

ACJS Today

Academy of Criminal Justice Sciences

On Capital Punishment's Collateral Damage: Why Do They Participate?

Robert M. Bohm, University of Central Florida*

ACJS Today's Editor, Robert Worley, asked me to write "a short scholarly piece" about my recently published book, Capital Punishment's Collateral Damage (Carolina Academic Press, 2013). I am pleased to do so.

With few exceptions, the human element of capital punishment, that is, the impact the penalty has on the lives of those who are involved in the process, is conspicuously missing from the voluminous capital punishment literature. *Capital Punishment's Collateral Damage* seeks to rectify that omission by allowing the participants in the ritual of death to describe in their own words their role in the process and especially its effects on them. In this way, the reach of capital punishment beyond just the victim and the perpetrator, or "the collateral damage of capital punishment," can be better understood.

The book begins with a detailed description of the capital punishment process, but most of the book is devoted to participants in the process, including homicide detectives and

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President's Message



*James Frank, President, ACJS**

Greetings fellow ACJS members! The past several months have been quite busy with conference preparations, travel to regional and international conferences, and meetings with professional groups. It is hoped that everyone is having a productive fall academic term and successful year.

In October, the conference co-chairs and deputy chair convened at the ACJS office to plan the program for this year's conference. The program will become available shortly on the ACJS website. When you receive notice that the program is available, please check the draft program and determine whether there are any clerical errors—misspelling of presenter names and affiliations—or whether there are problems with the date and time of your presentation. If so, please contact the appropriate people and every effort will be made to remedy the issue. Please remember that if we are to have a successful conference, we need everyone to attend and present their accepted papers.

The program looks very exciting with a number of excellent panels, roundtables, and open seminars. This year there will be three plenary speakers. First, we are honored to have Edward G. Rendell speaking on Thursday morning. Mr. Rendell served as mayor of Philadelphia (1992–2000) and governor of Pennsylvania (2003–2011), and he is now a regular political commentator on television and radio. Second, the Philadelphia police commissioner, Charles H. Ramsey, has agreed to speak on Thursday late afternoon. Commissioner Ramsey was chief of the Metropolitan Police Department in Washington, D.C. prior to assuming the job in Philadelphia. The Philadelphia Police Department has been involved in a number of recent research initiatives (SMART Policing studies and others), and Commissioner Ramsey will speak about these initiatives. Finally, on Friday afternoon, Robert Schwartz, the co-founder and executive director of the Juvenile Law Center in Philadelphia will be speaking. The Juvenile Law Center is the oldest, nonprofit, public interest law firm for children in the United States. Each of these three individuals brings a wealth of experience with a wide range of criminal justice issues that complement the diversity of interests of ACJS members. The program co-chairs are also working to firm up plans for a tour of Eastern State Penitentiary, open to all interested conference attendees. Please make every effort to attend and participate in the conference.

Recently the Executive Board voted to continue efforts to connect with and support the regional associations by helping to sponsor an event at their annual meetings. During the past several months, I have been on the road attending regional conferences. Since mid-September, I

I attended the Southern Criminal Justice Association, the Midwestern Association of Criminal Justice, and the Western Association of Criminal Justice conferences. Two other Board members attended the Southwestern Association of Criminal Justice and the Northeastern Association of Criminal Justice Sciences conferences. Travel to these events provides an opportunity to inform regional members about ACJS developments and discuss the benefits of membership in the Academy. Time is used to encourage regional members to join the Academy and attend the annual conference. At the annual conference, there will again be a scheduled panel time for Executive Board members to meet with and answer questions of the regional representatives. Finally, an ice cream social, which was a great success in Dallas, will again be held in conjunction with the regional meetings in Philadelphia.

Make your plans for the upcoming annual conference in Philadelphia on February 18–22, 2014 at the Downtown Marriott Hotel. Hope to see you all there!

**James Frank is the President of the Academy of Criminal Justice Sciences. He is also a Professor and the Interim Director of the Center for Criminal Justice Research at the University of Cincinnati. He has been the principal investigator for a number of policing-related research projects that primarily focus on understanding the work routines and behavior of street-level police officers. These research projects have examined officer use of evolving police technology, the hiring practices of police agencies, the influence of race on traffic stops, officer decision making, attitudes toward the police and the implementation of problem solving strategies. He has also worked on projects examining juror understanding of death penalty instructions and the impact of collateral consequences of conviction. He has published policing articles in Justice Quarterly, Police Quarterly, Crime and Delinquency, Criminology and Public Policy, and the Journal of Criminal Justice and Policing: An International Journal of Police Strategy and Management, among others.*

Upcoming ACJS Meetings

February 18-22, 2014	Philadelphia, PA
March 3-7, 2015	Orlando, Florida
March 29-April 2, 2016	Denver, Colorado

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other investigative personnel, prosecutors, victims' family members, defense attorneys, offenders' family members, trial judges, jurors, post-conviction counsel, appellate judges, prison wardens, death row corrections officers and execution team members, execution witnesses, and governors. First-person accounts are from interviews, questionnaires, and previously published narratives.

As evidenced by the testimonials presented in the book, many participants are adversely affected by their participation in the capital punishment process; some of them are seriously damaged. Few participants are happy or satisfied with current death penalty systems. To be sure, many participants support the death penalty in theory, but a lesser number support the death penalty in practice. Few participants are enthusiastic about their roles. For some of them, such as execution team members, enthusiasm for the job is a disqualifying criterion. Many participants view their participation as simply doing their jobs or being professionals, something they are willing to do but would prefer not to do.

Refusing to Participate: Those Who Can and Those Who Can't

When considering participants, distinguishing between victims' and offenders' family members and criminal justice system personnel is important because the former have very little, if any, control over their participation, while some of the latter do. Unfortunately, with or without capital punishment, both murder victim family members and offender family members will suffer, albeit in different ways and for different reasons. Also, with or without capital punishment, homicide detectives and other investigative personnel will still investigate

murders and attempt to arrest suspects, prosecutors will still charge suspects with murder and either plea bargain or go to trial, judges will still accept guilty pleas and try defendants charged with murder, and correctional personnel will still incarcerate and supervise defendants convicted of murder. Even governors will still exercise their powers to pardon and commute the sentences of some convicted murderers.

However, unlike murder victim family members, offender family members, and homicide detectives and other investigative personnel, who have only an indirect role in the capital punishment process, many criminal justice system personnel can refuse to participate. Prosecutors can refuse to charge suspects with capital murder or decline to handle capital murder cases; defense attorneys can refuse to defend offenders charged with capital crimes; judges can recuse themselves from death penalty trials or refuse to sentence convicted capital defendants to death following bench trials or in jury override states, choosing life imprisonment without opportunity of parole or a lesser penalty instead; jurors can refuse to participate in capital trials or sentence convicted capital defendants to death (jury nullification); post-conviction counsel can refuse to take capital cases; appellate judges can recuse themselves or refuse to uphold death sentences; prison wardens and corrections officers can refuse to participate in executions; citizens do not have to witness executions; media representatives can turn down assignments to cover capital cases and executions; and governors do not have to sign death warrants. If all of these participants in the capital punishment process do not have to participate, then the intriguing question is why they do participate, especially given the doubts they express about the process

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ACJS 2014 Annual Conference

“Perceptions of Crime and Criminal Justice”

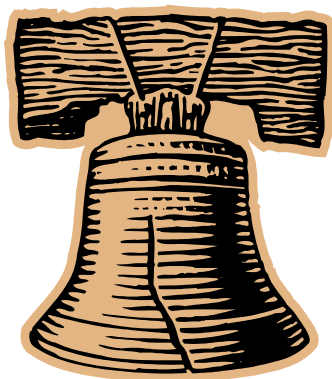
**February 18-22, 2014
Marriott Philadelphia Downtown
Philadelphia, Pennsylvania**

Program Chairs:

Nicole Leeper Piquero, University of Texas at Dallas, npiquero@utdallas.edu
Christine M. Famega, California State University – San Bernardino, cfamega@csusb.edu

Host Hotel:

Marriott Philadelphia Downtown
1201 Market Street
Philadelphia, PA 19107



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express about the process and the collateral damage they suffer from their participation. The answer to that question is the subject of the book's last chapter and this "short scholarly piece."¹

Why Do They Participate?

At least 13 theories suggest themselves. Those theories are briefly described below.

Positive Reinforcement

In today's political climate, criminal justice personnel who are elected to office, such as prosecutors, trial judges, and governors, can gain considerable political capital by participating in the death penalty process. Among the benefits of their participation is the ability to burnish their law and order credentials, which is likely to be important to their constituents. Some attorneys, particularly those who struggle financially, take death penalty cases for the remuneration provided by the defendant or the state and for the free publicity that death penalty cases generate. Strong reinforcers for execution team members are their elite status in the prison; the cohesive bond, the closeness, and the collective responsibility team members develop for each other; the camaraderie they share; and the support they receive from each other. In social-psychological terms, criminal justice system personnel are positively reinforced to participate in the capital punishment process.

