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Assessing the Newsworthiness of Homicide Events:  
An Analysis of Coverage in the Houston Chronicle 

By

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ABSTRACT 

This research examined media depiction of homicide in a large metropolitan area from the market-driven journalism perspective (McManus, 1994). From this perspective, news organization decisions are based on journalist and news editor perceptions of what type of stories resonate with the general public. Accordingly, the news production process becomes characterized as an exercise in market strategy rather than a presentation of an accurate summary of local, national, and world events. We examined effects of victim, offender, and situational characteristics of homicides investigated by the Houston Police Department on a variety of media outcome measures for homicide stories appearing in the Houston Chronicle. The findings suggested that situational aspects of the homicide were the most important measures in predicting media outcomes.

INTRODUCTION 

Until the 1960s, criminologists and mass media scholars had been relatively unconcerned with analyzing the content, selection processes, and presentation of crime news by mass media to the general public (Marsh, 1991). However, the unique social and political context that emerged in the 1960’s and 1970’s in America (Cullen & Gilbert, 1982; Kaiser, 1980; Sykes, 1974) began to alter this cultural trend by increasing skepticism within academic circles about the information that was being presented to the public by the media. As a result, published scholarly examinations of media content that related to a variety of social issues, including crime, rather dramatically increased in number. Published research that examined mass media coverage of crime between 1960 and 1989 was double that of published research which explored media treatment of crime between 1893 and 1959 (Marsh, 1991).

When the critical focus on media originally developed in the 1960s, the authors who engaged in this type of research largely placed their findings and conclusions within a deeply entrenched radical conflict perspective in criminology (Lilly, Cullen, & Ball, 1995), which contended that “conceptions of crime are constructed and diffused in the segments of society by various means of communication,” (Quinney, 1970, p. 22), which
included the mass media. Moreover, adherents of this perspective maintained that news organizations constructed images of crime in a manner that promoted a specific understanding of crime (Reiman, 2000) and social issues in general (Abercrombie, Hill, & Turner, 1980; Hall, Critcher, Jefferson, Clarke, & Roberts, 1978). According to this perspective, the manner in which media constructed crime news emphasized the interests of the most powerful political and economic groups in society by focusing public attention on crime committed by the underclass, while downplaying the harms associated with crime committed within domestic contexts, crime committed by the affluent and powerful, and crime that involved corporate malfeasance (Reiman, 2000).

More recently, however, other theoretical explanations have emerged from the journalism and communication disciplines that emphasized more practical and organizational aspects of mass media in terms of attempts to explain media coverage of crime. One aspect of this framework maintained that the content of crime coverage resulted from organizational pressures within news organizations to sell their product. This perspective contended that news executives and journalists perceive the public as interested in crime and therefore, news agencies worked to deliver this type of news item to the public for consumption (Lipschultz & Hilt, 2002; Prichard & Hughes, 1997). In this regard, news organization personnel made assessments of what they deemed to be newsworthy (Chermak, 1995) based on perceptions of the types of news the public preferred and embraced. This focus on delivering to the public that which the public was judged to be most interested in occurred largely as a result of the intense profit motives of news organizations (Beckett & Sasson, 2000); McManus (1994) has referred to this process as “market-driven journalism.”

Communication scholars and criminologists have provided theoretical commentary about the particular factors that influenced journalist and news editor assessment of the newsworthiness of crime stories based on market-driven criteria. Chermak (1995) argued that the staff of news organizations assessed newsworthiness of a crime occurrence on the basis of five criteria: a) the violent or heinous nature of the offense, b) demographic factors of the victim and offender (age, race, gender, income, and socioeconomic status), c) characteristics of the incident producers (the news agency), d) the uniqueness of the event, and e) event salience (e.g., is the offense a local event?). Prichard and Hughes (1997) similarly argued that the important determinants of news organization assessment of newsworthiness included such factors as how unusual the criminal event was relative to characteristics of more typically occurring offenses, the qualities of the parties involved, and the extent to which the behavior violated formally and informally established cultural norms and expectations.

Practicing journalists have also acknowledged that there are certain criteria that are used to judge the marketability of crime news events. One such set of criteria was recognized by Pat Doyle in 1976 and has been referred to as the “Doyle criteria,” (Johnstone, Hawkins, & Michener, 1994). The pursuit of stories that are marketable is best conceptualized as an organizational pressure that is placed upon journalists and news editors that influence their decisions in how they cover the news. In this regard, journalists and news editors, in making their news coverage decisions, act as agents of the
news organization and vicariously make day-to-day decisions that support the market-driven approach of the news organization.

The present study examined the factors that news organizations (and their agents) use in making assessments of newsworthiness based on the principles of market-driven journalism by considering coverage of homicide in a large print media organization located in an urban jurisdiction in the southwest section of the United States. This examination of media decision-making was intended to advance the current literature in two discernable ways. First, it expanded on prior research by examining the effects of a more theoretically pertinent array of situational (or circumstantial) characteristics that were characteristic of the homicide in addition to the traditional measures of victim and offender characteristics that have been examined in the prior research. Second, the current analysis considered media coverage of crime through a variety of different media outcome measures that take differing aspects of media decision-making into account, including the decision to cover the homicide, decisions to cover the homicide during the trial or sentencing stage of the criminal justice process, the length of the coverage (in average words per news item), and an overall media attention score that incorporated length of coverage, page placement, and the use of photographs that accompany news items.

**Homicide in print media**

The vast majority of research that concerned mass media depiction of crime used the technique of content analysis to draw conclusions about the content of media output. Content analytical methods have been used to explore such issues as how much crime coverage was presented in the mass media (Barkan, 1997; Beirne & Messerschmidt, 1995; R. Ericson, Baranek, & Chen, 1989; R. V. Ericson, Baranek, & Chan, 1991; Gilliam, Iyengar, Simon, & Wright, 1996; Graber, 1980; Jerin & Fields, 1994; Lichter & Edmundson, 1992; Lichter, Lichter, & Rothman, 1994; Lotz, 1991; Surette, 1998) and to compare media coverage over time with the amount of crime that actually occurred in society using official measures of crime on a comparative basis (Abbott & Calonico, 1974; Beckett & Sasson, 2000; Cohen, 1975; Combs & Slovic, 1979; Doob, 1985; Einstadeter, 1979; Fedler & Jordan, 1982; Graber, 1980; Humphries, 1981; Jaehnig, Weaver, & Fico, 1981; Marsh, 1991; Sheley & Ashkins, 1981). Content analyses have also been used by researchers to explore the characteristics of crimes covered in order to determine how various forms of media framed the social context of these offenses presented to the general public (Beckett & Sasson, 2000; Chermak, 1995; Chiricos & Eschholz, 2002; Dixon & Linz, 2000a, 2000b; Durham, Elrod, & Kinkade, 1995; Elias, 1993; Romer, Jamieson, & DeCoteau, 1998; Rude, 1999).

While these content analyses have provided useful descriptive information concerning the content of media in a general sense, the usefulness of many of these studies in understanding media process, production, and decision-making was limited. Simple content analytical techniques that reported descriptive information based on thematic concepts developed by researchers could not provide insight as to the link between what is presented by news organizations and the news production process.
Moreover, content analysis, by itself, has only provided a partial explanation of media behavior in their presentation of crime because the technique fails to consider how the production process eliminated various crimes from news presentation (Chermak, 1995). Furthermore, the technique of content analysis cannot address issues of why homicides with certain characteristics and social contexts are covered more extensively than other homicides.

Recent research recognized the difficulty in understanding news media processes and production through simple content analysis (Chermak, 1998; Johnstone et al., 1994; Peelo, Francis, Soothill, Pearson, & Ackerley, 2004; Prichard & Hughes, 1997; Sorenson, Manz, & Berk, 1998; Taylor & Sorenson, 2002; Weiss & Chermak, 1998). This research examined coverage of homicide in print media by combining content analytical techniques with multivariate techniques to examine the effects of victim and offender characteristics and situational factors on various media outcome measures of interest. Media outcome measures that were examined included whether the homicide was reported at all in the media, the average story length, the column inches devoted to the incident, the number of news items published, the proportion of news items that appeared on the front page, whether a photograph was produced with the news item, and the attention scores that were based on numerous criteria.

The approach of this research is similar to the content analytical approach in that it analyzed media content in the development of the measures examined by the research. In addition, the multivariate research also simultaneously collected and analyzed information on all of the homicides committed within the jurisdiction(s) under study over a specified period of time. Incorporating data that concerned all of the homicides committed during a certain time frame in a particular jurisdiction with media data gathered from news organizations within the jurisdiction has allowed researchers to compare media outcome measures between cases that were covered by the press and those that received no coverage. This technique also allowed researchers to compare cases that received little or no media attention with those cases that received substantial attention from the print media source.

This prior research suggested that victim characteristic variables and the number of victims involved in the homicide incident were the most important measures that predicted media outcome variables. Research consistently found that homicides that involved female victims received significantly more print media coverage than when males were victims (Prichard & Hughes, 1997). Examinations of the effect of victim age have produced mixed results, but when effects have been observed, the findings generally suggested that cases that involved young victims (under the age of eighteen), and older victims (over the age of sixty) received more intense coverage in print media (Johnstone et al., 1994; Peelo et al., 2004; Sorenson et al., 1998).

The findings of prior research indicated cases that involved African-American victims (Johnstone et al., 1994; Peelo et al., 2004; Sorenson et al., 1998) and Hispanic victims (Johnstone et al., 1994; Sorenson et al., 1998) were less likely than others to receive any coverage at all. Numerous researchers have found that homicides involving
White victims received significantly more coverage (Prichard & Hughes, 1997; Weiss & Chermak, 1998), whereas other research reported no significant effects of victim race or ethnicity (Johnstone et al., 1994; Taylor & Sorenson, 2002). Some research examined the influence of victim social status, occupational status, and educational status on media outcome measures (Peelo et al., 2004; Sorenson et al., 1998) and reported that higher status victims received significantly more coverage.

Prior research has also examined the effects of similar offender-based measures on media outcomes. The findings reported by these analyses found that factors concerning the offender were not as important as victim-based measures in explaining variation in media outcomes. Gender of the suspect produced mixed results. Two studies found that female offenders received significantly more coverage (Chermak, 1998; Peelo et al., 2004), one found that male offenders received more coverage (Prichard & Hughes, 1997), and one found no significant effects (Sorenson et al., 1998). With respect to offender age, studies found that both older (Chermak, 1998; Sorenson et al., 1998) and younger offenders (Peelo et al., 2004) received significantly more coverage. Likewise, examinations of offender ethnicity have produced conflicting findings. Some results suggested that White offenders received more coverage (Prichard & Hughes, 1997), whereas other research suggested that African-American offenders received more coverage (Sorenson et al., 1998). Two separate studies examined the effects of offender education level and social status, respectively, and both examinations produced non-significant results (Chermak, 1998; Sorenson et al., 1998).

Of the situational (circumstance) measures that have been examined in prior research, the one measure that consistently produced significant positive regression coefficients was the number of victims involved in the incident. Every study that has included this measure produced significant results in a positive direction (Chermak, 1998; Johnstone et al., 1994; Peelo et al., 2004). However, the effect of the number of offenders on whether an article was published has produced inconsistent results (Peelo et al., 2004). Studies have found that certain types of homicides with more sensational motives or methods of killing received significantly more coverage (Johnstone et al., 1994; Peelo et al., 2004). Some studies have also suggested that stranger homicides, gang homicides, those that involved police officers as victims, prostitute-client relationships, husband-wife relationships, and offspring-parent relationships resulted in more intensive print media coverage (Peelo et al., 2004; Sorenson et al., 1998; Taylor & Sorenson, 2002).

**METHOD**

*Data*

This study closely followed the methods and logic of the prior research that examined homicide coverage in print media, especially the methods of Weiss and Chermak (1998). The current study reports results from an analysis of media and homicide data collected from the *Houston Chronicle* and the Houston Police Department (HPD), respectively. All homicides investigated by the HPD in 2001 are included in the analysis \((n = 249)\). The media data collected included all news items published which
referenced these homicides \( n = 493 \). The collection of homicide stories published in the *Houston Chronicle* included searches of two distinct databases (Lexis/Nexis and the *Houston Chronicle* online database) and used victim and offender names collected from the HPD in conducting the article searches\(^2\). Two different databases were used to be reasonably certain that all news items published that concerned the homicides were collected. News items from these two data sources were searched from the date of the homicide occurrence through January 31, 2004. Using multiple databases and an extended period of time from the date of the homicide (i.e., the passage of two years), allowed confidence that all of the news items published were included in the database used in this study.

Data collected from the HPD included victim and offender demographic information (gender, race/ethnicity, and age), victim-offender relationship information, the number of victims and offenders involved in the incident, and information that concerned the type of weapon used in the offense. Additionally, press releases issued by the HPD for all homicides committed in 2001 were referred to so that information concerning the situation and social circumstances of the offense could be obtained\(^3\).

**Independent variables**

The analysis incorporated victim and offender demographic variables and measures of social circumstance as predictors of four different media outcome measures. A complete list of independent and dependent measures is provided in Table 1. Victim and offender gender in the analysis were measured as dichotomous variables with female victims and offenders represented by the value of one (1), respectively. Victim race was coded based on whether the victim was a non-minority (majority) where victim majority status was represented in the measure by the value of one (1). The measure of non-minority victim was taken to include Whites/Latinos (due to the population characteristics of the city of Houston). Similarly, the measure of minority suspect was a dichotomous measure where homicides that involved a minority suspect were coded as a value of one (1) (defined in the study as African-American and Asian offenders). Victim age was coded as an interval-level measure. Offender age, due to missing information, was coded not as an interval-level measure, but instead, as two separate dichotomous measures where offenders under the age of 21 and offenders over the age of 40 were represented with a value of one (1), respectively.

The number of victims involved in the homicide was recorded as an interval-level variable. The measure of multiple offenders was coded as a dichotomous variable and the value of one (1) represented instances in which the news organization had knowledge that the crime involved multiple offenders\(^4\). Similarly, cases that involved stranger homicides and robbery-related homicides were coded as dichotomous variables, respectively. An interaction measure based on the race of the victim and offender was created using a dichotomous measure whereby a value of one (1) was assigned to cases that involved a minority offender (defined here as African-American or Asian) and a non-minority victim (defined by the analysis as either White, non-Hispanic or Hispanic). Additionally, a measure of whether the homicide remained unsolved by the police was
coded as a dichotomous control variable for the analysis with the value of one (1) representing cases that remained unsolved by the police department. In situations where a homicide remains unsolved, media simply do not have the opportunities to present as much information about a case, therefore whether the police solved the case can impact the intensity of media coverage.

The development of certain independent measures used in the analysis calls for some additional justification. First, the measures of victim and offender race/ethnicity were coded as dichotomous measures, using a minority, non-minority coding scheme as previously presented. Collapsing these race/ethnicity terms in this way was necessary for several reasons. First of all, many of the categories of the data provided by the HPD had small or non-existent numbers relative to the categories of White, non-Hispanic and Hispanic/Latino individuals, and thus, limited their usefulness in the analysis.

More importantly, the population characteristics of the city of Houston justified the manipulation of the data in this way. The Hispanic/Latino population in the city of Houston was considered to be large compared to many other urban metropolitan areas in the United States. Indeed, the Hispanic/Latino population of the city of Houston is considerably larger than the most of the other U.S. cities that have been the subject of this type of media research. Because of these population characteristics, Hispanics/Latinos in Houston do not constitute the same type of definitive minority group that Latinos would constitute in some of the other major metropolitan areas of the United States, especially given that in Houston persons identifying themselves as White roughly only constitute 50% of the population. Therefore, based on the population characteristics of Houston, an argument could be made that if newspapers focus differentially on certain stories based on the race/ethnicity of participants in the homicide event, then differences between media attention devoted to homicides that involved White, non-Hispanic and Hispanic/Latino individuals are not likely to be as pronounced in the city of Houston as in other major metropolitan areas where the Hispanic/Latino population proportion more closely resembles the population of African-Americans and other minority groups than the population of White, non-Hispanic individuals. Therefore, for analysis purposes, it made sense to collapse the measures of minority and non-minority status and the race interaction term in this manner because doing so conformed to the reality of the population characteristics in the city of Houston.

**Dependent variables**

Four different media outcome measures were used as dependent variables in the analysis, two dichotomous measures and two interval measures. The two dichotomous measures were whether the homicide received any coverage at all and whether the homicide received coverage at the trial or sentencing stage of the proceedings. Third, the average number of words published per news item was employed as a quantitative measure of the intensity of coverage. Because the average number of words published measure was highly skewed in the positive direction due to more intense coverage of particular homicides, the measure was logged to the base of 10 to create a dependent measure that was more normally distributed for purposes of the multivariate analysis.
The final dependent measure was an overall media intensity score developed on the basis of length of coverage, page placement of coverage, and the use of photographs that accompanied the news items. This final dependent measure ranged between the value of zero and six and was normally distributed, thus requiring no manipulation of the data.

This latter overall media attention score was an additive measure. It was created primarily through the use of story length, page placement and photograph measures. A value of one (1) was added to the score if: a) an article was published concerning the homicide; b) the value of the number of words published exceeded the value of the number of words published falling at the 25th percentile of the distribution of scores; c) if the value of the number of words published exceeded the value of the number of words published falling at the 50th percentile of the distribution of scores; d) the value of the number of words published exceeded the value of the number of words published falling at the 75th percentile of the distribution of scores; e) the paper published any of the articles on either the front page of the front section or the front page of the Metro section of the paper; and f) if the homicide had photographs or other graphical depictions published. The measure considered front-page stories published on the front page of the Metro section of the paper in the attention score because of the international, national, and regional reach of the Houston Chronicle. Because of this quality, important local instances of homicide were often reported on the front page of the Metro section.

The effects of victim and offender characteristics and situational aspects of the homicide on the two dichotomous measures were examined through logistical regression analyses and the effects of the independent variables on the interval measures of average words per homicide were assessed through OLS regression analysis. These four dependent measures were selected because of their ability to tap into a variety of aspects of media decision-making. The measure of whether a homicide was covered by the paper reflected an aspect of media decision-making that related to the specific importance of the characteristics of the homicide. Because of the relatively small number of cases that received no coverage at all (n = 44) in the paper, the multivariate analysis of the predictors of this measure tapped into the factors that generally demanded some type of coverage relative to those factors that did not.

The remaining dependent variables were implemented as a way of assessing specific aspects of the intensity of print media coverage. Whereas the variable that recorded whether the homicide case received any coverage at all in the paper measured a more general assessment of the newsworthiness of the homicide case, the remaining three dependent measures were designed to tap more specifically into the intensity of the print media coverage after the initial decision to cover the homicide case had been made. This distinction was important because prior research has placed too much attention on simple dependent measures of coverage versus no coverage while not placing enough emphasis on developing measures of the intensity of coverage once the initial decision to cover the case had been made. Development of measures of coverage versus no coverage and measures of intensity of coverage once the initial decision to report on the case has been made allowed this research to compare homicide cases that received coverage against
those cases that received no coverage and compare cases that received higher levels of coverage against those cases that received less attention in the media.

RESULTS

This section reports the findings of regression analyses that predict the media outcome dependent measures described in the method section. First, descriptive statistics that describe the independent and dependent variables are presented. Next, logistic regression analyses are used to predict whether a story concerning the homicide appeared in print, first by excluding a control measure concerning whether the case was cleared by the police and then including the measure in the analysis. Logistic regression analysis is then used to predict whether the homicide case received coverage at the trial or sentencing stage of the criminal justice process. Lastly, OLS regression analyses are used to predict the average number of words published per article and the media attention score, respectively.

