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MEANING-MAKING THROUGH NARRATIVE: EXTENDING NARRATIVE ANALYSIS FOR CRIMINOLOGICAL EXAMINATION OF DOCUMENTARY FILM¹

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Abstract

In this paper, I demonstrate how an understanding of narrative and the tools of narrative analysis can help criminologists unpack the techniques of meaning-making employed in media representations, including documentary films about imprisonment. Since media help to shape, though do not determine, public perceptions of crime and criminal justice, it is useful for criminologists to examine not just media content (i.e. *what* is said), but also *how* media constructions advance arguments that are presented as self-evidently true. Narrative structure offers one way for journalists to organize content in a persuasive and emotionally appealing manner and to embed arguments and interpretations within the story of what happened such that they appear to flow naturally and logically from the events themselves. Through a detailed examination of narrative structure, criminologists can better understand how the arguments and interpretations of mediated constructions are communicated and made to appear logical and persuasive. In what follows, Labov's socio-linguistic narrative approach is adapted to illustrate the role that narrative structure can play in argumentation and, in this case, to facilitate analysis of two Canadian investigative documentaries about the widely publicized mistreatment and carceral death of a female prisoner, Ashley Smith.

Keywords: narrative criminology; William Labov; investigative documentary film; narrative analysis; Ashley Smith

INTRODUCTION

Over the past few decades, scholars from various disciplines including criminology, sociology, legal studies, history, and psychology, have demonstrated increasing interest in how we narrate social events, experiences, and our lives more generally. In much of this literature, storytelling is understood as a meaning-making process that enables us to order and make sense of things that happen in the world around us (e.g. Bruner 2002; Polletta, Chen, Gardner, & Motes, 2011; Presser, 2016; White, 1980). Within criminology, scholars have explored, among other things, how prisoners use narrative work to counter stigma and construct themselves as respectable (Fleetwood, 2015; Ugelvik, 2015) and the ways that particular narratives might encourage or discourage harmful social action (Keeton, 2015; O'Connor, 2015; Presser, 2016). Contributing to the methodological toolbox of narrative criminology, the purpose of this paper is to demonstrate how a narrative approach may inform criminological analyses of media artifacts, such as documentary film. In recent decades, many issues surrounding crime and criminal justice

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have been represented in documentary films, including, but certainly not limited to, the intersection of race and mass incarceration in the United States (Barish, DuVernay, & Averick, 2016), the experiences of transgender prisoners (Baus, Hunt, & Williams, 2006), and the impacts of the war on drugs (Jarecki & Shopsin, 2012).

Recognizing the importance of how issues are framed and constructed, scholars have long examined how the media narrates social problems and how this might influence policy, public concern, and practices of exclusion (e.g. Cohen 1972; Jewkes 2015; Loseke 2003). For example, writing about media coverage of youth riots in Britain during the 1960s, Cohen (1972) identified how media representations contributed to feelings of anxiety about particular youth subcultures and led to demands for punitive action. Similarly, Jewkes (2015) argues that media reporting on deviant or criminalized acts can amplify perceptions of danger as journalists and media outlets compete to gain and retain audience attention. By offering emotionally engaging narratives and concrete representations of issues that may otherwise seem distant or abstract (Nichols 2017), documentary film and other documentary forms such as podcasts have the potential to inform audiences and mobilize public concern about a wide range of social problems. The documentaries examined in this paper, *Out of Control* (2010) and *Behind the Wall* (2010), represent an admirable effort to expose and raise concern about the mistreatment of mentally ill prisoners and the lack of transparency in Canadian prisons.

There is some debate within criminology as to whether documentary film can contribute to prison reform efforts (Bennett, 2006; Jewkes, 2015). While documentary films have the potential to challenge common-sense assumptions about prisons and prisoners, allow viewers to engage emotionally with the pains of incarceration and perhaps elicit empathy, they can also be voyeuristic, individualizing, and may present the prison system as self-evident (Jewkes, 2015; Story, Brown, & Carrabine, 2017). Mediated representations can powerfully impact public understandings of prison and criminal justice (Dittmann & Gerber, 2016), which may, in turn, produce changes in law and policy. Audiences, however, are not passive and mobilize pre-existing tools of interpretation to make sense of what is presented to them (Doyle, 2006; Jewkes, 2015). Since direct experience with prison may be limited, and documentary films claim to represent reality, documentaries about prison may be particularly influential in shaping public perceptions of imprisonment, making it important to examine the narratives they construct. In this paper, I demonstrate how the conceptual tools of Labov's socio-linguistic narrative analysis can be mobilized to examine documentary narratives about corrections and the criminal justice system. I argue that detailed examination of narrative structure can help us understand how media artifacts frame and impose meaning on events, as well as how particular narrative techniques might contribute to the persuasiveness and verisimilitude of media representations.

I adapted Labovian narrative analysis to examine two Canadian documentaries produced by the Canadian Broadcasting Corporation's hallmark investigative journalism program, *The Fifth Estate*. The documentaries, *Out of Control* (OC) (January 2010) and *Behind the Wall* (BW) (November 2010), tell the story of Ashley Smith. Smith was incarcerated at the age of 15 on a one-month custodial youth sentence which lapsed into a three-year period before her transfer to the Canadian adult federal correctional system following her 18th birthday. During her federal incarceration, Smith was held in segregation for over eleven months, subjected to physical and chemical restraints, and transferred 17 times. In 2007, at the age of 19, she died of self-asphyxiation from ligature use as correctional staff watched from the hall outside her cell, obeying orders from management not to intervene until after Smith passed out. The two *Fifth*

Estate documentaries recount what happened to Smith, revealing that “Canadian prisons punish the mentally ill” (Gartner², *BW*) instead of providing mental health treatment. I chose to analyze these specific documentaries for several reasons. The Smith case received a large amount of public and media attention, with images and videotaped evidence of Smith’s carceral mistreatment eventually released to the public by court order. The Coroner’s Inquest into Smith’s death officially ruled it a homicide (Carlisle, 2013), making over 100 recommendations for the Correctional Service of Canada. A public report on Smith’s death by the Federal Correctional Investigator entitled *A Preventable Death* (Sapers, 2008) identified “widespread breakdowns” (para. 117) in procedures surrounding transfer, segregation, confinement conditions, health care, use of force, mental health services, and grievance processes. Furthermore, CBC’s *The Fifth Estate* has a large national audience and airs on prime time television in Canada. In a behind-the-scenes documentary episode entitled *Secrets of the Fifth Estate* (2015), several people involved in the production of *Out of Control* and *Behind the Wall* spoke about the positive impact of the *Fifth Estate* coverage of Smith’s death, suggesting that it exposed injustices and stimulated public discussion, which subsequently influenced the Coroner’s Inquest and its recommendations. Expanding on a previous paper that offered a feminist critique of the documentaries (Crépault & Kilty, 2017), this paper provides a methodological discussion of how narrative structure contributes to the overall argumentation in the documentaries and how we can endeavour to analyze it.

Narratives are not simply uncovered through analysis but are instead co-produced by the researcher and the narrator (or documentarians). For instance, my position as a critical feminist criminologist influenced the narrative that I saw in the two *Fifth Estate* documentaries. I approached the documentaries by juxtaposing them with feminist scholarship about women’s experiences of incarceration, which guided my observations about both the content of the documentaries and what they excluded. As Presser and Sandberg (2015) state, “the analyst’s disclosure of what she or he calls the narrative and why are crucial. That is to say, one should tell the story of the research” (p. 14). In this paper, I provide the “story of the research,” disclosing the conceptualization of narrative that guided the analysis, some of the uncertainties I experienced during analysis, the steps taken to trace narrative structure, and what this enabled me to see in the documentaries. In other words, I show how I engaged with the documentary narratives and the insights that this process revealed.

I begin the paper by conceptualizing narrative and exploring how narratives can persuade, influence their social context, and reproduce normative expectations. Next, I consider narrative in the context of documentary film, arguing that narrative structure may contribute to a documentary’s ability to resonate with its audience and present itself as truthful. Following this, I introduce Labov’s socio-linguistic work on narrative and explain how I adapted his work to facilitate documentary film analysis. In the last three sections of the paper, I discuss the results of a narrative examination of the two *Fifth Estate* documentaries to illustrate how narrative structure can contribute to a documentary’s organization, argumentation, and persuasiveness.

“IT BEGINS NOT AS YOU MIGHT PREDICT”: MAKING MEANING THROUGH NARRATIVE

² Hana Gartner is the lead investigator and narrator in the documentaries.

Within the vast literature on narrative, scholars have defined the seemingly simple concepts of narrative and story in many different ways³. As White (1980) points out, narratives are “familiar but conceptually elusive” (p. 17); we know a story when we hear one, but have great difficulty defining it without reference to prototypical examples. For the purposes of this paper, I understand narrative as a form of communication that recounts events or experiences in a way that connects them meaningfully, often (though not always) by placing them in temporal order, so as to provide the account with a point or purpose for being told (Presser, 2016; Presser & Sandberg, 2015; Riessman, 2008; Salmon & Riessman, 2013). According to Presser (2009), narrative criminology attends not only to the contents of narratives but to the ways that narratives operate “as a factor in the motivation for and accomplishment of crime and criminalization” (p. 178). In other words, narrative criminologists begin with a recognition that the way we tell narratives influences harmful behaviour and how we define and respond to it.