Negative Reinforcement

On the other hand, some criminal justice personnel participate because they do not want to lose their jobs, which may happen if they refuse to participate. In social-psychological terms, this is known as negative reinforcement. Among judges

removed from office following their unpopular death penalty decisions were Chief Justice Rose Bird and justices Cruz Reynoso and Joseph Grodin of the California Supreme Court, Tennessee Supreme Court Justice Penny White, Mississippi Supreme Court Justice James Robertson, Justice Charles Campbell of the Texas Court of Criminal Appeals, Texas District Court Judge Norman Lanford, and Washington Supreme Court Justice Robert Utter. Thus, keeping their jobs and the income and the perks that come with those jobs are strong motivating factors to participate in a process about which they may have moral or utilitarian qualms and from which they may suffer collateral damage.

Reinforcement, however, is not the only or necessarily the most compelling theory to explain participants' behavior. A number of other theories—by themselves or in combination with reinforcement theory or with each other—might prove more compelling. Several of these theories attribute the willingness to participate in the capital punishment process to various psychological and social-psychological pathologies. For example, execution witnesses may be motivated to participate by a morbid curiosity to see someone die by execution.

Intellectual Investment

Some participants, such as defense attorneys, prosecutors, post-conviction attorneys, and some trial and appellate judges, make such a huge intellectual investment in becoming experts in the specialized area of capital punishment law and procedure that to not participate would be a waste of the

expertise they worked so hard to achieve.

Belief in the Adversarial System of Justice

The fourth and fifth theories also may explain both trial and post-conviction attorneys' willingness to participate in the capital punishment process. The fourth theory involves some attorneys' fervent belief in our adversarial system of justice. They take seriously their role to provide the best possible legal counsel and advocacy within the legal and ethical limits of their profession, regardless of their personal beliefs about the death penalty and despite the personal and financial sacrifices required. They believe that to refuse to defend unpopular clients renders the constitutional right to counsel and our adversarial system of justice meaningless.

Save Clients and Frustrate the Death Penalty Process

The fifth theory entails some attorneys' conscientious objections to the death penalty. Attorneys opposed to capital punishment seek to do everything legally permissible within their power to prevent their clients from being executed and to frustrate the operation of the death penalty process. Ironically, by participating in the process, even by fighting against it, attorneys opposed to capital punishment unwittingly help to legitimate the process.

Obedience to Authority

A sixth theory is "obedience to authority."² Many participants in the capital punishment process state that they are simply doing their jobs, following orders, and/or respecting the chain of command. They also justify their roles by citing Biblical commands, the "law of the land," patriotism, and/or an execution protocol. Each of these reasons reflects a generally unreflective

obedience to authority and desire to conform. That said, nothing is inherently wrong with following rules. What is wrong is not critically questioning the wisdom of the rules and the motives of those who made them.

Authoritarian Personality

Like "obedience to authority," a seventh theory imputes a willingness to participate in the capital punishment process to "an authoritarian personality." The concept derives from psychoanalytic theory, which locates an authoritarian personality's origins in early childhood experiences. An authoritarian personality has been described as "a mechanical surrender to conventional values; blind submission to authority together with blind hatred of all opponents and outsiders; anti-introspectiveness; rigid stereotyped thinking; a penchant for superstition; vilification; half-moralistic and half-cynical, of human nature; projectivity."³ Reflecting characteristics of an authoritarian personality, many participants in the capital punishment process, as noted previously, unreflectively follow orders and frequently stereotype and vilify the capital defendant or death row inmate as an "animal" or "monster," as something less than human, as someone who deserves to die.

Doubling

An eighth theory attributes the ability to participate in executions to the psychological process of "doubling," which is the assumption of a "split personality" or the creation of "what is effectively a second self, a 'killing self.'"⁴ This "killing self" or "execution self" does the "dirty work," and contrasts sharply with "the prior relatively nonviolent civilian [or everyday] self," which would never, or rarely, kill another human

being, especially without provocation.⁵ Only by deluding themselves by claiming to be “professionals doing their duty” are participants such as prison wardens able to effectively rationalize their behavior and become a part of the execution process.

The Lucifer Effect

Another plausible theory is “the Lucifer Effect.”⁶ The Lucifer Effect refers to the power of situational and systemic factors to induce good people to do evil. This theory relegates dispositional factors, such as those described in previous theories, to secondary importance. In the context of capital punishment, the situational and systemic factors include legislative, law enforcement, prosecutorial, judicial, prison, and gubernatorial environments and the norms that regulate them. Each of those environments, with its attendant norms, provides the social circumstances in which the capital punishment process is allowed to exist and unfold.

Becoming What They Do

A related theory suggests that “people tend to become what they do” because they must believe in what they are doing.⁷ Thus, in the case of prosecutors or trial judges, for example, who personally may have started out opposed to the death penalty, their work can make them “execution-oriented.” This transformation enables them to maintain psychic equilibrium by reducing the cognitive dissonance that would otherwise exist between their feelings against the death penalty and their job to prosecute or try capital cases.⁸

Moral Disengagement

Another related theory involves “moral disengagement,”⁹ which is discussed at length in

the chapter on capital jurors. Moral disengagement is accomplished primarily by the dehumanization of the capital defendant and eventual death row inmate, and it enables participants in the capital punishment process to play their roles in the condemnation and execution of a capital offender.

Dehumanization of the capital defendant generally starts with typical media portrayals of the capital offender as a “monster” or an “animal.” Prosecutors continue the process by reinforcing the media’s image at trial. The trial’s structure and rules facilitate the process. Killing a monstrous offender is easier to justify than the killing of a flawed human being.

Banality of Evil

A twelfth theory attributes the willingness to participate in the capital punishment process to the “banality of evil.”¹⁰ The concept applied to capital punishment suggests that the participants in the process (e.g., execution team members) are neither malevolent nor psychologically disturbed; rather, they are unexceptional individuals who follow orders without thinking about the human and moral ramifications of what they do. Their primary focus is attempting to carry out their orders as efficiently as possible.

False Consciousness

Not all participants in the capital punishment process express doubts about it or consciously suffer collateral damage. An unknown percentage of criminal justice personnel, perhaps a majority, believe in the death penalty’s legitimacy and have no qualms about participating in the process. They typically argue that some crimes are so heinous that death is the only appropriate punishment.

A thirteenth and final theory considered in the book attributes the willingness of these types of people to participate in the capital punishment process to “false consciousness” about what capital punishment is assumed to accomplish.

Unlike some of the aforementioned theories that view capital punishment participants as unreflective or unthinking bureaucrats, this theory emphasizes the cognitive dimension to their participation. A theory of false consciousness presumes that participants in the capital punishment process have what they believe to be good reasons or sound arguments for capital punishment and their roles in the process. The problem for such individuals is that what they believe to be true about capital punishment—the argument they use to justify their behavior—is false and the product of propaganda, which to some extent is based on bad science. As noted in various chapters of the book, despite substantial evidence to the contrary, many participants continue to believe, for example, that capital punishment deters would-be capital offenders better than long-term imprisonment, prevents vigilante justice, is the only legitimate way of achieving retribution for the most heinous crimes, provides comfort and closure for victims’ family members, is administered fairly (i.e., not in an arbitrary and discriminatory way), is not plagued by miscarriages of justice (such as wrongful convictions and executions), and is cost effective compared to a process that results in lifelong imprisonment.

If any of those beliefs about capital punishment were true—if capital punishment was the only way of achieving a greater social

good or social advantage—then the collateral damage to the participants in the capital punishment process could be justified from a utilitarian view. However, an enormous body of research shows that the claims made about capital punishment’s unique utility are false. Perhaps the strongest evidence is that 18 states and the District of Columbia, as well as two-thirds of the world’s nations, are able to achieve the utilitarian (and moral) goals of capital punishment with an alternative noncapital punishment—at least as well as states and countries with capital punishment. Thus, capital punishment is unnecessary to accomplish any utilitarian or moral goals, which begs the question, why incur capital punishment’s collateral damage?

Conclusion

No doubt any alternative to capital punishment will produce collateral damage, too, but that alternative, whatever it is, is less likely than capital punishment to be used by politicians for political gain, needlessly divert scarce resources from efforts to reduce violent crime, force participants to navigate a complex and chaotic capital punishment process, subject victims’ family members to the secondary victimization caused by the capital punishment process, burden defense and post-conviction attorneys, damage offenders’ family members, wreak havoc with trial judges’ court dockets, and cause appellate court judges to expend a disproportionately large share of their resources on a very small percentage of their caseload. The replacement of capital punishment with an alternative punishment also would eliminate entirely the need for defense attorneys, prosecutors, and judges to expend time and resources on capital punishment; for judges,

jurors, and governors to make life and death decisions; for prison wardens, death row correctional officers, execution team members, and execution witnesses to participate in executions; and the ultimate horror of executing an innocent person.

The arguments in support of capital punishment do not hold up well to critical scrutiny, while the arguments in opposition to it seem compelling. Capital punishment's collateral damage is another good argument for rethinking the wisdom of the ultimate sanction. Beyond that, why people participate in the capital punishment process despite the doubts they express about it and the collateral damage they suffer when they can refuse to participate is another intriguing question about capital punishment that deserves further inquiry. The implications of this issue add a new consideration to the debate.

Notes

¹ I chose to address this subject rather than describing the collateral damage itself because space limitations prevented an adequate presentation of the many types of collateral damage that befall participants who find themselves caught in capital punishment's web. Because much of the book is devoted to detailed first-person accounts of the collateral damage, my hope is that I have aroused the reader's interest enough to explore that topic further by perusing the book.

² Milgram, S. (1974). *Obedience to authority*. New York: Harper & Row.

