offenders in the community make little sense.

“One of the most hotly debated issues in criminal law today is how to manage the perceived risk of sex offenders [who are living] in the community” (p. 317). Aside from concerns about the nature of their offences, sex offenders are believed to have very high rates of recidivism, notwithstanding the fact that their rates of recidivism are in reality no different from those of other offenders (see *Criminological Highlights*, 3(3)#3, 5(1)#4, 6(3)#3, 6(6)#8, 8(3)#8). Indeed, the level of concern about sex offenders appears to be higher than that associated with violent offenders, more generally.

One of the problems shared by all of the ‘special’ procedures for sex offenders is that most sex offences (notably those in which children are the victims) involve offenders known to the victim. Nevertheless, most of the special procedures that have been put in place in various jurisdictions implicitly assume that sex offences are committed largely by offenders not known by their victims. These include registries and public notification laws (see *Criminological Highlights* 4(1)#2, 5(6)#1), residence restrictions (*Criminological Highlights* 7(4)#4) as well as incapacitative approaches such as civil commitment (*Criminological Highlights*, 7(2)#7). This paper examines residence restrictions, noting that many of these restrictions are likely to impair safe reintegration of offenders into their communities.

Restrictions on where offenders can live – such as the restrictions in Illinois which prohibit offenders from living within certain distances of such institutions as schools or day care centres for the rest of their lives – mean that former offenders can be, and have been, restricted from living with their parents. In one Illinois case, a man who had been convicted of a sex offence in 1987 when he was 18 was charged in 2002 with violating a law the state had put in place in 2000. He was living with his mother in a house

owned by her that was within 500 feet of a school. Since his 1987 conviction, he had committed no further sex offences. He had lived in that house for all of his non-incarcerated life including about 10 years after his conviction. Appeals courts upheld the prohibition on him. Sex offenders are also prohibited from living in federally subsidized public housing.

These laws appear to be based on the assumption that sex offences against children largely involve offenders who are strangers to their victims and victims’ families, and that these strangers target children in their own neighbourhoods. However, studies suggest that between 60% and 90% of sex offences against children are committed by people known to the child. The laws also assume that sex offenders target children who live near them. One study of almost 500 ex-sex-offenders living in ordinary neighbourhoods found that none committed sex offences in their own neighbourhoods. A restriction on *residency* does not, of course, mean that an offender cannot travel to or through an otherwise restricted neighbourhood.

Depending on the size of the restrictions, substantial parts of cities can be out-of-bounds for ex-sex offenders. One consequence of

this is that sex offenders who try to live within these restrictive laws find themselves concentrated in those few neighbourhoods in a city that have both affordable housing and no schools, parks, playgrounds, daycare centres, etc., which form the basis of the restrictions. These tend to be very poor neighbourhoods. One such neighbourhood in Chicago has 10% of the *state’s* paroled sex offenders because it is one of the few in which these offenders can live legally.

Conclusion. The approach many jurisdictions take toward sex offenders who are not in prison is to look for ways of banishing them from ‘respectable’ communities. The idea seems to be to force former sex offenders to live elsewhere – but ‘elsewhere’ is not defined and may not exist. Generally speaking the restrictions that are placed on sex offenders are not tailored to the individual offender. Indeed they tend to be based on stereotypes (e.g., the out-of-control demon who will attack any attractive target) that have little basis in reality.

Reference: Daring, Caleb (2006). Never Going Home: Does it Make Us Safer? Does it Make Sense? Sex Offenders, Residency Restrictions, and Reforming Risk Management Law. *Journal of Criminal Law & Criminology*, 97(1), 317-363.

Between 1995 and 2000 the U.S. Department of Justice dropped \$8.8 billion into local municipalities so that they could hire more police officers and improve community policing. These cash grants had no impact on crime.

Because policing, in some jurisdictions such as the U.S. and Canada, is largely controlled by local municipalities, the role of the national government in policing is limited. In the latter half of the 1990s, however, the U.S. federal government made about 30,000 grants to 12,000 police agencies, the purpose of which was largely to hire approximately one hundred thousand additional police officers.