Table 1 reports the descriptive statistics for the independent and dependent measures utilized in the analysis. Most of the 249 homicide incidents investigated by the HPD involved a minority male offender and a minority male victim. Only 20.9% (\( n = 52 \)) of the homicides included in the analysis involved a female victim and an even smaller proportion (10%, \( n = 25 \)) involved a female suspect. The average age of the victim was 32.33 (\( SD = 14.41 \)). Only a small proportion of the cases included in the analysis involved an offender who was either younger than the age of 21 (19.3%, \( n = 48 \)) or was 40 and over (8.4%, \( n = 21 \)). In terms of race and ethnicity of the victim and offender, the majority of the homicides involved either a White/non-Hispanic or a Hispanic victim (56.2%, \( n = 140 \)), although homicides committed against White/non-Hispanic victims accounted for only 14.1% (\( n = 35 \)) of the total homicides, thus meaning that most of the homicides in the minority victim classification involved Hispanic/Latino victims. Minority offenders (African-American and Asian) accounted for a disproportionate number of homicides (46.6%, \( n = 116 \)) relative to their composition of the population of Houston.

In terms of situational aspects of the homicide that were considered in the analysis, most of the homicides were characterized by a single victim and offender. Twenty-two percent (\( n = 55 \)) of the homicides involved a stranger perpetrator and 18.8% (\( n = 47 \)) were robbery-related. Fourteen percent of the homicides involved a minority status offender and a non-minority victim (\( n = 34 \)). Nineteen percent of the cases involved an unusual weapon other than a firearm or a knife or other cutting instrument (\( n = 47 \)). With regard to the control variable that measured the police success in making an arrest in the case, only 16.9% (\( n = 44 \)) of the cases had not been cleared.

The media outcome measures suggested that most of the homicides that were investigated by the HPD received some form of media attention from the Houston Chronicle, as 82.3% (\( n = 205 \)) of the homicides had at least one news item appear in print. The descriptive statistics further suggested that decisions to cover homicides at the trial or sentencing stages of the criminal justice process are much more selective, as only
14.5% (*n* = 36) of the cases received coverage during either of these two stages. Additionally, decision-making with respect to the length of the coverage and the length of coverage in conjunction with page placement and the use of photographs varied widely.

**Table 1**

*Descriptive Statistics: Victim/Offender Demographics, Situation/Social Context, and Dependent Variables*

<table>
<thead>
<tr>
<th>Independent Measures</th>
<th>n</th>
<th>%/Mean</th>
</tr>
</thead>
<tbody>
<tr>
<td>Female victim</td>
<td>52</td>
<td>20.9</td>
</tr>
<tr>
<td>Majority victim (White or Hispanic)</td>
<td>140</td>
<td>56.2</td>
</tr>
<tr>
<td>Victim age</td>
<td>249</td>
<td>32.33</td>
</tr>
<tr>
<td></td>
<td></td>
<td>SD 14.41</td>
</tr>
<tr>
<td>Female suspect</td>
<td>25</td>
<td>10.0</td>
</tr>
<tr>
<td>Suspect under age of 21</td>
<td>48</td>
<td>19.3</td>
</tr>
<tr>
<td>Suspect age 40 or over</td>
<td>21</td>
<td>8.4</td>
</tr>
<tr>
<td>Minority suspect (other than White or Hispanic)</td>
<td>116</td>
<td>46.6</td>
</tr>
<tr>
<td>Number of victims</td>
<td>249</td>
<td>1.16</td>
</tr>
<tr>
<td></td>
<td></td>
<td>SD .56</td>
</tr>
<tr>
<td>Multiple suspects</td>
<td>81</td>
<td>32.5</td>
</tr>
<tr>
<td>Stranger homicide</td>
<td>55</td>
<td>22.1</td>
</tr>
<tr>
<td>Robbery homicide</td>
<td>47</td>
<td>18.8</td>
</tr>
<tr>
<td>Minority suspect / Non-minority victim</td>
<td>34</td>
<td>13.7</td>
</tr>
<tr>
<td>Unusual weapon (other than firearm or cutting instrument)</td>
<td>47</td>
<td>18.9</td>
</tr>
<tr>
<td>Cases unsolved by arrest</td>
<td>44</td>
<td>16.9</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Dependent Measures</th>
<th>n</th>
<th>%/Mean</th>
</tr>
</thead>
<tbody>
<tr>
<td>Homicide received some coverage</td>
<td>205</td>
<td>82.3</td>
</tr>
<tr>
<td>Covered at the trial/sentencing phase</td>
<td>36</td>
<td>14.5</td>
</tr>
<tr>
<td>Average words published per news item</td>
<td>249</td>
<td>125.14</td>
</tr>
<tr>
<td></td>
<td></td>
<td>SD 136.13</td>
</tr>
<tr>
<td>Overall media attention score</td>
<td>249</td>
<td>2.53</td>
</tr>
<tr>
<td></td>
<td></td>
<td>SD 1.68</td>
</tr>
</tbody>
</table>
Table 2

Summary of Logistic Regression Analysis for Article Appearance and Coverage at the Trial or Sentencing Stage

<table>
<thead>
<tr>
<th></th>
<th>Article Appearance*** (N = 249)</th>
<th>Coverage at the Trial or Sentencing Stage*** (N = 205)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Model 1</td>
<td>Model 2</td>
</tr>
<tr>
<td></td>
<td>b (SE b)</td>
<td>Odds Ratio</td>
</tr>
<tr>
<td>Female victim</td>
<td>.827 (.543)</td>
<td>2.324</td>
</tr>
<tr>
<td>Victim age</td>
<td>-.008 (.014)</td>
<td>.349</td>
</tr>
<tr>
<td>Majority victim</td>
<td>.114 (.432)</td>
<td>.069</td>
</tr>
<tr>
<td>Female suspect</td>
<td>.734 (.815)</td>
<td>.881</td>
</tr>
<tr>
<td>Offender &lt; 21</td>
<td>.100 (.514)</td>
<td>.038</td>
</tr>
<tr>
<td>Minor suspect</td>
<td>.981 (.446)</td>
<td>4.845**</td>
</tr>
<tr>
<td>Number of victims</td>
<td>.615 (.590)</td>
<td>1.085</td>
</tr>
<tr>
<td>Multiple offenders</td>
<td>-.021 (.446)</td>
<td>.002</td>
</tr>
<tr>
<td>Stranger homicide</td>
<td>.492 (.521)</td>
<td>.892</td>
</tr>
<tr>
<td>Robbery homicide</td>
<td>1.180 (.669)</td>
<td>3.115^</td>
</tr>
<tr>
<td>Unusual weapon</td>
<td>-1.026 (.432)</td>
<td>5.636**</td>
</tr>
<tr>
<td>Case not solved</td>
<td>-.451 (.513)</td>
<td>-1.653</td>
</tr>
</tbody>
</table>

Intercept                | .505                            | .764                                                 | -2.850 |
-2 log likelihood         | 204.291                         | 203.640                                              | 159.622 |
Model Chi-Square          | 24.090**                        | 24.471**                                             | 30.892* |
Degrees of freedom        | 12                              | 12                                                   | 12     |
Cox and Snell R²          | .090                            | .095                                                 | .140   |
Cox and Snell R²          | .154                            | .158                                                 | .231   |

* p < .01 ** p < .05 ^ p < .10

*** Models for each of the dependent variables were estimated including the race interaction measure and excluding the measure of minority suspect (due to collinearity). Each of the models were similar in their substantive findings with one exception: the race interaction term was not significant in any of the models.
The results of the logistic regression analyses that predicted whether a homicide received any coverage and whether the homicide was covered at the trial or sentencing stage of the criminal justice process are reported in Table 2. Findings from the logistic regression analysis that predicted whether an article was published in the paper suggested that, whereas the entire model was statistically significant ($\chi^2 (12) = 24.090, p < .05$) in model 1, only three of the independent measures used in the analysis, minority suspect ($p < .05$), robbery-related homicide ($p < .10$), and unusual weapon other than a firearm or a knife/cutting instrument ($p < .05$) had significant independent effects on whether a news item was published. The data from model 1 suggested that the odds of homicides which involved minority suspects (African-American and Asian) having a story published in the paper was 4.8 times higher than the odds of a homicide that involved a non-minority suspect. The odds that a robbery-related homicide appeared in the paper were 3.1 times greater than the odds for non robbery-related homicide. The odds of a story appearing for those homicides that involved an unusual weapon was 5.6 times lower than the odds for those homicides involving firearms or cutting instruments.

These findings suggest that these three factors represent threshold criteria that journalists and news editors used to formulate their judgments when deciding that a particular homicide was newsworthy enough for coverage. When the measure of whether the homicide case remained unsolved by the police was entered into a separate regression analysis in model 2 that predicted whether an article appeared, the findings indicated that the measure reduced the predictive power of the minority suspect measure ($p < .10$), but the measure remained statistically significant.

The overall model (model 3) that predicted whether the paper covered the homicide during the trial or sentencing stage of the criminal justice proceedings was also statistically significant ($\chi^2 (12) = 30.892, p < .01$). This model only included the 205 cases that were cleared by the HPD as a built in control. This approach was taken because it was impossible for a case to advance to the trial or sentencing stage where a suspect had not been identified. Similar to the findings of the logistic regression analysis that concerned whether the homicide was covered, the measures of robbery-related homicide ($p < .01$) and weapon other than a firearm or a knife/cutting instrument ($p < .10$) had statistically higher odds of the homicide receiving coverage during the trial or sentencing stages of the criminal justice system.

The findings of the OLS analyses that predicted the average number of words published per article are reported in Table 3. The analysis was conducted in successive stages due to the problems that increased numbers of dichotomous independent variables present to the stability of the OLS regression. In model 1, the measures of victim and offender characteristics were entered. Model 2 entered the situational and circumstantial factors into a regression analysis. Model 3 entered the variables that maintained a statistically significant relationship with average words published per article from model 1 and model 2, as well as the measure of unsolved case, into a separate regression analysis. Model 3 entered the measure of minority status, but not the measure of the race interaction term into the analysis. The measures of minority offender and the race interaction term were not entered into the same analysis because preliminary analysis
indicated that doing so would present collinearity problems within the analysis. Model 4 took the same basic approach as model 3, but instead of entering the minority suspect term, the race interaction term was entered.

The overall model (model 1) was statistically significant ($F(7, 196) = 2.40, p < .05$). However, it also suggested that offender-related demographic measures were of little substantive value in explaining the length of the articles published about the homicide. When victim and offender characteristics were entered into the model simultaneously, it was predominately the victim measures that emerged as important predictors of average story length. More specifically, the victim measures that were important predictors of story length included the female victim ($t(202) = 2.56, p < .05$) and White/Latino victim ($t(202) = 2.28, p < .05$) measures. The only offender-related measure that emerged as significant in the analysis was the measure of minority status suspect ($t(202) = 2.544, p < .05$). Controlling for the other variables in the analysis, homicides that involved female victims, White/Latino victims, and minority suspects had significantly more words published about them.

The overall model 2 that predicted the average number of words published was also statistically significant ($F(6, 198) = 11.87, p < .01$). All of the measures entered in the analysis had significant independent effects on number of words published, with the exception of the multiple offender measure. All of the beta weight values were in the positive direction. Homicide cases that involved higher numbers of victims ($t(203) = 5.68, p < .001$), stranger homicide ($t(203) = 2.60, p < .05$), robbery-related homicide ($t(203) = 1.96, p < .10$), minority suspects who murdered non-minority victims ($t(203) = 3.04, p < .01$), and weapons other than firearms or cutting instruments ($t(203) = 3.44, p < .01$) received significantly more coverage. The value of the adjusted $R^2$ for model 2 (.242) indicated that the situational measures accounted for considerably more of the variation in words published per article than was accounted for by the victim and offender characteristics acting together (.046). This finding is especially meaningful given that more variables were entered into model 1 (seven) than model 2 (six).

The overall model 3 that combined the significant measures from models 1 and 2 was also statistically significant ($F(8, 196) = 10.25, p < .01$). The analysis indicated that the female victim ($t(203) = 2.24, p < .05$) remained significant even after controlling for the effects of the situational considerations that were incorporated from model 2. In addition, the measure of minority status suspect (African-American or Asian suspect) remained statistically significant in model 3 ($t(203) = 1.75, p < .10$). All of the situational measures from model 2 maintained their significant effects controlling for female victim, White/Latino victim, and minority suspect. Homicides that involved higher numbers of victims ($t(203) = 5.37, p < .01$), those that were characterized by a stranger relationship between the victim and offender ($t(203) = 2.59, p < .05$), those that were robbery-related homicide ($t(203) = 2.02, p < .05$), and those that involved the use of an unusual weapon other than a firearm or a cutting instrument ($t(203) = 3.10, p < .01$) had more words published about them. The difference in the adjusted $R^2$ value from model 2 (.242) to model 3 (.266) suggested that the victim and offender measures from
model 1 added little to the explanatory capability of the situational measures included in the analysis.

Model 4 that predicted the average number of words published per news article substituted the race interaction term (homicides that involved a minority offender and a non-minority victim) into the analysis in the place of the minority suspect measure. The overall model was statistically significant ($F(8, 196) = 10.60, p < .01$). Substantively, with respect to the other measures that were not related to offender race or the race interaction term, there were no differences from model 3 to model 4. The victim-offender race interaction term was significant ($t(203) = 2.26, p < .05$) in the positive direction, therefore suggesting that homicides that involved minority suspects who kill White/Latino suspects received significantly more coverage in average words published per article.

The models in Table 4 that utilized the overall media attention score as the dependent variable were substantively very similar to the models reported in Table 3. Model 1 was statistically significant ($F(7, 239) = 3.34, p < .01$) and the female victim ($t(245) = 2.46, p < .05$), White/Latino victim ($t(245) = 1.92, p < .10$), and minority suspect (African-American and Asian suspects) measure ($t(245) = 3.72, p < .01$) all had significant independent effects on the attention score. The measures of the homicide circumstances produced an overall model that was statistically significant ($F(6, 242) = 8.61, p < .01$) and indicated that homicides with more victims ($t(247) = 4.39, p < .01$), that are committed by strangers to the victim ($t(247) = 2.30, p < .05$), that took place in a robbery-related context ($t(247) = 3.14, p < .05$), and that involved a minority offender who murdered a non-minority victim ($t(247) = 2.32, p < .05$) received significantly higher media attention scores. The notable difference from the current analysis and the analysis that predicted average number of words per article was the absence of unusual weapon as a significant predictor of the media attention score. The adjusted $R^2$ value from models one and two, .063 and .155, respectively, suggested that the situational variables accounted for more of the variation in the dependent measure than did the victim and offender demographic measures.
### Table 3

Summary of OLS Regression Analysis Predicting Average Number of Words (Per News Item) Published (N = 205)

<table>
<thead>
<tr>
<th></th>
<th>Model 1</th>
<th>Model 2</th>
<th>Model 3</th>
<th>Model 4</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>b (Standard Error)</td>
<td>β</td>
<td>b (Standard Error)</td>
<td>β</td>
</tr>
<tr>
<td>Female victim</td>
<td>.118 (.059)</td>
<td>.191**</td>
<td>8.838E-02 (.039)</td>
<td>.143**</td>
</tr>
<tr>
<td>Victim age</td>
<td>-8.39E-04 (.046)</td>
<td>-.047</td>
<td>5.758E-02 (.038)</td>
<td>.111</td>
</tr>
<tr>
<td>Majority victim</td>
<td>9.693E-02 (.001)</td>
<td>.186**</td>
<td>5.758E-02 (.038)</td>
<td>.111</td>
</tr>
<tr>
<td>Female suspect</td>
<td>-2.71E-02 (.043)</td>
<td>-.033</td>
<td>4.089E-02 (.038)</td>
<td>.063</td>
</tr>
<tr>
<td>Offender &lt; 21</td>
<td>.110 (.068)</td>
<td>.212**</td>
<td>7.231E-02 (.041)</td>
<td>.140</td>
</tr>
<tr>
<td>Number of victims</td>
<td>.150 (.026)</td>
<td>.352*</td>
<td>.140 (.026)</td>
<td>.329*</td>
</tr>
<tr>
<td>Multiple offenders</td>
<td>-2.46E-02 (.036)</td>
<td>-.045</td>
<td>-2.46E-02 (.036)</td>
<td>-.045</td>
</tr>
<tr>
<td>Stranger homicide</td>
<td>.105 (.040)</td>
<td>.173**</td>
<td>.101 (.039)</td>
<td>.167*</td>
</tr>
<tr>
<td>Robbery homicide</td>
<td>8.636E-02 (.044)</td>
<td>.126^</td>
<td>8.841E-02 (.044)</td>
<td>.129**</td>
</tr>
<tr>
<td>Minority suspect and</td>
<td>.138 (.045)</td>
<td>.189*</td>
<td>.136 (.044)</td>
<td>.194*</td>
</tr>
<tr>
<td>Non-minority victim</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unusual weapon</td>
<td>.148 (.043)</td>
<td>.211*</td>
<td>.136 (.044)</td>
<td>.194*</td>
</tr>
<tr>
<td>Case not solved</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Intercept</td>
<td>1.257</td>
<td>1.834</td>
<td>1.785</td>
<td>1.846</td>
</tr>
<tr>
<td>Model F statistic</td>
<td>2.396**</td>
<td>11.871*</td>
<td>10.254*</td>
<td>10.607*</td>
</tr>
<tr>
<td>Degrees of freedom</td>
<td>204</td>
<td>204</td>
<td>204</td>
<td>204</td>
</tr>
<tr>
<td>Model R</td>
<td>.281</td>
<td>.514</td>
<td>.543</td>
<td>.550</td>
</tr>
<tr>
<td>Model R²</td>
<td>.046</td>
<td>.242</td>
<td>.266</td>
<td>.274</td>
</tr>
</tbody>
</table>

* p < .01  ** p < .05  ^ p < .10
Table 4

Summary of OLS Regression Analysis Predicting Media Attention Score (N = 249)

<table>
<thead>
<tr>
<th></th>
<th>Model 1</th>
<th>Model 2</th>
<th>Model 3</th>
<th>Model 4</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>( b ) (Std. Err.)</td>
<td>( \beta ) (Std. Err.)</td>
<td>( b ) (Std. Err.)</td>
<td>( \beta ) (Std. Err.)</td>
</tr>
<tr>
<td>Female victim</td>
<td>.665 (.271)</td>
<td>.162** (.237)</td>
<td>.610 (.230)</td>
<td>.148** (.210)</td>
</tr>
<tr>
<td>Victim age</td>
<td>-2.94E-04 (.008)</td>
<td>-.025 (.245)</td>
<td>.162 (.230)</td>
<td>-.281 (.210)</td>
</tr>
<tr>
<td>Majority victim</td>
<td>.469 (.245)</td>
<td>.139^ (.230)</td>
<td>.599 (.210)</td>
<td>.145** (.201)</td>
</tr>
<tr>
<td>Female suspect</td>
<td>9.63E-02 (.360)</td>
<td>.017 (.251)</td>
<td>.918 (.246)</td>
<td>.176** (.303)</td>
</tr>
<tr>
<td>Offender &lt; 21</td>
<td>.333 (.275)</td>
<td>.078 (.388)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Offender &gt; 39</td>
<td>-1.154 (.288)</td>
<td>.026 (.388)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minority suspect</td>
<td>.918 (.246)</td>
<td>.273* (.251)</td>
<td>.591 (.251)</td>
<td>.176** (.251)</td>
</tr>
<tr>
<td>Number of victims</td>
<td>.783 (.178)</td>
<td>.261* (.171)</td>
<td>.728 (.171)</td>
<td>.243* (.172)</td>
</tr>
<tr>
<td>Multiple offenders</td>
<td>6.388E-02 (.224)</td>
<td>.018 (.224)</td>
<td>.635 (.242)</td>
<td>.157* (.243)</td>
</tr>
<tr>
<td>Stranger homicide</td>
<td>.587 (.255)</td>
<td>.145** (.242)</td>
<td>.603 (.276)</td>
<td>.149** (.276)</td>
</tr>
<tr>
<td>Robbery homicide</td>
<td>.897 (.286)</td>
<td>.192* (.276)</td>
<td>.938 (.276)</td>
<td>.201* (.276)</td>
</tr>
<tr>
<td>Minority suspect and</td>
<td>.672 (.291)</td>
<td>.138** (.303)</td>
<td>.604 (.303)</td>
<td>.124** (.303)</td>
</tr>
<tr>
<td>Non-minority victim</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unusual weapon</td>
<td>-4.41E-02 (.010)</td>
<td>-.010 (.010)</td>
<td>-.594 (.292)</td>
<td>-.133** (.262)</td>
</tr>
<tr>
<td>Case not solved</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Intercept</td>
<td>1.748 (.010)</td>
<td>1.254 (.010)</td>
<td>1.009 (.010)</td>
<td>1.492 (.010)</td>
</tr>
<tr>
<td>Model F statistic</td>
<td>3.347* (.010)</td>
<td>8.606* (.010)</td>
<td>11.169* (.010)</td>
<td>10.880* (.010)</td>
</tr>
<tr>
<td>Degrees of freedom</td>
<td>.299 (.248)</td>
<td>.419 (.248)</td>
<td>.495 (.248)</td>
<td>.490 (.248)</td>
</tr>
<tr>
<td>Model R²</td>
<td>.063 (.223)</td>
<td>.155 (.223)</td>
<td>.223 (.223)</td>
<td>.218 (.223)</td>
</tr>
<tr>
<td>Model R²</td>
<td>.063 (.223)</td>
<td>.155 (.223)</td>
<td>.223 (.223)</td>
<td>.218 (.223)</td>
</tr>
</tbody>
</table>

* \( p < .01 \) ** \( p < .05 \) ^ \( p < .10 \)
Similarly to the previous analysis of average words per article as the dependent variable, models 3 and 4 reported in Table 4 entered the significant measures from models 1 and 2, and included the minority suspect and race interaction terms separately because of collinearity problems. Model 3 was statistically significant ($F(7, 241) = 11.17, p < .01$) and all of the measures that comprised the model, with the exception of the White/Latino victim term, were significant. Female victim ($t(247) = 2.57, p < .05$), minority suspect ($t(247) = 2.36, p < .01$), the number of victims ($t(247) = 4.26, p < .01$), stranger homicide ($t(247) = 2.62, p < .01$), and robbery-related homicide ($t(247) = 3.46, p < .01$) all maintained their significant independent effects on the media attention score in the same direction as in models 1 and 2 even when controlling for whether the case remained unsolved. In model 4 ($F(7, 241) = 10.88, p < .01$), all of the measures were statistically significant, with the exception of the measure of White/Latino victim variable. The race interaction term ($t(247) = 1.99, p < .05$) suggested that homicides that involved minority offenders who murdered non-minority suspects received significantly higher media attention scores.