³ Jay, M. (1973). *The dialectical imagination: A history of the Frankfurt School and the Institute of Social Research, 1923–1950* (p. 240). Boston: Little, Brown.

⁴ Lifton, R. J., & Mitchell, G. (2002). *Who owns death? Capital punishment, the American conscience, and the end of executions* (p. 77). New York: Perennial.

⁵ Ibid.

⁶ Zimbardo, P. (2008). *The Lucifer effect: Understanding how good people turn evil*. New York: Random House.

⁷ Lifton & Mitchell, 2002, p. 117.

⁸ Ibid.

⁹ Haney, C. (2005). *Death by design: Capital punishment as a social psychological system*. New York: Oxford University Press.

¹⁰ Arendt, H. (1963). *Eichmann in Jerusalem: A report on the banality of evil*. New York: The Viking Press.

Robert M. Bohm is a professor of criminal justice at the University of Central Florida. He has published extensively in the areas of criminal justice and criminology. His books on capital punishment include *Capital Punishment's Collateral Damage* (Carolina Academic Press, 2013); *The Past As Prologue: The Supreme Court's Pre-Modern Death Penalty Jurisprudence and Its Influence on the Supreme Court's Modern Death Penalty Decisions* (Carolina Academic Press, 2012); *Deathquest: An Introduction to the Theory and Practice of Capital Punishment in the United States, 4th ed.* (Elsevier/ Anderson, 2012); *Ultimate Sanction: Understanding the Death Penalty Through Its Many Voices and Many Sides* (Kaplan, 2010); *The Death Penalty Today* (CRC Press, 2008); *America's Experiment With Capital Punishment: Reflections on the Past, Present, and Future of the Ultimate Sanction, 2nd ed.* (with James R. Acker and Charles S. Lanier; Carolina Academic Press, 2003); and *The Death Penalty in America: Current Research* (Anderson, 1991). He was president of the Academy of Criminal Justice Sciences in 1992–1993. In 1989, the Southern Criminal Justice Association selected him as the Outstanding Educator of the Year, and in 1999, he became a Fellow of the Academy of Criminal Justice Sciences. The Academy of Criminal Justice Sciences also presented him with the Founder's Award in 2001 and the Bruce Smith, Sr. Award in 2008.

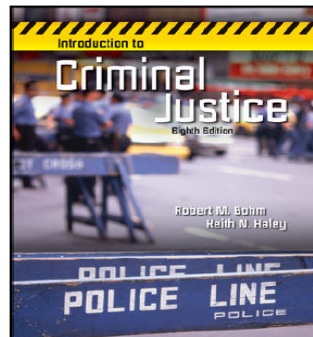
Introduction to Criminal Justice, 8th edition

by Bob Bohm and Keith Haley

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Robert Bohm and Keith Haley's combined experience of more than 50 years in teaching criminal justice, as well as working in the field—Bohm as a correctional officer and Haley as a police officer—comes through in their accessible yet comprehensive presentation of *Introduction to Criminal Justice*, now in its 8th edition. They make it easy for readers to understand that much of what the public "knows" about criminal justice in the United States is myth, and help students learn the truth about the U.S. criminal justice system.

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What New York City Teaches About Police and Prisons



*Franklin E. Zimring**

The record-breaking drop in New York City's crime has rather quickly become a phenomenon its citizens take for granted. In the 19 years after 1990, the homicide rate in the city dropped 82%, the robbery rate dropped 84%, and burglary was down 85%. Auto theft belongs on the endangered species list—the rate in 2011 is about 6% of the 1990 level. By the end of this year, the homicide rate in New York City will be less than 15% of the 1990 rate. The rest of the country had a crime decline in the 1990s, but New York's was twice as large and lasted twice as long.

Two things separated this city from the rest of the nation during the past two decades. New York invested in many more police and in changing police strategies but didn't keep increasing its prison and jail populations. The rest of the nation put much more money in prisons than police. And the result contradicts four decades of crime control orthodoxy. In the four decades after 1971, the U.S. prison

population expanded from just over 200,000 to 1.5 million. When adjusted for population, our rate of imprisonment increased 400%. This dependence on incarceration was linked to the belief that street crime is committed by persistent "high-rate" offenders who will continue to offend if they are not locked up. In such circumstances, we thought that the police cannot prevent much crime because they can't be everywhere or stay forever. Persistent offenders would simply find other places or other times to rob and assault.

Except that New York City's police-based strategy has proved that street criminals aren't as persistent as the "incapacitation or nothing" school of crime prevention had assumed. If the cops' patrolling prevents a robbery on 125th Street on Tuesday night, that doesn't mean an extra robbery on 140th Street, or even an extra robbery tomorrow night. It turns out that the impulses that produce muggings are situational and contingent on many factors. If you prevent Tuesday's robbery on 125th Street, that's probably one less robbery for 2013.

This must be the explanation for New York's 80% drop in safety crime with no increase in incarceration and no major changes in population composition. While the rest of the nation increased its rate of incarceration by 65% over the period from 1990 to 2009, New York City decreased its prison and jail incarceration rates by 28%. If the city had instead followed the national trends, it would

have locked up an additional 58,000 persons at an annual cost of well over \$2 billion.

The result of this crime policy experiment is that the police investments outperformed the conventional prison investments by a wide margin. In this sense, the kids who *didn't* brush with Crest ended up having many fewer cavities. But what went so wrong with the assumption that high-rate offenders must be locked up, and where have all New York's high-rate criminals gone?

We found a good official data set that tracks the criminal activity of high-rate offenders from New York City and shows what happened over time. Of all the prisoners from New York City released from state prison in 1990, 28% were convicted of another felony within three years. But as the general crime rate went down, so did the crime rates of released offenders. By 2008, the three-year reconviction rate of those released had dropped to 10%, a 64% decline in the personal crime rate of the high-rate offenders at the heart of American prison policy.

This extreme variability in the level of crime that serious offenders commit is good news for any program with a plausible strategy to change the behavior of high-risk persons in community settings. The city's big successes were police based—using COMPSTAT's computer maps to concentrate resources in crime “hot spots” and destroying public drug markets. But the success of these situational strategies also favors the prospects for intensive probation supervision, for drug courts, and for any other people-changing program. But the extreme variability of later crime by prisoners is very bad news for prison programs that can

only prevent crimes by keeping offenders locked up. That 64% drop in reconviction rate between 1990 and 2006 shows that the crime prevention benefit of keeping people locked up had also dropped by nearly two-thirds while prison costs increased. Perhaps that's why police outperformed prisons?

Because criminal propensities can change in community settings, it seems much more promising to concentrate crime prevention resources in high-risk neighborhoods rather than in secure confinement strategies that can only work if we can predict high personal dangerousness over long periods. New York City modified the situations and incentives for crime. With that kind of strategy, municipal safety does not require mass imprisonment.

**Franklin E. Zimring is Simon Professor of Law, University of California at Berkeley. Oxford University Press will release the paperback of The City That Became Safe: New York's Lessons for Urban Crime and Its Control this month.*

Editor's Note: This article is extremely relevant in light of the recent discussion surrounding the usage of police stop-and-frisk tactics in New York City. Mayor-elect Bill de Blasio has pledged to significantly reform these police tactics, as they may unfairly target racial minorities. It will be most interesting to see what becomes of stop-and-frisk tactics in the Big Apple and whether or not this will have an impact on the City's crime rate.

Deconstructing Criminal Justice Policy: A Conversation with Dan Mears



2013 Outstanding Book Award Recipient, Dan Mears*

At the last ACJS Conference in Dallas, Professor Dan Mears was the recipient of the ACJS Outstanding Book Award. Recently, I had the opportunity to ask him a few questions about winning this prestigious award.

RW: At the 2013 ACJS Annual Conference, you received the Outstanding Book Award for your book *American Criminal Justice Policy: An Evaluation Approach to Increasing Accountability and Effectiveness*. Throughout this book, you argue quite convincingly that many of the most prominent American criminal justice policies have fallen short of expectations. What gave you the idea to write this book, and why did you decide to take on a project of such an enormous magnitude?

DM: Well, the idea emerged from several different sets of experiences. One was working at a residential center for abused kids who had committed serious acts of delinquency. Their histories defied belief. From a theoretical perspective, you could see a large range of causal

factors that likely added up and interacted with one another. The program costs, too, defied belief. Later, while at the University of Texas-Austin, and then while at the Urban Institute and most recently at Florida State University, I evaluated or participated in evaluations of many different programs and policies. When I began teaching a course on criminological theory, I realized how little attention was given to the notion that criminological theory could be viewed as including theory about the criminal justice, not just the causes of offending. Around this time, I began reflecting on my experiences evaluating policies and programs and on the status of “criminological” as against “criminal justice” theory.

RW: Can you please elaborate a bit more on this point?

DM: Well, as I stepped back to think about major crime policies, it seemed that a pattern would repeatedly surface—too little evidence existed to support them, and this at a time when calls for government accountability and evidence-based policy had become increasingly prominent. I decided then to check that assessment by examining a wide range of policies through the prism of an evaluation hierarchy, which involves an assessment of policy need, theory, implementation, impact, and cost efficiency. The end result was the book. I should emphasize that it is certainly not the case that bright spots on the horizon don’t exist. To the contrary, efforts such as those by the Cochrane Collaboration have yielded

enormous insights. But, when we view criminal justice policy in its totality—to the extent that that is possible—the situation looks far more bleak.