Although narratives can speak of past events, they can never fully represent them. In fact, the question of whether a story is a true depiction may be less important than examining what it can tell us about the social context in which it is told and the value-system upon which it draws (Sandberg, 2010). Narrative construction involves not only selecting, organizing, and excluding various events and details, but also imbuing events with meaning that indicates why they matter and why they were recounted (Barthes, 1975; Gubrium & Holstein, 1998; Riessman & Quinney, 2005; White, 1980). Narratives are shaped, though not determined, by the contexts in which they are told. For example, narrators draw on various cultural discourses to create a coherent narrative (Presser & Sandberg, 2015) and adjust their narratives in response to the expressed or perceived expectations of an audience (Salmon & Riessman, 2013). Narratives are not just influenced *by* the social world; they also help to *constitute* and *shape* the social world and human action. Narrative criminologists emphasize this point by exploring how particular narratives motivate, justify, curb, situate, or otherwise impact harmful social action (Keeton, 2015; O’Connor 2015; Presser, 2016; Presser & Sandberg, 2015). Narratives can also contribute to the reproduction of cultural stereotypes and dominant meanings (Ewick & Silbey, 1995; Polletta, 2006; Polletta et al., 2011; van Dijk, 1993). Alternatively, some narratives may challenge dominant ways of thinking and expose systemic inequalities (Polletta, 2006; Smith, 2010). In this way, narratives both influence *and* are influenced by their socio-cultural contexts (Presser, 2016).

Narratives can also contribute to practices of persuasion; as they select, organize, and attribute meaning to a series of events, narrators advance claims about the world. Since these claims are embedded within accounts of what happened, they are often communicated implicitly and are therefore less vulnerable to contestation or critique (Ewick & Silbey, 1995). Narratives can also persuade by appealing to and evoking an audience’s emotions. By offering glimpses into someone’s experiences, thoughts, and point of view, storytelling encourages audiences to empathize with individuals (Robbins, 2006). Moreover, narrators may build upon culturally familiar tropes and plotlines to construct a narrative that a particular audience will recognize and understand (Chestek, 2012; Foley & Robbins, 2001; Robbins, 2006).

A narrative’s “reportability”, which depends on the relationship between narrative content and the context of its telling, contributes to how it is received and whether it is even told in the first place (Labov, 2013; Shuman, 2011). Narrative reportability intimates whether a series

³ Though some distinguish between “narrative” and “story”, I follow several scholars (e.g., Gubrium & Holstein, 1998; Polletta et al., 2011; Riessman, 2008) in using the terms interchangeably in this paper.

of events are unusual, meaningful, or interesting enough to justify occupying a particular audience's attention; if a narrative is insufficiently reportable, it may be interrupted or "evoke the crushing response, 'So what?'" (Labov, 2013, p. 21). A narrative's reportability is connected to the perceived probability of its events; reportable narratives often involve at least one event that departs from cultural expectations about what is normal in a given situation (Amsterdam & Bruner, 2002; Bruner, 2002; Labov, 2013). For example, a trip to the bank that occurs precisely how one would expect is unlikely to constitute a reportable story. Unexpectedness, therefore, contributes to whether a narrative is seen as reportable and "newsworthy" (Jewkes, 2015, p. 45).

By devising reportability from the unexpectedness of certain events, narratives mobilize and reinforce normative expectations (Amsterdam & Bruner, 2002). For example, at the beginning of the first *Fifth Estate* documentary (*Out of Control*), Gartner tells us that Smith's story "begins not as you might predict, but in a nice neat home with parents who really care". These words are accompanied by camera shots of a suburban home and immediately followed by an interview in Smith's old bedroom with Coralee Smith, her adoptive mother. During the interview, Coralee shows a collection of her daughter's dolls and Gartner tells us how Smith had been a "sweet, playful girl" and states that "looking around this room there is not one clue to how everything went so terribly wrong". Embedded in this depiction of the story's *unexpected* beginning is an implication about how one might *expect* a story about an incarcerated young woman to begin: in an *un*-neat home, with parents who do *not* care and a child that was *not* sweet or playful. In this way, a narrative's *unexpectedness* always carries normative implications about what is *expected* and which, by its normality, may have rendered the narrative less reportable. Mobilizing gendered expectations of feminine passivity, the documentary juxtaposes Smith's "girly" (Coralee Smith) behavior as a child against her "out of control" behavior as a teenager, making the narrative more shocking and newsworthy.

"TONIGHT – THE SHOCKING TRUTH": DOCUMENTARY FILM AND NARRATIVE

Given that *every* representation is "an artificial construct, a highly contrived and selective view of the world, produced for some purpose" (Eitzen, 1995, p. 82), determining what constitutes a documentary can be unclear. Seemingly straightforward distinctions that situate documentaries as representations of reality start to blur when we recognize that both factual and fictional works refer to and "reflect upon reality in some way" (Frauley, 2016, p. 444) without being able to directly mirror or fully capture it. Eitzen (1995) provides a flexible conceptualization of documentary that does not require asserting whether or not a film "tells the truth" (p. 89). He suggests that we can reasonably ask whether a documentary is lying, whereas asking this question of a fictional film would not make sense. In this conceptualization, identifying documentary films does not require posing an answer to the question "is it lying?", but depends on whether it makes sense to ask the question at all. As Eitzen (1985) points out, thinking of documentary in this way "does not produce a nice, neat, sharply defined set of texts but a fuzzy-edged, somewhat flexible one" (p. 89). Adopting Eitzen's flexible conceptualization of documentary allows us to think about how a particular film presents itself as a documentary, that is, the discursive strategies that it invokes to make the "is it lying" question relevant and to signify its own veracity. The narrator's first words in *Behind the Wall* – "Tonight – the shocking truth about what goes on behind the walls of our federal prisons" – exemplify how

documentarians signify the relevance of the “is it lying” question and, by extension, the film’s status as a documentary.

Documentaries require an internal organizing logic that can, but does not always, take the form of a story (Nichols, 2017). By organizing a documentary as a narrative, documentarians advance claims about what happened while simultaneously imbuing their account with internal coherence and a verisimilitude achieved by presenting the story as found or uncovered. Although creating a coherent narrative requires leaving out certain events, details, and alternate interpretations, the coherence achieved may paradoxically obscure these exclusions by creating an appearance of fullness (Crépault & Kilty, 2017; White, 1980). As Chanan (2008) argues, “the documentary is always built on structuring absences, which are normally suppressed in the process of editing, that is, of achieving narrative or discursive or poetic coherence” (p. 124). Even as information is edited out of a documentary, narrative structure contributes to its appearance as a full and veracious telling of real events as they happened.

Narrative structure may also enable a documentary’s underlying assertions to resonate more strongly with viewers. As aforementioned, narratives can demonstrate implicit arguments, evoke empathy, and mobilize culturally familiar plots in are highly persuasive ways. Organizing a documentary in narrative form can also provide aesthetic appeal (Corner, 2008) and help documentary films resonate with the pre-existing narrative frameworks of their audiences (Bondebjerg, 2014). Moreover, narrative strategies, such as dramatic plot twists, can result in powerful affective responses that may resonate with documentary audiences long after viewing and perhaps even motivate political action (Horeck, 2014, p. 155-6).

In arguing that narrative structure may contribute to a documentary’s persuasiveness and resonance, I make no claims or assumptions about how audiences will view or be impacted by narrative content. Audiences are not merely passive receivers of mediated representations (Doyle, 2006) and we must be careful not to “over-read the monolithic effect of mass media on our views, affects, and actions concerned with crime and justice” (Ericson, 1991, p. 221). To interpret and make sense of mediated representations, audiences mobilize various cultural resources, assumptions, ideologies, scripts, and personal experiences that may result in very different viewings (Doyle, 2006; Jewkes, 2015). Furthermore, my examination of the documentaries is itself an interpretation – one informed by, among other things, the tools of narrative analysis and the insights of feminist criminologies (Crépault & Kilty, 2017). In this paper, I focus on how narrative forms of organization may operate as discursive techniques for constructing persuasive, verisimilar documentary accounts. In the next section, I introduce the narrative approach that guided my examination of documentary narrative structure.

LABOV’S SOCIO-LINGUISTIC APPROACH TO NARRATIVE

Sociolinguist William Labov (1972, 2013) argues that narratives contain at least two independent clauses that are temporally and meaningfully ordered⁴. According to Labov (2013, p. 29), the “skeleton” of a narrative is supplied by the *complicating action*, which recounts and

⁴. The field of narrative analysis is diverse, with some approaches adopting a more fluid understanding of narrative. Labov’s work belongs to the structural school of narrative analysis, which typically involves unpacking narratives’ internal organization and has received criticism for underemphasizing interactional, institutional, and historical contexts. Riessman (2008) provides a useful discussion of the various approaches to narrative analysis, including dialogic and visual narrative analysis.

orders a chain of events surrounding the narrative's "most reportable event" – that is, an event that constitutes a change in circumstances or breach of expectations. While complicating actions comprise a narrative's core, many narratives contain some or all of the following elements: *abstract*, which pre-emptively indicates what the narrative is about; *orientation*, which describes the setting; *evaluation*, which provides commentary and attributes meaning to aspects of the narrative; *resolution*, which indicates the outcome of the action; and *coda*, which ends the narrative by bringing the focus back to the present (Labov, 1972, 2013). Although abstracts tend to occur at the beginning and codas at the end, these elements can be dispersed throughout a narrative and narratives do not need to include every element. In this sense, a speaker has "many options for constructing the narrative" (Labov, 2013, p. 27) and Labov's framework provides a versatile set of concepts that can be used to examine narratives that vary greatly in length, content, organization, and complexity.

