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.

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

1. What kinds of after school programs reduce crime?
2. Do policies of arresting people for minor crimes prevent serious crimes?
3. What types of neighbourhoods are associated with low recidivism rates for those released from prison?
4. Can the number of wrongful convictions be reduced?
5. Why did Japan's imprisonment rate increase in the first decade of this century?
6. Do jurors understand the evidence in long complex fraud cases?
7. Is a sentence of 'life without parole' a sensible alternative to the death penalty?
8. Does family structure make a difference in the sentencing of domestic assault case?

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After-school programs *can* be effective in reducing crime, but many such programs are not.

All programs designed to address delinquency are not equal. Simply engaging youths in any activity does not necessarily have long term favourable consequences. In some communities, governments simply fund 'programs' without much attention paid to exactly what it is they are funding. Poorly organized programs, implemented without care, with non-professional staff would, it seems, be likely to lead to poor outcomes on a number of dimensions. The political challenge is not only to fund, and continuously evaluate, 'effective programs' but also to have the courage to stop funding programs simply because they 'look good.'

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A high rate of arrests for minor offences was associated with a small reduction in violent crime in New York City in the 1990s.

It appears that those precincts that implemented Order Maintenance Policing (OMP) faithfully were more likely to experience declines in homicide and robbery than were those precincts in which this policy was implemented less thoroughly. It is possible, of course, that these same precincts more faithfully implemented other policies that related to crime. What is clear, however, is that if OMP did have an impact, it was not responsible for most of the drop in crime in New York City.

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Black male offenders who are released from prison are more likely to re-offend when they re-enter communities with high levels of racial inequality.

"Prisoners are not released into a social vacuum…. The ability of released prisoners to desist from crime is affected not only by their own attributes, but by the characteristics of the broader social context they re-enter" (p. 427). "Black male recidivism is one cost society pays for racial inequality" (p. 428). Other findings suggest that it is inequality rather than absolute deprivation that is related to high rates of recidivism by Blacks. Since the *relative* ability of Blacks to get jobs and earn a satisfactory income is an important determinant of recidivism, the findings suggest that it is important to examine broad social policies, in addition to the characteristics of individuals, when trying to understand crime.

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We know enough about why people are convicted for crimes they did not commit to do something about it.

"Cases of wrongful conviction are invariably rooted in systemic failures…." (p. 483). The causes cross "diverse legal, political, and social environments." In order to address wrongful convictions one has to look at the immediate causes (e.g., mis-identification, dishonest testimony from a jailhouse informer, or false confessions) as well as the "environment that allows them to occur in the first place" such as "public pressures and intense media assaults on a case" (p. 485). In order to reduce the number of wrongful convictions, changes need to be made in "the way we investigate, prosecute, defend, and try criminal cases" (p. 486).

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A series of police scandals in Japan led to a change in the manner in which crime was officially recorded by police, which in turn led to the 'myth of the collapse of a secure society' and increasingly punitive public views and policies.

Although it would appear that Japan, compared to most western countries, has a very low crime rate, "the Japanese public has low confidence in its safety, a high level of fear of crime, and a very punitive attitude toward offenders. The high level of media focus on rising recorded crime and a campaign for victims' rights have contributed to these findings…. Criminal justice agencies, especially the police and the public prosecutors office have gradually lost their discretion in using informal procedures…." (p. 174).

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Jurors in at least one long complex fraud case appear to have been able to understand and evaluate the evidence that was presented to them. They could have used some help, however, with practical matters.

It would appear that courts could, if they wished, make it much easier for jurors in long trials. Cases like this one were found not to be overly complex nor was the evidence beyond the capability of the jurors to understand. Comprehension and memory problems were easily overcome by the fact that the jury acted as a group. Many of the practical problems for jurors could be overcome if the courts were more respectful of the jurors as participants in the criminal justice process rather than treating them as 'jury fodder'.

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The sentence of "life imprisonment without parole" creates a new set of problems that need to be considered.

The decision to shift from the death penalty or sentences that assume a possibility of returning to the community to life without parole is more than a simple change in the size of the maximum penalty available for an offender. Life without parole raises a whole new set of questions and concerns that should be addressed.

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Being part of an intact family in domestic violence cases affects sentencing.