**DISCUSSION**

The stated purpose of this paper was to assess the factors that news organizations use in their judgments concerning the newsworthiness of local homicide occurrences for publication. In this regard, we considered the factors that are related to the publication of a story that concern the homicide: whether a story was published, whether the homicide was covered at the trial or sentencing phase of the criminal process, the average number of words published per article, and a media attention score derived from various aspects of print media coverage. This analysis was based on the notion that journalists and news editors use two important market-driven criteria in generating assessments as whether a homicide story will resonate with the general public: a) the characteristics of who committed the crime and against whom the crime was committed; and b) situation and circumstance factors of the homicide. Both of these sets of factors were conceptualized as having an impact on the judgments of news organization staff in terms of either inflating or deflating the importance of the homicide.

The results of the analysis suggest that particular measures from both of these sets of factors are important, but with respect to the length of the coverage in words and the media attention score, situational and circumstance factors were more important in explaining variation in these two sets of outcome measures. Even though situational and circumstance measures seemed more important than victim and offender characteristics, no predictor emerged from the analysis as definitively the most important factor in predicting media outcome variables. The only independent variable that was a significant predictor of all four media outcome measures was robbery-related homicide, but even this measure was only significant at the .10 level for the dependent measure of whether a news item appeared in print. The data suggest that two measures in particular – minority suspect and homicide with an unusual weapon (other than a knife or a firearm) – are important predictors for three of the four media outcome measures that were examined,
although for two of these measures (whether an article was published and average words per article), minority suspect was significant only at the .10 level of probability.

Contrary to much of the published research, many of the measures included in the analysis only emerge as significant predictors of media outcome variables when intensity of the coverage is considered in terms of the length of the news items published and the overall attention score. For instance, the measures of female victim, number of victims, and stranger homicide, all of which have been found to be important factors in prior research, are only important in the current analysis when decisions were made as to story length in average words per article considered by itself and story length, page placement and the use of photos considered in conjunction with one another. In this regard, the findings of the current analysis imply that there are separate processes at work in decisions that concern whether, and at what stage, to cover the homicide than in decisions relating to the intensity of the coverage in terms of number of words, page placement and the use of photographs.

Most importantly, from a theoretical standpoint, the findings of the current analyses are consistent with the theoretical positions of prior research. We contend that our findings support the position of McManus (1994) with regard to market-driven journalism as well as the positions of other scholars that concern the factors that lead a story to be perceived by journalists and news editors as potentially marketable to the general public (Chermak, 1995; Duwe, 2000; Prichard & Hughes, 1997). News organizations tend to focus their attention on homicides that are statistically deviant (e.g., involved female victims, multiple victims, unusual weapons, and were committed by strangers), involve a violation of strong cultural norms of behavior (e.g., robbery-related and stranger-related homicides), and command strong emotional reactions from the general public (e.g., those that involved multiple victims, minority offenders, strangers, and involve minority offenders who murdered non-minority victims).

While our data are limited in that we do not employ qualitative techniques to gauge the motives of journalists and news editors in their decisions to cover certain homicide cases more extensively than others, the work of other scholars has suggested that this focus on certain characteristics of the homicides is likely motivated by profit concerns (Beckett & Sasson, 2000; Duwe, 2000) that exist in market-driven journalism (McManus, 1994). The news media organization is an entity that has been characterized as an autonomous collective unit that is free to pursue its financial interests (Albarran, 1997; Chermak, 1995; Welch, Fenwick, & Roberts, 1998) and is therefore, dominated largely by the concern to minimize costs and complications (Chermak, 1995). Because news organizations place such an emphasis on appealing to what the organization perceives the general public as interested in reading or hearing about, a logical conclusion is that the decision-making of the organization (with respect to the content of the news that it produces) is constrained by organizational pressures to sell their product and by news organization perceptions of social and cultural expectations of the general public.

Therefore, what has resulted is media decision-making predicated upon capitalist criteria, such as the “Doyle criteria,” (Johnstone et al., 1994) that serves as the underlying
rationale for the more intensive delivery of crime news that can be judged by the public to be irrational and barbaric and, in this regard, can be used to strike emotional chords with the audience (Beckett & Sasson, 2000; Duwe, 2000; Surette, 1994). The research of Prichard and Hughes (1997) that interviewed newspaper journalists employed by newspaper organizations in Milwaukee, Wisconsin, provided qualitative evidence that journalists indeed look for stories that will resonate with the audience. One journalist explained the necessity to respond to consumer interest by commenting that “If the reader could say ‘that could have been me that was killed,’ then that has more news value” (Prichard & Hughes, 1997, p. 63). Furthermore, some news editors at top news organizations have expressed very little concern over the market-driven approach to journalism. Consider the comments of Marc Kalech, Managing Editor of the New York Post, who during an interview with A & E stated that “… the bottom line of it is that we are here to sell newspapers. There is nothing wrong with that. It is the American way” (“Tabloid!: Inside the New York Post,” 1999).

Although news producers and journalists have defended their choices to focus heavily on crime news in general, and violent crime news in particular, on the basis of market-driven rationales, some data suggests that this rationale is misguided. Deborah Potter (2002) of NewsLab suggested that network news organizations that have staunchly defended the rationale behind the “if it bleeds, it leads” philosophy have lost viewers because this philosophy is outdated. She cited evidence from a 2000 national survey by NewsLab that found that almost one-third of the respondents surveyed indicated that “a major reason that they did not watch more local TV news is that it covers too much crime” (Potter, 2002, p. xii). But regardless of the scientific findings that have given insight into what people expect from news organizations, journalism is still driven by a capitalist, market-based approach that emphasizes crime in a general sense and specific types of crime committed in certain contexts in particular.

The market-driven approach to journalism may not only be an outdated concept, but may also have negative implications for the general public. Recently, Bonnie Anderson (2004), a journalist commentator writing on the current state of network news coverage used the term “infotainment,” in reference to the movement from a concern with the production of quality and accurate news to a concern for coverage that sells. The basic point of the Anderson’s argument is that news organizations are moving more to a type of news coverage that has inherent entertainment elements and, in doing so, have sacrificed quality news programming for programming that does little to increase the public’s understanding of the social issues that are covered.

In this regard, the pursuit of profits by the news organization is also very much in line with one key element of capitalistic hegemony – the notion that a necessary social good is withheld unless a seller can profit from presenting it to the general public. Capitalistic hegemony generally refers to the process by which ideas and arguments are continually manufactured and reproduced in society that are supportive of, and nurtures, the existing system of capitalism. If, prior to generating the news, staff of the news organization ask themselves, “will this news item sell to the general public?” then notions of capitalism are entering the equation in the news selection process. The implication is
that not only are news items that can potentially (according to the perception of the journalist and news editors) sell nearly exclusively presented to the public, news items that are perceived as having little market value are withheld from the public.

There are several limitations to this research and the existing published research that future research should attempt to address. Scholars have suggested that the organizational constraints that influence media decision-making go well beyond profit-based considerations to include informational constraints, both in terms of how much information was available to the journalist (Barak, 1994; Chermak, 1995) and the sources of information that were used by journalists (Welch et al., 1998). Future research should therefore begin to use both quantitative and qualitative methods in order to better understand these informational constraints and how they influence crime coverage. Additionally, research that continues to examine media coverage of crime should work toward the development of quantitative measures of the concept of news themes, as developed by Fishman (1978, 1980). The necessity of efficient packaging of news events into common themes and the effect that such packaging of isolated occurrences into coherent themes potentially has on audiences is an important research issue that has not been widely addressed.

Scholarship in this area of study should also broaden the approach in examinations of media attention to crime by applying the methods used to examine homicide coverage in print media to coverage by local television network news organizations. With the exception of Duwe (2000), who found that sensationalistic characteristics of mass murders are related to more intense coverage in national network television news programs and newspapers, most of the prior research has focused on applying multivariate methods of analysis to print media. This approach needs to be expanded to other types of crimes and to local news coverage, which may arguably be more important in terms of affecting public perception. Future analyses of news coverage should also endeavor to address the issue of how competing news items that compete with crime news for newspaper space or network news time influences coverage. The presentation of crime is likely tied directly to the content and variety of other news that is has occurred.

NOTES

1. In a 1976 interview of Pat Doyle of the New York Daily News, he described four elements of a human interest story that Johnstone et al. (1994) have referred to as the “Doyle criteria”. According to Doyle, a human interest story is one that either a) involves a socially “prominent” or “respectable” citizen who is involved as either an offender or as a victim; b) the victim is an innocent or an overmatched target; c) the murder was either shocking or brutal, involved multiple victims and/or offenders, or in which a particularly brutal method of killing was employed; or d) the narrative generates mystery suspense, or drama.

2. Different variations of the victim and offender names for each homicide were searched. For example, if the data provided by the HPD included a first name, middle name, and last name, (for example John David Smith), all variations of the first, middle, and last name were searched. These variations included “John Smith”, “John David”, “David Smith”, “John David Smith”, and “John D. Smith”. Searches were not stopped once one variation of the victim or offender name returned news items. The variations were continued until each variation of the name had been
fully searched. Different variations of the name were searched because the individual could have been referenced in more than one way in different articles. This method proved fruitful as there were several occasions in which the victim or offender were referenced in different ways in different news items.

3. HPD press releases were content analyzed to determine the social circumstances and context involved. Circumstance information was provided directly by the HPD, but the information provided was limited to the categories used by the FBI in the Supplemental Homicide Reports. SHR circumstance categories are less than ideal for determining the social context of the offense due to the vague nature of some categories and the omission of many theoretically relevant circumstances. The narrative nature of the press releases issued by the HPD were judged to be more appropriate indicators of situational factors that were characteristic of the homicide.

4. The “multiple offenders” variable was measured as a dichotomous measure and not as an interval-level variable because of missing offender information in the cases that were not cleared by the police. Instead of proceeding with the analysis with the number of offenders as an interval-level measure in its original form and thus reducing the number of cases in the analysis, this approach was taken because it preserved the number of cases and does nothing to damage the validity of the analysis. The validity of the analysis is not damaged because the measure still represents cases in which the media were aware that the case involved more than one offender and were able to utilize this information in assessing the newsworthiness of the homicide.

5. The proportion of citizens reporting to be White for the U.S., the state of Texas, and the city of Houston, respectively, was 75.1%, 71%, and 49.3%, as reported by the 2000 U.S. Census. The proportion of the population reporting to be Latino/Hispanic for these three aggregate units was 12.5%, 32%, and 37.4%, respectively, according to U.S. Census data.

6. Similar media-based research has been undertaken concerning media coverage of homicide in Chicago, Illinois, Indianapolis, Indiana, Los Angeles, California, and Milwaukee, Wisconsin. According to U.S. Census data, the percentage of the population comprised of Hispanics/Latinos in Chicago, Indianapolis, Los Angeles, and Milwaukee in 2000 was 26%, 3.9%, 46.5%, and 12%, respectively.

7. The OLS regression analysis for the dependent measure average number of word published included only 205 cases instead of the original 249 cases of homicide in the analysis. The 44 homicides that were not covered at all by the paper had to be dropped from the analysis at this point because the value of the average number of words was zero for these cases. The base 10 log cannot be calculated for the value of zero. The decision to drop the 44 cases from the analysis instead of removing the outlying values that resulted in the skewed distribution was made because of the importance of retaining the cases that received much coverage in terms of the number of words published. Furthermore, the distribution of the number of words in the analysis was such that once cases with outlying values were removed, other cases emerged as problematic cases with respect to normalizing the distribution. In other words, removing the extreme outlying values only meant that different cases in the analysis emerged as outlying values that resulted in a skewed distribution of scores.

ENDNOTE

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REFERENCES


Mad or Bad?
Negotiating the Boundaries of Mental Illness on Law & Order

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ABSTRACT
A qualitative discourse analysis was undertaken on a sample of seven episodes from NBC’s primetime drama, Law & Order, that featured a storyline involving a ‘not guilty by reason of insanity’ plea. We investigated how the show considered the subject of mental illness, particularly how it was used to frame discussions about the themes of personal responsibility, the nature of good and evil, and flaws in the health and criminal justice systems. Critical to this discussion is how the increasingly popular format of ‘ripped from the headlines’ fiction elaborates upon controversial social issues in a manner not commonly found in non-fictional media.

INTRODUCTION
The NBC network publicizes many of its primetime shows with the tagline ‘ripped from the headlines’ because it draws its themes and plotlines from news stories and current events. Law & Order was the original ‘ripped from the headlines’ show, but the trend of high-quality fictional programming that draws on real life events has been replicated across networks with shows such as West Wing, The Practice, ER and Third Watch. We argue these programs represent the emergence of a new and distinct format of fictional television drama that provides revealing insights about cultural responses to social and political issues, and offers a fertile area for research.

In this age of hyperreality, it is often no longer possible to differentiate fact from fiction. As a result, the study of infotainment and faction is growing in popularity. As Brown (2003, p.53) reminds us, “[i]t is the televisual which has above all reduced the apparent gap between ‘news’ and ‘fiction’ in its generic cross-dressing…This is a multifaceted phenomenon as the ‘news’ and fiction’ undergo a rapidly accelerating process of hybridization.” Most scholars, however, have concentrated on the increase in infotainment and faction, particularly the rise in dramatic techniques in news programming, the omnipotent presence of reality television formats and the replacement of documentaries with docu-dramas, resulting in a dumbing down and tabloidization of news and factual television programming (Bird, 1998; Bromley, 1998; Fiske, 1992; Langer, 1992; Sparks & Tulloch, 2000). The reverse, the use of real-life news stories in fiction, represents another important shift in television programming, but it has been examined
less frequently (exceptions include Bird, 2003; Brown, 2003; Gans-Boriskin & Tisinger, 2005; Turow & Gans, 2002; Van Zoonen, 2005; Wardle & Gans-Boriskin, 2004).

We decided to take the social issue of mental illness to examine the way in which this topic has been discussed and framed in the longest running ‘ripped from the headlines’ show, Law & Order. According to the National Institute of Mental Health (2001), the most recent figures show over 44 million Americans suffer from some form of mental illness. Research in psychology and psychiatry have provided new insights into the causes and dynamics of mental illness, and these advances offer new tools for treatment to those who work in the mental health profession and those who suffer from some form of mental illness. However, such advances also raise larger societal questions about the nature of free will and the ability of existing mental health structures to handle the problems associated with mental illness.

We undertook a qualitative discourse analysis on seven episodes of Law & Order that included plotlines in which the defendants used a legal plea of ‘not guilty by reason of insanity’ (NGRI). This particular plea allowed the show to explore the nature of mental illness and to assess the degree to which problems with mental health were mitigating factors in assigning guilt in a legal setting and personal responsibility in the larger cultural context. We found the discussions in these episodes moved beyond limited and stereotypical depictions of mental illness that are often associated with primetime television dramas (Gerbner, 1993; Signorelli, 1989; Wilson, Nairn, Coverdale, & Panapa, 1999). Instead, these episodes use mental illness as a lens through which to view wider societal questions regarding the nature of good and evil, personal responsibility, and the flaws in the legal and mental health system.

Television dramas are drawn to complex social issues that may encourage conversation and debate. Law & Order, in particular, seems to relish discussions of controversial issues, negotiating meaning and exploring the culture’s acceptable boundaries. As one writer for the show suggested, “drama allows you to literally elongate that moment, to view it from many sides” (Courrier & Green, 1998, p. 53). In talking about Law & Order, writer and supervising producer David Black extolled the strength of the show as its ability to present moral issues fairly, but in a challenging way. “It presents both sides equally strongly and when the show goes off the air people start arguing with each other.” As Black passionately reflects, such arguments are “good for the civic dialogue that a country must have to remain free” (Courrier & Green, 1998, p. 52). The desire to instigate discussion and debate seems to be a motivating force for the writers and producers of the program.

In examining the political, cultural and social discussions in fiction, we do not mean to suggest that these discussions, or the ones they may encourage amongst audience members, are the primary reason for the show’s existence. Certainly, these programs operate within a commercial and entertainment framework and their major concerns are audience share and profit. We believe, however, that these programs have the potential to engage the audience in a range of important social and political issues and for that reason they provide a rich topic for investigation.

We believe this study raises three valuable points. First, we believe the format of ripped from the headlines television programming needs to be considered more seriously. It should not
be dismissed as part of the rise of infotainment and therefore plagued by the resulting concerns about the dumbing down of television output. Second, rather than concentrating on the content of these shows in order to understand possible direct effects on attitudes about mental illness, these programs need to be considered as a format that encourages conversation. Based on the ideas raised in research by Delli Carpini and Williams (1994a, 2001) we argue that the frequent inclusion of controversial storylines and the resulting debates between characters could encourage viewers to connect with the issues, and to engage in conversations with other viewers in ways not often considered by communication scholars. Third, in this particular study, we illustrate how the topic of mental illness is portrayed. Media scholars have frequently cited the negative portrayal of mental illness in the mass media (see Wahl, 1992 for the best review of the literature), but the emphasis in many of these studies has been on the choice of storylines and characters. In this study, we closely analyze the dialogue in these episodes, hopeful that this may provide evidence of sophistication and nuance concerning the topics of mental illness and the legal system, which strict quantitative content analyses are unable to capture.

**Theoretical framework**

Television is the most popular storyteller in modern society (Bird, 2003; Delli Carpini & Williams, 1994b; Fiske & Hartley, 1978; Van Zoonen, 2005) and it is therefore important to examine the kinds of stories being told and what effects those stories might have in the public sphere. This was the motivation for the twenty years of cultivation research undertaken by Gerbner and his colleagues as part of the Cultural Indictors Project (Gerbner & Gross, 1976; Gerbner, Gross, Morgan & Signorielli, 1980, 1994). As they famously argued, the majority of what we know, or think we know, comes not from personal or direct experience, but from many forms and modes of story-telling. “Stories - from myths and legends to sitcoms and cop shows - tend to express, define, and maintain a culture's dominant assumptions, expectations, and interpretations of social reality” (Morgan, n.d.).