RW: Why do you suppose that so many irrational criminal justice policies have been created within the last several years? What are some of the factors that give rise to irrational criminal justice policies?

DM: There likely is no one reason. If I had to nominate one, though, it would be the lack of research infrastructure, including an institutionalized necessity for policies to be linked directly to research. When, for example, policymakers can enact policies that impose substantial costs and do so without empirically demonstrating the need for them, that creates a multitude of problems. However, this situation existed for many years prior to the dramatic changes in crime policy over the past three decades. I am partial, in the end, to a “perfect storm” type of explanation—violent crime rose rapidly during a heavily conservative era of government; crime became a target for political football, with both Democrats and Republicans vying for mileage out of being “tough on crime”; and then, in the 1990s, an economic boom enabled states to expand incarceration at historically unprecedented rates. At that point, with tougher sentencing laws on the books; more police, courts, and prisons; the more law enforcement-oriented shift in parole; and expanded prison capacity the country became locked into what has come to be termed “mass incarceration.” Absent a coherent body of research systematically examining the need, theory, implementation, effects, or cost-efficiency of these changes, the door was left open for policymakers to make incorrect assumptions and simultaneously to claim, or to assume, “success.” In the end, one might view this “storm” as one that encouraged a highly unbalanced

approach to policymaking and that favored tough-on-crime approaches only, no matter how poorly developed the rationale. States, of course, faced real crime problems. But those problems ideally would have been addressed through balanced approaches that built on research.

RW: What exactly is evaluation research? Why is it important, and how can it be used to create feasible, responsible criminal justice policies?

DM: When I first took an evaluation research course as part of a fellowship, I assumed that it was the same thing as research methods. I really had no idea. Research methods are just that, methods. Evaluation research is nothing more than using any of a variety of methods to answer questions of relevance to understanding or assessing policies, programs, practices, and the like. Broadly, as Peter Rossi outlined in a now-classic work, evaluation research involves looking at questions that fall along a continuum or hierarchy: (1) Is the policy or program needed? (2) Does it rest on sound theory? (3) Is it implemented well? (4) Does it achieve intended impacts? What other impacts, intended or otherwise, does it have? And (5) how cost-efficient is the policy or program relative to other potential policy avenues? I liked the pragmatic emphasis reflected in these questions. I liked, too, the chance to think about theoretical issues that went well beyond the causes of offending. Virtually every policy or program rests on some type of “causal logic,” or theory. The fun and challenge of evaluation research includes working toward identifying this theory and finding some way to examine it.

RW: After reading your book, it seems to me that you may be somewhat critical of faith-based prisoner reentry programs. What exactly is your take on these types of programs?

DM: I don't feel critical of such programs. I focused on them as but one example of policies that get widely pushed and yet lack much in the way of theoretical or empirical support. Ron Akers and others quite rightly point to certain types of studies that suggest that faith, religion, spirituality, and the like may be modestly associated with offending and other outcomes. The question, though, is whether faith-based programs effectively reduce offending. Here, as with many other policies, the waters get muddy quickly. It remains unclear, for example, what a faith-based program is. Many such programs rely on many services and treatments that secular programs use, which makes it difficult to know whether faith-based programs reduce offending more than those programs. Evaluations of these programs typically suffer from many methodological problems that, among other things, fail to address selection effects. These and other such issues barely scratch the surface.

RW: So, do these programs have any merit?

DM: In the end, there may well be merit to such programs, but they should not, in my view, at present be billed as "evidence-based policy." Even so, I could easily see advocating for them if I were, say, the head of corrections in a given state. As long as inmates were not coerced into participation and no documented harms arose, the potential would exist for improved outcomes. Who knows? With less and less support for educational and rehabilitative programming, I would seek volunteers from all corners of the universe to work toward creating better outcomes among released prisoners. That potentially would include tapping the faith community as well as those in university settings, the corporate sector, and elsewhere.

RW: In the book, you contend that many criminal justice programs are not well grounded in theory. How can this be changed, and why would it be beneficial to policymakers to pay attention to relevant theoretical developments?

DM: The main way to change that situation goes back to a central recommendation of the book—the evaluation research hierarchy essentially should be institutionalized into policymaking and policy monitoring and assessment. One of the more dismaying aspect of many policies is the fact that their logic utterly defies empirical reality. Early on, I had a professor, Bob Dawson, walk me through a real-life example. A town wanted to reduce truancy by taking driver's licenses away from truants. The effort failed. Why? Most of the truants did not have driver's licenses in the first place. It's a classic example of a policy that seems, at first blush, to have obvious logical merit. But if you slow down and look at it, and if you try to collect some data that allow for assessment of critical assumptions, you find that in fact the policy is unlikely to be effective, at least not without significant tweaking.

RW: Even on the rare occasions when sound criminal justice policies are created, it is not unusual for there to be significant problems implementing these policies. Why do you suppose this is, and how can this be changed?

DM: I'll sound like a broken record, but I go back to the lack of research infrastructure. Alfred Blumstein and others have highlighted how little is spent nationally on crime and justice research. That's a problem that is difficult to get around. One irony lies in the calls in recent years for running government like a

If we did that, we would spend a lot more on research. No business, for example, would willy-nilly commit hundreds of millions to supermax prisons in a given state without evidence that they were needed and likely would produce substantial benefits that well exceeded costs. In the end, if policies, programs, and the everyday practices of the criminal justice system go unmonitored, why should we expect consistent and well-executed implementation? A critical part of any solution, in my view, involves significantly increasing funding and reliance on research in the development, implementation, and assessment of policy. But it is not simply that research would be conducted. Rather, it would be central to informing important decisions about continuing or modifying policies, programs, and the like.

RW: Guns are one of the hot topics today, especially in light of multiple-victim shootings and the recent George Zimmerman acquittal. You have spent a considerable time researching various criminal justice policies. Should more efforts be made to restrict access to guns in this country?

DM: The Centers for Disease Control and other organizations have reviewed what is known about the effectiveness of gun control laws. The short story is that we appear to have too little credible evidence to support large-scale investment in any one type of law or the other. I'll punt a little on the question by turning it around slightly. The issue, in my view, is not per se whether such laws should exist. Rather, states should define carefully the need that these laws are supposed to address. Such an assessment, if undertaken empirically, likely would point to a broad array of causes, many of

which gun laws do not touch. In the end, after a careful stock taking, states ideally would invest in a balanced portfolio of efforts to reduce the specific problems that gun laws today seek to address. What I can say is that simply restricting gun access, in and of itself, seems unlikely to achieve much in the way of reducing gun-related crime. Prison systems alone are a testament to the ingenuity of people in creating weapons. It is notable, then, that so many guns exist on the market today and that obtaining one would not require much ingenuity.

RW: You are quite right about that. So, how can criminal justice policies be more cost efficient?

DM: The broken record syndrome will kick in here—we literally cannot have more cost-efficient policy without better, more systematic information about the impacts of our policies, programs, and practices, and without the research infrastructure for undertaking the difficult and challenging work of undertaking credible cost-efficiency estimates.

RW: I'd like to switch gears for a moment, if I may. You have received one of the highest and most coveted ACJS awards. What does this accomplishment mean to you? Who has contributed to your recent success?

DM: It is, first and foremost, an honor. We publish our work and frequently have little sense of how much, if any, impact it has or, indeed, whether anyone reads it. In part, receiving the award signals to me that the book resonates with people. That is gratifying. It is gratifying, too, that the book fits in with other efforts by people in the field to try to improve policy and, at the same time, to improve our understanding of theory through investigation of policy. The contributions to helping make the book come about are numerous, and no small amount of luck was involved. I'm indebted in so many ways to

lots of experiences and people. I worked with wonderful people at the University of Texas-Austin, the Urban Institute, and now Florida State University. At every juncture, I have been lucky to be around people who constantly ask questions, include others in their research, and create an atmosphere where doing so is the “norm.”

RW: And what are some of your research plans?

DM: I hope to continue several lines of research that have been unfolding in recent years. These include examining nonlinear effects in the development and testing of criminological theory; the effectiveness of different types of sanctions; and factors, including community context, that influence inmate behavior and prisoner reentry experiences.

RW: Given your unique background, it might also be interesting if you were to write an article examining whether it is feasible or even worthwhile to separate politics from research.

DM: I don't think that the two can or should be separated. Certainly, researchers should feel and be free to investigate topics without fear of censorship. Plenty of opportunities exist to undertake such work. And certainly research should not be subservient to a particular political ideology. At the same time, without systematic empirical research on policy need, theory, implementation, impact, or cost-efficiency, we allow politics alone to govern policymaking and implementation. The only viable alternative, one that proponents of government accountability and evidence-based policy should welcome, is institutionalized policy research with quality control checks to ensure that policy research is rigorous and nonpartisan.

RW: Well, I do have one last question. It is a bit light-hearted but still an important one. I know you are a Monty Python fan. So, I'm curious, what is your favorite scene from the movie, *Monty Python and the Holy Grail*?

DM: It would have to be the French guard taunting skit. The references to “English bedwetting types” and “tiny-brained wiper of other people's . . .” are frequently recited around our house. Perhaps if more people in Congress watched Monty Python, we would have better policies!

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Book Reviews

Tanenhaus, D. S. (2011). *The Constitutional Rights of Children: In re Gault and Juvenile Justice*. Lawrence, KS: University Press of Kansas.