It would appear that "courts are more likely to incarcerate offenders in intact relationships when the victim has suffered serious injuries… yet at the same time, courts appear to be reluctant to break apart these families for too long, with offenders in intact relationships receiving shorter sentences than offenders estranged from their victims, even controlling for the presence of injury" (p. 666). Employed (male) offenders also received shorter sentences, suggesting that the courts are responding, to some extent, to the immediate interests of the family.

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After-school programs *can* be effective in reducing crime, but many such programs are not.

Parents and policy makers often worry about what youths do after school and before they go home. Often the assumption is that almost any after-school program will be effective in reducing crime. Poorly executed research supports this notion in large part because if it focuses on those who voluntarily attend such programs, these are the youth who often are motivated to keep out of trouble.

Experimental research, however, has shown that only some programs are effective in reducing crime. Whether a program reduces offending appears to relate, to some extent, to the content and the intensity of the program. Previous research has suggested that programs focusing on social skills and character development, as well as smaller, more intensive, structured programs are more likely to reduce crime than programs that simply involve youths in various activities. Findings such as these are important, because it has occasionally been found that certain programs tend to *increase* youths' involvement in crime.

This study examines 35 after-school programs in Maryland. Self-report measures of involvement in drug use (the frequency with which participants had used various drugs) and delinquency (whether the youth had engaged in a variety of delinquent acts) were obtained. The main analyses were designed to determine which programs were most likely to reduce substance use and involvement in delinquent behaviours. A number of factors appeared to predict program effectiveness.

- More highly structured programs with a published curriculum were found to be more effective in reducing substance abuse, and, possibly, delinquency more generally.
- Having a high portion of staff with undergraduate degrees was also associated with lower levels of substance abuse and lower levels of general delinquency.
- A higher proportion of male staff (the average was about 24%) was associated with reduced delinquency and reduced victimization of the youths.
- Youths attending large programs were more likely to be involved in delinquency and, also, were more likely to be victims.

It is, perhaps, not surprising that "the use of published curricula, an alternative measure of program structure, produced significant reductions in substance use" (p. 310), nor is it surprising that programs with a more educated staff were more likely to be effective. It may be that a higher proportion of male staff running the program was associated with maintaining order in the program. The overall view that one gets is that more 'professional' programs (those with structured curriculum, educated male staff) were more likely to be effective in part because it was clear that these programs had a clear agenda and focused activities rather than simply filling the after-school hours with something that appeared to be good.

Conclusion. All programs designed to address delinquency are not equal. Simply engaging youths in any activity does not necessarily have long term favourable consequences. In some communities, governments simply fund 'programs' without much attention paid to exactly what it is they are funding. Poorly organized programs, implemented without care, with non-professional staff would, it seems, be likely to lead to poor outcomes on a number of dimensions. The political challenge is not only to fund, and continuously evaluate, 'effective programs' but also to have the courage to stop funding programs simply because they 'look good.'

Reference: Gottfredson, Denise C., Cross, Amanda, and Soulé, David A. (2007). Distinguishing Characteristics of Effective and Ineffective After-School Programs to Prevent Delinquency and Victimization. *Criminology and Public Policy, 6* (2) 289-318.

A high rate of arrests for minor offences was associated with a small reduction in violent crime in New York City in the 1990s.

New York City politicians and police officials have made themselves famous by suggesting that police policies that gave priority to "aggressively targeting so-called quality-of-life offences and arresting violators for vagrancy, loitering, prostitution, littering [and other minor offences]" (p. 356) were responsible for the reduction in serious crime that occurred in New York in the 1990s. The underlying theory was that arresting people for these matters "sends a message… that police are paying attention and will enforce community standards" (p. 356). Though few deny the fact that recorded crime in New York dropped, people disagree about whether order maintenance policing (OMP) was responsible for this drop.

A previous study (see *Criminological Highlights* V8N4#1) suggested that the apparent drop in overall violence was due to the fact that those locations in New York City with the biggest increase in crime in the late 1980s had the highest rate of OMP and the largest drop in crime. The suggestion was that the reduction was not due to the OMP but rather was a result of 'mean reversion': what goes up also comes down. This paper looks at two specific crimes – homicide and robbery – in part because rates of other violent crime (e.g., rape and assault) are more susceptible to problems of measurement. In addition, it used a different indicator of OMP – one that included violations of city ordinances as well as misdemeanours. In addition, other controls and somewhat different statistical techniques were used.