Over the years, cultivation research has considered public perceptions about a number of social and political issues. Cultivation researchers have looked at the effects television as a whole may have on individuals in terms of how they view crime, politicians, the elderly and sexuality (Gerbner et al., 1980; Mares, 1996; Shrum, 1997; Zillman & Brosius, 2000). Rather than considering the influence of media to be linear and unidirectional, these cultivation researchers believe media effects should be viewed as part of a dynamic and ongoing process of interaction between messages and contexts.

Recently, there has been scholarly attention directed towards programs that we would describe as examples of this new type of television format (see Brodie et al., 2001; Press & Cole, 1999; Rollins & Connor, 2003; Turow & Gans, 2002), particularly law shows such as *LA Law* (Gillers, 1989), *The Practice* (Thomas, 2000-2001) and *Law & Order* (Jarvis & Joseph, 1998). While useful additions to the literature, the research does not argue that these shows are offering an alternative in terms of television output. We assert however, that ripped from the headlines shows like *Law & Order* should be considered as a distinct format. The plotlines are based on real life events covered in the news. Thus, the writers are taking information already in the public domain and are weaving this information into the highly personal and therefore powerful narratives that make television drama so compelling. We believe, as a result, these programs may
engage viewers on a different level than purely fictional shows. It is our belief that the format of ripped from the headlines programs such as *Law & Order* use narrative, drama, and emotion to provide a new and important space in which society can negotiate definitions and attitudes about different social and political issues.

Fiction gives people in society the space they need to play with ideas and arguments that might be too politicized if attached directly to ‘real’ situations. The frequent inclusion of controversial storylines and the resulting debates between characters could draw the viewers in and encourage them to partake in dialogues with other viewers of the shows in ways not always considered by communication scholars. As “the central source of information in the United States, television provides both the topics and the substance on which most conversations are based,” and that given the ongoing dialogue on television about all types of political and social issues, television is a “regular conversant in an ongoing discussion, and ultimately, the central forum for political discourse” (Delli Carpini & Williams, 1994a, p. 787).

**Mental illness in the media**

Much of the research about the portrayal of mental illness in the media bemoans the fact that “the general public most frequently makes contact with mental illness through the media and movies. Unfortunately the media often depicts patients as unpredictable, violent and dangerous” (Arboleda-Florez, 2003, p. 645). *Law & Order* episodes feature defendants who suffer from various forms of mental illness on a fairly frequent basis, but the primary focus in this paper is not examining how the mentally ill are portrayed, but rather the ways in which mental illness is used to discuss larger societal questions.

There has been a significant amount of research on images of the mentally ill in the mass media. This research has shown that the public receives the majority of its information about mental illness and the mentally ill from the mass media (Borinstein, 1992; Philo, 1994). Research into the depictions of the mentally ill in the media, both factual and fictitious, is substantial (Diefenbach, 1997; Fruth & Padderud, 1985; Gerbner et al., 1980; Gerbner, 1988, 1993; Philo, Henderson, & McLaughlin, 1993; Philo, 1996; Shain & Phillips, 1991; Signorelli, 1989; Stuart, 2003; Wahl, 1992, 1995; Wahl & Roth, 1982). Much of the research has involved content analyses of different media outlets that have examined whether mental illness is considered at all and, if so, how those who suffer are portrayed. These studies repeatedly demonstrate that mass media depictions of mental illness are overwhelmingly negative. While discussions about how mental illnesses are portrayed in the mass media are increasing, negative depictions of the mentally ill mean that ignorance about mental health issues persists. Similarly, there is still considerable concern about the continued problem of the stigma associated with these illnesses and those who suffer from them (Arboleda-Florez, 2003). In a comprehensive literature review of studies in mass media images of mental illness, Wahl (1992) demonstrates that mental illness is the most commonly depicted disability. One in every ten disabilities shown involves a mental health or psychological topic. The most common depictions of the mentally ill are that they lack social identity, are single, unemployed, dangerous, and unpredictable. More recent studies into common misperceptions about mental illness show again that the overwhelming negative stereotype is that the mentally ill are dangerous and violent (Angermeyer & Matschinger, 1996; Fink & Tasman, 1992; Hayward & Bright, 1997; Stuart, 2003).
Content analyses of the news found equally disturbing results about the negative portrayals of the mentally ill (Allen & Nairn, 1997; Day & Page, 1986; Shain & Phillips, 1991; Steadman & Cocozza, 1978; Wahl, 2003). Despite over a decade of scholarship that has documented these negative portrayals and called for substantive improvements in reporting these types of stories, the most recent studies have found similar results. Francis et al. (2004) undertook a large content analysis of 13,000 non-fictional media items from Australia, with one category analyzing the use of outdated, negative or inappropriate language, such as nuts, loony psycho and crazy. They found the majority of the coverage did not use these terms, but 20% of the coverage still did. Wahl’s (2003) most recent content analysis, which focused on the coverage of mental illness in the news media, supported previous research findings that the majority of stories about the mentally ill reported how they were dangerous because they had committed crimes. In his sample of articles taken from six major U.S. newspapers from 2002 that included the term ‘mental illness’, 26% involved accounts of violent crimes committed by people suffering from a mental illness.

Across genres, media output disproportionately focuses on a relationship between mental illness and violence. Viewers do not witness each week’s murder being committed on Law & Order, as the show always opens with the discovery of the body. However, when the defendant is portrayed as mentally ill, the relationship between violence and mental illness is triggered.

The insanity defense

The defense of Not Guilty By Reason of Insanity (NGRI) has a long legal history. The law has always been concerned with the ability of the accused to form intent and have the requisite mental facility to distinguish between right and wrong at the time of the crime. This basic formulation known as the McNaughten test (from an 1843 English case) is the standard used in many states (and the UK) for the establishment of a defendant’s legal mental state. The formulation used in many other states, including New York, (where Law & Order is set) is the American Law Institute’s (ALI) standard, which adds a component to take in advances in the field of psychiatry. The ALI standard is the basis for the New York penal code, which states that an individual lacks “criminal responsibility by reason of mental disease or defect” when at the time of the crime “as a result of mental disease or defect, he lacked substantial capacity to know or appreciate either: The nature and consequences of such conduct; or that such conduct was wrong” (New York Penal Code, 40.15).

Asserting that someone is not guilty by reason of insanity is different than stating that someone is clinically insane. It is possible to meet conventionally agreed upon standards of mental illness without satisfying the NGRI standard. If an individual suffers from schizophrenia, but at the time he commits a crime understands that the act is wrong, he is still considered guilty under the law. This is because the law is concerned with the ability of the individual to form intent, which is a major portion of responsibility. Thus intent is also the deciding factor in discerning first-degree and second-degree murder and manslaughter. The NGRI standard is quite rigid and, as a result, is a very rare and unsuccessful defense strategy (Coleman, 1999; Wahl, 1990).
Attitudes towards mental illness in general play into attitudes about the NGRI defense. John Hinckley’s (in)famously successful NGRI defense for shooting President Reagan caused widespread public indignation, and directly following the case, state legislatures across the country debated the need to abolish or restrict the defense. A study by Hans and Slater (1983) conducted immediately after the case, and another one by Wahl (1990) that revisited the study, illustrated the overwhelmingly negative attitudes towards the defense, high levels of ignorance about how it works, and what it means for the sentencing of the offender. These studies suggest there is a perception that the insanity defense is morally questionable and exploits a legal loophole. There are also utilitarian concerns based on widespread misconceptions about the defense that it places the community in more danger (Fitzgerald & Ellsworth, 1984; Howell, 1982; Pasewark, 1981; Steadman & Cocozza, 1978).

More recent opinion polling shows little has changed. In polls undertaken after well-publicized cases such as the Long Island Rail Road gunman Colin Ferguson or Lorena Bobbitt, who cut off her husband’s penis, opinion was very much against their use of the NGRI defense (89% in Ferguson’s case and 59% in Bobbitt’s case). In one Roper study from 1994, 64% of respondents disagreed with the statement, ‘Most of the people who are found not guilty by reason of insanity really were insane when they committed the crime’ (Roper, ABC, 1994). It is within this public climate about the Not Guilty by Reason of Insanity defense that these episodes of Law & Order were written, aired, and watched by audiences. They have to be understood within that context.

**METHOD**

NBC’s Law & Order is television’s longest running drama and is now in its thirteenth season. Currently in syndication, it also airs twice daily on TNT and thus has a larger presence than a weekly show.² The program is divided into two sections. Dick Wolf, the producer and creator of the show, described it by saying “the first half the show is a murder mystery and the second half is usually a moral mystery” (Courrier & Green, 1998, p.53). In the first half of the show, detectives from a homicide unit investigate a murder. In the second half, prosecutors try the case in court. Throughout its twelve plus years of production, the show has tackled issues including racism, class conflict, child abuse, organized crime, terrorism, battered woman’s syndrome, and mental illness.

Due to our interest in the depiction of mental illness, and particularly the relationship between mental illness and responsibility for criminal behavior, we chose as our sample episodes of Law & Order that featured a defendant who entered a plea of “not guilty by reason of insanity.” The frequent use of mental illness as an element of the plot is demonstrated by the recurring use of the psychiatric advisors, Dr. Olivet and Dr. Skoda, as semi-permanent characters on the show. Although issues of mental illness were raised in more episodes than we included in the sample, we felt that restricting sampling to those episodes with an NGRI plea allowed for a more focused examination of the issues of interest.

Despite the frequency of depictions of mental illness, it is important to note that, for the most part, Law & Order has not featured stories about defendants who suffer from medically defined mental illnesses such as schizophrenia or bipolar disorder. Instead, the program tends to
focus on mental problems that may not be accepted by mainstream psychiatry and psychology. The location of these illnesses on the boundaries of what is publicly accepted allows for a dramatic tension in story telling that enables viewers to question and explore basic ideas about morality, crime and punishment, personal responsibility, and mental illness.

Using the NBC *Law & Order* website (www.nbc.com/Law&Order/index.html), which publishes detailed summaries of the episodes, along with a fan companion book by Courrier & Green (1998), we compiled a list of all episodes in which the featured defendant used an NGRI plea. Eighteen episodes spread across the thirteen seasons, or 7% of the 267 episodes that had been aired at the time of writing (November 2002), included this element. Over a six-month period from March 1, 2002 until August 31, 2002, we used Tivo (the Digital Video Recorder) to capture as many of these eighteen episodes as possible. During that time frame, seven of the eighteen episodes we previously identified were aired. On the basis of the recordings, the two authors worked together to transcribe the dialogue from all of these episodes.

What follows is a qualitative discourse analysis of the seven episodes examining the arguments used to discuss issues of mental illness in the dialogue of *Law & Order*. This method relies on close readings of the dataset to identify the most important themes, issues, and examples of dialogue, combined with more systematic analysis of selected passages that represent the identified themes. After transcribing the episodes together, we had a rich collection of discussions relating to mental illness and crime and punishment. We then worked separately to identify the most important themes that emerged from re-watching the episodes and analyzing the scripts. We worked together to create a shared typology that combined and complemented the findings from our individual analyses.

We did not select *Law & Order* either because it is representative of all law programs or all police dramas, or because *Law & Order* is the only program that uses the ripped from the headline format. Rather, its ubiquity on television and its high ratings make it a sensible choice. In 2003, *Law & Order* was the third ranked drama and the ninth ranked series on television and, combined with its syndication, it is estimated that 96 million viewers a week tune in to watch the program (Byrne, 2003). We thus feel confident in discussing its contributions to the cultural landscape. We believe that the writers of the show reflect a range of societal views about mental illness, crime, and punishment, and therefore provide a rich setting in which to study cultural attitudes about mental illness and the mentally ill.

**RESULTS**

We found three types of discussion about mental illness in these episodes. These types were not mutually exclusive in that, as stories evolved, different arguments arose that overlapped with other themes and issues. Most frequently, this issue was tackled using the theme of personal responsibility and how it relates to criminal behavior. A less frequent but still common theme was a questioning of the very essence of human nature and what it means to be good and evil. The third theme, and the one that could be considered the most nuanced and useful portrayal of mental illness issues, examined the legal and mental health systems and exposed the weaknesses and flaws in those institutions regarding their ability to handle the problems posed by mentally ill criminals. In the following discussion, we explore these three themes further in order to discover
what they offer as ways of understanding the ongoing cultural debate about mental illness and crime. In particular, we are interested in how the construction of legal arguments in the fictional courtroom could encourage debate and discussion in ‘real-life’ living rooms about the topics raised in the shows.

‘The Con’: Mental illness and flight from personal responsibility

A common theme in the shows was framing the NGRI plea as an attempt on the part of the defense to allow their clients to avoid responsibility for their criminal behavior. These arguments touched on several concerns: the use of the ‘abuse excuse’, a reliance on ‘pseudo-science’, and the fear that some will feign mental illness to avoid prosecution. Together these three elements paint a picture of mental illness as a popular escape clause for criminals hoping to avoid punishment for their crimes. However, the episodes did not rely on existing diagnoses of mental illness. Rather, the defendants variously claimed that poverty, medication, television, racism, abuse, or some combination thereof caused a mental disorder that should be blamed for their actions.

The title of Alan Dershowitz’s 1995 book, *The abuse excuse: And other cop-outs, sob stories and evasions of responsibility*, effectively captures the feeling these episodes displayed about NGRI pleas based on mental instability as a result of prior abuse. Whether this abuse was at the hands of a parent, a substance, or an uncaring society, the writers of the program were fairly dismissive of such claims. In one episode, the District Attorney intoned that “now we get to hear all about how the girl was abused by some drunken lesbian who was watching too much television” (*Angel*, 1995).

The feeling that culturally we have become too accepting of excuses for violent behavior seems to dominate these discussions. As the characters in the program discussed the merits of particular cases, they raised arguments about the roles of the courts and of the mental health practitioners in shaping cultural norms about what it means to be member of society, and about the personal responsibility of each individual within the social contract. The character of Jack McCoy, the passionate and beleaguered District Attorney, frequently voiced the frustrations of those who felt that society had gone too far in excusing bad behavior. The following exchange between Jack McCoy and his boss Adam Schiff, in which they discussed the trial of a young man who claimed that he killed because of past physical abuse by his parents, illustrates this line of thinking:

*Adam Schiff*: Sure she’s confident [the defense attorney]. Tomorrow she plans on breaking the jury’s hearts.
*Jack McCoy*: Sympathy alone doesn’t get you an acquittal.
*Adam Schiff*: It sure as hell hangs a jury. Look at those boys out in L.A. (*Privileged*, 1995)

The exchange references the 1994 trial of the Menendez brothers in which a jury failed to convict two brothers of the premeditated murder of their parents, based on a defense centering on previous physical abuse. The characters in *Law & Order* are expressing frustration with what the
writers call the Oprah-fication of America (Angel, 1995), a reference to the increasingly popular belief that people’s emotional difficulties can only be addressed by talking publicly about past trauma.

Related to the distress over excusing present behavior because of past abuse is the fear of emerging pseudo-science that attempts to label deviant behavior as mental illness. For example, in Rage (1995) and Prejudice (2001), defendants claimed that their blinding racism should count as a mental defect precluding them from acting rationally or within the bounds of the law.

In such cases, the attorneys found themselves arguing in trials in which conflicting experts demonstrated the ambiguities and uncertainties that remain within the psychiatric community about these issues. In one episode, the District Attorney refused to put a psychiatrist on the stand as an expert, arguing, “two competing psychiatric opinions turns the trial into the battle of the experts. Once that happens [the defense attorney] accomplishes what he set out to do in the first place” (Thin Ice, 2000). Such a scenario raises the complexity inherent in situations where a jury of lay people is asked to assess the validity of psychological and scientific theories that may be beyond its comprehension.

The disagreement by experts underscores the dynamic nature of the definitions of mental illness and how they change over time within a society. In one episode the defendant’s lawyer blamed his behavior on sports rage, arguing that, as society’s understanding of mental illness became more sophisticated, it was clear people could act violently when placed under extraordinary strain. Rather than dismissing sports rage, the jury should consider the evolution of acceptance of influences such as battered wife syndrome:

Road Rage, airport rage, sports rage. How do we make sense out of all of it? The truth is we can’t. But just because we don’t understand something doesn’t mean we should dismiss it. Battered wife syndrome, post traumatic stress disorder, they took years for juries to accept. People who shouldn’t have been convicted were. Ray Taylor didn’t appreciate what he was doing that morning because at that moment he was suffering from a mental defect, a rage that prevented him from doing so. And in our criminal justice system we don’t hold people responsible for conduct they can’t control, even if we don’t understand it. (Thin Ice, 2000)

Jack McCoy, the Assistant District Attorney responded by pleading with the jury not to acquit the defendant or excuse his rage on the basis of a new-fangled psychiatric defense:

….. road rage, airport rage, sports rage, add to that parent rage, office rage, employee rage, it might be nice to think of all of this as a result of some new mental illness, but the truth is this kind of behavior has become ordinary and to ask you to excuse it through the fiction of a new mental illness, is just that, a fiction… Are we really prepared to create a society in which no one is responsible for controlling their anger? …. And we hold adults responsible for what they do no matter how angry they get. Don’t let Mr. Taylor off the hook. Don’t create an excuse where there is none. (Thin Ice, 2000)
It seems the writers are trying to make the point that just because certain behaviors seem incomprehensible to the average person, it does not mean that the person who committed the acts was insane. The colloquial use of words such as madness, crazy, insane, nuts, wacky, and bonkers to describe actions that we do not understand accustoms individuals to label criminal actions as insane when legally, and sometimes even medically, the diagnosis is not warranted. In an episode modeled after the Massachusetts case in which Thomas Junta, the father of a hockey player, killed another parent, the District Attorney in *Law & Order* declares, “When my niece was younger she used to play soccer. I remember all the parents screaming on the sidelines. Insanity was a pretty good description of their behavior. It’s not a legal excuse” (*Thin Ice*, 2000).

This anxiety around ‘pseudo-science’ and the ‘abuse excuse’ is exacerbated by the underlying fear that such defenses are actually calculated attempts to manipulate the system. These episodes explore the concern that psychologists may be duped by a defendant who is able to present a convincing display of mental illness. The inability of psychology to present a blood test or a CAT scan to prove beyond a reasonable doubt that an individual is indeed mentally ill, presents a problem for those who fear the manipulation of the system.

In one episode, a 26 year-old woman passes for a 16 year-old girl and murders a teacher who could expose her true identity. When she is brought up on murder charges she claims to suffer from a mental illness. As the story unfolds it becomes apparent that the young woman is a con artist who has consistently lied and cheated her way through life. When cross examining the psychiatrist testifying on the woman’s behalf, the Assistant District Attorney, who believes the defendant is lying, meets the doctor’s testimony with derision, questioning the validity of the doctor’s medical conclusions:

*Jack McCoy:* Okay Doctor. You say that the defendant, because of some unresolved conflict…

*Doctor:* Actually, I said intolerable conflict.

*Jack McCoy:* You say tomahto.

*Defense Att:* Objection.

*Jack McCoy:* Withdrawn. In any case, this girl is playing at being someone else. Isn’t that true?

*Doctor:* It’s hardly playing, Mr. McCoy. Fiona has assumed another personality at the expense of her own.

*Jack McCoy:* Let me ask you this doctor, why is it that she always adopts the persona of a teenager- after all, she is 26 years old!! Wouldn’t it be more fun to be an astronaut or a race car driver? (*Shangri-La*, 2002)

Later when McCoy confronts the defendant with a lie that exposes her defense as a fraud and the evidence that will eventually convict her, she responds by saying:

*Defendant:* You’re good. But you see Mr. McCoy what I’m good at, what my special talent is, is to make people see what they want to see. It’s carried me this far in life and I doubt it will let me down with twelve people unable to avoid jury duty (*Shangri-La*, 2002).
In essence, the defendant speaks the prosecutor’s fear that a jury will not be capable of discerning fact from fiction. This addresses the concern that the justice system is not being tough enough on crime and that people are, essentially, getting away with murder.