In his book *The Constitutional Rights of Children*, David S. Tanenhaus provides an in-depth discussion of the landmark Supreme Court case *In re Gault*. Tanenhaus extensively explores beyond *In re Gault* and discusses the juvenile justice administration and policies prior to and after the Supreme Court decision. The author deliberates on the scandal that happened in Fort Grant, Arizona. This specific event exposed the troubles associated with juvenile facilities. For example, Tanenhaus explains that juveniles were being mistreated and beaten at the juvenile boys' institution. After the abrupt investigation at Fort Grant, many individuals began advocating for a different juvenile justice administration process, according to Tanenhaus. Following the Fort Grant scandal, Charles Bernstein, the individual who initially exposed the shameful juvenile institution, introduced a therapeutic role for dealing with young offenders. Tanenhaus then expounds on the rise in support for such a program at a time when due process was at the highest point of acceptance. Tanenhaus describes the Gault family and how they happened to move to Arizona. He explains Gerald Gault and the trouble he was in as a juvenile. The author introduces Gault's small crime of stealing a baseball mitt, which then was followed by his being charged with aiding in stealing \$60 from a woman's pocketbook.

Gault was sentenced to probation for his actions and was almost finished with his punishment when the next event unfolded. Tanenhaus explains that Gerald Gault had a friend,

Ronnie Lewis, at his house because he needed to make a phone call to Ora Cook. Cook cleaned the Lewis's home and they needed her to come do this task. In the end, Cook called the police to complain that an individual made sexual comments to her on the phone, and the police traced the call back to the Gault home. Because of his actions, Gault was sent to Fort Grant. Tanenhaus explains the nation's reaction to the Gault court case. The supporters of Gault wrote press releases explaining how this possible Supreme Court decision could have a widespread effect on all juveniles in America. Furthermore, many important figures, such as President Kennedy, were beginning to see the importance of juvenile justice and how more policies and laws were needed to protect these individuals from mistreatment and harm, according to Tanenhaus. The author asserts that this specific movement by the Kennedy Administration began a new era of juvenile justice.

Tanenhaus explains that while the *Gault* case was in the works, the first juvenile justice case was decided in the Supreme Court. This case is known as *Kent v. United States*. The author describes the specifics of the *Kent* decision and how this court case grants juveniles safeguards as described by due process of law. Tanenhaus briefly gives examples that further prove the shift to a more therapeutic tone to the juvenile justice administration. In other words, before the *Gault* decision, America was beginning to recognize the importance of juvenile rights. It was during this time the *Gault* case was heard in the United States Supreme Court. The developments of the *Gault* case and the specifics thereafter are described in ample detail throughout the closing chapters in Tanenhaus's book. The author provides information, such as the landmark case of *Miranda v. Arizona*, to describe the trend in criminal justice immediately before the *Gault* decision. There were

critics who thought the *Miranda* decision and the *Gault* case were catering to criminals. However, Tanenhaus explains the attorneys' development of their argument for *Gault* and how they would present this to the Supreme Court Justices during this wide debate on the changing dynamics of the criminal justice system. The author explains the detailed analyses developed by Dorsen, *Gault*'s attorney, and how he defended the notion that *Gault* should not be punished for years in a correctional facility when an adult who had committed the same crime would only spend a few months in jail or be fined. Tanenhaus explains that 10 days later Justice Earl Warren made his decision on the matter. He explained he was in support of *Gault*, and seven other Justices agreed. In an 8-1 decision, the Supreme Court required juvenile courts to give proper notice to the adolescent and assistance of counsel during the trial. The author also explains that the *Gault* decision gave juveniles the privilege against self-incrimination and the rights to confrontation. Furthermore, juveniles have a right to cross-examine a witness.

After the Supreme Court decision was discussed, Tanenhaus then directed the tone of the book to the thoughts of the individuals who pushed for *In re Gault* to be approved. He spoke of Fortas, who essentially wrote the drafts of the case, and how he had a big part in the development and implementation of the *Gault* decision. Furthermore, Tanenhaus mentions what Fortas included in his draft for the requirements that were specified by the *Gault* decision. Tanenhaus introduces proponents of the *Gault* decision, such as the ACLU, and also names critics of the Supreme Court decision. Many critics,

according to Tanenhaus, felt that the *Gault* decision came at a time when juvenile crime rates were increasing and at the highest rates the country had seen. Tanenhaus goes on to describe other scholars and professionals and how they thought the Supreme Court decision would impact the nation. Tanenhaus mentions the impact the *Gault* decision had on the country. He further delves into the situations that occurred post *Gault*, such as the resignation of Chief Justice Earl Warren and the process of replacing other Supreme Court Justices. Tanenhaus concludes his book by describing the harsh reality of the American views of punishment and how the justice system varies significantly from other European nations.

Tanenhaus's book provides great in-depth analysis of the *In re Gault* decision. The author does an excellent job of describing the background information that leads to the landmark Supreme Court decision. Tanenhaus provides a superb analysis of the inside details associated with the case. Furthermore, while providing a sophisticated documentation of numerous key details within the *In re Gault* decision, the book was easy to comprehend and read. Tanenhaus provided all key details of the court case and further provides additional information on events that transpired after the *Gault* decision. This would be a book I would highly recommend to any professional, scholar, or student wishing to learn more about the crucial and prominent Supreme Court decision that transformed the juvenile justice system.

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Parsons-Pollard, Nicolle. (2011). *Disproportionate Minority Contact: Current Issues and Policies*. Carolina Academic Press: Durham, North Carolina.

Disproportionate Minority Contact: Current Issues and Policies edited by Nicolle Parsons-Pollard (2011) should be an adopted book for 21st century juvenile and criminal justice courses and integrated into course curriculum at the undergraduate and graduate level. Parsons-Pollard's book is timely considering the disproportionate minority contact (DMC) federal mandate – a 2002 Office of Juvenile Justice and Delinquency Prevention (OJJDP) requirement for states to address the disparate rate by which juvenile minorities are represented in the juvenile and adult criminal justice system at nine contact points. These contact points are described in the book as points by which youth penetrate the system, ranging from the point that a juvenile is arrested or referred for juvenile justice processing to the point of transfer to the adult court. The *Disproportionate Minority Contact Technical Assistance Manual*, 4th edition (2009), prepared by OJJDP is a required source for DMC professionals (e.g. state/local DMC coordinators). Parsons-Pollard's book is the only DMC-specific reader, expanding to a larger audience than the OJJDP manual, including rising scholars or advocates in the classroom. It can also be used as a point of reference for the DMC professional.

Reading the book reminded me of being an undergraduate student of Katheryn Russell-Brown, who coined

“black criminology,” and Alex Piquero, who has widely published on DMC. In the early 1990s, both made the term disproportionality clear for me; while blacks represented 12% of the general population, they represented more than 40% of those under criminal justice supervision. Upon reading the book, students who are learning about the DMC mandate for the first time, may have a similar experience. The contributions of Piquero, Andrea Coleman (the OJJDP DMC coordinator), Ojmarrh Mitchell (who has published on race and crime), and others, offer a clear, historical, policy-driven, and empirically sound assessment of DMC. Minority youth are described as disparately represented at each contact point, in comparison to their white counterparts.

The work of DMC pioneers, William Feyerherm, Carl Pope, and James Bell, are referenced in the book. Their work can be used as an introduction to DMC for students. Feyerherm's relative rate index (RRI) is described in his contribution in Chapter 3 (“Measuring DMC: The Origins and Use of the Relative Rate Index”). The RRI is the formula used to confirm whether a jurisdiction has a DMC problem. The rate of contact amongst minorities is compared to non-minorities. Pope's review of DMC literature is referenced by Myra Fields and Michael Leiber in Chapter 4 (“An Examination of the Effects of Race...”). Bell's work as founder of the W. Hayward Burns Institute, a non-profit organization that seeks to reduce DMC nationally, is referenced in an assessment of DMC initiatives in Chapter 6 by Mary Poulin, et al. (“Assessing DMC Initiatives: A Case Study of Two States”).

In addition to the classroom, the book can be used as a tool to encourage partnerships

between practitioners and academics. In Chapter 14, Parsons-Pollard discusses what to do with a DMC/ university partnership and the resources available via the university. It offered leverage for a partnership that I helped to forge between Maryland's Governor's Office of Crime Control and Prevention/ Juvenile Grant Planning and Review Council and the Department of Sociology and Anthropology at Morgan State University. The first leg of the partnership led to a DMC conference on Morgan State University's campus in October of 2012. This was similar to the 2008 conference, on the campus of Virginia State University, Parsons-Pollard discusses in chapter 14. They partnered with the Virginia Department of Criminal Justice Services. Chapter 14 also includes suggestions for continuous collaboration, where the conference is a starting point, and the use of university resources can help to further address the OJJDP mandate, to reduce DMC. Students, staff, and /or faculty, interested in DMC partnerships, can refer to the chapter as a tool for establishing an agreement.

According to those who do DMC work, the stakes are too high to treat DMC as a research project alone. DMC is about providing evidence for persons who play a role in lessening the representation of youth of color being disparately represented in the system; this includes teachers, members of the community, police officers, etc. By reading the book, juvenile and criminal justice students will learn how their role as citizens and professionals can impact DMC. The contributors to the book offer evidence that disparate contact is not

limited to the point of arrest, or a decision made by a prosecutor to seek a conviction. "Contact" may very well begin with a mere perception that a minority youth is dangerous, a lack of effective data driven interventions, the placement of minority youth in foster care, or socio-economic disparities amongst youth.