Prior research results suggest that the funding did not put 100,000 more police on the streets. Furthermore, it is not clear that the grants program accelerated the community police movement. However, some preliminary studies suggested that the program *did* reduce violent and property crime. The challenge, in any such studies, is to control for other factors that may have accounted for the association between new federal funding and a drop in crime. One factor that had not been controlled for was pre-existing law enforcement expenditures: communities that, for one reason or another, funded their police forces generously, might show decreases in crime. This study examined the impact of these federal government grants on crime in large cities only (100,000 residents or larger), controlling for 'standard' correlates of crime (e.g., percents of the population who were age 18-24, poor, black, or living in a female headed household, etc.). Seven different crime figures were examined (murder, rape, robbery, assault, burglary, theft, and motor vehicle theft). The analysis took advantage of one important fact: these federal funds were not equally distributed across cities. Some cities received no federal funding, some

received a considerable amount of federal funding for additional police, etc.

The results demonstrate that there were no consistent effects of additional federal funding for police organizations on any of the crimes. Indeed, a large infusion of new federal funding to police forces was just as likely to be associated with more crime as it was with less crime. In other words, the grants to support local community oriented police "had no discernible effect on serious crime during the period covered by [the] analysis, after controlling for annual fiscal expenditures" (p. 170). Various statistical 'checks' on the findings were carried out to ensure that any impact of the grants program was not suppressed as a result of the particular type of analysis that was used, or because of a small number of very unusual effects in certain cities. None of these supplementary analyses challenged the main finding: the 8.8 billion dollar federal program of funding local police departments did not affect crime.

Conclusion. Multiple analyses, looking at the data in various ways, failed to find evidence that federal government grants to local police forces for the

purpose of hiring more police had any impact on crime. "It is not encouraging to find that some \$8 billion of taxpayer dollars may have done little reduce crime" (p. 183). On the other hand, the findings are not terribly surprising when one considers one other fact: Grants to these municipalities averaged only \$407,515 per year. This constitutes only about ½ of 1% of fiscal expenditures for policing in these communities. When one considers that few additional police officers can be hired with a grant of that size, and, therefore, the impact of such a grant on 'police on the street' at any given moment is tiny, it is not surprising that the grants had no impact on crime.

Reference: Worrall, John L and Tomislav V. Kovandzic (2007). Cops grants and crime revisited. *Criminology*, 45(1), 159-190.

Support for harsh criminal justice policies and opposition to preventive crime policies within the American white community are each associated with symbolic racism.

The media coverage of crime is often tinged with racism. A white victim of a violent crime committed by a black offender is often highlighted (e.g., Toronto's "Just Deserts" killing in the early 1990s or the killing of a young white woman in downtown Toronto in December 2005) but similar killings of black victims, or violent crimes committed by Whites, often receive less coverage. It is suggested that such coverage may support a particular kind of racism – symbolic racism – which, in turn, may lead to support for harsh criminal justice policies.

In contrast with overt racist behaviour, symbolic racism "stems from a blend of anti-Black affect and traditional values" (p. 438) in which Whites attribute high levels of violation of social norms to Blacks (e.g., on such dimensions as work ethic, respect for authority, self-reliance), and in which Whites view Blacks as getting too many special privileges. This study suggests that "symbolic racism is a key determinant of crime policy attitudes" (p. 439). Using data from white respondents to surveys carried out in Los Angeles in the late 1990s, support for tough criminal justice policies was assessed with questions related to the enforcement of the death penalty for persons convicted of murder and "three strikes" sentencing practices. Support for preventative policies was assessed with questions about reducing poverty and providing prison inmates with education and job training as ways of reducing crime.

In addition to symbolic racism, various other possible explanations for support for harsh criminal justice policies (and opposition to preventative policies) were measured, including the perceived seriousness of random street violence, political conservatism,

whether the respondent had been victimized, and the frequency with which the respondent watched local news. Respondents were also asked about their own theories of the causes of crime (e.g., breakdown of family structure, lack of good schools or jobs). Symbolic racism was assessed with such questions as "Blacks are demanding too much from the rest of society" and "Discrimination against Blacks is no longer a problem in the U.S."