It is no wonder that New York City politicians claimed to have solved the crime problem: between 1990 and 2001, robbery and homicide rates dropped by about 76%. Though crime started dropping dramatically after 1990, the OMP arrests did not start increasing until 1994, levelling out in 1997. Nevertheless, the analysis presented in this paper suggests that there was a small impact of OMP on both homicide rate and robbery rate even after various relevant controls (e.g., amount of disorder, number of police officers, 1988 robbery or homicide rate) were taken into account statistically.

OMP activities were greatest, not surprisingly, in precincts with high growth in disorder (as measured by citizen complaints), number of police officers, drug use (measured by cocaine deaths) and high rates of felony arrests as well as in precincts with higher proportions of blacks and disadvantaged residents.

It appears that high rates of OMP were responsible for some of the decline in homicide and robbery rates. The decline in homicide and robbery rates was large: from 120 robberies per 100K residents in 1988 to 31.1 in 2001, and from 26.7 homicides per 100K residents in 1988 to 7.6 in 2001. OMP was estimated to have been responsible for some of this decline, but not a lot: about 4% of the decline in robbery rates and about 10% of the decline in homicide rates are estimated to be attributable to the increase in OMP.

Conclusion. It appears that those precincts that implemented Order Maintenance Policing (OMP) faithfully were more likely to experience declines in homicide and robbery than were those precincts in which this policy was implemented less thoroughly. It is possible, of course, that these same precincts more faithfully implemented other policies that related to crime. What is clear, however, is that if OMP did have an impact, it was not responsible for most of the drop in crime in New York City.

Reference: Rosenfeld, Richard, Fornango, Robert, and Rengifo, Andres F. (2007). The Impact of Order-Maintenance Policing on New York City Homicide and Robbery Rates: 1988-2001. *Criminology, 45* (2) 355-384.

Black male offenders who are released from prison are more likely to re-offend when they re-enter communities with high levels of racial inequality.

Research on offences committed by those released from prison has largely focused on the characteristics of those who are being released. At the same time, there is an increasing amount of research that suggests that, above and beyond the characteristics of an individual, the characteristics of a neighbourhood are important in understanding crime rates (see, for example, *Criminological Highlights*, V1N1#2, V8N1#5, V8N5#3). Combining these two sets of findings would suggest that the nature of the communities that prisoners return to may be important in understanding whether they re-offend.

This study focuses on a group with a high risk of recidivism – Black males – and addresses the question of whether recidivism rates for this group are highest when they return to communities with high levels of racial inequality. African Americans comprise about 13% of the U.S. population, but they make up nearly half of the U.S. prison population and nearly half of the offenders being released from prison. When released, their recidivism rates are somewhat higher than for other groups. One explanation for at least part of this higher rate might be that they are released into communities with high levels of poverty, inequality and crime (all factors that may promote recidivism).

This study looked at recidivism (defined as reconviction within a 2-year period) for 34,868 inmates (21,484 of them Black) who were released into 62 different Florida counties. Racial inequality was measured by examining the relative incomes, joblessness rates and poverty rates of Blacks and Whites in each county. Economic deprivation (across groups) was also examined, as were other characteristics of the counties such as (reported) crime rates, and the number of police officers per 100,000 residents. Characteristics of the individual offenders (e.g., criminal record and incarceration history) were also measured (in order to control for these factors).

Counties with high levels of racial inequality were more likely to have high Black recidivism. When the control variables were added to the analysis, the racial inequality of the county remained associated with higher recidivism rates. Obviously other individual factors (e.g., being young or having an extensive criminal record) also predicted recidivism. Interestingly, however, there was evidence that "racial inequality amplified the effects of criminal history on reconviction" (p. 427). However, as expected, racial inequality was not associated with white recidivism.