In Labovian analysis, a researcher typically identifies narrative segments in transcribed data and then determines the narrative function of each clause (Langellier, 1989; Patterson, 2013; Riessman, 2008). Rather than breaking narratives into various themes based on *what* was said (i.e., content), this approach involves analyzing *how* speakers organize and construct their narratives. Identifying the purpose of each clause in a narrative enables researchers to consider and compare how narrators communicate their perspectives and draw meaningful connections between various events, situations, and experiences (Patterson, 2013; Riessman, 2008). That said, rigid applications of a Labovian approach may cause researchers to overlook narratives that do *not* manifest elements of Labov's model or meet the minimum criterion of temporal ordering (Langellier, 1989; Patterson, 2013). It is thus useful to treat Labov's narrative elements as comprising a flexible conceptual tool rather than a rigid model or set of standards. Arguing that "there is much to be gained by the judicious use of a Labovian approach" (p. 38), Patterson (2013) suggests that researchers adopt more inclusive criteria for identifying narratives and use Labov's concepts more freely throughout their analysis. When used creatively and flexibly, Labov's concepts can be used to examine a variety of storytelling forms, such as Twitter posts (Dayter, 2015) and film trailers (Maier, 2009). In the following section, I outline how I adapted Labov's approach to analyze the narrative construction of the two *Fifth Estate* documentaries.

ADAPTING LABOV FOR DOCUMENTARY FILM ANALYSIS

To facilitate a detailed examination, I began by transcribing the documentaries. As Riessman (2008) argues, even transcription of a recorded interview involves interpretive decisions and should be considered part of the analysis process. The key difficulty I encountered when transcribing the documentaries was the diversity of the documentaries' overlapping components. Each documentary brought together two different types of dialogue: the main dialogue recorded for the documentary itself (e.g., narration, interviews) and the dialogue from the surveillance video footage of Smith. I also felt it was important to include the music, various background sounds, and visual content in my transcription. Furthermore, I wanted to capture how these dimensions *overlapped* with one another. For these reasons, I decided to transcribe the documentaries into a table containing the following five columns: time, main dialogue, surveillance video footage, added background sounds, and visual content. Although describing aural and visual content in words is limited, this approach allowed me to consider how the documentaries alternated between and layered the different components. For example, if a narrator monologue overlapped with the sound and visual shot of a cell door closing, these components could be presented as occurring simultaneously (i.e., in different columns but

occurring beside each other). To indicate where I perceived scene breaks, I started a new row for each scene and recorded its start and end times in the “time” column. The resultant transcripts facilitated consideration of how each scene contributed to the documentary narrative.

The analysis of narrative structure consisted primarily of two interrelated steps: analysis of individual scenes and examination of how the scenes operated in relation to each other and came together to form a “through narrative” about the Smith case. The term “through narrative” refers to how particular points or issues are emphasized and used to draw the individual scenes together into a coherent story (Crépault & Kilty, 2017). I began the analysis looking for an “overarching narrative,” but this term was inaccurate because no singular narrative was used to glide over and interpret every detail presented in the documentary content. Instead, the narrative trajectory in each documentary seemed to *punch through* the various scenes, selecting certain points as significant and worthy of further exploration and using those points to bring the scenes into connection with each other. In the next three sections, I examine the through narrative in more detail and explain how it was constructed in each documentary.

During the first step of the analysis, I looked at each scene one at a time and took detailed notes on things such as key arguments, setting, shifts in dialogue, connections between dialogue and visual content, how different speakers framed certain events, and language (e.g., “legal/illegal”; “security and risk”; “helpless”). While working on this analytic stage, I had doubts about whether it would yield anything useful because I often felt I was merely describing the documentary content, rather than analyzing its organization or larger meanings. I wrote the following in my research journal at the time:

Sometimes it seems as though my analysis consists of describing what is going on in the documentary with some commentary on how it connects to the other pieces. It feels as though I may be being too descriptive in my notes, but at the same time this is just one level of analysis; when I look at the documentary as a whole, this will hopefully allow me to see the broader connections beyond description.

Despite my concerns, the detailed description of each scene ended up being a key part of the analysis because it helped me become very familiar with the documentary content before examining narrative structure. Furthermore, this close examination allowed me to draw out the key point(s) of each scene and consider how they were presented and framed.

In the second analytic stage, I used Labov’s approach to examine how the scenes were compiled to structure each documentary. In particular, I used Labov’s concepts to identify whether each scene functioned as abstract, orientation, complicating action, result, evaluation, or coda. While identifying the scenes’ narrative functions was an interpretive process that was not always clear-cut, this approach provided insight on how the documentarians placed the scenes *in relation* to one another in a way that advanced particular interpretations, arguments, and meanings. Generally, a key strength of narrative analysis is that it does not involve breaking narratives into thematic categories but instead considers narrative as a whole, examining each statement in the context of the larger story (Riessman, 2008; Schinkel, 2014). By considering each scene’s content as well as its narrative function and position within the documentary, I examined how various narrations, interviews, and surveillance video clips were woven together to create a through narrative about what happened and what it means. This was a messy and uncertain process, as evidenced by the following excerpt from my research journal, written as I analyzed the first documentary: “The documentary contains a lot of nuance and detail and trying

to trace the narrative that seems to pull it all together leaves me stuck most of the time.” Carefully considering how each scene led into the next and mobilizing Labov’s concepts helped me move past the feeling of being “stuck” and make sense of the documentary.

Since narratives are conditioned, though not determined, by social, political, and cultural context, contextualizing the documentary narratives by considering the wider cultural discourses they mobilize was also an important part of the analysis. Elsewhere, Kilty and I (2017) consider the political and cultural context within which the documentaries were made and offer a feminist critique of how the documentaries mobilized individualizing and pathologizing discourses that present criminalized women as psychologically maladjusted and obscure wider socio-structural barriers and oppressions that contribute to women’s criminalization. We argued that despite the documentaries’ express critique of CSC practices, the documentary narratives failed to question what constitutes mental health treatment in corrections or to consider feminist concerns about the coercive nature of correctional therapeutic practices (e.g., Kilty, 2012; Pollack, 2006). Using narrative analysis allowed for consideration of how various scenes involving multiple people making different arguments were drawn together through a narrative that privileged correctional discourses about the individualized mental health needs of criminalized women. Analyzing content alone may have led to a focus on what was *present*, rather than what was excluded, and drawn attention away from how certain information is briefly mentioned but rendered relatively unimportant within the trajectory of the documentary narrative. In the remainder of this paper, I focus primarily on narrative structure and consider not only *what* discourses and themes are present, but *how* the narrative organization of each documentary helps advance and support its arguments.

“INSTEAD OF TREATING HER, THEY PUNISHED ASHLEY”: MAPPING THE DOCUMENTARY’S THROUGH NARRATIVE

One important difference between personal oral narrative and documentary narrative is that the latter must be created by editing together video clips, interviews, and accounts provided by multiple people. For this reason, I suggest that documentaries often contain statements, alternate interpretations, or details that may *not* form part of the documentary through narrative. While some content is excluded during the editing process, documentarians, to varying degrees, draw upon the accounts of others to construct their narrative, which requires framing comments, images, and video clips such that they contribute to the documentary’s story (Nichols, 2017). When analyzing the narrative structure of the two *Fifth Estate* documentaries, I considered the particular points, statements, or arguments that were used to draw connections between scenes. For example, in *Behind the Wall (BW)* a former social worker for corrections states that “physical and [...] more perhaps emotional, psychological abuses” are occurring in prisons that correctional workers are afraid to report. This point connects with and frames the next interview clip, which shows two guard union representatives exemplifying a degree of institutional cover-up in their dismissal of certain incidents as lies, stating that if “you’re seeing that kind of abuse, you put it in writing” (*BW*). By examining how scenes were connected, the narrative function of each scene, and the content left behind as unimportant or irrelevant to the documentary trajectory, I mapped the through narrative of each documentary.

The through narrative can be understood as a figurative thread and needle that draws the scenes into meaningful relation to one another by emphasizing one aspect or detail among many. As certain points are used to connect scenes, other comments, issues, interpretations, and details

that *could have been* drawn out as part of the through narrative are left unexplored and rendered trivial in the context of the documentary. For instance, the *Fifth Estate* documentaries include brief comments revealing that Smith was initially incarcerated somewhere that was a “two-hour drive from home” (Gartner, *Out of Control* [OC]), immediately strip-searched upon her arrival at the New Brunswick Youth Centre and held in adult federal women’s prisons throughout much of her incarceration. But, these issues are not used as connecting points between scenes or drawn out as significant in the through narrative. This marginalization of particular issues aligns with White’s argument that narratives are always “constructed on the basis of a set of events that *might have been included but were left out*” (1980, p. 10, original emphasis).