**Good vs. evil and the nature of free will**

Gerbner (1993) has argued there is a documented practice of suggesting that those suffering from a mental illness are touched by evil. This sense helps to justify a mistrust and fear of mental illness and encourages victimization and punishment. It is interesting to note, therefore, that the third theme we encountered that touched on the topic of evil did not automatically position evil and insane as identical. They were more likely to be used as opposing labels. As the programs struggled with the age-old puzzle of what drives people to commit crime, the writers related the questions about personal responsibility with wider societal questions about the nature of evil. The scriptwriters certainly considered this question, asking whether it is possible to call anyone evil in an era when there is a psychological disorder for many anti-social behaviors. They also included dialogue that used terms such as ‘crazy’ and ‘sick’ interchangeably, highlighting the confusion about how people perceive mental health issues.

In one episode, *Born Bad* (1993), the characters struggle with whether there is a genetic predisposition for violence and what the moral implications of accepting such a defense are. What happens to the notion of personal responsibility when genetics displace our understanding of free will? In an age when the human genome has been mapped and doctors promise the continued unfolding of the mystery of human biology, where will the law situate responsibility?

In one episode loosely based on the Susan Smith case, in which a woman kills her own child, the characters engage in a lengthy debate about the implications of substituting therapy for morality when they offer institutionalization instead of imprisonment. The woman in the episode does not meet the legal definition of insanity, but is clearly suffering from a mental disorder. In the following exchange, the two Assistant District Attorneys, Jack McCoy and Claire Kincaid, and the prosecution’s psychiatrist, Dr. Elizabeth Olivet, discuss the case:

*Claire Kincaid:* I’ve got to tell you, a mother killing her own baby with no motive whatsoever, you have to wonder.

*Jack McCoy:* Do I have to explain the law to you Claire? Crazy is not the same as legally insane.

*Claire Kincaid:* I’m just saying that what Leah Coleman did was incomprehensible to me, the jury’s got to feel the same way. If she wasn’t sick, who is?

*Jack McCoy:* What are we doing here?

*Claire Kincaid:* Jack…

*Jack McCoy:* No Claire, substitute psychology for morality and our jobs become obsolete.

*Dr. Olivet:* This is an extreme case. The jury’s going to want to know why she did what she did.

*Jack McCoy:* Maybe she was just downright bad.

*Dr. Olivet:* Do you really believe that?
Jack McCoy: With all due respect to your profession Liz, I think it’s been overplayed in the courtroom.

Claire Kincaid: So people are just good or bad, period.

Jack McCoy: It’s better than healthy or sick. Deny evil and you deny responsibility. Open up the jails and send everyone to a shrink (Angel, 1995).

This dialogue captures the arguments raised by those in society who see our ability to clearly differentiate right from wrong slipping away. The clear dichotomy of good and evil, or for that matter healthy or sick, appears increasingly elusive.

**Flawed system**

The episodes that fall into this category were slightly different in that there was a tacit acceptance of some degree of mental defect with the defendants, but the strict legal standard of insanity resulted in difficulties for the District Attorney’s office. Given the restrictiveness of the law, the characters in these episodes openly searched for ways the defendants could receive mental treatment while still meeting the societal demand for punishment.

These discussions highlighted the limits of the legal definition of insanity, the level of care received in state mental health institutions, and the societal push to try youthful offenders as adults. In a powerful episode that tackled the issue of school shootings, several revealing scenes considered these different topics. In the first scene, the three District Attorneys, Nora Lewin, Jack McCoy, and Abby Carmichael, struggle over the proper course of action in charging a clearly troubled teenager responsible for a school shooting spree:

Nora Lewin: So a kid who obviously needs psychiatric treatment doesn’t get it because no one does. And we keep him at Riker’s [prison] because it makes our case look better. This is a strange way to run a candy store.

Jack McCoy: Keeping this kid out of a psychiatric hospital is our best shot at keeping him off the streets.

Abby Carmichael: Permanently.

Nora Lewin: Permanently?

Abby Carmichael: I assume we’re seeking the maximum here?

Nora Lewin: Consecutive life terms? For a kid who’s just turned sixteen. Even at his age, that’s a death sentence.

Abby Carmichael: Four children are dead, Nora. We can’t just send him to bed without any dinner.

Jack McCoy: I think Abby’s right. We have to deal with this kid severely (School Daze, 2001).

The dialogue illustrates the frustration the participants in the system feel when balancing the public’s demands for retribution with their own sense of the mitigating circumstances of mental illness. These same themes were further examined later in the episode when the boy’s attorney, Jamie Ross, came to speak to McCoy about finding a solution to the case:
Jamie Ross: I don’t want to fight with you either, Jack. I’m here to work towards some solution so we can both sleep at night.

Jack McCoy: Jamie, four people are dead. Kids. Another six are in the hospital. The law demands that your client be held accountable.

Jamie Ross: It doesn’t demand charging him as an adult without any evaluation.

Jack McCoy: Come on, we both know what an evaluation is going to show. That the kid knew right from wrong.

Jamie Ross: But that shouldn’t be the end of the story, not with the country in the middle of an epidemic of these things.

Jack McCoy: I can only deal with the case in front of me. (*School Daze*, 2001)

McCoy’s recognition of the simultaneous and opposite pressures provides the dramatic tension. On one side, he does not want to give a message to the public that the law does not take these school shootings seriously. On the other side, he acknowledges that treating children and mentally ill children as adults is not a just solution.

In another episode, the topic of juvenile killers arose again. This time the central focus of the story was the inability of the system to deal with young killers. In an attempt to provide psychological treatment for Jenny Brandt, a ten year-old killer, and to protect society from her violent tendencies, McCoy argues “the system doesn’t have a place for this girl. We’ve got to make one” (*Killerz*, 1999). His solution is to have the child civilly committed. When questioned by his boss, Adam Schiff, about his decision, the following discussion ensues:

Adam Schiff: State head shrinkers. In the past year they have released three subway pushers, and a man who dined on his neighbor’s liver.

Jack McCoy: There’s no other way.

Adam Schiff: What about the way the state legislature prescribes.

Jack McCoy: They never conceived of a Jenny Brandt. Legal Aid wants her back home. I’m not going to let that happen.

Adam Schiff: I don’t want this office coming off inhumane.

Jack McCoy: Inhumane to whom: To Jenny? Or the society on which she wreaks havoc? (*Killerz*, 1999)

The arguments here partly revolve around the adequacy of state mental health care. If the characters felt that these institutions were places that had the ability to treat mental illness, the decisions would be easier to make. However, the acknowledged weaknesses of state services for the mentally ill means that commitment is not a guarantee of treatment and may instead constitute a form of cruel and unusual punishment. A psychiatrist raises this point and states that “you lock this child away in an asylum for the criminally insane and you’re wasting whatever chance you have of fixing her” (*Killerz*, 1999). While the show certainly never offers solutions, the flaws in both the legal and mental health systems are a common theme.

**DISCUSSION**

In this sample of seven episodes, we found that three themes emerged in discussions related to the subject of mental illness. The episodes we studied argued about specific concerns
such as the effect of abuse in determining an individual’s psyche, existential questions about the nature of good and evil, and institutional fears about the court’s ability to handle the mentally ill.

The program writers have consistently stated that they want to make people think about the issues presented in the shows. It is thus interesting to look at the ways in which the writers have chosen to explore the issues of mental illness, personal responsibility, and crime and punishment. The NGRI defense allows these wider discussions because it allows an individual, due to a mental defect, to avoid punishment because of a different level of culpability. It presents an ambiguous moment in the criminal justice system. The fact that this is a legal drama with half the program based in the courtroom allows the scriptwriters to explore the issues from either side, forcing the prosecution and defense to consider these issues from different perspectives with eloquent and thoughtful dialogue. We believe this dramatic format encourages dialogue among viewers in ways that may not be the case with the news.

This research raises three valuable issues. First it demonstrates the need for more sophisticated analyses of the portrayal of mental illness, beyond content analyses that quantify positive and negative images. Qualitative discourse analysis allows a more nuanced understanding of how specific topics are considered. Second, the research shows the freedom provided by fictional formats, particularly these ripped from the headlines dramas, to cover issues in ways that could spark conversation and discussions. Third, the questions raised by the show about the nature of mental illness and how it relates to issues of personal responsibility and criminal behavior, as well as the problems of scarcity of resources for mental health in the criminal justice system, are not commonly addressed in other public arenas in society.

The ripped from the headlines format allows the writers to move beyond the rigidity of news reporting that demands the ‘who, what, where, and when’, while drawing on storylines that are familiar to viewers because they have see them elsewhere. As Carey (1986) has explained, the demands of the four easy to answer ‘w’s’ means that the most important, but often most different ‘w’ (the ‘why’), frequently gets ignored. In the famous Law & Order format of two halves, the first half of the seven episodes mimicked the focus of news coverage with its emphasis on the investigation of fact, whereas the second half moved beyond the realms of typical journalism and asked questions about why an individual committed a crime and to what extent the society in which s/he lived was responsible for those actions. In addition, the show considered how society should deal with those people who fall outside the range of normal and whether the ultimate purpose of the criminal justice system is rehabilitation or retribution.

According to Graber’s study (1980), 25% of newspaper stories and 20% of television stories are related to crime. Despite the dedication of the news media to crime related topics, wider questions are almost totally absent from mainstream reporting. If news does not address these questions, where should society turn? Partly because of a cultural climate that demands stricter and harsher punishment for criminals, the ethical and moral questions inherent in these cases are obscured and ignored. Politicians do not want to be seen as soft on crime, providing a disincentive to encourage debate about the flaws in the system. The absence of thoughtful discussion exacerbates the problem, encouraging criminal justice policy to be shaped by knee jerk reactions to highly publicized but usually anomalous crimes.
Fictional programs like *Law & Order* hold privileged positions as they are able to discuss the problems of the criminal justice system without fearing the political consequences. As a fictional character, Jack McCoy can consider controversial arguments in a way that politicians in the state or federal legislature are unable, making impassioned pleas without fearing that he will lose votes at the polls.

We are not arguing that the shows themselves are not influenced by societal pressure. Although raising critical questions, the show does not propose radical solutions. As our sample demonstrates, the majority of the discourse around the NGRI pleas falls into the category of ‘the con,’ suggesting that many of the mental disorders discussed are not worthy of serious consideration. Furthermore, most of the defendants in the episodes were convicted, thereby continuously maintaining the status quo.

Despite these qualifications, the episodes are encouraging viewers to engage in discussions that are rarely happening elsewhere and are involved in the negotiation of meaning over where the boundaries should fall in terms of what society will accept as mental illness. Inherent in these arguments is the recognition that the acceptance of mental illness is socially constructed. Mental illnesses that are now considered legitimate were ridiculed twenty years ago. As society changes with progress in the diagnosis and treatment of mental illness, the definitions of mental illness are evolving. At times there is a discrepancy between what is accepted by psychiatry and what society, at large, is willing to acknowledge. *Law & Order* probes those areas on the borders of legitimacy and uses them to ask pointed questions about the consequences of broadening definitions of mental illness.

It appears that *Law & Order* uses mental illness as a foil for discussing larger societal issues. By addressing social problems through the lens of mental illness, the programs allow people to gain critical distance from issues so that they might examine tendencies in their own behavior in a non-threatening way. In this way, the programs in our sample are only partly about mental illness. In many respects they are about locating deviance in ‘the other’ and exploring to what extent that deviance is shared.

We believe it is a positive development that *Law & Order* is addressing these issues, as so few other arenas in society are doing so. However, the limitations of the fictional format also need to be addressed. The stories are compelling from both a cultural and dramatic perspective, and it is ultimately the theatrical nature of the stories that results in the writers consistently returning to these plotlines.

A primary concern is that mental illness as a medical condition may be de-legitimized. One of the themes was the idea that mental illness is used in the justice system to avoid personal responsibility for committing crime. Indeed, the frequency of the Not Guilty by Reason of Insanity plea is grossly overrepresented in *Law & Order*. Whereas the NGRI plea was made in 7% of *Law & Order* episodes, the plea is actually offered between 0.9% and 1.5% of the time. Research carried out by Wahl (1990) demonstrated a perception that the public tends to overestimate the frequency and the success rate of the NGRI defense. Such a disproportionate representation may exaggerate in people’s minds the frequency of the defense and may create the impression that criminals are not being punished due to the plea.
In our sample, many of the cases resulted in a conviction for the defendant. The NGRI pleas failed for several reasons. In some cases, the characters bemoaned the rigidity of the law in not accommodating people who clearly are mentally ill, but do not reach the legal standard of insanity. In other cases, the mental illness is considered illegitimate or not rising to the level necessary to negate personal responsibility. The frequency of such depictions may perpetuate the notion that psychiatry and psychology are leading to phony diagnoses. This would undermine efforts to educate society about the prevalence of mental illness in the hope of lessening the stigma attached to these disorders.

Stigma is certainly attached when depictions of mental illness stress the violent nature of the mentally ill. Although Law & Order may raise important questions about mental health and its treatment system, it does so in the context of cases where the mentally ill individual has committed a murder. Furthermore, Law & Order’s depictions of the mentally ill must be understood in the context of a television environment that consistently portrays the mentally ill as dangerous. Research is clear that violent depictions of the mentally ill influence attitudes towards those who suffer from mental disorders. It may also contribute to a belief that crime is disproportionately committed by people with mental illnesses. Finally, research on perceptions of the NGRI defense (Hans & Slater, 1983; Wahl, 1990) illustrate that people remained concerned about their safety as a result of the use of the defense. A common belief is that the defense results in offenders being placed in mental hospitals rather than prisons, allowing them early release. Discussions on Law & Order about the flaws in the system, including overcrowding, incorrect diagnoses, and appropriate rehabilitation, only add to these concerns.

The nature of formula television compels the writers of Law & Order to frequently deliver a guilty verdict to the audience. The drama builds by following a crime through the criminal justice system and it would be dramatically unsettling if the prosecutors, some of the main characters, consistently lost. The title Law & Order also demonstrates the ideological direction in which the viewers should expect the show to lean. It would be a surprise if the episodes concluded with plotlines that provided anything else. Furthermore, as social control theory would predict, the neat endings to the programs allow viewers to leave the program without feeling threatened that mentally ill people are being released on to the streets or that criminals are getting away with murder by feigning mental illness. In this way, even though Law & Order asks difficult questions, it ultimately provides comforting answers.

Suggestions for future research

As the preceding discussion clearly illustrates, there is a considerable amount to be learned from examining the ways that fictional media discuss and depict mental illness and larger societal questions. The writers of television fiction are engaging in substantive discussions of issues and we believe that more studies are needed to explore the ways in which members of the public discuss the issues raised in these fictional programs. Ethnographic and focus group research that examines the specific ways in which people talk and negotiate meaning during and after viewing these shows, particularly as they relate to mental illness and crime and punishment is needed. Such research would be helpful in understanding the ways in which people use media to form their opinions and views of reality. As the implosion of format and genre distinctions becomes an acknowledged characteristic of contemporary television programming and these
‘ripped from the headlines’ shows remain popular, this particular format will hopefully receive more attention.

NOTES

1. On Law & Order the actual plea is ‘not guilty by reason of mental defect’ which is the legal term used in New York State. However, the plea is more generally referred to in other states as ‘not guilty by reason of insanity’ and indeed, the characters on the program frequently use the term as well. This paper will use the more frequent ‘not guilty by reason of insanity’ term for ease and consistency.

2. TNT is the second network to air the syndicated program. The A&E network began airing reruns of the episodes in 1994.

3. One eight state study in 1991 found insanity pleas offered 1.5% of the time, whereas a separate four state study in 1993 found the incidence rate to be 0.9% (Coleman, 1999).

ENDNOTE

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“Let's Work out the Details”: Interrogation and Deception in Prime Time

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ABSTRACT

This essay is a literary and cultural examination of how practices of police interrogation have been adapted to prime-time American television, specifically on the police drama *N.Y.P.D. Blue*, co-produced by screenwriter David Milch and former N.Y.P.D. Detective Bill Clark. Whereas most scholarship focuses on the *Miranda* threshold and the presence of coercion in interrogation, my emphasis centers on police deception, and the creative process that produces its representation. Using the model provided by Pierre Bourdieu, I argue that the collaboration between Milch and Clark—the meeting of rival professional "posts" and "dispositions"—fashions a dramatic technique with a strikingly contemporary import. Rather than expressing a classically conservative ethos, I argue interrogation on *N.Y.P.D. Blue* helps construct the ideological coherence of a current sensibility more appropriately termed "post-liberal": a post-liberal realism, aesthetic and political, in which a self-image of cosmopolitan frankness, personal growth, and pluralistic tolerance has ostensibly been shaped by a new fatalism about the need for law enforcement.

INTRODUCTION

For the past few years, as a literary and cultural historian, I have been writing about what might be called the “contact zones” between the different forms of metropolitan policing and modern American cultural representation (C. Wilson, 2000). Or, as Stuart Hall and his Birmingham colleagues (1978) once put it, I have been exploring the mutual reciprocities and reinforcements between journalists, creative writers and filmmakers on the one hand, and police authorities on the other. In the United States, this tradition has a reasonably long history. It extends from political relationships between crime reporters like Lincoln Steffens and Police Commissioner Theodore Roosevelt in the Mulberry Street police station of the 1890s; through columnist Mark Hellinger's night in a police cruiser that became the basis for *The Naked City* (1948); to David Simon's year as a police intern that led to the making of the True Crime book *Homicide* (1991) and its N.B.C. television series; and, more recently, to the adaptation of Cold Case detective squads to literary nonfiction, television, and the Internet (C. Wilson, 2004). Of course, as Hall’s comment suggests, these intersections have long been of interest to scholars across the disciplines. Therefore I was probably not alone when my interest was drawn to a book entitled *True Blue: The Real Stories Behind N.Y.P.D. Blue* (1995), co-authored by A.B.C. screenwriter David Milch and his chief collaborator on this series, former N.Y.P.D. homicide detective Bill Clark. Although at first blush merely a behind-the-scenes book for devoted fans, the text actually has a good deal of material for
those interested in the intersection of legal norms, law enforcement practices, and aesthetic rationales in the production of mass media. With Milch's voice appearing as the framing interlocutor of Clark's experience, the memoir claims to have rendered a faithful (true blue) picture of police work on prime-time TV through a deeply fraternal partnership. A partnership forged especially, or so True Blue tells us, by the sharing of secrets about police interrogation.

The topic was a particularly timely one. In the 1990s, as the legacy of Miranda v. Arizona (1966) once again came under public scrutiny, interrogation scenes seemed to become the centerpiece of police melodrama on prime time television. On Homicide, plots often pivoted on what the series called "The Box," a sterile, rectangular interrogation room with a spare metal table, two chairs, and the customary two-way mirror. On Dick Wolf's Law & Order, these rooms established a relay between police work and criminal prosecution--and, on the spin-off Criminal Intent, a performance zone for the perverse genius of chief interrogator Robert Goren (played by Vincent D'Onofrio). But it was arguably on Milch and Steven Bochco's N.Y.P.D. Blue where the dramatic possibilities of such a space first became so central. In the 1990s, N.Y.P.D. Blue also became a powerhouse in the 18-49 demographic, was celebrated repeatedly by the Emmys, and was often praised by police officers themselves. Milch, for his part, brahshly asserted that the heart of his show's success came from its focus on interrogation. The series "tries to point to a kind of dirty secret that is at the heart of our culture," he said in one interview. "What we want the police to do is make sure the criminal is put away by any means necessary but to lie to [people] about how the confession is obtained so [they] don't have to give up [their] illusions" (Eigen, 1996).

To many, of course, that Miranda is habitually circumvented on TV is hardly a secret. Even New York Police Commissioner William Bratton (2000) has voiced his concern over N.Y.P.D. Blue's apparent indifference to due process. Like Constitutional experts and police analysts, media scholars have long been (and rightly) concerned about the presence of coercion in interrogations, and whether cop shows' indifference to these matters undermine public respect for law. Because these shows present due process rights as technicalities hampering police work, and show us officers with deeply moralistic approaches to crime, cop dramas usually seem, as one critic has put it, fully "resonant with conservative political ideology" (Crew, 1990, p. 32; see also Siegel, 2003). However, what I will argue here is that this traditional interpretation might also constrict our understanding of the current state of interrogation, and may misconstrue the ideological effects that result from its representation on TV.