Conclusion. "Prisoners are not released into a social vacuum…. The ability of released prisoners to desist from crime is affected not only by their own attributes, but by the characteristics of the broader social context they re-enter" (p. 427). "Black male recidivism is one cost society pays for racial inequality" (p. 428). Other findings suggest that it is inequality rather than absolute deprivation that is related to high rates of recidivism by Blacks. Since the *relative* ability of Blacks to get jobs and earn a satisfactory income is an important determinant of recidivism, the findings suggest that it is important to examine broad social policies, in addition to the characteristics of individuals, when trying to understand crime.

Reference: Reisig, Michael D., Bales, William D., Hay, Carter, and Wang, Xia (2007). The Effect of Racial Inequality on Black Male Recidivism. *Justice Quarterly, 24* (3), 408-434.

We know enough about why people are convicted for crimes they did not commit to do something about it.

The first systematic attempt to understand why innocent people are convicted of criminal offences was published 75 years ago (Edwin Borchard *Convicting the Innocent*, 1932). Since that time, it has become clear in virtually all Anglo-based criminal justice systems that wrongful convictions are a predictable part of the operation of those criminal justice systems. The moratorium on executions declared by an Illinois governor in 2000 after an inmate was shown to be innocent 2 days before his scheduled execution date is but one high profile example of the scope of the problem.

Among the more frequent factors leading to wrongful convictions are the following. Often two or more factors combine to increase the likelihood of a wrongful conviction.

- Pressure on the police and prosecutor to 'solve' horrific crimes leads, sometimes, to inadequate investigation of evidence that might prove an accused not to be guilty. Obvious examples involve suspected terrorism, cases involving deaths, and cases involving serious harm to children. "Public outrage usually translates into media pressure on the police to solve the case. That, in turn, intensifies pressure on the investigators to identify a viable suspect, with speed becoming the overriding factor. Tunnel vision sometimes sets in…." (p 436).
- Mistaken identification. Even in circumstances in which witnesses work hard to attempt to remember characteristics of the offender, it has been shown that eyewitness testimony can be inaccurate. In various ways, the identification process used by police often could easily be improved. "The danger associated with this evidence is that it is deceptively credible, largely because it is both honest and sincere" (p. 445). Much has been written on this topic, and rules for police to avoid misidentifications exist (p. 449).
- Police error, including coerced confessions or overzealous or negligent investigations.
- Prosecution error, such as suppressing exculpatory evidence.
- Scientific evidence that can be shown to be inadequate but is "shielded from scrutiny by an ever-present aura of scientific certainty" (p. 415). Forensic witnesses sometimes have "taken on the role as a protagonist rather than a dispassionate provider of scientific information" (p. 415). This is especially problematic given that some "experts" are "far from expert" (p. 454), and their evidence is given "more weight than it deserves with the result that the evidence distorts the normal fact-finding process at trial" (p. 454-5). For example, one inquiry found that hair and fibre evidence often was so poor that it should not be received as evidence (p. 457). In other cases (in England and Canada), seriously flawed forensic evidence about the cause of death of infants has resulted in a number of wrongful convictions. In England and in Canada certain 'experts' have repeatedly played important roles in convicting innocent people before their expertise was officially questioned.
- Perjury, often from 'jailhouse informers' who have been described as being "the most dangerous of all witnesses" (p. 469)
- Inadequate defence work.
- False confessions – not only from accused with mental deficiencies, but from accused who did not appreciate the implications of what they were admitting.
- Inferences of guilt from previous convictions or from the decision of an accused not to testify.
- An unpopular defendant (e.g., members of racial minorities, or members of unpopular political groups).

Conclusion. "Cases of wrongful conviction are invariably rooted in systemic failures…." (p. 483). The causes cross "diverse legal, political, and social environments." In order to address wrongful convictions one has to look at the immediate causes (e.g., mis-identification, dishonest testimony from a jailhouse informer, or false confessions) as well as the "environment that allows them to occur in the first place" such as "public pressures and intense media assaults on a case" (p. 485). In order to reduce the number of wrongful convictions, changes need to be made in "the way we investigate, prosecute, defend, and try criminal cases" (p. 486).

Reference: Macfarlane, Bruce (2006). Convicting the Innocent: A Triple Failure of the Justice System. *Manitoba Law Journal, 31*(3), 403-487.