Prior to offering a review of the book, I thought about how it adds substance to help understand contemporary social justice issues. It can be utilized in the classroom and beyond when discussing emotionally charged reactions to the Jena 6 of 2007 or the death of Trayvon Martin, more recently. Students will learn how OJJDP has addressed disparity and what they can do as citizens and professionals to reduce DMC (e.g. the identification of non-juvenile justice or criminal justice resources to address problems). I encourage the publication of additional volumes where efforts to measure statistical significance of DMC via the RRI are discussed, a chapter on disproportionate minority contact at the transfer stage is included, and ongoing DMC work is highlighted.

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Regional and International Conference Highlights



The President of ACJS, Jim Frank, with the President of SCJA, David May, at the 2013 Southern Criminal Justice Association Conference in beautiful Virginia Beach.



At the 2013, Western Association of Criminal Justice in Las Vegas, Secretary/Treasurer Andy Giacomazzi chaired the WACJ Quiz Bowl.



Past ACJS President, Jim Finckenauer at the Australian and New Zealand Society of Criminology Conference.



Past ACJS President, Alida Merlo receives an award at the 2013 Northeastern Association of Criminal Justice Sciences Conference.

The Adult Film Industry Uncovered: A Conversation with Chauntelle Anne Tibbals



Chauntelle Anne Tibbals*

Anyone who has taught a course in Deviant Behavior knows that the adult film industry is a topic which is frequently addressed in course textbooks. Recently, I had the opportunity to ask Chauntelle Anne Tibbals, an expert on the adult film industry, a few questions.

RW: You have the dubious distinction of being one of the few scholars who has systematically examined virtually every aspect of the adult film industry. How in the world did you get interested in this topic?

CT: Honestly? Pure circumstance. I was working on my master's degree in sociology at Cal State Northridge (CSUN) in the early 2000s. CSUN is located right in the heart of the San Fernando Valley, which happens to be the geographic center of global porn production. I was exploring gender, sexualities, workplace, and feminist-centered scholarship via my coursework and was essentially learning that though *some* porn *might* be liberating, the vast majority of it was unquestionably bad. At first, this perspective was

extremely compelling to me—it resonated with every porn stereotype I had ever heard and flourished in my overall unfamiliarity—but eventually questions began to emerge.

RW: What kind of questions?

CT: Well, I started to wonder how an industry that was legal and (at least somewhat) professional or formal could be doing all of these horrific, abusive, and problematic things, right in the midst of the suburban valley. And if, hypothetically, porn was as awful as was alleged, why and how were these pornographers able to stay in business? Who was keeping them afloat? The “either/or” nature of the anti-porn/pro-porn debate was extremely one-dimensional, and it relied heavily on the idea that pornographers were extremely influential and calculated—porn flowed directly from their depraved minds to an unsuspecting, vulnerable public. This was starting to seem like a bit of an overreach.

RW: So, how did you attempt to ascertain whether or not prior research that examined the adult film industry was valid?

CT: Back in those days, I had absolutely no contacts in or connections to porn—I knew nothing “actual” about adult content or the industry that produced it—and these musings of mine were purely hunches.

Something was clearly going on, and I wanted to explore further. So, once I had completed my work at CSUN (which is actually about doing gender as resistance in various workplace settings) and began my doctoral work at the University of Texas, I started trying to figure out the basic structure of the industry. It took about a year of digging around just to get a rough picture of the production portion of the adult business.

RW: Although this may come as a surprise to some, sociology can actually be a stunningly conservative discipline. As you reflect back on your days as a graduate student at the University of Texas, how did you negotiate your identity of being a future researcher of the adult film industry?

CT: It was difficult. The notion that I was interested in a sociological puzzle absent some personal investment or experience was almost impossible for people to accept, and a lot of really troubling and tedious things happened as a result. The empirical subject of porn often overshadowed the sociological questions I was asking, and “porn research” seemed to make people (scholars included) quite uncomfortable.

RW: You know, it’s really a shame that in this day and age, social science researchers are still stigmatized for choosing to explore topics considered to be even the slightest bit edgy or controversial.

CT: I agree. And, as a doctoral student, it quickly became obvious that funding for this type of research did not exist, so I ran into a lot of difficulties there. But I made it work. And I was incredibly lucky to be mentored by Mounira Charrad, an extremely rigorous and brilliant sociologist capable of seeing the bigger picture.

RW: For those who may not be familiar with the name, Mounira Charrad is a Harvard-trained sociologist who is probably best known for her research examining interrelationships between state power, women’s rights, and Islamic legal codes. What was it like working with such a distinguished and highly regarded scholar?

CT: Amazing. Maya is the purest expression of what a sociologist and a mentor can be.

RW: So let me ask you another question. Besides having publishing quite a bit on the adult film industry, you also teach sociology courses. I would presume that your students are aware of your research interests. What are their reactions?

CT: Actually, I don’t generally tell my students about my adult industry-related research. As a rule, I try to stick to course-relevant material and examples. I also tend to refrain from sharing too much personal information in the classroom. And though I do cover, for example, the overarching topic of sex work in “Gender & Sexualities” courses (so it comes up there), students never really get a tidal wave of porn research or porn stories from me.

RW: O.K., but let’s face it, students these days are pretty tech savvy. They know how to use the Internet.

CT: Yeah, of course. There have been several instances wherein a student has Googled me (it’s pretty commonplace for students to Google everything these days, including their professors) or has heard me on the radio, which prompts them to ask questions. If a

student asks about my research, I am always happy to discuss it. I also often refer them to my website, PVVOnline.com—the tenor and public nature of the sociology I do there is a bit more accessible.

RW: Adult content production is legal in the U.S. Yet, in spite of its legal and protected status, adult-oriented films are still a stigmatizing and polarizing dimension of U.S. culture. Why do you suppose this is?

CT: In my view, there's not really one direct explanation for porn's sustained stigmatized and polarizing status. I think it's a synergistic result of a combination of factors—poor sex education, our culture's general discomfort with sex, and the shroud of mystery surrounding the adult industry (among other things).

RW: I'm curious; how exactly does poor sex education contribute to the stigmatization of the adult film industry?

CT: Even though there is certainly a diverse array of resources available online, formal sex education for adults and young people in the U.S. is inexcusably awful. But, in spite of being denied accurate, judgment-free information, humans continue to be interested in sex. So sometimes they seek out the most obvious and available depictions of sex—porn—for guidance, clues, and cues. And though porn performers are real people and their sex performances require at least some measure of real-world chemistry, the depictions we see as consumers are just that—crafted depictions and performances. Viewers, with no sounding board (such as comprehensive sex education) against which to meter porn, then internalize images with no critical frame of reference. This contributes to misconceptions

about sex.

RW: And, why would you say so many Americans are outwardly hostile toward the adult film industry?

CT: I think our culture's general discomfort with and misconceptions about sex come into play here. For many viewers, porn provides fantasy fodder and/or an outlet for versions of sexual expression they want or need. But not all forms of sexual expression sit well with everyone. And though it is unreasonable to expect all people to enjoy all things equally, our general cultural discomfort with sex practices that occur outside a very small, prescribed window contributes to judgment, shame, fear, and any number of other limiting emotions and experiences. Couple these wider social issues with the fact that porn is very mysterious—we're constantly fed inaccurate and occasionally blatantly misrepresentative information about the adult industry from a variety of sources, and perpetually stigmatized industry insiders are generally quite hesitant to share the details of their business. Thus, with no accurate frame of reference, what you get is a hugely influential, legal business that is still politically and socially polarizing, as well as widely repudiated.

RW: As you probably know, Los Angeles County passed an ordinance in November, 2012 requiring performers to wear condoms when working in adult content production. On some level this seems to make sense, especially in light of the fact that there has been a recent outbreak of HIV infection among adult performers causing some studios to shut down production. Are these types of laws helpful or hurtful to those in the pornography industry?

CT: First of all, to clarify, there has *not* been a recent “outbreak” of HIV infection among adult performers. The last time adult performers were infected on set was in 2004 (and before that, 1998).

RW: But there have been recent reports of adult film actors who have tested positive for the virus.

CT: Yes, recently there were three confirmed cases of adult performers testing positive for HIV. The industry’s self-imposed testing mandate (performers must be cleared for a number of STIs, including HIV, every 14 to 28 days in order to work) identified these cases before they were able to cause an “outbreak” in the performer population. During the period of time between the cases being identified and confirmation that no one else had been infected, however, the entire adult industry did shut down production. This is another dimension of the industry’s STI infection mitigation protocol intended specifically to prevent an outbreak within the performer pool. The three performers identified as HIV-positive did not work with one another, and no performers that they had worked with were infected. Thus, though undeniably life changing for the infected individuals, the sequence of events indicates that HIV was contracted off set.

RW: Fair enough, but my question still stands: Are these types of laws helpful or hurtful to those in the adult film industry?