Although they are not ascribed with causal significance within the through narrative’s trajectory, unexplored comments do serve a purpose in the documentaries. As Barthes (1975) argues in his discussion of narrative structure, “everything, in one way or another, is significant” (p. 244). The details that surround the through narrative without being included as part of its causal chain of events can be thought of as what Barthes (1975) refers to as “informants” – those pieces of information that locate a narrative in time and space so as to authenticate its reality. While they do not impact the narrative’s trajectory or conclusions, these details (e.g., that Smith was adopted when she was five days old) act as “realistic operator[s]” (Barthes 1975, p. 249) that contribute to the narrative’s verisimilitude and appearance of fullness. Although the documentarians control what is or is not included, as well as how content is framed and narrated, they must work with the words provided by interviewees, much of which may be extraneous to the narrative they are trying to create. By drawing out certain pieces of information as relevant to the trajectory of the through narrative, the documentarians reduce other content to the status of informant – namely, those details that add to the narrative’s fullness, and thus its verisimilitude, without being presented as causally significant.

In both *Fifth Estate* documentaries, the through narrative begins with an abstract and several orientation scenes, which frame the rest of the narrative by telling viewers what to expect: in the first documentary, the story of “a troubled young girl who cried out for help and never got it” (Gartner, OC) and, in the second documentary, the story of “how Canadian prisons punish the mentally ill” (Gartner, BW). After these introductory scenes, the through narratives of both documentaries are organized by the following pattern that is repeated throughout: description of complicating action(s) → several evaluations that comment on that action and are usually provided through narration or interview clip → description of the next complicating action(s) → several evaluations. There are, however, differences in how the documentaries mobilize this action/evaluation pattern, as I discuss in the next two sections.

The through narratives of the documentaries advance the following arguments about the Smith case: “they [correctional staff] took her life” (Coralee Smith, OC); “there’s young people in jail for minor infractions, for mental conditions not being treated” (Coralee Smith, OC); “instead of treating her, they punished Ashley’s behaviour” (Gartner, BW); prisoners are “being punished for being mentally ill” (Gartner, BW); and Correctional Service Canada (CSC) has “done everything physically possible to hide the truth” (the Smith family’s lawyer, Julian Falconer, BW). It can be difficult to garner public support for progressive correctional policy changes that benefit prisoners and media coverage can significantly contribute to public discussions and framings of certain issues (Birkett, 2014; Dittmann & Gerber, 2016). Through their investigative work and coverage of the Smith case, *The Fifth Estate* problematizes Canadian prisons, bringing attention to CSC’s mistreatment of prisoners, the overuse of

segregation, the failure to provide adequate mental health care, and the lack of transparency in correctional policy and practice. That said, the documentary through narratives emphasize the issue of mental illness, problematically upholding the notion that unruly women prisoners are mad and in need of treatment that will fix them (Birkett, 2014; McCorkel, 2003; Pollack and Kendall, 2005; Crépault & Kilty, 2017). In the following two sections, I discuss how the narrative structure of each documentary helps advance particular arguments and interpretations, presenting them as self-evident, that is, found or uncovered through investigation.

RECOUNTING BOTH SIDES OF THE STORY AND RESOLVING CONTRADICTIONS

The first documentary, *Out of Control (OC)* advances its arguments primarily by presenting and resolving conflicting evaluations. In Labov's narrative framework, evaluations attribute meaning to various events and provide commentary on what happened and why it matters (Labov, 2013; Patterson, 2013; Riessman, 2008). The evaluations in both documentaries are frequently provided by interview clips with key witnesses and experts. As Schokkenbroek (1999) argues, mobilizing evaluations attributable to a third person may be a common feature of journalistic narratives because it provides them with greater legitimacy and allows journalists to express their own views more covertly. In *OC*, the evaluations that follow each complicating action are typically set up *in conflict* with one another; however, they are not left in a state of contradiction but are framed and positioned such that one evaluation appears significantly more legitimate than the other. Conflicting evaluations are thus reconciled before the next complicating action is described. As the documentary progresses, supported evaluations become part of the through narrative and frame subsequent actions. In *Figure 1*, I map out the through narrative in *OC*, showing complicating actions at the top of each table and accompanying evaluations in italics. A zigzag border indicates conflicting evaluations and bold font indicates which evaluation was supported within the documentary.

Complicating Action (CA): Smith getting into trouble → psychologists failing to help → Smith throws crab-apples at postal worker → sent to New Brunswick Youth Centre (NBYC)			
<i>Smith was inherently bad and "out of control"</i>	<i>Smith needed psychological help</i>	<i>NBYC is safe and therapeutic</i>	<i>NBYC is a "hard reality" that causes more damage</i>

CA: Smith acting out and self-harming → intensified restraints	
<i>Smith's mistreatment was the result of her uncontrollability and "high risk of self-harm"</i>	<i>Smith's behaviour was a response to being held in the hole and treated unfairly</i>

CA: Transfer to adult facility; Smith self-injuring and being tasered	
<i>Smith should have received psychological help</i>	<i>The actual correctional response (i.e., punitive actions) made her worse</i>

CA: Smith transferred to the federal system		
<i>The transfer decision was intended to help</i>	Decision was intended to get her “out of their hair”	<i>CSC had resources (e.g., psychologists) and said they would help Smith</i>
CA: Smith immediately put into segregation		
<i>Segregation as “not punitive”</i>	Segregation as inhumane and damaging	
CA: Smith acting out → too many use of force reports → orders given to hide the incidents and “wait and see” before intervening		
<i>CSC should have investigated what was going on with the excessive use of force reports</i>	CSC placed its image over preserving Smith’s life	
CA: Smith getting worse and transferred from one segregation cell to another		
CSC failed to provide the promised psychological care	<i>Situation was Smith’s own fault</i>	Segregation, transfers, and lack of care are illegal
CA: Guards obey orders not to intervene in Smith’s final moments		
<i>No one expected Smith to die</i>	<i>Guards “had no choice”</i>	Guards should have chosen Smith’s life over their jobs
Result: Smith dies in her cell		
<i>Caused by management’s instructions not to intervene</i>	<i>Her death caused a painful void for her parents</i>	<i>“They [CSC] took her life” (Coralee Smith)</i>
Result: Some correctional staff disciplined		
<i>Only those low on the ladder disciplined</i>	<i>Broader institutional problems briefly mentioned (focus then shifts to asking “who gave the orders”)</i>	<i>Person who gave orders not identified or held accountable</i>
Coda: CSC still fails to preserve life (17 more suicides in federal custody) and continues to hide its practices (refusal to do an interview; fighting release of footage)		
<i>CSC should make “significant improvements”</i>	<i>CSC poses ongoing threat to Canadian youth and those with mental illness</i>	<i>Threat hidden from the public as CSC continues to hide the truth</i>

Figure 1.

Throughout the documentary, different techniques are used to reconcile conflicting evaluations, such as presenting one as a biased opinion intended to deflect responsibility, using video footage to support a claim or framing conflicts within the context of previously supported evaluations. To explain how the through narrative is constructed in *OC* and how it advances its arguments by presenting and resolving conflicting evaluations, the next few pages of this article

describe a section of the documentary in detail (the first two tables in *Figure 1*). This section comprises approximately ten minutes of the film and focuses on the events leading up to Smith's incarceration and her initial time spent at the New Brunswick Youth Centre (NBYC).

After describing the “nice neat home” (Gartner) in which Smith was raised, the narrative turns to “when the trouble started” (Gartner): an interview clip with Smith's adoptive father indicates that around 13 or 14 years of age Smith started to get in trouble at school, at home, and with the law. Smith is described as having become “defiant, disrespectful, and disruptive” (Gartner) and “on the verge of being outta control” (Coralee Smith), and Gartner narrates how it seemed that “the only thing Ashley was good at was being bad.” We are then told that Smith's concerned parents sought psychological help for her, although this did not result in a diagnosis or treatment plan. From there, Coralee describes Smith's index offense of throwing crab apples at a postal worker, for which she was sentenced to thirty days in the NBYC. The documentary then provides evaluations of the NBYC, which “describes itself as a safe and secure environment for youth aged 12 to 17” (Gartner). In an interview, Bernard Richard, who served as the New Brunswick Ombudsman and investigated Smith's treatment at the NBYC, states that the institution's purpose is to be “therapeutic.” Following this pronouncement, an interview with Jessica Fair, who was “in the cell next to Ashley's” (Gartner), reveals that Smith was strip-searched, held in isolation, and restrained. This account is corroborated by video footage of Smith being restrained by guards. The “therapeutic quiet” of the NBYC is thus revealed to be the same as segregation (solitary confinement), and Richard describes the use of the term “therapeutic” as the “softening of a very hard reality.”