A series of police scandals in Japan led to a change in the manner in which crime was officially recorded by police, which in turn led to the 'myth of the collapse of a secure society' and increasingly punitive public views and policies.

Until the late 1990s, crime was not an important public issue in Japan. At the end of the 1990s, however, two incidents in which victims had asked for police assistance, but did not receive it, and subsequently were murdered, changed the salience and importance of crime as a public policy issue.

One reaction to these events was that starting in 2000, a national police policy was created that required all crime incidents that came to the attention of the police to be recorded by them. As a result, the number of crime incidents recorded by the police doubled between 1999 and 2000 and by 2004 was more than 5 times the number it had been between 1992 and 1999. The increases in recorded crime were disproportionately in the recording of minor crimes. With respect to violent crime, just under 30,000 offences were recorded by the police in 1999. By 2002, this number had increased to almost 50,000. Almost all of the increase in violent crime involved persons who were 'slightly injured.' There was little, if any, increase in the number of those recorded by the police as having been 'severely injured.' There were also no substantial changes in the number of murders or the broader category of 'deaths as a result of any kind of violent act.' The 2000 International Crime Victims Surveys found that Japan had the lowest violent victimization rate and the second lowest rate for burglaries of all participating countries. Furthermore, according to the victimization study, between 2000 and 2004, the rates of 3 categories of violent crime and 6 categories of property crime decreased or remained stable. There were increases in only 2 categories of crime - thefts from cars and attempted burglary. Nevertheless, fear of crime went up dramatically between 2000 and 2004.

The press interpreted the increase in police-recorded crime as reflecting actual changes in crime notwithstanding the fact that it was known that the policy had changed and that there was no change in the number of murders or deaths as a result of any kind of violent act. The number of newspaper stories using the words 'heinous and murder' or 'crime and victim' increased dramatically. "This moral panic has been extremely durable and lasted for [at least the first five years of this century] " (p. 170).

Two laws were enacted in 2004, one which focused on victims and "notes in its preface that the risk of becoming a victim of crime is now increasing for ordinary Japanese citizens" (p. 171). It did not point out that it was only the risk of being *recorded by the police as a victim* that was increasing. The second change in the criminal law increased minimum and maximum sentences for violent crime based on "demands from victims of crime and [the] belief in deterrent effects" (p. 171). Prison populations, which had been increasing somewhat prior to 2000 increased from about 50,000 in 2000 to almost 70,000 in 2005 (Japan's population is about 127.4 million.)

Conclusion. Although it would appear that Japan, compared to most western countries, has a very low crime rate, "the Japanese public has low confidence in its safety, a high level of fear of crime, and a very punitive attitude toward offenders. The high level of media focus on rising recorded crime and a campaign for victims' rights have contributed to these findings…. Criminal justice agencies, especially the police and the public prosecutors office have gradually lost their discretion in using informal procedures…." (p. 174).

Reference: Hamai, Koichi and Ellis, Thomas (2006). Crime and Criminal Justice in Modern Japan: From Re-integrative Shaming to Popular Punitivism. *International Journal of the Sociology of Law, 34*, 157-178.

Jurors in at least one long complex fraud case appear to have been able to understand and evaluate the evidence that was presented to them. They could have used some help, however, with practical matters.

The Jubilee Line case in England – a case involving multiple charges of corruption and conspiracy to defraud against 5 defendants in relation to large construction contracts for the London Underground – ended in March 2005 after 21 months of hearings without going to the jury for a decision. This case is often cited when the suggestion is made that certain kinds of cases need to be heard by a judge sitting without a jury.

Previous research has shown that members of English and New Zealand juries take their jobs seriously. When asked about any problems they encountered as jurors, they generally only cite such problems as practical employment issues (losing one's job or source of income) or poor treatment by the courts. Simulation studies suggest that most individual jurors are quite competent in major fraud trials. The problems that do arise appear to relate to the manner in which evidence is presented to them. In addition, there is evidence that juror competence can easily be improved if certain simple practices (e.g., note taking or discussion amongst jurors) were encouraged.