When looking at support for punitive policies, the respondents' own explanations for crime correlated with support for such policies. Those who attributed crime to individual deficits (in contrast with structural difficulties such as lack of well-paying jobs) were more supportive of punitive crime policies. Similarly, those who described themselves as conservative and those who watched a lot of local news saw the crime problem as being more serious and in turn were more likely to support punitive policies. However, above and beyond these effects, those who scored high on 'symbolic racism' were more likely to support harsh policies. The effect of symbolic racism on endorsement of

punitive policies was especially strong for those whose income was lowest. Support for preventative policies came from those who attributed crime to structural problems and from those who saw crime as coming from such factors as the breakdown of the family. Political conservatives were less likely to support preventative policies. Once again, however, above and beyond these factors, those who were high on symbolic racism were less likely to support preventative policies.

Conclusion. The findings suggest that "in a present-day society in which there is broad general support for abstract principles of racial equality..., the influence of racism remains important, even on ostensibly race-neutral issues like crime policy" (p. 449).

Reference: Green, Eva G.T., Christian Staerkle, and David O. Sears (2006). Symbolic Racism and Whites' Attitudes Towards Punitive and Preventive Crime Policies. *Law and Human Behaviour*, 30, 435-454.

Telling jurors to disregard inadmissible evidence does not erase its impact.

When jurors hear evidence that is not legally admissible in court, they are sometimes instructed by the judge to ignore that evidence. Similarly, there are times when evidence (e.g., that a witness has previous criminal convictions) is admissible for one reason (e.g., to determine the credibility of that witness) but not for other reasons (e.g., to infer guilt of an accused with criminal convictions who testifies at his or her own trial). Legal writers have always been sceptical of the ability of jurors to ignore evidence because, as one American judge noted, it requires jurors to perform “a mental gymnastic which is beyond not only their powers but anybody’s...” (p. 470). At the same time, court decisions (in Canada, the U.S., and elsewhere) seem to assume that such instructions can remove any improper influence of such evidence.

This paper reviews 48 independent published research papers on the issue of inadmissible evidence, which report 175 separate tests of the impact of judicial instruction on verdicts. These studies were carried out in a number of countries including Canada, the U.S., and England. Obviously these studies vary considerably on such dimensions as the nature and size of the sample, the type of case, the nature of the evidence that was presented, and the country in which the study was carried out. It is not surprising, therefore, that in some instances the results were not entirely consistent. The statistical technique of meta-analysis – a method of combining the results from many studies – was used in order to draw overall inferences concerning the impact of inadmissible evidence and instructions to jurors on its use. The findings are as follows:

- It was clear that inadmissible evidence had an impact on the people participating in these jury simulation studies.
- In situations in which respondents heard inadmissible evidence and were given an admonition to disregard it,

the inadmissible evidence (typically pro-prosecution) still had a significant impact on juror verdicts. “The judicial instruction did not return verdicts to the level generated by jurors never exposed to the inadmissible evidence” (p. 477-8). Indeed there is some evidence that the judicial admonition, if anything, had the opposite impact from that which was intended (i.e., that the inadmissible evidence was given *more*, not less, weight when it was the focus of judicial instructions).

- The effect of inadmissible evidence was greater when the reason for inadmissibility was not explained to jurors.

Conclusion. “Taken as a whole, it is clear that judicial instructions do not effectively eliminate jurors’ use of inadmissible evidence. Juror non-compliance is particularly likely when a reason for rejection of inadmissible evidence is not provided or rejection of the evidence is justified with an unexplained technicality, or if the evidence was illegally obtained and [the judge simply indicates it] must be dismissed. In contrast, a smaller

effect (greater impact of instruction) is apparent when judicial reasoning is provided [that describes the evidence] as unreliable, as hearsay, or as irrelevant to the case. The data indicate that jurors resist giving up evidence that they believe is probative” (p. 487).

Reference: Steblay, Nancy, Harmon M. Hosch, Scott E. Culhane, and Adam McWethy (2006) The Impact on Juror Verdicts of Judicial Instructions to Disregard Inadmissible Evidence: A Meta-Analysis. *Law and Human Behaviour*, 30, 469-492.