The chain of complicating actions for this segment of the documentary can be summarized as follows: Smith getting into trouble → psychologists failing to help → Smith throws crab-apples at the postal worker → Smith sent to the NBYC (the first table in *Figure 1*). Two sets of conflicting evaluations are dispersed throughout the documentary's description of these actions. First, the interpretation of Smith as inherently bad and “out of control” conflicts with the representation of Smith as in need of psychological help. Second, the description of the NBYC as a “safe and secure environment” (Gartner) with a therapeutic focus conflicts with the evaluation of it being “a very hard reality” (Richard) involving strip-searches and isolation. In each set of conflicting evaluations, one is presented as more legitimate, thereby resolving the contradiction and advancing a particular argument about what happened. In the first set of conflicting evaluations, the evaluation that Smith needed psychological help coheres with the narrative summary provided at the beginning of the documentary, namely, that this is the story of “a young girl who cried out for help and never got it” (Gartner). Since all of the narrative action is contextualized within this initial framework, the argument that Smith needed psychological help is positioned as having greater validity than the assessment of her as inherently bad. In the second set of conflicting evaluations, the representation of the NBYC as a “safe and secure environment” is revealed by Richard to be “doublespeak.” In this way, the representation of the NBYC as “therapeutic” is dismissed as a façade and the evaluation of its practices as harsh and inhumane is presented as a more accurate and legitimate depiction. This technique of presenting one evaluation as a façade is used frequently throughout the documentary to reconcile conflicting evaluations.

Ultimately, Smith is represented as in need of psychological help, and her experience in the NBYC is narrated as inhumane, undermining the conflicting claims that Smith was inherently bad and the NBYC was safe. The resolution of these two sets of conflicting narratives frames the

next complicating action, which describes Smith acting out and self-harming while incarcerated and guards responding with increasingly punitive restraints (the second table in *Figure 1*). Accompanying this complicating action are two conflicting evaluations: 1) Smith was difficult to control, which resulted in her mistreatment; and 2) Smith's behaviour was the result of being held in segregation and treated unfairly. The first evaluation is presented in Gartner's narration of a video surveillance clip that shows guards attempting to get Smith to kneel on her bunk. In narrating this clip, Gartner refers to the 800 documented incidents Smith accumulated, stating that "even in solitary guards had trouble controlling Ashley" (Gartner). The first evaluation, therefore, presents the punitive restraints as an outcome of Smith's uncontrollability. The second evaluation, however, focuses on Smith's behaviour as a response to the conditions of her incarceration. According to Jessica Fair, Smith was unaware of what to expect from the guards, kept in restraints longer than she was supposed to be, and held in segregation for reasons that "didn't make sense to her." The second evaluation thus contextualizes Smith's seemingly uncontrollable behaviour within the immorality and unfairness of her carceral treatment.

The placement of these conflicting evaluations contributes to how they are reconciled within the documentary through narrative. In particular, they are provided after the evaluations about the NBYC, in which Smith's treatment is presented as punitive and harsh, rather than therapeutic. Smith's behaviour is therefore contextualized within the previous discussion of her mistreatment, lending support to the second evaluation that presents her "acting out" as a response to the conditions of her incarceration rather than as a result of inherent uncontrollability or dangerousness. Furthermore, the second evaluation is immediately followed by footage of Smith being restrained and "forced to lie in her own urine" (Gartner) after she is said to have acted out, which emphasizes her treatment as having lacked fairness, clarity, or respect. Taken together, the presentation and positioning of the conflicting evaluations lend greater validity to the second evaluation that situates Smith's behaviour as resulting from being held in segregation and treated unfairly.

The through narrative in *OC* is created by this process of presenting and then resolving conflicting evaluations. The section of the documentary discussed thus far constructs a through narrative that draws out the following points: Smith needed psychological help, was treated harshly instead of receiving mental health care and assessment, acted out in response to unfair treatment, and was then further restrained and treated more punitively. The resolution of contradictions in the documentary steadily guides the discussion towards particular interpretations and arguments about what happened. The evaluations that are given greater legitimacy frame subsequent contradictions and become the themes that comprise the through narrative and connect the various scenes of the documentary.

For every action or evaluation that is emphasized, other points *could have* been used to create a different through narrative. For instance, providing more support to evaluations that present Smith as bad and the NBYC as "safe and secure" would have created a through narrative about a girl who was given treatment that did not help her, rather than one about "a young girl who cried out for help and never got it" (Gartner). Presenting a different evaluation as more legitimate would change the trajectory and themes of the through narrative. Moreover, the through narrative would be different if greater emphasis were placed on briefly mentioned details of the story. For example, the discussion of Smith acting out could have highlighted the distress of being strip-searched, and the discussion of her mistreatment could have been contextualized within feminist criminological critiques that problematize gendered correctional expectations

(Crépault & Kilty, 2017; Pollack & Kendall, 2005). Details about Smith's gender and her experiences of being strip searched are included as orienting information in the story but are not presented as significant in terms of the events of the narrative.

By presenting conflicting evaluations and framing one as more legitimate than the other, *The Fifth Estate* advances a particular narrative about the case while simultaneously providing both sides of the story. This approach indicates to viewers that the documentarians consulted multiple sources with competing interpretations in order to provide a balanced account. Providing conflicting viewpoints is a common means of structuring political commentary to appear balanced⁵. The documentary dichotomizes complex issues in a way that provides supported evaluations with the appearance of being self-evident. In *OC*, presenting and resolving conflicting evaluations thus operates as a powerful technique for creating a credible and seemingly self-evident through narrative about the Smith case. As aforementioned, the through narrative in *OC* concludes that "Ashley didn't take her life, they [CSC] did" (Coralee Smith) by failing to provide mental health care and treating her inhumanely. In the next section, I show how the second documentary builds on these conclusions, but advances its through narrative and arguments in a different manner.

"WHEN YOU ARE LOOKING FOR ANSWERS, GETTING INTO PRISON IS AS HARD AS BREAKING OUT": TELLING THE STORY *BEHIND* THE STORY

While the pattern of complicating action followed by evaluations also appears in *Behind the Wall (BW)*, this documentary is not organized around conflicting evaluations. Instead, it advances its arguments and signifies their veracity primarily through *corroborative* evaluations and by creating a *surrounding narrative* that recounts aspects of *The Fifth Estate's* investigative efforts. I initially found *BW* more difficult to analyse because instead of providing a story about one case, it used the Smith case to launch into a broader discussion about the mistreatment of mentally ill prisoners in Canada and CSC's lack of transparency. Intermingled with *BW's* narrative about Smith are descriptions of other prisoners' experiences and scenes showing the difficulties that *The Fifth Estate* experienced during their investigation. The documentary's movement between narrating what happened to Smith and providing lengthy explanations of the search for answers was initially confusing and caused me to doubt whether *BW* was narratively organized at all. However, as I continued mapping out the actions, I began to regard *BW* as organized around two interrelated narratives that corroborate and support one another. The *main narrative* primarily recounts what happened and continues to happen "behind the wall," namely the mistreatment of prisoners like Smith and the institutional cover-up of abuses against mentally ill prisoners. The *surrounding narrative* tells the story of *The Fifth Estate's* investigative efforts, focusing on how CSC and the correctional code of silence made the search for answers difficult. The surrounding narrative's chief purpose is to validate and illustrate aspects of the main narrative. In *Figure 2*, I map out the narratives in *BW*, showing the complicating actions at the top of each table, indicating whether they are part of the main or surrounding narrative, and providing accompanying evaluations underneath in italics. Underlined comments beneath the

⁵ In discussions of climate change, for example, news programs in the United States frequently host climate change deniers despite widespread consensus in the scientific community about its existence.

evaluations provide further discussion about how the evaluations and narratives corroborate one another.

Main Narrative (MN): Smith sent to the Regional Psychiatric Centre (RPC)		Surrounding Narrative (SN): Fifth Estate (FE) goes to RPC for answers
<i>The place she was “supposed to get help”</i>	<i>Guards focus on containment and security, not therapy</i>	<i>Staff afraid to come forward but feel a moral obligation to do so</i>
<u>The institutional focus on security is presented as the reason Smith did not receive help. Staff’s fear of coming forward legitimates their accounts and introduces the code of silence.</u>		

MN: Smith breaking the rules (over 150 recorded security incidents) → guards respond abusively (e.g., kicking her door and saying “are you dead yet”)		
<i>This incident is one of the many cases of abuse and punishment of the mentally ill</i>	<i>Incident with Smith dismissed as a lie by guard union representatives</i>	<i>Abuses are hidden by an unwritten code of silence and staff’s fear of speaking out</i>
<u>These evaluations indicate prisoner abuses are prevalent and explain why many remain unreported. The guard union representatives’ denial of the incident is presented as an example of the code of silence at work.</u>		

MN: Smith held in isolation → uses ligatures to choke herself → staff ordered not to intervene		
<i>No help or course of treatment provided for Smith</i>	<i>Non-responsivity as an attempt to protect guards</i>	<i>Security overriding the provision of help</i>
<u>These evaluations directly connect the institution’s focus on security and containment with their failure to provide Smith with help or preserve her life.</u>		

MN: Correctional supervisor Torella finds Smith choking herself and physically and verbally assaults her → CSC nurse Cindy initially files a false report and then comes forward with the truth → Torella charged and internal inquiry launched		
<i>Smith was vulnerable and helpless (emphasized through dramatizations)</i>	<i>Code of silence is powerful (CSC was unable to interview Torella for its internal inquiry)</i>	<i>Nurse felt a moral obligation to speak out despite her fear</i>
<u>These evaluations emphasize that reporting prisoner abuses requires facing enormous fears and suggest that more incidents remain unreported due to the code of silence.</u>		

MN: Torella dismissed from CSC for assaulting Smith → guards rally around Torella and threaten the witness → Torella acquitted of the assault in provincial court		SN: Cindy afraid to do an on-camera interview or say too much to the FE	
<i>Violence against witnesses is a national problem</i>	<i>Torella and his lawyer claimed that he “did what he had to do”</i>	<i>People afraid to be witnesses against abuses</i>	<i>Speaking out about abuses is dangerous</i>

The code of silence and fear of speaking out are presented as the reason abuses remain hidden in Canadian prisons; by silencing witnesses and arguing in court that they “did what they had to,” guards like Torella are getting away with violence against prisoners.