We may also unintentionally flatten our rendering of the collaborative processes behind this representation. That is, it has often been easier to describe how Miranda is undermined by police melodramas--which it surely is--than to explain how doing so is consistent with the often-liberal outlook of these shows’ creators. As a result, we may mistake the reasons behind the appeal of these shows to the young, cosmopolitan, often well-educated audiences they cultivate. Prime-time producers like Bochco, or Milch, or Wolf, after all, present themselves as opposed to the right wing and Moral Majority on behalf of free speech and greater sexual frankness (for instance, in the scandalous puns of its episode titles). They are often praised for their hip, seemingly pluralistic casts, and few shows seem more candid about everyday racism. As Robert Handt (1997) has argued, N.Y.P.D. Blue's defense of free
speech has gone a long way towards establishing its liberal image in the public eye. Moreover, whatever we think of the brutality of these shows, the curious fact is that David Milch was singled out on three different occasions in the 1990s for awards from the Catholic Humanitas Foundation, while Dick Wolf ardently defended his resistance to censorship and underlined his support for the Brady Bill. In the following, I mean to explore how we might understand these ideological claims to liberal affiliation rather than dismiss them out of hand.

My second objective, following the lead of legal scholars, is to demonstrate that the crucial dimension of *Miranda* violations these days is not physical coercion, though certainly a legitimate issue in its own right. Rather, I will focus on the prevalent practice of police deception: the battery of tricks and ruses police commonly use to conduct interrogations of criminal suspects. Despite the declaration of the U.S. Supreme Court in *Dickerson v. United States* (2000) that *Miranda* has become "part of our national culture" in part because of its pervasive recitation on TV, many scholars feel that *Miranda* has actually been circumvented by police routines and court decisions for some time now. More to the point, in everyday police interrogations, nearly 80% of suspects actually waive their *Miranda* rights after having them recited to them (Leo, 1992). Moreover, because deception often introduces a narrative dimension to interrogation, the difference has real consequences for understanding story-telling in prime time. After all, as Richard J. Ofshe and Richard Leo (1997) point out, a confession is not solely an admission of guilt (the "I did it") that closes a case. Rather, a confession is a narrative, one that takes ownership of and explains a crime, a retrospective tale that can be shaped by cues and prompts generated by police interrogators' deceptions. This element is precisely the dimension of police work, I will argue, that collaborations like the one recreated in *True Blue* began to adapt to television in the mid-1990s.

Obviously, we should not assume that *True Blue* provides anything like an unmediated account of the creative process it describes. On the contrary, my subject is the mediation, the negotiation that is both represented by *True Blue* and in the "telling occasion" (Stone, 1982, p. 154) of the book itself. My first section thus attempts to define my terms, and describe how consulting Pierre Bourdieu's theories of cultural production might help us explore the contact zone (or, in Bourdieu's terms, the "cultural field") recreated in *True Blue*. By examining the interaction between Milch and Clark--between a highly educated, Jewish American novelist and former Yale University writing instructor with a criminal episode in his background, and a taciturn, Irish Catholic, working class cop and Vietnam veteran--I mean to explore the common ideological ground they establish in creating a mutually satisfying representation. My second section then examines Milch and Clark's creation of interrogation scenes as such. While I discuss several episodes, here I look closely at a representative script from the 1998 season. In my final section, I elaborate on what it means to say that *N.Y.P.D. Blue* may have helped to construct not a classically conservative ethos, but a sensibility more appropriately termed post-liberal: a liberal realism in which a self-image of cosmopolitan frankness, personal growth, and pluralistic tolerance has ostensibly been chastened by a fatalism about the new necessities of law enforcement. I also conclude by suggesting the limitations of this sensibility.
Although I have intentionally given the phrase "post-liberal" a cultural inflection above, the term currently appears in a variety of critical contexts. In the social sciences, broadly speaking, it has often been applied as an historical term, referring to the decay or dismantling of the welfare state or social-service sectors in U.S. and European democracies in the aftermath of the Cold War, and the new prominence of crime or security-consciousness in social policy debates (see, for instance, Arditì, 2003; Davis, 1990; Ehrenreich, 2000). In the United States, the conventional historical markers have been the breakup of the Vietnam war, the migration of working-class voters away from the Democratic Party, the new visibility of deindustrialization and Rust belt cities in the 1970s, and the rollback of legal standards set by the Warren and Burger Supreme Courts (of which the whittling of Miranda rights is only one part). In law enforcement, the disintegration of a traditional liberal consensus was especially pronounced, as new inroads were made in the areas of order-maintenance or community policing, preventative surveillance and risk management, and greater reliance on mandatory-minimum sentencing and incarceration (Harcourt, 1998; Kelling & Coles 1996; C. Wilson, 2000; J.Q. Wilson, 1985). Citing the work of David Garland, Jonathan Simon, Richard Ericson and many others, Stuart Scheingold (1999) has offered perhaps the most succinct definition of the new post-liberal turn. He itemizes three features:

- Advanced capitalist societies are burdened by a variety of problems that marginalize increasingly large portions of the population and significantly restrict the state's capacity to govern.
- While effective governance is increasingly out of reach, states in advanced capitalist societies have developed diffuse, insistent, mutable, and, by some accounts, insidious iterations of disciplinary and punitive power. These capabilities are increasingly deployed as repressive surrogates for governance, that is, governing through crime control.
- Governing through crime control has dramatically transformed criminal processes in ways that transcend the familiar struggle between liberal and conservative policies—or, to use Herbert Packer's classic formulation: between the due process and the crime control models. . . . (Scheingold, 1999, p. 864).

While Scheingold's synopsis of the term post-liberal focuses necessarily on the integration of the private sphere into crime control, his emphasis on criminal procedure is, of course, highly relevant to interrogation techniques. As is, in turn, his understanding that the political mood of post-liberalism is defined by the ethos of "learning to live with crime" (p. 866). That is, of a fatalism so characteristic of television shows like David Milch's, that often have "Blue(s)" in their title.

Why not, however, rely instead on the more familiar term "conservative" to describe this recent ethos? In many political debates and law-enforcement situations, especially where enlisting citizen cooperation and vigilance is so vital, this rival term will indeed still be relevant. But in regard to crime control, the classical notion of a conservative as someone who wants to limit state authority increasingly seems inapt. As political theorists like Sheldon Wolin (1989, p. 185) have been arguing for some time, "the complexity of the current
It is not only that signature experiments in public-private cooperation in crime control—prison privatization, the security zones known as Business Improvement Districts (see Kelling & Coles, 1996), or even community vigilance groups—often extend or enhance governmental authority while seeming to supplant it. Prominent order-maintenance policing theorists and practitioners, moreover, do not, in fact, always rely on classically conservative, moral principles for crime or punishment. Instead, they rely on pragmatic, actuarial, risk-assessment recipes. And finally, while the public rhetoric of back-to-basics moral rectitude and zero tolerance issues forth in many locales, law enforcement has in fact turned increasingly to secret and morally grey tactics like undercover work (Marx, 1995), to greater use of criminal informants (Curriden, 1991), and, again, to deception in interrogation (Brooks, 2000; Leo, 1992; Leo & White, 1999; Skolnick, 1982; Young, 1996). Any full account of these practices, therefore, must account not only for the ideological pronouncements of police officials or mayors, but for the outlook and temperament of the post-liberal citizenry that "learns to live" with these practices. To use Bourdieu's term (1992), we must account for that citizenry's "disposition."

Bourdieu's formulations, in fact, provide a useful guide for understanding the outlook on criminal justice in True Blue. Packaged much like a fan's scrapbook, the memoir at first glance seems to offer little more than a quite familiar account in which a celebrated writer offers inside dope to justify his exploitation of a police-consultant's experience (cf. Sterne, 1998). David Milch, the framing voice of True Blue, indeed digresses into seemingly gratuitous and self-serving stories of race-track horses, or spats with actors and sponsors. At one point he even admits to having cut corners in order to establish the character ("Bobby Simone," played by Jimmy Smits) abruptly brought in to replace original star David Caruso:

> With nothing like the two years available we'd spent imagining [Caruso's character of] John Kelly," [Milch confesses,] "... we tried to conceive of a character who would only permit himself to be known slowly and after shared experience had generated trust ... whose life experience had left him emotionally foreclosed and inaccessible (Milch & Clark, 1995, p. 141).

In passages like these, Milch seems commercially-minded and cynical, almost indifferent to the task of capturing Clark's experience.

However, if we see the contact zone re-staged in True Blue as something akin to Bourdieu's field of cultural production, we might consider even this initial by-play as part of the creative negotiation. As Bourdieu might suggest, a collaboration like that between Milch and Clark is shaped neither by sheer commercialism nor by ideological unanimity. Rather, the cultural field of TV production partakes of the shaping influences of what Bourdieu calls "posts" or professional positions. For Milch, this influence means pressures from actors or sponsors or networks, and his own aesthetic demands. For Clark, it means influences from police commanders or crime victims and other civilians. Meanwhile, the collaboration also involves a negotiation of rival "dispositions": not simply personalities or ideologies, but
professional sensibilities generated by religious training, or social upbringing, class experience, education, and so on. In Bourdieu's model, dispositions evolve because they are developed reciprocally with posts, and vice versa. Therefore, any given fund of knowledge (say, of interrogation) from a given professional field (like policing) is not simply mined as raw material (as, for instance, for screenwriting). Rather, a representation must often be developed through improvisation, and sometimes even unconsciously, during the creative process, in a way that is mutually satisfying to both partners. Because each thinks of his profession as a field with its own rewards, certification processes, and institutional capital, as well as a matter of internalized duty and satisfaction, cultural producers rely not on fixed ideological principles as much on a second sense or "feel for the game", which lends them a sense of autonomy and self-worth. In the contact zone recreated in *True Blue*, there is therefore, the simultaneous sense of gaining cultural legitimacy through collaboration, but also losing oneself in the game. This sense is a mixture of conscious strategizing, intuition, and also what Bourdieu calls "in-difference," a shutting out of the world outside the cultural field as such (Bourdieu & Wacquant, 1992).

For his part, then, the Bill Clark presented in the book offers much more than job expertise. Rather, he imports into the field a narrative of working-class dedication in the post-liberal moment. Principally a homicide investigator throughout his career, Clark was a Vietnam veteran who had risen quickly in the aftermath of the Knapp Commission hearings in the early 1970s. Following that Commission's revelations of police payoffs and vigilantism on the N.Y.P.D., central division cops had been promoted over more entrenched precinct officers in new anti-corruption policies. In many ways, that is, his career reflects the post-liberal turn in policing, in its reaffirmation of professional integrity, loyalty to one's partners, and the love of vigorous crime-busting, all of which reformers following the Knapp Commission Report (1972) had laid claim to (Lardner & Repetto, 2000; C. Wilson, in press). Public employment, in his mind, is in fact compared to military service: after trying more lucrative work in private security, Clark returned to his original calling with the help of fellow reservist Ray Kelly, at that time New York's Commissioner of Police. Aside from casting him as a blue-collar hero, *True Blue* works hard, in fact, to connect Clark's approach to policing to the aftermath of Vietnam, in a way that resonates with much of the institutional memory of metropolitan police in the last fifteen years. Today's police managers, of course, speak of restoring the cop to the community in the wake of a Vietnam-era paramilitary approach, or of taking us Beyond 911 (see Kelling & Coles, 1996; Walker, 1984; J. Q. Wilson, 1985). Appropriately, then, Clark's professional ethos is conveyed in *True Blue* through the retelling of a dark memory he has of fellow soldiers defacing the bodies of slain Vietcong. Clark instead gave such bodies a decent burial. "I found one guy's wallet and he had pictures of his family and so forth same as I would, and a library card," Clark says (Milch & Clark, 1995, p. 59).

This renewal of public service is not fueled simply, in Clark's case, by an ideological or even moral conservatism. Instead, *True Blue* presents us with matters of disposition to match the post described above: we encounter the deeply private, reticent awkwardness of Clark's outlook, a mixture of an Irish, taciturn wit, cop mistrust of outsiders, and what the text casts as working-class propensity for roundabout comparisons. His style is not, in other words, L.A.P.D.-style, brash and paramilitarism, but a more restrained and blue collar outlook. Thus, what originally seems a closed or inaccessible temperament offers, in fact,
subtle comparisons between everyday cop labor and the mundane dimensions of TV writing. For example, when Milch describes his problems with network censorship, Clark talks about "bosses" hard to work for, on "the job" (the slang term for police work). When Caruso creates problems on the set, Clark talks about similar frictions between detective partners and the nuances of not intruding on someone else's case. Some comparisons are more oblique. For instance, after Milch tells Clark about pinning his hopes on a racehorse, Clark tells a grim story about a sodomy-murder, and a child's body he has been forced to see. The victim's parents are irredeemably bereaved. Of the horse's promise, Clark can only say pessimistically, "Yeah, well, I hope it works out for you" (Milch & Clark, 1995, p. 25). Again, much of the fatalism Clark lends to these conversations reflects not a simple conservatism, but an artisanal outlook criminologists like Jerome Skolnick have long identified with police work, and is currently under revival. As Skolnick (1966) famously demonstrated, cops often demonstrate a desire to administer justice personally, drawing upon their experiential fund of guilt and innocence. They often speak not only of their recurrent exposure to human depravity, but of a fatalism derived from the feeling that they know someone is guilty but are often unable to prove it. The interrogation room, the place prior to court processing, is one of the sites a blue-collar policeman can momentarily assert control. Conversely, "lawyering up" (asking for a lawyer, a Miranda protection), not only connotes the intrusive presence of the law itself, but the arrival of its unwelcome white-collar representatives.

This law-and-order ethos might easily seem quite different from the sensibility that David Milch brings to the creative collaboration, that of a Yale-educated liberal, experienced in Hollywood, and in fact a former drug abuser. However, as Milch narrates his own life story, we can see that he uses the encounter with Clark as a way to modify and chasten his prior disposition and field knowledge to create a new post-liberal sensibility. Much as in other texts with an informant and an interpreter, the differences between Milch and Clark in True Blue only serve to set the stage for a subsequent ritual of initiation. Even potential class differences with Clark are adroitly turned into a way of affirming an emerging fraternal bond. Above all, echoing Clark's fatalistic, foreclosed and inaccessible disposition, Milch introduces the roots of his own, more recent philosophy: an ethos not of liberal excess or elitism, but of personal, silent endurance and work-centeredness he claims to have recovered from his father and from his college mentors.

This code bears significantly on an obviously-changed attitude towards crime. On the personal front, first of all, we discover that like Bill Clark, Milch's father had been a silent, hardworking man of immigrant roots: a Buffalo surgeon of Jewish descent who had escaped his family's ties to organized crime. Specifically, he recalls his family's ties to Meyer Lansky during the mob boss's rise in the years following Prohibition. Milch reveals family memories of pool halls, nightclubs, and race tracks, all of which recall Lansky's own economic diversification through crime (Fried, 1980). These seemingly trivial items acquire new significance. Together, as the interrogation scenes will ostensibly show, Milch and Clark claim to discover a shared understanding of a criminality, as they would put it, "gotten over" in their own backgrounds. Thus, though that father was also a former drug abuser and a lover of racehorses, Milch casts his father as an example of personal salvation through "the job," a lesson the son has followed. Just as we do on Clark's behalf, we hear several accolades from clients about the professional dedication of Milch's father, all of which serve to erase the prior
taint of criminality. A circle is closed through the son's posting in television: Milch buys a racehorse with his Humanitas prize money, admitting now that the role of lead N.Y.P.D. Blue detective Andy Sipowicz (Dennis Franz), a former alcoholic, is modeled on both his own father and Bill Clark himself.

These views of crime might seem to have little to do with the aesthetic knowledge Milch brings to the collaboration from his prior Yale posting. But this moment of conjunction is where Bourdieu's thinking becomes pertinent again. In the cultural contact zone, Milch integrates his appreciation of Clark into high cultural humanism: specifically, by relating Clark's ethos to the example of his former mentor, the novelist and critic Robert Penn Warren, and to that mentor's Romantic philosophy about the role of the imagination. Calling up Warren's ideas about the inevitable narrative conflict between a character's ability to learn through the passage of time, Milch says that the work of writing allowed "our spirit to grow. It's your bridge to humanity" (Milch & Clark, 1995, p. 144) and to transcending your own limitations. As Warren (1974, p. 21) had himself written, “the high function of technique" is "a growth in integrity, literally a unifying of the self, of the random or discrepant possibilities and temptations of experience.” The importance of this credo for grasping police work becomes apparent when Milch is stung by accusations, after one of those Humanitas awards, that he could not understand the experience of his black character, precinct captain Arthur Fancy (James McDaniel). Milch disagrees:

My point was that a commitment to craft had allowed me to overcome any deficit of emotional commitment I might have to Fancy's character. I described how, as I was writing . . . I began to feel Fancy come alive in my imagination, to speak with the same sort of specificity and out of the same depth of passion as Sipowicz and other characters to whom I came more easily . . . I said that the opportunity to enlarge our spirits through pursuit of our craft was one of the blessings of our profession (Milch & Clark, 1995, p. 197).

"Fancy" is itself a Romantic keyword for imagination, but Milch gives his own approach a more somber, fatalistic mood. By these and other references to Warren, to Henry James, and even to George Santayana, that is, Milch writes that empathy and a commitment to craft allows one to address what he calls gaps or wounds in one's own experience. This belief is, we now gather, supposedly the philosophy the Humanitas prize recognized, an ethos of ethical self-cultivation and personal growth with, as David Lloyd and Paul Thomas (1998) point out, long associated with liberal ideals of citizenship. Still liberal, Milch is also chastened by his empathy for police blues, and for a homicide detective, we might recall, whom True Blue also cast less as a warrior than as a wound-dresser. As we shall see, Clark's particular memory of Vietnam will in fact resurface on the series itself.

**THE MAKING OF INTERROGATION SCENES**

The contact zone I have described above, between Milch and Clark, re-stages a political encounter in largely social, cultural, and dispositional terms. It suggests neither a simple capitulation to commercial demands nor a meeting ground of shared or simple conservatism; rather, True Blue charts the accommodation of a liberal-humanist sensibility,
metropolitan and professional, to a police ethic that is more precisely blue-collar, artisanal, and populist. Forged in a shared reverence for labor and a desire to "get over" on criminality, this shared disposition is seasoned by a historically-shaped need to redress the community distrust of police during the post-liberal moment, and yet also learning to live with crime. But threaded through this story is another one, about Milch's literary initiation into Clark's experience specifically in interrogation. In *True Blue*, the "bright line" of *Miranda* becomes like a threshold of naiveté that Milch himself, and by inference his audiences, must cross. Therefore, although he begins by expressing a concern about the presence of brute force in interrogation, it soon gives way to a fascination with the techniques of deception.

When he first meets Bill Clark in a diner, Milch already senses that the cop is an intensely devoted, private, even obsessive man, bringing what we later learn is a subtle threat of violence beneath the surface of his work. They begin by discussing the murder of one Kathleen Farley, brutally attacked by an addict and his brother in her own home. Clark soon initiates Milch into interrogation tactics by admitting that he withheld information about Farley's medical condition so as to convince the brothers, separately, that she would still be able to testify. Clark actually begins by allowing them to claim that this crime was "essentially a burglary that went wrong," and all the while "minimizing the seriousness of what these guys were looking at" (Milch & Clark, 1995, pp. 8-9). Here, Clark's use of the *N.Y.P.D. Blue* phrase "looking at" speaks not only to their prospects, but to his own suspicion, and what he is therefore allowing them to see. In short, the phrase signals Clark's quite adroit control of information in order to draft a confession.