CT: “Helpful or hurtful”—honestly, there’s no one simple either/or answer. I have researched and written about performers’ and producers’ negotiations of health and safety at length (see, e.g., Tibbals, 2012), but the debate is far more nuanced than even one or two *essays*—much less paragraphs—can ever begin to let on. As an extreme abbreviation, though, as it is currently

articulated, I think LA County’s condom mandate does more harm than good. This particular law was written with little to no input from members of the community and an almost complete lack of understanding regarding porn production logistics (and intra-industry production logistic variability). Though the industry could certainly benefit from some refining and restructuring, this law is more of a misguided gesture than anything. Unfortunately, even though the ordinance is off-mark and unenforceable, it has already created fractures in the adult industry community—producers and performers shooting out of county and state, producers not obtaining film permits (not to mention the newly mandated health permits), and general confusion and unrest within the performer population.

RW: But, isn’t a bit dangerous to let adult performers risk their lives, not to mention the lives of others, merely to make a movie?

CT: That’s a far larger debate and a much wider series of considerations regarding free speech and bodily autonomy. But focusing on Measure B specifically (the LA County ordinance in question), I do not think workplace safety and community viability have been enhanced in any way by this law. In fact, it has only functioned to foster fear and enhance vulnerability in an already vulnerable population.

RW: It seems to me that policymakers may feel the need to do something about this issue. What, if anything, can be done?

CT: The only way for policymakers to truly support adult industry workers is to spend

time communicating with them and listening to their needs, all while working to understand the particularities of the business. Unfortunately, I feel that the likelihood of the degree of rigor required to adequately address these issues happening is slim to none.

RW: Apparently, there is a proliferation of adult film content available on the World Wide Web. I would suspect that this has hurt the pornography industry quite a bit.

CT: There is no way to account accurately for the amount of stolen, pirated porn available on the Internet. The availability of pirated content has really shifted the nature of consumer culture, and it sometimes seems as if the notion that porn is a product one must purchase has almost completely disappeared. This, coupled with the degree to which we as a culture stigmatize people who work in the porn business, functions to further devalue the labor of adult industry workers. The industry has shrunk dramatically in the past five or so years, with many noteworthy companies closing up shop, and wages have decreased proportionately. Outside of a small handful of folks, most people are not making mega-millions in porn. Quite the opposite, in fact. Unfortunately, due partially to the media's insistence on reporting bloated, dated revenue figures and the industry's tendency to be tight-lipped about hard times, the general public still seems to think porn is booming.

RW: So, if the adult film industry pays so little and it is as stigmatizing as you say it is, why do people get into this business at all?

CT: All I can do is speculate here, but perhaps it's because of what people think the industry is. Again, almost all of what the general public sees

and hears are gross misrepresentations—how much revenue porn generates, how much money performers make, etc. So maybe outsiders think it's booming, and they want a piece. I imagine it also has a lot to do with the "spirit" of porn. The fact that the industry deals in so many dimensions of sex, almost in spite of wider society's stated attitudes, points to a particular community character. The adult industry is very rebellious, very libertarian, and very "devil may care." I think this may appeal to some people, sexually, professionally, and philosophically.

RW: You know, some feminists have argued that the adult film industry produces a product that demeans women, and perhaps even men, for that matter. And a few criminologists have even conducted research studies that suggest that there is an overall significant positive association between pornography use and attitudes supporting violence against women. What are your thoughts on these types of studies as both a researcher of the adult film industry and as a woman?

CT: When I come across studies along these lines, I always look at the methods and reflect on the differences between causation and correlation. There are methodological holes in a lot of this type of research. For example, when you read studies about the themes in adult content, not only are these explorations generally assigning meaning to texts that are widely variable, they're also based on skewed and/or unrepresentative collections of content. Or, when talking about meanings assigned by viewers, respondents often come from unrepresentative populations and/or the

insights shared are not contextualized properly (e.g., something “looking painful” or seeming sexist to a viewer doesn’t mean that it actually is, nor does this mean that all viewers regard things in a similar manner). I feel that if more scholars were better versed with adult content as a point of sociological inquiry, many holes present in methods and logic would be engaged during peer review.

RW: You may be right.

CT: The other thing that is important to remember is the difference between causation and correlation. For example, just because a number of offenders report enjoying adult content doesn’t mean that porn initiated their offending behaviors. Further, without sound data describing porn consumption patterns in the general population, there is no way to determine how much viewing is excessive or just average, etc. There is no context. It’s easy to point the causation (or even correlation) finger at porn because discussions about adult content consumption in general are often skewed and purely speculative. Until we are able to accurately describe the general public’s porn consumption patterns—how much, what type, etc.—there is no way to figure out what anything even *may* mean.

RW: You do make an interesting point. Let me ask you another question: Some say that the adult film industry produces a product that creates unrealistic expectations in the bedroom. In other words, people could watch these films, which are fantasy, but then have unrealistic expectations of their partners, which might put a strain on their relationships. What are your thoughts on this?

CT: Well, by that logic, people could watch films with a heavy reliance on professional stunt driving (titles from *The Fast and The Furious* series, for example), which are fantasy. These films may then make them have unrealistic expectations of their driving abilities (or the driving abilities of their partners), which might put a strain on their relationships. But we as a culture aren’t preoccupied with this happening; we as a culture are not worried about fantasy car race films featuring professional performers creating unrealistic expectations about driving. Perhaps this is because we have a well-developed frame of reference for “real life” driving? Point being, discussions about porn creating unrealistic expectations bring us back to the need for comprehensive, judgment free sex education—context by which consumers may critically evaluate (and enjoy) adult content for what it is.

**Chauntelle Anne Tibbals, Ph.D., is a sociologist specializing in gender, sexualities, work and organizations, media and new media, and popular culture. Her research has been published in numerous scholarly journals including Sexualities; Gender, Work & Organization; Journal of Contemporary Ethnography; and Stanford Law and Policy Review. She has been quoted and cited by numerous cultural and news media outlets including CNN, Slate, NBC News, and KPCC (NPR).*



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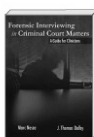
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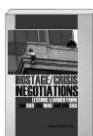
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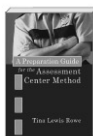
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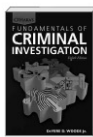
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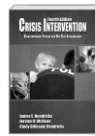
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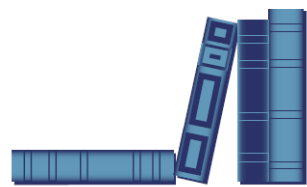


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Historian's Corner



*Willard M. Oliver**

GREETINGS!

At the 50th anniversary meeting of the Academy of Criminal Justice Sciences in Dallas, Texas, I had the opportunity to meet the first official Historian of ACJS: Professor

Edward "Ed" Farris. Some of you may have seen Ed in the hallways or attending many of the panels and receptions, and I know several of you had lunch or dinner with him. At the time, Ed was 87 years old, and what makes Ed so truly special was when he was 37 years old, he attended the first annual meeting of the Academy in Pullman, Washington. The event was actually to celebrate the retirement of Dr. V. A. Leonard, a Washington State College professor and disciple of the legendary Berkeley Police Chief August Vollmer. That retirement party in 1963 morphed into the first annual meeting of ACJS, and Farris remained involved throughout the 1960s and the 1970s, becoming the first official ACJS Historian.

On March 20, 2013, I sat down with Ed for an hour and asked him questions regarding his life, his time as a Berkeley police officer, his background in academia, and his involvement in the Academy. I found Ed to be extremely sharp and his ability for recall was absolutely amazing. He is also well known for an acerbic tongue, and I kept many of his off-hand comments in, but

please note, some of the interview was edited. Patrick and Harriet McHale graciously agreed to assist me in the recording of this interview in Dallas, Texas. The following is much of what he told me in that hour.

"My grandfather homesteaded in Adams County. He was a German who left to Russia in the Ukraine to farm. When men started getting drafted, my grandfather moved the family to the United States. My grandfather emigrated here and tended the wheat fields and lived in a sod house. His wife pulled the plow and he did the sowing. The first year they didn't do so well, but by the third year they paid off all of their debts.

"My father grew up in the state of Washington and he was a railroader. He was hired by the Canadian government to help develop the Canadian Pacific Line. He moved the family to Canada and lived near Edmonton, Alberta, Canada, in the 1924 and 1925 time period. I was born in Edmonton on the 8th of February 1926. We eventually came back to the states, my parents and us three children—my two sisters and I—by train. My sisters were six and two years older than me; they were born in 1921 and 1924. And my mother, God rest her soul, was a prayerful soul. I was 8 or 9 when I got Bright's disease and she took care of me.

"For the most part I grew up in Bellingham, from about 1930 until 1940. Then we moved down to Everett, Washington. From 1930 to 1941, I lived in 17 different homes. From an

early age, I can remember putting cardboard in my shoes to keep the holes from slapping on the pavement. I never had a pair of my own shoes until the third grade. I was always wearing my sister's shoes because they never would wear them out. That was a hell of a blow for a young boy. During the Depression my father was laid off, and he went on the WPA [Works Progress Administration]. My father worked odd jobs and was a happy-go-lucky Irishman. Dad went back with the railroad in California during the war.

"I started school when I was four. My mother said I used to go sit on the school porch—a one-room schoolhouse—and some of those kids didn't have the support like I had with my Mom, and so many of them couldn't read. But here was this pipsqueak boy out on the porch who was giving them the right answers. The teacher said to my mother, 'Mrs. Farris, can't you keep that boy at home?' She said, 'I tried to, but he always gets away.' So the teacher asked, 'Would you mind if I brought him into the classroom?' And that is how I started school at four years of age. That was in 1930.