MN: Smith was self-injuring and held in segregation for her entire 4 years in prison; CSC transferred her 17 times to keep her in segregation	
<i>Smith was one of the “inmates with mental illness in Canadian prisons” and her self-injury was an attempt to “get the attention she craves”</i>	<i>This use of segregation and transfers was illegal and inhumane</i>
<u>The conditions of Smith’s incarceration were illegal, inhumane, and only made things worse.</u>	

MN: Story of “another inmate in crisis”: Justine Winder sent to prison → begins cutting herself → held in Pinel restraints			SN: Received anonymous tip about Winder
<i>Winder’s situation is “pretty close” to Smith’s</i>	<i>Prison transformed her and caused her to “turn her anger inward” by self-harming</i>	<i>Pinel restraint board “really scared” Winder’s loved ones</i>	<i>This causes the investigators to look at CSC’s continuing (in)actions towards other prisoners</i>
<u>These evaluations emphasize that scary and painful restraints are used instead of treatment and reveal that Smith was not the only one suffering and being damaged by prison.</u>			

MN: MP Don Davies’ inspection of mental health care in Canadian prisons reveals restraints used as long as 3 months and no mental health treatment		SN: CSC blocks the FE’s access (e.g., denied access to psychiatric centre; Winder’s parents are too afraid to speak to FE after visiting her)		
<i>CSC puts no focus (only 2% of its budget) on mental health care</i>	<i>Restraints as the “only tool” that guards have</i>	<i>All Canadians should know what’s happening in our prisons</i>	<i>CSC creates an illusion of transparency (e.g., investigators told to speak with a CSC spokesperson)</i>	<i>CSC is creating a false image to hide the truth</i>
<u>These evaluations critique CSC’s lack of transparency and present the public face of CSC as false: instead of providing mental health care, Canadian prisons are using punitive restraints.</u>				

SN: Coralee Smith fought to have all CSC videos of Smith released to the public
<i>The videos need to be made public for those “suffering the same fate”</i>

MN: Smith choking herself → guards pepper-spray her		
<i>Mentally ill patients punished and not treated</i>	<i>CSC not following the law</i>	<i>Punitive responses as torture</i>
<u>These evaluations question the humanity and legality of CSC practices; they are corroborated by surveillance footage of Smith being pepper sprayed and restrained.</u>		

Result (MN): Smith continues to choke herself → guards ordered not to intervene → Smith dies in her segregation cell		
<i>Official press release indicates it was a suicide</i>	<i>“They let her die” (Coralee Smith)</i>	Coda: <i>“Could be anybody’s child” (Coralee Smith)</i>

Figure 2.

As shown in *Figure 2*, the complicating actions of the main narrative include events such as Smith’s mistreatment, the comparative example of fellow prisoner Justine Winder being similarly restrained, and abusive practices being hidden by an unwritten code of silence. The surrounding narrative consists of events such as the documentarians being prevented from accessing an institution where Smith had been held and Gartner receiving a phone call from CSC indicating that only CSC-approved spokespersons are available for interviews. Most of the complicating actions in the supporting narrative are shown as they happen (e.g., footage of Gartner trying to access the psychiatric center and being denied entry), which demonstrates to the viewer how difficult it was to uncover the main narrative. To explain how the through narrative is constructed in *BW*, the remainder of this section describes several consecutive scenes in detail (the first three tables in *Figure 2*). These scenes comprised approximately thirteen minutes of the film and focus on Smith’s treatment while at the Regional Psychiatric Centre (RPC) – “the place she was sent where she was supposed to get help” (Coralee Smith).

After providing a short abstract that shows viewers what to expect, *BW* begins by summarizing what happened to Smith (i.e., she was incarcerated at fifteen and died four years later in a segregation cell while in federal custody) and showing a video clip of Coralee Smith asking: “who put Ashley on the floor choking to death? [...] what led to her being there with no help?” We are then told that “the answers have been locked away as securely as the inmates inside” (Gartner), which underscores the importance of the investigative work to be revealed throughout the documentary. Next, two closely intertwined complicating actions are described, one from the main narrative and one from the surrounding narrative. In the main narrative, Smith is transferred to the RPC in Saskatoon, and in the surrounding narrative, *The Fifth Estate* goes to the same center “looking for clues” (Gartner). The action of the surrounding narrative is depicted through shots of Gartner driving and interviewees having their microphones set up or walking into a building. The documentary “through narrative” evaluates this action by highlighting witnesses’ fear in speaking to *The Fifth Estate* and showing the following statement by Bonnie Bracken, a former nurse at the RPC who interacted with Smith on many occasions: “I will regret it if I don’t come forward and speak to what I believe in”. Fear of speaking out and a sense of moral obligation to do so are key themes in *BW*’s surrounding narrative, and they corroborate the arguments in the main narrative about abusive practices being hidden.

The action and evaluations of the surrounding narrative are interspersed within and used to contextualize the main narrative, in which Smith is sent to the RPC where “she was supposed to get help” (Coralee Smith) and “came with a reputation for being the most difficult female inmate” in Canada (Gartner). An evaluation provided by an interview clip with Bracken shows that, even though Smith was “oppositional” at first, she was always “fine” with Bracken after an initial violent incident when Bracken chose to bring in supper instead of charging her for assault. According to Bracken, “Ashley could’ve been helped.” Following Bracken’s evaluation, an interview with Kevin Grabowski and Pierre Mallet, two guard union representatives, indicates

that “guards had a very different response to Ashley [...] to control and contain her” (Gartner narrating). In this interview, Grabowski and Mallet are presented as viewing prisoners as inmates rather than patients and valuing institutional rules over therapy. The evaluation that Smith “could’ve been helped” (Bracken) combines with Gartner’s point that the guards emphasized control and containment, positioning the lack of therapeutic care at the psychiatric center as an outcome of the focus on institutional rules and security.

In the second complicating action of the main narrative, Smith is described as frequently breaking institutional rules, “everything from spitting to cutting and choking” (Gartner), and Bracken reports that the guards became “very aggravated” and at one point stood outside her door when she was choking herself, “kicking her door and saying ‘are you dead yet’”. Providing the first evaluation of this action, Linda Atkinson, a social worker who previously worked for CSC, states that this is one of “many cases of physical and more perhaps emotional, psychological abuses.” When Gartner asks Grabowski and Mallet about the incident, however, they dismiss it as a lie. While their dismissal of the incident would appear to be a conflicting evaluation, it is positioned in a way that corroborates Bracken and Atkinson’s claim that a “code of silence” causes such abuses to go unreported. In particular, it comes right after we are told that there have been many witnessed cases of abuse and right before the discussion of how a code of silence makes staff “afraid to speak up against security” (Bracken). This juxtaposition presents Grabowski and Mallet’s evaluation as an example of the code of silence at work rather than as a potentially legitimate conflicting evaluation. Moreover, the surrounding narrative corroborates the claim that abusive practices remain hidden by showing the fear experienced by interviewees, such as Bracken and Atkinson, who spoke up about these abuses.

The third complicating action of the main narrative describes Smith being held in isolation, using ligatures to choke herself, and guards being ordered not to intervene. Bracken’s evaluation of Smith’s treatment points to how no psychological care was provided despite the institution’s status as a “psychiatric care centre.” Following this, Grabowski is shown claiming that the reason for not responding is that “it could be a set-up.” In the interview clip, he states that preserving life will “never be at [the guard’s] expense.” Gartner’s narration of how “Ashley was caught in the divide between security and treatment” connects Grabowski’s emphasis on security with Bracken’s claim that Smith received none of the promised mental health care. Taken together, these evaluations present Smith’s self-harming behaviors and the failure to provide her with care as the result of CSC’s focus on prisoner containment.

The complicating actions and evaluations discussed so far construct a through narrative about institutional security being prioritized over mental health treatment and leading to prisoner abuse, which is then hidden by a code of silence. Rather than judging between two conflicting sides of the story, as in the first documentary, *BW* provides evaluations that complement and build upon one another to contribute a key point about the action. Furthermore, the arguments advanced in the main narrative are corroborated by the surrounding narrative. For instance, clips depicting *The Fifth Estate*’s investigative work corroborate the main narrative’s description of how a correctional nurse received threats, had her tires slashed, and was seen by guards as “nothing but a traitor” (Bracken) after coming forward about correctional supervisor John Torella having assaulted Smith (the fifth table in *Figure 2*). In particular, we are shown a video clip in which the nurse speaks to Gartner on the phone but was afraid to say too much and “absolutely refused to appear on camera” (Gartner) because to “show [her] face on national TV [...] just gives the guards even more ammunition” (nurse). By telling aspects of the investigative

story *behind* the main story, *The Fifth Estate* illustrates their key point: CSC has “done everything physically possible to hide the truth” (Falconer, the Smith family’s lawyer) that “Canadian prisons punish the mentally ill” (Gartner).