In the Jubilee Line case, interviews were carried out with all of the jurors after the case was aborted. The jurors themselves were adamant they "had a very good understanding of the evidence" (p. 259). Furthermore, the interviews revealed that a year after the case was aborted, they "displayed quite impressive familiarity with the charges, issues and evidence…"(p. 259), though there was obviously some variability across jurors. These results are consistent with other studies of jurors' understanding of evidence (*Criminological Highlights*, V2N2#8). Those jurors who had difficulty were able to rely on other jurors (e.g., those who took copious notes) for information. The jurors discussed evidence and witnesses frequently "and were unanimous that the understanding of the jury as a whole was greatly enhanced thereby" (p. 261). They found their ability to ask questions to be helpful. Note taking was seen generally as helpful, though only some jurors took notes (and they varied in the detail of their notes). The main problem faced by the jurors with respect to the actual trial was not in understanding the evidence, but the slow pace and tediousness of the trial - in particular, some of the questioning by the defence. The jurors were unclear – as were, it turned out, some of the barristers – as to what the relevance of certain evidence was.

The most serious problems faced by the jurors related to the fact that the trial took so long. There were special compensation rules in place for this jury but the rules relating to such matters as lost overtime, increments, or bonuses were never made clear to them. The jurors who were employed indicated that their employers were unhappy with the long trial; yet the court was unwilling to communicate directly with employers. A related problem was the court's inability or unwillingness to communicate adequately when the jury would be needed. Jurors wasted enormous amounts of time travelling to court when they were not needed. More generally, it appeared that the court was unwilling to address systematically the problems for jurors of being involved in long trials. Essentially nobody considered adequately the impact of the trial on the jurors' lives. Perhaps the largest insult to the jurors was their perception that they were treated as "jury fodder" – "on tap, but not informed" of what was happening (p. 265). On the day that the prosecution conceded that the trial was no longer viable, they were at court. They waited 5 hours before they were brought into the court and formally discharged by the judge with no explanation as to what had happened. It was clear to the jurors that everyone in the courtroom except them knew what had happened. They only learned about the details (that the defendants had been acquitted) on the evening news, and some of that news implied that the trial had collapsed because of problems with them – the jury (which was not true).

Conclusion. It would appear that courts could, if they wished, make it much easier for jurors in long trials. Cases like this one were found not to be overly complex nor was the evidence beyond the capability of the jurors to understand. Comprehension and memory problems were easily overcome by the fact that the jury acted as a group. Many of the practical problems for jurors could be overcome if the courts were more respectful of the jurors as participants in the criminal justice process rather than treating them as 'jury fodder'.

Reference: Lloyd-Bostock, Sally (2007). The Jubilee Line Jurors: Does their Experience Strengthen the Argument for Judge-only Trial in Long and Complex Fraud Cases? *Criminal Law Review*, 255-273.

The sentence of "life imprisonment without parole" creates a new set of problems that need to be considered.

As the use of capital punishment declines throughout the world, the possibility exists that it will be replaced with life imprisonment without eligibility for parole. In the United States, in particular, the availability of such sentences appears to be increasing for adults and for youths. Indeed it would appear that there are only two states in the U.S. in which this is not a sentencing option for at least some cases. Typically, it is used as the alternative to capital punishment.

It is currently estimated that approximately 3% of the U.S. prison population is serving a sentence of life without parole (LWOP). Sweden and Bulgaria have the possibility of sentences of LWOP (although in each it is possible to petition the government for a pardon) and since 1990, the United Kingdom joined the group of countries that impose LWOP. At the other end of the spectrum, five European countries have no life sentences, though offenders may spend as long or longer in prison as offenders in countries with life sentences that include the possibility of parole.

There are a number of arguments in favour of LWOP. These include the following:

- Public protection by incapacitating dangerous offenders. The argument is simple: since parole boards are not capable of making infallible predictions, release for some prisoners simply should not be contemplated. Similarly, it is a way of making a symbolic statement, with respect to some prisoners, that the 'revolving door' no longer exists. There are at least two problems with this approach: predicting who might be "in need" of incapacitation for life for the purpose of public protection is, itself, difficult. But in addition, constructing special facilities for geriatric prisoners is both expensive and would appear to be inconsistent with the perceived need for incapacitation. Concerns have also been expressed about the ability of prisons to control those for whom release is never going to be a possibility. Clearly LWOP prisoners present a new set of challenges since 'normal' prisoners typically 'cascade' from higher to lower levels of security, based on the assumption that eventually they will be released. Similarly, prison programs are usually focused on, and justified by, the assumption of eventual release.
- Deterrence. It is argued that with the abolition of capital punishment, a strong deterrent sentence is needed. However, the findings related to the failure of harsher sentences to have a deterrent effect would apply (see, for example, *Criminological Highlights* V6N2#1). The deterrence argument would seem to imply that there is an identifiable group of people in society who would kill for a sentence of 'life with parole eligibility' but would not for LWOP. There is no evidence that such a group exists.
- The need for retribution. It is argued that LWOP may be "a persuasively harsh alternative to a broadly pro-death penalty public" while avoiding the suggestion that the system is soft on crime. A reasonable question that can be asked is whether LWOP sentences are proportional. To the extent that the parole system often ends up evening out disproportionate sentences, this is not possible with LWOP.

On the other hand, various arguments against LWOP have been suggested:

- International standards. In some countries, LWOP is seen as cruel and inhumane. Indeed, some countries are considering not extraditing those facing LWOP just as they don't extradite those facing the death penalty.
- It is suggested by some that it is an affront to human dignity to suggest that a person can never, under any circumstances, be released back into the community.
- The costs of LWOP are high enough that decisions to implement it should not be taken lightly.

Conclusion. The decision to shift from the death penalty or sentences that assume a possibility of returning to the community to life without parole is more than a simple change in the size of the maximum penalty available for an offender. Life without parole raises a whole new set of questions and concerns that should be addressed.

Reference: Appleton, Catherine and Grøver, Bent (2007). The Pros and Cons of Life Without Parole. *British Journal of Criminology, 47*, 597-615.

Being part of an intact family in domestic violence cases affects sentencing.

There is a good deal of research that suggests that judges consider the nature of family relationships when sentencing offenders. Some research in the 1980s, for example, suggests that judges were particularly lenient with women who were in family relationships. The suggestion was that "Leniency toward female offenders is not mere paternalism on the part of judges, but instead reflected a state-based concern with ensuring the availability of intact families, caretaking labour and child rearing" (p. 656).

This study looks at sentencing patterns in a specialized domestic violence court in Toronto. This court was designed "to improve the criminal justice response to intimate partner violence and related crimes by relying on a coordinated community response model" (p. 660). The prosecutors in this court "are committed to a more vigorous prosecution of cases and to increased cooperation with police divisions so as to improve the quality of investigations and increase the number of successful outcomes [convictions]" (p. 660). Various attempts are made to keep victim/witnesses informed and involved in the process. The focus of the study is on whether those found guilty were sentenced to prison and if so, for how long. A number of standard 'control' variables were also included (e.g., various offender and offence characteristics).

Not surprisingly, two offender characteristics were important determinants of the decision to sentence an offender to prison: unemployed offenders were more likely to be sent to prison as were those with prior convictions for domestic assaults. More interesting is the fact that whether or not the family was intact at the time of the incident and whether there were children in the family were not, on their, own, significant predictors of whether the offender was sentenced to prison. However, a prison sentence was most likely to be handed down in those cases that had a combination of an intact family *and* in which the victim suffered a serious injury. This suggests that the nature of the relationship between victim and offender was important in the decision to sentence the offender to prison, but only in cases in which there was a serious injury.

However, for offenders who were sentenced to prison, those who were in an intact relationship at the time of the incident received shorter sentences. Offenders with children received longer sentences as did, not surprisingly, those who had caused serious injuries. Unemployed offenders and those with records of domestic violence also received longer sentences.

Conclusion. It would appear that "courts are more likely to incarcerate offenders in intact relationships when the victim has suffered serious injuries… yet at the same time, courts appear to be reluctant to break apart these families for too long, with offenders in intact relationships receiving shorter sentences than offenders estranged from their victims, even controlling for the presence of injury" (p. 666). Employed (male) offenders also received shorter sentences, suggesting that the courts are responding, to some extent, to the immediate interests of the family.

Reference: Dinovitzer, Ronit and Dawson, Myrna (2007). Family-based Justice in the Sentencing of Domestic Violence. *British Journal of Criminology, 47*, 655-670.