It is not that *Miranda* warnings or coercion are irrelevant to this opening gambit. On the contrary, staging his liberal concern, Milch confronts Clark with news reports that the brothers' defense team had tried to exclude the confession from the trial on the grounds it had been coerced. Screenwriter and cop subsequently have a testy exchange about whether, generally or in this instance, a cop would use force. Clark says:

> They did it [they were the killers]. Now, has it ever happened a cop laid hands on a guy to get him on record telling the truth? Where a guy is guilty and the cop knows it--he's got witnesses like this skel's brother who've told him what happened but who might not stand up in court or even be around, and the cop knows a confession is the only evidence that doesn't go away, or that some smart-ass lawyer can't turn upside down--has it ever happened a cop laid hands on a guy to get him to tell the truth? Yeah, that's happened.


Clark confesses to the general practice while claiming that no use of force took place in this case. Or does he? Here is where *True Blue*'s re-education actually begins. At first, it seems as if Clark is really just drawing a preliminary boundary with Milch, testing the screenwriter while being roundabout in the extreme. This initiation, in fact, was later recreated on *N.Y.P.D. Blue* itself, between cop partners Sipowicz and Simone in the 1994 episode "Simone Says."
Of course, the threat of force is always present, and sometimes used, but focusing on physical force alone is precisely what Milch must un-learn.

Discussing another case, Clark continues the re-education by describing an interrogation where he locked the door and said to the suspect that, if he failed to confess, "I'm going to beat you till you beg to die." Certainly there is no question about coercion, and Clark concludes by saying that, "with that, eventually the guy went." Milch, of course, seizes upon "eventually," and points out to us that this conflict was precisely "the subject that had stopped our conversation earlier." But now, he tells us, "Bill and I knew each other better" (Milch & Clark, 1995, p. 83). And so Clark explains:

Understand something [Clark says] … a lot of these guys have stood beatings their whole lives. Your only goal is making the guy understand you're serious with what you're saying, and you're going to accomplish your purpose . . .

[There's] a crucial time for the interview, when you're coming to the truth. The five other robberies had no violence, so my guess was it actually was the driver's trying to protect himself that had moved this guy to kill him, the driver's grabbing for the weapon and so forth. So that's the point in the room the guy may come to feel, if he gives up what actually happened, for the first time since the interview started he won't need to be figuring angles anymore, plus getting to say he isn't a bad guy, he hadn't gone out that night to kill this driver. At that point you'd really want to reestablish in the guy's mind that's the way he should go. You reestablish your seriousness, with getting his attention, and emphasizing he should tell the truth.

"You might hit him then." [Milch says.]

Something, again, to bring home your position, your willingness to keep on with this lousy-feeling environment, [Clark responds.] Raising your voice might be enough (Milch & Clark, 1995, p. 84).

In this confession, the substance of which was written into the episode titled "Tempest in a C-Cup" in 1993, Clark now rather amorally considers beatings only in terms of their efficacy: they establish the basic parameters of a coercive environment a guilty man would want to escape (and, as many critics have legitimately pointed out, also an innocent one).

With this overall approach, deception is a key tool in acquiring leverage over the person in the "Box," as we often see on the show. In Episode #109 (1998), entitled "Seminal Thinking," Detective Greg Medavoy (Gordon Clapp), disgusted over a senseless rape of a homeless woman, constructs an elaborate set of lies about DNA evidence that forces a pimp to confess, while Sipowicz and Simone coach a hopelessly digressive witness to narrow his testimony to their needs, and eliminate his obviously self-protective lies. Interrogation deception often moves in several directions at once. In Episode #133 from 2000 (titled "Loogie Nights"), the detectives demonstratively usher a beat cop up the precinct stairwell, to
create the illusion he is about to testify against his partner in an alley beating. Once in the interrogation room, the beat cop is then maneuvered into hearing his partner implicated by another witness. It might well be argued here, indeed, that *Miranda* protections actually work both to make the threat of a beating into a deception itself (and a dramatic tension), or to make deception a necessary recourse, because beating is theoretically prohibited (Deborah Young [1996] has, in fact, argued that the *Miranda* decision itself enabled such a move by allowing courts to side-step the widespread countenancing of interrogation deception at the state level).

Nevertheless, there is an additional dimension here that Clark wants to emphasize beyond simple leverage. Traditionally, we might think that force or physical coercion is the sole weapon in Clark's interrogation arsenal. Once again, Milch stages this more classically-liberal anxiety for us. In the long passage above, however, it is not only that Clark actually says that raising his voice might just as easily do the trick. Moreover, it is his argument that the threat of force is more like an option or even a premise of the performance, something that can be used, among other things, to demonstrate the interrogator's own implacability. Moreover, the general thrust of the threat, he tells us, is to supplement the deception: the opening created by reassuring the suspect that "he isn't a bad guy", that the shooting was accidental, and that agreeing with the cop would be nearly tantamount to telling the truth, whether it would or would not. Moreover, the principle of deception controls the outcome (the confession narrative). In the Farley interrogation, Clark gets one brother to implicate the other. In the second case cited above, Clark hides the fact that he is a homicide officer, then builds up a link to the shooting through retracing a series of robberies. He feigns confusion over different stories about a crime; he lies about his own thinking; he creates imaginary legal outs for his suspect. He tells one suspect who has flunked a polygraph that "he'd better get in front," and go with the "robbery-went-wrong" story and "never meant the violence to happen" (p. 178). As Clark puts it so bluntly, but so deceptively, "I went with remorse" (Milch & Clark, 1995, pp. 178-9). However, perhaps the most misleading method, which Milch says he used in the thirty-first episode of *N.Y.P.D. Blue* (1995), is Clark's playing the role of the "thick-headed" white-ethnic cop. This pose is the exact opposite of what he is. Through *True Blue*, we see that he is replacing his own only-apparent reticence with very adroit story-telling.

To give a fuller sense of how this ethos is transposed to the show, we can focus more closely, among many possibilities, on the story idea by Milch and Clark that became the episode "Prostrate Before the Law" (1998; indeed, I have selected this episode only because it offers the fullest range of the interrogation deceptions the series routinely displays). In this episode, a badly burned male body with a bullet wound is found in a van on a parking garage roof. Four friends of the victim, a group of ex-marines who have been seen on that roof by a reluctant eyewitness, are all brought into the stationhouse. There, the *N.Y.P.D. Blue* squad splits the gang up into one-on-one interrogations, or what the show prefers to call "interviews." The suspects soon spout the Second and Fourth Amendments back at detectives; one even resists making a statement by citing the protections of *Miranda*. Yet far more tellingly, suspects are paired with detectives according to a preliminary scan of their own intolerance and personal weaknesses: the flirt with a female detective, an apparent racist with a nonwhite cop. The interviews quickly generate only smart-aleck rejoinders by each suspect, and we start to see that the group is actually a white supremacist cadre from outside the city.
That fact proves important to the dramatic structure of the show. By a careful foiling to the criminals, the police restate their commitment to a more cosmopolitan or metropolitan pluralism.\(^5\)

Soon, however, the squad marshals a series of interrogation deceptions now all too familiar to legal experts: trapping the suspects in a lie, pressuring them with threats of acquiring police records the squad has actually already seen, letting the suspects huddle up and write statements so that the squad can acquire incriminating handwriting samples. But one ploy finally breaks the suspects' resistance:

SIMONE: I'm absolutely ready [if] this turns out some gang of black or Puerto Rican kids went up on you guys on the roof. Everybody runs but Neil [the victim]. And you guys leaving your friend to get killed, well that all fits the facts. But until we hear it coming from you, well we got to treat you guys like possible perpetrators.

SUSPECT #1: Yeah, that's it...that's how it happened . . . Detective here worked out all the rest in his head.

SUSPECT #2: That's eerie, man, chapter and verse.

SIMONE: Let's work out the details.

In truth, Simone's version is not what these criminals have done, which was to abandon the man they had killed and disfigured. Meanwhile, the cop is clearly playing to their own racism. Once the suspects' individual statements do not converge, the N.Y.P.D. squad rousts their hotel room, confirming that they are actually a white supremacist group that has executed one comrade as a security risk. The squad then gradually convinces individual suspects to inform on one other (one, by being misleadingly promised mitigating circumstances though he had pulled the trigger). Again, the collaborative, cross-ethnic partnerships of the police precinct are foiled to the cadre who has abandoned one of its own.

Interrogation, then, really is the linchpin of a quite complex performance within the precinct's larger fraternity. To be sure, this performance can create a farcical rendering of selfsame liberal objections we might voice to the scandalizing of \textit{Miranda}. On \textit{N.Y.P.D. Blue}, the interrogator sometimes sarcastically mimics a defense lawyer who has actually been excluded from the interrogation scene, thus offering a defense that, well, is really not a defense. Or the interrogator plays the friend who covers for you, or knows you have been betrayed, or takes your side. (In Episode 27, "Simone Says" [1994], one detective tells a child abuser he is a "family man" too, in order to make it seem, erroneously, as if, by confessing, the entire matter can be referred to counseling and not to the courts.) And perhaps most tellingly, like a mock therapist or social worker, the cop sometimes allows the suspect to say he has been pressured by his environment into the crime. In one double homicide, Clark deceptively sympathizes with a perpetrator who says he only had a gun because of how dangerous his neighborhood was ("I said I understood that," Clark intones [p. 173]). Repeatedly, the cop (like his screenwriter partner in \textit{True Blue}) gets to project himself into, and then perform, the lax conscience, the rationalizations of the suspect himself, the permissive framework that supposedly told the criminal that what he did was not so bad.
On the other hand, these performances are precisely what allow us to see how consent is engineered, re-made in process, rather than constructed from a prior political position. Because it is improvisational, the interrogator's routine often ricochets out to any available target, and the dramatic results are not always so predictable in simple ideological terms. For example, the interrogator often serves up a morally conservative solution for the suspect (often "being a real man"), offering it as the suspect's only potential saving grace. Of course, it often proves to be the very thing that traps him, just as racism and selfishness trap the cadre on "Prostrate." At other moments, the Box becomes a stage for an improvisational routine for ethnic and class crossover, allowing a working-class citizen, through verbal adroitness, to "get over" on criminals and lawyers alike. At times, the sheer claustrophobia of the interrogation room reverberates back upon the investigators, who find themselves uncomfortably present to human despair, the pain of crime victims, wounds they are powerless to heal by their long day on the job. These are the "blues" of police work, a fatalism about how things "work out" in the fraternity of falsehoods into which the "perp" is only temporarily enlisted.

CONCLUSION: POST-LIBERALISM AND ITS LIMITS

Milch and Clark's obvious relish for the improvisational fictionalizing of police deception should be enough to remind us that neither their book nor Clark's accounts of real cases should be taken as the unvarnished truth. My own literary and cultural approach here is thus, necessarily, very partial. My attempt to update our understanding of Miranda on N.Y.P.D. Blue, by introducing the resurgent place of deception in interrogation, may not be enough to set aside the large body of criticism that emphasizes the essentially conservative bottom line to police drama generally. As many readers know, existing scholarship on these shows commonly insist that, whatever their liberal aspirations, Hollywood producers are nevertheless overwhelmed by the demands of advertisers, by recurrent moral panics over crime, or by the needs of melodrama itself (Quinn, 2002; Rapping, 1994). Despite its veneer of metropolitan savoir faire or contemporary realism, police drama is said to betray its roots in the genre of the Western, and, more generally, in anti-institutional, extralegal, and even vigilante philosophies that have long preferred brute force to the rule of law.

These arguments have a long lineage, and should be taken seriously. Nevertheless, N.Y.P.D. Blue actually draws more upon genre roots not in the Western, but in the police procedural, an urban, precinct-based idiom often intent upon humanizing the police officer (C. Wilson, 2000). As Larry Landrum (1994) once observed, this genre is more intent on assembling a cross-ethnic "city within the city" that counters the threat of an anarchic outside world. Thus the pluralism of this precinct house may have a more strategic, cosmopolitan ideological role, right now, that is traditionally attributed to it. As I have tried to suggest in my reading of "Prostrate Before the Law," the particular positioning of the N.Y.P.D. Blue precinct house--a cross-ethnic, egalitarian squad as defeating a militaristic white-supremacist cadre from outside the city--confirms a political subtext quite reassuring to its audience demographic. In the implicit connection to Bill Clark's own experiences with comrades mutilating bodies, N.Y.P.D. Blue works to un-write Vietnam, through what film historians call the foxhole pluralism of war movies, resurrected in many popular forms in recent decades (cf. Jeffords & Rabinovitz, 1994). Meanwhile, this demographic subtext might actually be best suggested by the practical realities behind Milch's crusade for the right to show partial nudity
on the series. On the one hand, the well-publicized fight works, as I have suggested, to establish both Milch's liberal credentials, just as the network can appear to assert its independence against a conservative watchdog group. But as even Milch admits in passing, one of the reasons the network finally surrenders to his demands is that broadcast television has been losing viewers to adult-oriented cable. In other words, what looks like a network defense of Milch's professional and liberal credentials actually allows the network to secure its diminishing market share.

Of course this post-liberal pluralism has identifiable limits. Women are rarely if ever granted the interrogator's powers I have sketched above; they can do so only by edging their way into the masculine bravado relished by Milch and Clark's mutual initiation. Nor is Milch's humanist insistence that he can transcend the boundaries of racial difference persuasive, as many of his critics have already said (Braxton, 1994; Edwards, 1994). The fact is that Milch can only pull off his account of the powers of interrogation by maintaining a silence or race-blindness about the races of the cop or the perpetrator to begin with. The cop becomes capable of narrating a perpetrator's own story for him.

But before we too quickly attach the label "conservative" to these ideological effects, we might do well to consider what William Ian Miller (1998) has suggested in a not-so-unrelated context: that some aspects of retributive justice imagined in popular forms are actually enacted in the name of the state, not in opposition to it. Here, echoing the accommodation Milch himself has learned, the state (the cop) is hardly a thickheaded agent of brute force or simple moral rectitude; nor does the Box dramatize a receding state so often deemed the goal of classical conservatism. On the contrary, as having learned from the liberalism that conservatives so often scandalize, the state is conceived as an intrusive force, itself akin to a writer of virtually unlimited imagination, able to see into criminality, mimic its rationalizations, and then enlist those self-deceptions in the criminal's own capture. Wolin's paradox is thus very much on point. To Milch and Clark, in fact, their own bond of empathy around "understanding" criminality informs the imaginative power their drama lends to the state. The cops and criminals had a mutual understanding that, Milch says in one interview, transcended the "bullshit" lawyers introduced into the confession process under Miranda rules. "A cop knows where the crime began," Milch said, "he knows what was in the guy's mind" (Schiff, 1997, p. 10). The direction in which such thinking might head, moreover, is suggested in what the supremacist cadre in "Prostrate Before the Law" has been planning: a terrorist bomb plot.

Milch or Clark's anticipation of the anxieties of our current security climate should not be overdrawn. Such a plot element may be little more than a flavoring of relevance drawn from the headlines of Oklahoma City or the World Trade Center bombing of 1993. Yet, in their fatalism about power and justice, in their relish in "getting over" on criminality and lawyers alike, and in their turning of The Box into dramatic domestic entertainment, Milch and Clark's partnership might ultimately be most true to our blue moment. Milch's confession, at least, is of a post-liberal politics that seems not to have been coerced.
NOTES

1. For police officers' support of the show, see Absher (2002); on critical views, Siegel (2003) and Sterne (1998).

2. Some twenty-five years in existence, the Humanitas prizes were launched by Catholic priest and producer of Paulist Productions, Father Ellwood Kieser (Wintz, 2001). The prize recognized TV shows that expressed the 'search for meaning . . . for freedom, for love, for human dignity, for unity with all our fellow human beings." For his views on the Brady bill, see Wolf (1997).

3. The clearest example is James Q. Wilson's (1985) targeting of low-level repeat offenders and his emphasis on mandatory sentencing, on the possibility that "severity is the enemy of certainty and speed" (p. 135).

4. Simply for purposes of space, I am forced to refer readers to the extensive documentation on police acceptance of these tactics. A summary of the literature is provided by Slobogin (1997).


ENDNOTE

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*Gambling, Who Wins? Who loses?*, edited by Gerda Reith, Ph.D, examines several wide-ranging yet important topics related to gambling. This multidisciplinary compilation of essays, some written by prominent scholars in their fields, examines such questions as: How can the alluring economic benefits of gambling be balanced against the potential harm caused to a significant minority? Is problem or pathological gambling similar to drug dependency? To what extent, and by whom, should commercial gambling be regulated? To what extent should government be involved in the gambling business, and should it rely on gambling to generate revenue? Following an introduction by Dr. Reith, the collection of essays is divided into seven sections, each dealing with a different aspect of gambling and gambling behavior. The majority of the essays represent original work; however some are reprinted with permission from other sources.

In the introduction, Reith sets the stage for the forthcoming arguments, by highlighting the dichotomy between the perceived economic benefits from gambling and the potential social costs of these endeavors. In this section she highlights the recent proliferation of gambling availability and subsequent increases in financial expenditure over the last several decades, as well as how social and economic perspectives of gambling have changed throughout history.

The initial section of the book examines current trends in commercial gambling. William R. Eadington considers the political, social and economic factors that have lead to a brisk expansion of legalized/permitted gambling in the United States and other countries. He discusses both the quantitative and qualitative changes in the availability of legalized gambling as well as the increases in gambling expenditures and revenues. During this discussion he highlights the fact that the overall economic climate appears to be related to the level of increases in gambling availability, with the major expansions in gambling often coinciding with the slowing down of the economy. He also describes the interesting dilemma of how best to measure/compare the perceived economic benefit to the associated social costs, and how the nature and location of the gambling opportunity plays a role in how one should best conduct this comparison.
Jan McMillen continues the exploration of current gambling trends by arguing that gambling has been transformed from a diverse and localized activity to a transnational industry that is influenced by both global and local practices. In her discussion, she highlights the role that technology has played in this global shift by facilitating the introduction of new gambling products and the widespread availability of these products through the internet and global telecommunications. A significant portion of her essay is devoted to a discussion of sports betting, which she views as the most rapidly growing form of global gambling. She ends her essay by highlighting an important challenge for gambling studies, to understand the contradiction that although most gamblers inevitably lose in economic terms, there is this apparent worldwide fascination with commercial gambling that both fuels, and is fueled, by technology and the global shift of gambling.

The second section examines the economic and social costs and benefits of gambling. Earl L. Grinols begins this section by providing a cost-benefit analysis of casino gambling, that he intends to correct common misconceptions about the economic value of gambling. He asserts that the most common misconception about the social evaluation of gambling is the belief that looking at job creation by casinos is a way to measure the benefits of casino gambling. He provides examples to support his assertion that job-creation by casinos is neither necessary nor sufficient for economic development. He also discusses two ways in which to measure and estimate the social costs of gambling, making direct observations of the impact of casinos on such variables as crime rates and examining the costs estimated from problem and pathological gamblers. Grinols concludes that the common assumptions of the economic value of gambling are not valid.

Robert Goodman continues by discussing the change in the predominant attitude towards gambling as one of cautious tolerance to gambling becoming an activity that has been actively promoted by many state and city political leaders as a panacea for suffering local economies. He highlights how Las Vegas as been looked upon as an ideal of an economy that has been transformed and supported by gambling. He states that although many try to replicate the success of Las Vegas, that due to the expansion of legal gambling opportunities, the likelihood for successful replication is quite low, and the chances for the generation of problems caused by using gambling as an economic development strategy are quite high.

Grant Stitt, Mark Nichols, and David Giacopassi explore community satisfaction and perceptions of casino gambling. They review previous studies that have been conducted exploring citizens’ attitudes and perceptions in new casino jurisdictions. They then report data from a survey that they conducted as a part of a larger study to explore the effects of casino gambling on crime and the quality of life in a new casino jurisdiction. Their results suggest that community satisfaction with casino gambling is mixed, and the perceptions of, and satisfaction with, gambling are dependent on the multiple unique dynamics at work within each community.
The third section explores issues of crime, law, and commercial regulation. I. Nelson Rose asserts that gambling has followed a recurring pattern throughout the history of the U.S., in which legal gambling has spread only to “crash down in scandal and complete prohibition” (p. 113). He states that the U.S. is currently in the middle of the third such cycle, highlighting reasons why he feels legalized gambling has spread since the great depression.

Michael E. Hammond continues this section by examining the legal status of internet gambling. In his essay he examines various U.S. state and federal laws as to whether or not they apply to wagering on the internet. He also addresses the unique challenges to regulation that are posed by the international nature of many online gaming opportunities. Finally, he discusses pending legislation and the potential impact that it might have.