Since *BW* is a follow-up episode, it builds on the conclusions of the first documentary without needing to reiterate both sides of the story. It picks up where *OC* concludes, asking from the outset “Who did that to Ashley?” (Coralee Smith). Since CSC’s treatment of Smith was already revealed in *OC* to be punitive, inhumane and illegal, *BW* expands the discussion to construct a through narrative about how a correctional “code of silence” (Gartner) hides the mistreatment of mentally ill prisoners. To advance this narrative and signify its truthfulness, *The Fifth Estate* mobilizes corroborative evaluations and provides viewers with a surrounding narrative that *shows* them what they are being told in the main narrative.

CONCLUSION

A key strength of most narrative analysis is that it allows researchers to consider the meaning and organization of a story as a *whole*, rather than breaking it into fragments based on thematic coding (Riessman, 2008; Schinkel, 2014). In this article, I contribute to narrative criminology by explicating a methodological approach to documentary analysis that goes beyond textual content to look at the ways that various aspects of a documentary film are woven together to create a coherent narrative. Using the narrative approach expounded in this article allowed me to examine the detail of each narrative component (e.g., clause, documentary scene, etc.) in *Out of Control* and *Behind the Wall* while simultaneously attending to how the meaning of each component depended on its framing and placement within the wider through narrative. The term “through narrative” was developed to capture how the narrative organization of the documentaries and the connecting points between scenes steadily advanced particular conclusions and interpretations of the Smith case and presented those conclusions as self-evidently true. In addition, the narrative approach I used allowed me to see how conflicting viewpoints were presented and reconciled within the first documentary and how the second documentary advanced a surrounding narrative about the documentarians’ investigative efforts in order to corroborate the main narrative’s claims about what is happening in Canadian prisons. Both of these narrative techniques (i.e., conflicting evaluations and the surrounding narrative) contributed to the persuasiveness of the documentaries’ arguments. By using a narrative approach, I was able to examine not only *what* was being said (i.e., textual content), but *how* the documentarians constructed certain meanings and arguments in ways that excluded other potential points of discussion, such as feminist critiques of what constitutes treatment in women’s prisons (e.g., Kilty, 2012; Pollack, 2006).

Narrative analysis can help us think about what narratives accomplish (e.g., the meanings they construct, the persuasive techniques they employ, etc.) without making assertions about narrator intention or audience reception (Wright, 2016). Although the type of narrative analysis I have conducted here cannot tell us whether a documentary persuades or resonates with audience members, it can provide insight about how narrative structure helps advance and draw attention to the point of a documentary. Furthermore, the organization of a documentary narrative may contribute to its reportability and newsworthiness, such as through unexpected plot twists, and to its credibility, such as through conflicting evaluations or behind-the-scenes details about the investigation. As they walk viewers through a narrative about what happened to Ashley Smith, *The Fifth Estate* weaves in arguments and interpretations that appear to flow naturally and

logically from the events themselves. In this sense, the *Fifth Estate* documentaries illustrate how constructing a “through narrative” can help documentarians imbue their claims and interpretations with an air of veracity. This article shows how using narrative analysis to *deconstruct* the through narrative yields insights about the underlying claims of the documentaries and how they are advanced and supported.

In this paper, I have attempted to demonstrate how narrative approaches can be adapted and used by criminologists to analyze documentary films about corrections. According to Patterson (2013), “the necessary linguistic concepts and tools needed for performing systematic analyses are thin on the ground of narrative research, so it is important that we make appropriate use of those that are available to us” (p. 43). By drawing on Labov’s narrative approach and adapting it for documentary film analysis, I have endeavored to develop his theory and extend the usefulness of his conceptual tools. In addition, I have shown how narrative analysis informed a feminist criminological examination of two documentaries about the carceral death of a young woman in Canada (see Crépault & Kilty, 2017). In telling “the story of the research” (Presser & Sandberg, 2015, p. 14) and conceptualizing the notion of “through narrative,” this paper provides one approach to unpacking the narrative techniques of media constructions and contributes to the methodological toolbox of narrative criminology.

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THE SOCIAL CAMOUFLAGE AND EVERYDAY MASKS OF THE CON-STYLE SERIAL RAPIST: A SOCIOLOGICAL ANALYSIS OF NEWSPAPER ACCOUNTS

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Abstract

Research suggests that serial rapists use more sophisticated techniques and possess more specialized awareness than average single-victim offenders (Park, Schlesinger, Pinizzotto & Davis, 2008). Although there is a substantial body of literature on the attack styles of offenders, data and theoretical models on the interactional styles and performance rituals of serial rapists are relatively scarce. The current study uses a qualitative analysis of major American newspaper accounts to discuss the behavioral patterns and performance styles of the con-style serial rapist as depicted by crime reporters. The *con rapist* uses deceptive persuasion and everyday disguises (e.g., posing as a police officer or as someone in need of assistance) to gain the trust of potential victims in order to isolate them, reduce capable guardianship, and to amplify their vulnerability. Guided by an analysis of coverage in major American newspapers from 1940-2010, we develop a con-rapist typology organized around the special forms of deceit and social camouflage used by offenders. Our typology includes the Working Con (42% of con rapists), the Good Samaritan (31%), the Supplicating Con (17%), and the Transactional Con (10%). We discuss each variation on the con-approach in terms of the premise, performance, and props used to accomplish the act.

Keywords: serial rape, attack style, dramaturgy

INTRODUCTION

Over 25 years ago, Hazelwood and Warren (1990) published their influential typology of the attack styles of serial rapists. According to the authors, typical serial rapist attacks include the blitz approach, the surprise strategy, and the con style. The blitz approach involves the use of a sudden, direct attack in public spaces. The blitzer uses a burst of explosive coercion to subdue

the victim, often followed by forcibly moving the victim to a more isolated space where he attempts to execute the rape. The blitz style appears to be less sophisticated, more opportunistic and involves less organization and planning than other attack styles. The surprise approach is more premeditated than the blitz strategy and appears to involve a preselection of victims and a strategic plan to attack the victim when vulnerability is heightened (e.g., breaking into a residence when the occupant is sleeping). The con approach involves using planning, deception, and persuasion to gain the trust of victims to isolate them and reduce potential guardianship. The con, for example, often feigns a need for assistance (e.g., asking for help from a motorist), offers assistance (e.g., offering a ride to a woman at a bus stop, knocking at the victim's residence in the guise of a maintenance man), or poses as a trusted authority figure (e.g., police officer).

Understanding serial rapists is a meaningful enterprise, as much research has found that a minority of offenders commit a majority of the offenses, producing an average of between 7 and 11 victims. (Hazelwood & Warren, 1990; Warren, Reboussin, Hazelwood, Gibbs, Trumbetta, & Cummings, 1998; Lisak & Miller, 2002; Wright, Vander Ven, & Fesmire, 2016). For example, in their analysis of 1,037 offenders, Wright. et al. (2016) found an average of ten victims per offender. Thus, it is important for scholars to investigate the forms of serial rape and the profiles and styles of those who commit it in order to build empirically-driven prevention models and to inform law enforcement practices.

The current study focuses on the strategic practices of the Con Rapist. Con rapists are unique in that they represent the only attack style type in Hazelwood and Warren's model that interact verbally with the victim before the attack. The con rapist appears to have the verbal and performative dexterity to manipulate victims in ways that increase their vulnerability. Thus, it is important that scholars develop models to bring understanding to the specific tactics used by con rapists to lure victims into attack sites. The general literature on con artists (Maurer, 1940; Pettit, 2011), suggests that they tend to be well-mannered and charismatic and know how to talk to marks and forge bonds of trust with them in relatively short amounts of time. Thus, the mannerisms and linguistic skills employed by con artists can be characterized as forms of impression management. It is suggested that the con-style rapist will use many of these same mannerisms and techniques when targeting and conning their victims. In this context, we identify a four-part typology of the con approach and treat each variant on the style of the con-rapist as a social-theatrical enterprise that involves a premise, a performance, and props. The four types of the con-style rapist are: (1) the Working Con, (2) the Good Samaritan, (3) the Supplicating Con and (4) the Transactional Con.

ATTACK STYLE FREQUENCY AND INTERACTIONAL APPROACHES OF THE SERIAL RAPIST

Based on their analysis of incarcerated serial rapists, Hazelwood and Warren (1990) found that the most common style used was the surprise approach, followed by the con style, and—the least-used—blitz approach. Scholars have estimated the distribution and patterns of attack styles outlined by Hazelwood and Warren (1990). Park, Schlesinger, Pinizotto, and Davis (2008), for example, found that 79.5% of their sample (N=44) employed the surprise attack, while 18.6% of their sample offenders favored the blitz method and 11.6% used the con approach.

An alternative typology of offender styles can be found in Beauregard, Rossmo and Proulx's (2007) discussion of the hunting process of serial rapists (N=72). According to their analysis, the most common approach style was the use of trickery or false identity to gain the trust of potential victims. This approach—similar to the con approach—was used 48% of the time while the use of more direct physical or violent acts—similar to the characterization of the blitz style—was used in 40% of the cases. Furthermore, the findings indicated that trickery or false identity was the most common method (35%) of moving victims to the crime site.

In their study of 16 Finnish serial rapists, Santtilla, Junkkilla, and Sandnabba (2005) found the most common style of approach was the confidence approach, defined by the authors as an interaction that was initiated with some sort of verbal contact. This loose definition of the con-rapist lacks attention to the more sophisticated use of ruses and theatrics implied by Hazelwood and Warren's original conception of the con. In any case, the Finnish researchers estimated the confidence approach was used by 67% percent of the offenders in their pool, with the surprise or blitz-attack methods being much less common.