"I graduated from high school at 16 in 1942 from Everett High School. I was on the track team and the honor team and all that crap. I really wanted to get into the service, but I was too young. I finally convinced my father to sign the papers so I could get my Merchant Seaman's papers. And that was how I went to sea at 16. I served on the *S.S. Coventry*, a U.S. Army transport ship. It was a freighter, a coal-burning freighter, and I served as a coal-burning fireman. We had two boilers, and we tried to keep it at 150 pounds of pressure.

The average speed on a ship like that was about eight knots. My first ship was up in the Gulf of Alaska. We were supplying the troops to fight against the Japanese that had landed on the islands in Alaska [the Aleutian Islands Campaign]. Of course, I didn't know that at the time.

"I returned to Washington the next year and started college at Washington State College. I started in engineering and R.O.T.C. I was 17 and all the girls in my classes were two or three years older, so I said to hell with that and I went back to sea. I was in the Merchant Marines in 1942, 1943, and 1944. I celebrated my 18th birthday in Bombay, India.

"Later that year, I was in California on an oil tanker as an oiler. I wanted to get some schooling, so I applied to go to the Merchant Marine Academy, and the dumb-ass Coast Guard man there said, 'Your eyes are too bad so you can't go.' I said, 'I already passed the test,' and he said, 'Well, we can't take you.' I said, 'Fine, I am going to join the Navy.' They said we can't take you. This was in November of 1944. Then on December 12, 1944, I got a draft notice.

"I was drafted and told to report to Camp Roberts, California, for Infantry Replacement training. On 12 December 1944, I took the test, and I was then sent to basic training. I was in the same basic training as Mickey Rooney [an American film star], who was in the cycle before me. Stanley Clements [another film star] from *Going My Way* [Academy Award Best Picture in 1944] was in my unit—he was in my squad. And I was the squad leader, but I didn't take any crap. He

He [Clements] played the game. He was bribing the first sergeant to get weekend passes. So, about the third time that happened, I figured he was needed for KP [kitchen police] duty. I don't think I made a good friend there.

“Our commander was Lieutenant O'Brian, and he had been one of Merrill's Marauders [A Special Operations military unit that fought in China-Burma-India during World War II]. And I don't know of anyone from Merrill's Marauders that wasn't a bit psycho. So, he called one day and said, 'Farris you're going to OCS [Officer Candidate School].' And I said, 'Like shit I am.' He said, 'No, I put you in for OCS.' So I went to the meeting and there was a full-bird colonel and he asked me, 'Farris, what makes you think you can be an officer?' And I said, 'Goddamn, Colonel, you made one!'”

“I was sent to OCS training at Fort Benning, Georgia. I was commissioned a second lieutenant in the infantry. I was counter-intelligence, went out as an O-5 [Colonel]. I was sent over to Germany in 1944 and 1945. And I got out in December 1946.

“After I got out I went to visit my sister who lived in Everett, Washington, with her husband, who happened to be the brother of my future wife, Pat. She passed away in January of 2011. We were married for 64 years.

“After the war, I went to Cal [University of California at Berkeley]. See, I

could get into Cal for free as a California veteran. I had one semester in 1942 already, and then I went into Cal in 1946. That was when I was hired by Professor James Ralston [1900–1965] to serve as his houseboy. Caldwell was a Keats scholar and professor of English on the graduate faculty at Berkeley, and that is when I met Vollmer. He used to live around the corner and he would come over to their house for dinner. They would have sing-alongs with their two kids. Sally and Danny played the piano, while Vollmer played the guitar. It was always a musical evening.

“I was on the boxing team at Cal. I was working on my criminology degree, and I graduated in June of 1949. There were 9,000 graduates that year, and 8,000 were GIs. Milton Chernin [1910–1987] was a professor at the time, and he used to rattle our cage about the military, 'those officious, gold bar [derisive term for military second lieutenants], yahoos.' He had been drafted into the ranks as a Ph.D. Vollmer and Wilson, working with some of the military folks, were able to salvage him and get him working in corrections in the military.

“I took umbrage with his put-downs of lieutenants. I told him one time, 'Professor, I don't appreciate your bullshit.' And he started screaming, 'Get out, get out, get out!' Then he kept my ass out of class. He said, 'Don't come back.' So, I went over to O.W. [Orlando W. Wilson] and he said, 'Ed, don't worry, we'll take care of it.' So, O.W. got me back in Milt Chernin's social welfare class. And sometime later, Milt Chernin and I became good friends.

“In 1949, after I graduated, I joined the Berkeley Police Department. I was number two on the eligibility list of over 500 applicants. Number one was H. Stuart Knight, a graduate of Michigan State University, who later became chief of the United States Secret Service [The U.S.S.S. 15th director]. I used to go to some of their meetings, and I would knock on the door and tell them to go tell number one that number two is here.

“On 1 December 1949, we were both appointed (I served on the BPD from December 1, 1949 until August 15, 1957). I was on BPD in 1949, but I was recalled to active duty for Korea in 1950. I was sent to Fort Holabird [U.S. Army post in Baltimore, Maryland]. That was where the intelligence school was, and I got certified as a counter-intelligence agent. I then applied for the polygraph school. What I didn't tell them was I had been studying the polygraph at Berkeley under John Larson [co-inventor of the modern polygraph] and everyone at Berkeley. When I was at the school, inside of a week I was called into the director's office and he said, 'I don't know how you're doing it Farris, but you seem to have everything down pat.' I said, 'Well, I read.' I ended up with a 99.37 average.

“I then helped set up the polygraph system in Italy. I was in Trieste. That was where I mainly served. I went to the Italian Language School in Monterey, California and learned to speak, read, and sing it, fluently. When the Korean War ended, I returned to Berkeley. I lived in Pleasant Hill at the time, the east side of the Bay area. Housing was so expensive in the East Bay then. I bought that house for \$12,800 in 1954, when I got off of

active duty. A few years ago when I went back to Berkeley, I saw the house was for sale and I stopped and asked them how much and they said \$495,000.

“I didn't like California. I don't like the politicians, and I didn't like the left-wing idiots in Berkeley. So, I went into teaching. I was first at the College of the Sequoias in Visalia as Director of Law Enforcement Training. A number of us went from Berkeley to the College of the Sequoias and then on to other universities. In 1962, 1 August, I left the College of the Sequoias after five years and went to New Mexico State University. I mainly lectured about Vollmer and the Berkeley Police Department. Don Riddle [8th president of ACJS] used to always say to me, 'Aw Ed, you're not going to get up and talk about Berkeley again.' And I would always say, 'Why the hell not? They're the ones that started this whole mess.'

“I went up to Washington State College to V. A. Leonard's retirement in 1963. There was Bob Borkenstein, Don McCall, V. A. Leonard, Felix Fabian, Doug Gorley, Jack Kenney, Harry More, and me. We were sitting there bullshitting and drinking beer, and we started talking about the impact of Donald E. J. MacNamara and the John Jay School, and what they were trying to do to police education, which was screwing it up, to be very blunt. So, we called ourselves the International Association of Police Professors, to distinguish ourselves from the International Association of Chiefs of Police. We were going to be the education arm, and they would be the training arm. Our next meeting was at L.A. State and Don McCall was the president. We had eight people and two cars and went to a hash house

for our organizational meeting. We were a bunch of guys out drinking.

“In the late 1960s, the group of Gordon Misner, Felix Fabian, Jack Kenney—these were the political who’s who. I didn’t go for that political bullshit. We went to Michigan State in 1965 and New York in 1966, and it was in ‘68 that Misner and his group was trying to take over and they wanted to change the name. They wanted to be more sociologically accepted. They changed the name, and I still don’t accept it. What the hell does criminal justice mean?”

“As I said, I was hired in 1962, at New Mexico State, and I was told I could be made full professor if I had the master’s degree. So, in 1964, I went back to Berkeley and received the Master’s degree in 1965. I wrote 348 pages in 9 weeks. It was on police education, the role of the junior college. Larry Hoover [20th ACJS president] used it in some of his stuff.

“In ACJS I served as the ACJS Historian throughout the 1970s. I was forced out in 1976 as the ACJS Historian. Misner and Fabian had their second terms in office about that time. I met with Pat Namowicz [a professor at Northwest Junior College and then East Tennessee State], and we took out a map and drew lines to create the regions, and that was done deliberately to dilute the power of the political arm. We sat at his kitchen table and drew lines on a map.

“I retired from teaching in 1986 from New Mexico State. In my retirement I did some writing and consulting. In 1993–1995, I wrote the police manual for the City of Taos.

I also did some consulting work with Indian tribes. I worked with the Chief Justice of the Navajo Nation setting up the probation system for their courts.”

That concluded the interview, for it brought us up to modern times. In March of 2013, 50 years after being present at the creation of ACJS, Professor Ed Farris was present for the 50th anniversary celebration of the Academy. Farris has had a storied career, serving in World War II and Korea, befriending August Vollmer, working for the Berkeley Police Department, and being present for the development of ACJS, even if he didn’t like the name. As is clear from the interview, Farris is a man who is quick to provide his opinion in the tell-it-like-it-is mode that is not so prevalent in today’s society. He is a plain speaker, even if the speech is not what people want to hear, and he seems to relish the role. Thus it is fitting to end with this quick aside from Farris that he delivered without so much as a pause. When I asked Ed what his key role was in the IAPP (ACJS) during the 1960s, his response was, “I was chief agitator.”

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