In the next essay, Jay Albanese examines the relationship between casino gambling and crime. He cites research findings showing that the introduction of casino gambling does not have a significant direct impact on crime rates. However, he highlights the need to continue to monitor and regulate gambling in an effort to keep the risk of crime low.

David Miers closes out the third section by exploring the role of regulation and industry competition as the methods that states can use to insert an element of fairness for the consumer of gambling products. He discusses how universally applied regulatory controls will inevitably result in consumer protection.

The fourth section of the book focuses on the idea of addictive or pathological gambling. Howard Shaffer identifies issues related to the attempts to classify pathological gambling as an addictive behavior. He reviews how an addiction is traditionally conceptualized and how well gambling, and other similar behaviors, live up to this conceptualization. He highlights the need for a “gold standard against which the presence or absence of the disorder can be judged” (p. 179). He asserts that pathological gambling, like many psychiatric disorders, currently does not have such a standard. He suggests that the symptoms associated with pathological gambling reflect not a single disorder, but a complex syndrome, and that the co-occurrence of pathological gambling with other entities may be an artifact of the diagnostic system. Therefore, he suggests that we redefine our conceptualization of addiction and pathological gambling.

Mark Dickerson then examines the extent to which the language we use to describe/conceptualize problem gambling and its consequences can either limit or facilitate progress. He asserts that the United States missed an extraordinary opportunity that was presented through the appointment of the National Gambling Impact Study Commission (NGISC). He suggests that as the NGISC focused on the medical model of problematic gambling, they clearly overlooked important factors. He provides an argument as to how prevailing political and social policy can have a significant impact on how things are conceptualized, which in turn has an impact on how things are treated.
Stanton Peele completes this section by providing an argument that although gambling is addictive, it is not a disease. He asserts that problematic gambling behavior is better understood in behavioral and experiential, as opposed to biological, terms. He also compares and contrasts the symptoms/behaviors exhibited by those experiencing problems related to gambling with those who abuse alcohol or other drugs stating that it is the experiential and not the biological similarities in these activities that link them together.

The fifth section examines recent trends in gambling and problem gambling and the implications of these trends on public policy. Rachel Volberg explores current trends in the rate and type of gambling participation in terms of various demographic and attitudinal variables. She goes on to review the concept of “problem gambling”, describing the various terminologies that are used to describe the phenomenon as well as reporting on the prevalence of such behavior. Finally, she discusses the rates of problem gambling as a function of different gambling activities, highlighting the apparent correlation between the availability of electronic gaming devices (i.e., stand alone slot machines, video poker, and video keno) and higher prevalence rates of problematic gambling.

Jeffery Derevnsky and colleagues discuss the troubling gambling trends amongst youth. They state that although gambling was once viewed as an activity primarily for adults, it has become a popular form of recreation for adolescents. They provide data suggesting that approximately 80% of adolescents engage in some form of gambling and that between 14% and 23% of these individuals are at risk for developing gambling related problems. They review various factors (i.e., familial, peer, physiological, personality, gender) that may be related to youth gambling. They discuss these trends and influences as well as their much needed potential impact on the development of public policy.

Dennis P. McNeilly and William J. Burke then examine the attitudes and gambling behavior of older adults. They state that many of today’s senior adults have embraced gambling as a form of mainstream entertainment, and that many promotional programs implemented by casinos and other gambling establishments target these older adults. They argue that despite this apparent increase in senior gambling, little research has been done examining the impacts of gambling in this age group. They then present findings from a study examining the gambling attitudes and behaviors of older adults. The findings suggested that seniors gambled in an attempt to relax, escape boredom, pass the time, and get away for the day. They suggest that the rate of problematic gambling among older adults is likely greater than that in the general population, signifying the need for greater awareness of the effects of increasing gambling availability on senior adults.

Keith Whyte concludes this section describing the impact of problem gambling as a serious public health issue. He states that many governmental bodies at all levels of government have taken the lead in legalizing, regulating, and promoting gambling, but that they have failed to develop public policy on problem gambling. He states that this
problem demands a comprehensive solution involving many aspects of society, both public and private, guided by consistent policy designed to moderate the wide ranging negative impacts of gambling. He states that there are five essential components to a comprehensive responsible gambling policy: prevention, education, treatment, enforcement and research.

The sixth section of the book is dedicated to psychological and environmental influences on gambling behavior. Mark Griffiths and Jonathan Parke discuss the situational characteristics of gambling environments and examine the impact that they may have on the acquisition, development, and maintenance of gambling behavior. They discuss such factors as sound effects and noise, music, light and color effects, aroma, money access, seating, heating, refreshment, floor layout, and social facilitation/inhibition. They acknowledge that many of the ideas that they present have limited empirical support, but that these ideas highlight the need to investigate these variables further in order to have a complete understanding of the psychology of gambling.

Neil A. Manson then explores the probabilistic features of various common gambling games. He states that many gamblers are uninformed regarding the probability of the games that they are playing, and even if they are better informed, these gamblers are not disciplined enough to play in such a way to maximize their length of play while minimizing their losses. He states that not only do gamblers not fully understand the probability of the games that they are playing, but that gamblers frequently operate not on probability, but on hunches, taking an irrational approach to the game.

The seventh and final section of the book is devoted to moral and ethical aspects of gambling. Jerome H. Skolnick examines the differing and shifting views on vice throughout history. He looks at gambling, and relates it to other activities that he describes as “wicked pleasures” (p. 311). He contends that public policy must find a regulatory mean that is somewhere between criminalization and exploitation in order to regulate it.

Peter Collins then examines the morality of prohibiting gambling, and argues that there are significant moral reasons for thinking that gambling should be legal. He contends that using the law to stop people from gambling is a “morally illegitimate” use of governmental power. He asserts his belief that “the most admirable kind of society from a moral point of view is one in which citizens are allowed to think for themselves and make up their own minds about how they wish to spend their time, money, talents and energy . . .” (p. 331). Drawing on the philosophies of Hobbes, Locke and Mill, he discusses and argues against what he views as the two major arguments that are most commonly used in support of prohibition of gambling (gambling is immoral or “bad” for people and it is the job of government to eradicate immorality and to prevent harm and gamblers cause unjustifiable harm to people other than those that gamble).

Katherine Gabriel explores the relationship between gambling and spirituality. She makes the brave assertion that from an anthropological perspective, gambling is as
spiritual as praying. She argues that sacred gaming “lies at the root of most cultures in the world, as if it were an evolutionary phase of human development, the origin myth of our existence” (p. 335).

John Scanlan closes out the section and the book with a literary and philosophical reflection on the wider role of chance in life and its implications for issues of rationality and knowledge.

The casual reader, as well as an academic reader, interested in gambling behavior would find this book to be a worthwhile read. The multidisciplinary approach that this text takes allows the reader to consider gambling and gambling behavior from several different perspectives. Furthermore, as the book contains stand alone essays, a reader interested in a particular topic would not have to read the entire text in order to gain an understanding of the topic of interest.

As a psychologist interested in problematic gambling behavior, I found many of the essays from other disciplinary perspectives to be informative and thought provoking. The breadth of topics allows one to consider issues not frequently discussed in their field or primary area of expertise. However, although the breadth of perspectives is vast, the depth of the discussion is often limited. Almost certainly an artifact of the demands of a broad collection, many of the essays merely scratch the surface of the important issues and may leave the targeted reader looking for an in depth discussion dissatisfied.

Although not a constant, there are frequent assertions made throughout the book with limited empirical support provided to back up these statements. In many cases this highlights a point made by contributors to this collection, the need for continued and increased levels of empirical research related to gambling and gambling behavior. Although the level of research into these areas has experienced a drastic increase in the past decade, there are many empirical questions that remain unanswered. The continued need for extensive research into gambling and gambling behavior is apparent.

ENDNOTE

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A Review of *The Politics of Injustice: Crime and Punishment in America*

By

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Authors: Katherine Beckett and Theodore Sasson
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Throughout the 1980s and 1990s, politicians enacted policies to “get tough on crime.” The death penalty was resurrected and applied with regularity, and prison sentences became more draconian under “three strikes” laws, mandatory minimums (especially for drug offenses), and the increased eligibility of juveniles for adult courts. The consequences of these policies were dramatic: U.S. prison population increased from under 750,000 in 1985 to over 2 million in 2002, while over the same time period the rate of incarceration increased from 313 per 100,000 to 701 per 100,000 population (Bureau of Justice Statistics, 2002). But over this time there was no underlying increase in crime rates; indeed, throughout the 1990s the rate of most crimes steadily declined. Instead, the “get tough” policies seem to be more about the politicians solving their own problems than about addressing social problems. According to Chancer and Donovan (1994) these policies are in large part a result of the political right being able to define the terms of debate and the relevant “facts”.

A similar argument is made in *The politics of injustice*. Now in its second edition, this ambitious textbook is well suited for undergraduate courses in criminal justice, law and politics, and the law and popular culture. Indeed, a core argument of the text is that a popular culture that (over)dramatizes crime contributes to a climate of public opinion that accepts criminal justice policies that are widely viewed as ineffective, if not counterproductive. The far ranging argument is solidly grounded in sociological and communication research; this review will draw on some of that literature and also include some political science literature in reconstructing and evaluating their argument.

It is well known among criminologists that the policies producing the record rates of incarceration over the past 20 years were not necessarily a response to an increase in crime. In the second chapter, Beckett and Sasson demonstrate that crime victimization was relatively constant in the 1980s and declined in the 1990s; additionally crime victimization in the U.S., while relatively high for assault, is about the same as, or lower than, comparison countries. However, the United States has an unusually high rate of murder, and in the third chapter the authors argue this fact is due to “four interrelated factors: the ubiquity of guns, comparatively high levels of social and racial inequality, and the concentrated urban poverty with which they are associated, the drug (and especially crack) trade, and a code of the streets that prizes respect and deference above all else” (pp. 42-43). Not surprisingly, this four-point diagnosis lays the groundwork for the authors’ own recommendations, in chapter nine.

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If increased incarceration is not due to a changing crime rate, and if the United States’ rate of incarceration is far and away higher than comparison countries, what explains U.S. criminal justice policies? The middle three chapters supply the centerpiece to the argument in the book’s title, about “the politics of injustice.” In chapter four, Beckett and Sasson trace the modern “get tough on crime” movement to conservative politicians’ backlash against the expanded social welfare state and the due process revolution of the 1960s. Drawing on Barry Goldwater’s speech accepting the 1964 Republican nomination for president, and Richard Nixon’s 1966 op-ed, “If Mob Rule Takes hold in the US,” the authors trace the rhetoric of “The Origins of the Law and Order Discourse” (pp. 50-52), as well as how the War on Poverty was turned into a War on Crime. Nixon’s “law and order” campaign of 1968 continued Republican efforts to make crime a national, rather than a state, issue. To match the rhetoric, congress expanded law enforcement assistance to the states through the Omnibus Crime Control and Safe Streets Act of 1968. By the 1970s, the war on crime was merging with the war on drugs, and steadily the Republicans gained loyalties of those disaffected with the Democrats.

The linkage between politicians’ arguments and public acceptance of -- or even demand for -- more punitive policies is the subject of chapters five and six. In the fifth chapter, “Crime in the Media,” Beckett and Sasson analyze the popular culture portrayal of crime in the news, on TV, and in film, and then begin to connect this portrayal to public opinion, a linkage that carries over into chapter six, “Crime and Public Opinion.” These two chapters dovetail nicely, as studies on crime in the news demonstrate a “tendency to focus on the rarest types of crime, such as murder and robbery” (p. 75); this “misleading and misinforming” media function is related to the tendency of Americans “to overestimate the national crime rate, especially levels of violent victimization, as well as rates of recidivism” (p. 117). That the framing of crime news stories emphasizes crime as violent, as episodic, and as a breakdown of the criminal justice system contributes to the public perception of crime as a matter of individual choice. This social construction of the cause of crime is consistent with more punitive criminal justice policies, either to deter some bad choices, or to punish those who continue to make those choices. Thus, while the public rarely has indicated to pollsters that crime is among their top concerns, we are fed a steady diet of television and film that, at a minimum, make us receptive to politicians’ calls to get tough on crime. In the minds of Americans, crime is racial, and crime fighters are Republicans.

It is this research that brings us back around to the politics of injustice. There are other winners besides the Republican party. In chapter seven the authors review the community groups that benefit from the “get tough” policies, noting that groups with an agenda compatible with the tough on crime movement, such as victims’ rights groups and community policing supporters, were more likely to receive state and federal funding than groups with a social problems approach to crime. In this way, supporters of the policies are able to help perpetuate the policies that they support; opponents have to look elsewhere for the funding to maintain the group and to oppose the policies. Thus, “the political climate and funding arrangements have contributed to the tendency of many victims’ organizations to identify punishment as their primary ‘right’” (p. 145), while victims of corporate “environmental racism” have not been successful in being included in the victims’ movement.
In chapter eight, Beckett and Sasson forcefully argue that the crime policies of the last generation have been dysfunctional, costing taxpayers money and wreaking havoc in many neighborhoods. Notably, beginning in the 1980s, the war on drugs has been waged in ineffectual, punitive fashion as an extension of the 1970s war on crime instead of a more ameliorative and rehabilitative approach that might have flowed from the 1960s war on poverty. Beyond the social and human costs of incarceration, this approach has forever made many people second class – once they are released, there are problems with employment, and in many states, a permanent denial of suffrage. Not surprisingly, in the final chapter the authors argue for policies they suggest will be more effective: social investment, in order to reduce inequality; drug policies aimed at harm reduction, as opposed to zero tolerance, including legalization of marijuana; alternative sentencing, including restorative justice; programs that serve to rehabilitate and reintegrate offenders into society; and community policing that works with communities (the authors are critical of “broken windows” policing, the increased militarization of police, and proactive “problem solving policing”).

That is the story: over the past four decades, for partisan electoral gain politicians made crime into a major social problem, contriving increasingly counterproductive policy responses. A small segment of the public has been involved actively in these policy fights, with legitimacy and financial support (institutional and government grants) given to those whose goals are consistent with the increasingly punitive policies. A profit-seeking media, built around sensationalistic news and graphic entertainment, made the general public accepting of these reforms.

The authors have nicely laid out why a high crime rate is the “wrong” story in understanding our war on crime, and now they seek a better explanation. It is the connection between culture and policy that is crucial to making Beckett and Sasson’s story persuasive. First generation efforts to link culture and policy were criticized for causality problems. In the 1980s and 1990s, “cultivation analysis” researchers using correlational studies established that “heavy” media consumers are more fearful of crime and correspondingly overestimate the incidence of crime. Whether the television viewing is a cause or an effect of this fear has been disputed (see e.g., literature discussed in Eschholz, Mallard & Flynn, 2004). However, more recent experimental studies find that indeed exposure to violent media can prime a research subject to support punitive policies. For instance, in chapter five Beckett and Sasson discuss the recent work of Iyengar (1995; Gillam & Iyengar, 2000) demonstrating exposure to crime stories depicting a black perpetrator increases punitive responses of white experimental subjects. Thus, news stories of the more unusual violent crime, framed episodically rather than thematically, has created a climate of public opinion well suited to exploitation by politicians trying to define themselves on the side of right.

Interpretive work in the social science often fails to convince empiricists who demand evidence that goes beyond a story that “fits.” Part of the problem in weaving such an argument in 200 pages is the risk it will be dismissed by readers as just that, a story, rather than the story of crime policies of the recent past. Beckett and Sasson’s argument is a challenging read precisely because it is a far-ranging argument, built upon electoral behavior, media behavior, experimental studies in framing, and urban sociology. For this reviewer, the problem was different: I am a believer in the thesis, but I wonder about the selection of some of the evidence. What counts as
evidence when we are weaving such a story, and what does the storyteller choose to emphasize, or to overlook? Was Michael Dukakis’s Achilles’ heel on crime in 1988 the endless advertisements about Willie Horton, a story featured in chapter four, or the story not featured, about the Governor’s debate debacle, when he gave a wooden and uninspiring response to his feelings about the death penalty, were he to imagine his own wife raped and murdered?

Whether Michael Dukakis was done in by nasty advertising, or by his own ineptness in answering a question, is not central to the argument of causality in the text. And perhaps the authors would argue that my example strengthens their case, as the Horton television commercials set the context for Bernard Goldberg to ask a question not merely tasteless, but also overwhelmingly irrelevant the office of the presidency.

A more troublesome omission is consideration of the role of academics and “policy analysts” in justifying a transition from a war on poverty to the war on crime. Politicians were aided and abetted in developing winning campaign arguments. In 1974, Robert Martinson published “What works?: Questions and answers about prison reform” in *The Public Interest*, and a year later James Q. Wilson’s *Thinking about crime* further shifted the debate away from rehabilitation and the root causes of crime to concern with more effective deterrence and incapacitation. Such studies provided entrepreneurial politicians with evidence that the failed liberal policies are, well, failed liberal policies. So, does public policy making boil down to who can control our perceptions and interpretations of what a problem is, and how we should think about that problem?

It would seem so. But doesn’t that mean the ninth chapter of this book is irrelevant? We have not adopted failed policies because politicians thought they were solving a crime problem. The get-tough policies are demonstrably more successful as electoral gambits than as policy prescriptions: We have adopted failed policies because for politicians, they are winning policies. We are asking a lot of politicians to give up a winning game plan. In order for there to be meaningful reform of the criminal justice system so that it addresses issues of violence and crime, perhaps there has to be reform of the political system and the incentives that it structures. For instance, Savelsberg (1994) hypothesizes that differential responses to crime in the United States and the Federal Republic of Germany are explained by the difference between our politically-based policy making and their greater reliance on bureaucratic knowledge for policy matters. The political landscape in the United States is marked by public misperception of crime, as well as by political elite perceptions of that public knowledge. The crimes that dominate public consciousness and policy debates are not the common crimes, but the unusual (see Barak, 1994; Gilliam & Iyengar, 2000). Such misperceptions have policy consequences: While the public is broadly supportive of the death penalty, survey research demonstrates that this support is predicated, in part, on the underestimation of actual time convicted people serve. When surveys offer the alternative of life without parole, death penalty declines. However, public officials routinely overestimate citizen demand for the death penalty (Bowers, Vandiver, & Dugan, 1994).

This is not to say, however, that education will lead to changes either of citizen attitudes or the demand for policy. Instead, Chancer and Donovan (1994, pp. 51-52) claim, “rationalization approaches will be largely futile … when it’s the crime issues’ emotional appeal
that best explains the problem’s centrality.” Also concluding that the public desires retribution are Tyler and Boeckmann (1997, p. 237), whose study on support for “three strikes” legislation found the correlates of punitiveness “primarily in [people’s] evaluation of social conditions, including the decline of morality and discipline within the family and increases in the diversity of society.” Thus, rather than being about behavior modification or control, crime policy preferences link to the moral judgments about “social breakdown” (Beckett & Sasson, 2004, pp. 122-23).

Alternatively, the last chapter – indeed the entire book – presents us with fodder to fight back against midguided criminal justice policies. While rationality may not have been central to the “politics of vengeance” over the past 30 years, we are seeing some limits to voters’ acceptance of such policies. In the discussion of “adversarial activism: in chapter eight, Beckett and Sasson discuss the organization of groups who fight back against draconian drug laws and the animated use of the death penalty (pp. 149-60). The high costs of the drug war have apparently been realized by many: “since 1996, the drug reform movement has won 17 of 19 of its statewide ballot initiatives” (p. 160). Recently the Supreme Court has invalidated some state and federal sentencing practices that led to harsher sentences (Blakely v. Washington, 2004 and U.S. v. Booker, 2005), and in the 2004-05 term, the Supreme Court and is deciding a case involving the use of medicinal marijuana (Ashcroft v. Raich). But lest we conclude that rationality is catching up with passion in this debate about crime policy, we would do well to imagine how the politics of the post-September 11 world will affect the politics of crime. I would expect a third edition of this valuable text to develop links between terrorism, security, and the political and cultural needs for more punitive criminal justice policies.

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