Woodhams and Labuschagne (2012) found that just 28% percent of their sample offenders used a surprise approach (defined by the authors as grabbing or physically controlling the victim from the start), while 77% used some sort of con-approach in their rape series. Compared to previous scholarship, the authors developed a more elaborate discussion of the variations on the con-theme. The offenders in the Woodhams and Labuschagne sample were identified as using one or a combination of six different poses or ruses. The six approaches included: engaging the victim in a conversation, offering to help or assist the victim, offering the promise of employment, pretending to be an authority figure, pretending to be in need of help, and bribing the victim. Of these variations, the most frequently used was the promise of employment (48% of offenses).

To summarize, past scholarship suggests that con rapists appear to develop semi-scripted plans to amplify the vulnerability of their victims. This is consistent with the general finding that serial offenders employ more planning than single-victim offenders. For example, Park, Schlesinger, Pinozzotto, & Davis (2008) found that serial rapists, compared to single-victim rapists, are more criminally sophisticated than their single-victim counterparts and display more forensic awareness (e.g., they are more likely to use a condom). Understanding these strategies and level of sophistication could offer insight into prevention strategies and public safety messaging.

Like Woodhams and Labuschagne (2012), the current study is an attempt to delineate further and describe the variations on the con-style approach to serial rape. Drawing from serial rape accounts published in major American newspapers from 1940-2010, we develop a con-style rapist typology and estimate the social profile of offenders.

CONS, CRIMINAL ACTORS, AND SOCIAL CAMOUFLAGE: AN INTEGRATION OF THE ROUTINE ACTIVITIES APPROACH AND DRAMATURGY

The confidence game, or “the con,” refers not only to instances of criminal fraud but also to actions taken by “talented actors who methodically and regularly build up informal social relationships just for the purpose of abusing them” (Goffman, 1952, p. 451). According to previous researchers, confidence artists are “modern entrepreneurs engaged in highly-organized industries with rules, apprenticeships, alliances, and most importantly, an exclusive, technical vocabulary” (Pettit, 2011, p. 148). Thus, according to Maurer (1940) and Pettit (2011), the con uses the same amount of professionalism and care when approaching their marks as any other highly-skilled professional in a conventional occupation. Of particular interest to those who study con artists is their ability to use impression management tactics to persuade a “mark,” or the target of a con, to trust them and to follow their instructions. To do this effectively, the con must employ elaborate and meticulous personal fronts and often engineers social settings that secure trust and reliability (Goffman, 1959; Maurer, 1940).

The con rapist is a planful, resourceful social actor. He is aware that the successful execution of his plan depends upon isolating a victim outside the reaches of social support or bystander intervention. In addition, the con-style serial rapist may be more likely than a single-victim offender to exhibit criminally sophisticated behaviors. According to Park et al. (2008), serial rape offenders are more likely to bind and gag their victims preventing them from calling out for help or escaping before the rape could be completed. They were also more likely to exhibit forensic awareness by removing semen from the crime scene once the rape was completed. It is this insight and criminal sophistication that helps to facilitate the serial rape offender’s ability to offend against multiple victims and elude detection by police.

Drawing from the routine activities approach (see Felson and Eckert 2016), it would appear that the Con Rapist knows that crime is possible when offenders, targets, and the absence of guardianship meet in time and space, and he aims to artfully construct social scenes that maximize that convergence. Thus, understanding the behavioral patterns and rituals of the con rapist requires an integration of the routine activities approach with Goffman's (1959; 1967) dramaturgical approach. The dramaturgical perspective trains a sociological scope on the social roles and everyday performances that people use to meet audience expectations and to promote desired identities. Assuming familiar and trusted roles and playing the part of sympathetic characters builds a tapestry of socially recognized camouflage within which the serial rapist hides. He wears the mask of empathy or the clothing of a plumber, for example, to obscure his dark plans. While the routine activities approach emphasizes the way that natural human traffic patterns result in the convergence of motivated offenders, suitable targets and lack of capable guardianship in time and space (Felson and Eckert, 2016), we are arguing that the con rapist cloaks himself in social camouflage (e.g., familiar social poses, recognizable occupations, appeals for help) in order to manufacture target suitability and the absence of capable guardianship. One of the keys to setting the stage for a con-rape, then, is impression management.

Coined by Erving Goffman in his theory of the presentation of self, impression management refers to techniques which prevent performance disruptions (Goffman, 1959). In other words, a performer's methods of monitoring their behavior so as not to 'blow their cover' during a performance. The performer must also monitor the behavior of the audience (or "read" their audience) to make sure that their performance is not under- or over-acted so as not to raise questions from the audience which may discredit their performance. Psychologists of deception have demonstrated that deceitful social actors are especially gifted and polished at the art of persuasion. According to Rivers and Derkson (2015) on the psychology of deceptive rhetoric, "In the case of both rhetoric and social psychology, artifice is best hidden because otherwise it will be resisted. Persuasion works best if people are not aware of the means of persuasion, or, better yet, of the fact that they are being persuaded" (p. 635).

Similarly, Bogaard, Meijer, Vrij, and Merckelbach (2016) assert that people are most vulnerable to deception when they hold incorrect beliefs about the nonverbal indicators of deception. For example, one commonly held belief is that deceitful people can be detected by gaze aversion. According to Bogaard et al. (2016), however, deceptive actors are not particularly prone to gaze aversion. The skilled con artist then is likely to be practiced at looking the mark in the eye. Furthermore, deception scholars recognize that the con game requires "buy-in" from the mark. The con will use rhetorical techniques to persuade the mark that he or she is the initiator of the interaction. According to Rivers and Derkson (2015), "To move people, let them think they move themselves; the most effective persuaders are hidden persuaders" (p. 635).

METHODS AND DATA

The data analyzed in the current study were collected from archived newspaper articles from 1940 to 2010. We selected 1940 as our lower parameter as 1940 was the first year that we identified newspaper coverage of a rape series. We selected 2010 as our upper parameter as it was the final year given coverage in our selected newspaper archives. Newspapers are one of the most commonly used resources when attempting to trace serial crime over time. Jenkins (1992), for example, used secondary data sources and media accounts to estimate trends in serial murder over time. Jenkins defended his reliance on news accounts by arguing that sensationalized crimes—like serial offenses—often receive heavy coverage in media outlets. Jenkins' analysis suggests that major newspapers, like the New York Times, reliably and consistently discover and report upon serial offender stories scattered throughout the United States.

According to Duwe (2000)—a multiple homicide scholar that drew data from media accounts—media outlets profit from reporting on sensational topics that might generate increasing readership. Serial rape may be likely to be reported more by both newspapers and victims because serial rape is more likely to involve strangers (which is associated with increasing victim reporting) and because its extreme nature and threat to the social order appeals to the general public as newsworthy. This may be especially true in the case of offenders who had high-ranking or authoritative occupations (such as doctors or police officers). The current study attempts to summarize the information contained in news accounts with the understanding that news stories are, at least partially, biased constructions of reality.

Following Wright, Vander Ven and Fesmire (2016), we conceptualize serial rape as *three or more separate events of sexual coercion (with or without penetration) that occur over a period greater than 72 hours. Serial rape offenders actively seek, hunt or lure victims and attacks are linked together by some set of offense characteristics that may include the offender's physical characteristics, a common style of attack, or characteristics of the victim.*

Newspaper articles were selected from five well-established newspapers that represent large geographic areas of the United States. The archived articles were found by exploring Proquest, a research database used by libraries around the world. Described as having access to over three centuries worth of newspaper articles, Proquest has been explored as a data source by a variety of scholars across disciplines (Huang, Kvasny, Joshi, Trauth, & Mahar, 2009; Jones, 2005; Savelsberg, King & Cleeland, 2002; Woloshin & Schwartz, 2006).

The newspapers examined were *The Boston Globe*, *Chicago Tribune*, *Los Angeles Times*, *New York Times* and *The Washington Post*. These newspapers were selected because of their long-running reputation as regional media outlets that are also known for reporting on national news stories. Wright et al. (2016) argue that the use of these papers, in particular, is important, due to their “consistently being in print during the researched time period” (451). While none of our selected sources were located in the southern region of the United States, our data suggest that our archived articles include coverage of multiple crime series’ occurring in southern states (e.g., Alabama, Arkansas, Georgia, Mississippi, and Tennessee).

The five-member research team coded 2,987 articles for content using Systematic Thematic Discovery (STD) - a three-step process used to analyze qualitative data (Vander Ven, Wright, Fesmire 2018; Butler, Ningard, Pugh and Vander Ven, 2017; Vander Ven, 2011). Step one involves developing a theoretical framework to build a search term list. Within each newspaper archive, we searched general terms such as “rape” and “rapist” to identify cases. Within each newspaper archive, we searched general terms such as “rape” and “rapist” to identify cases. Before entering the data, the two principal investigators facilitated training sessions with three research assistants. The training session involved a presentation of principal research questions and an explanation of the logic of the codebook (created by the principal investigators). The principal investigators then conducted a data gathering and coding seminar for the rest of the team. Training lasted multiple sessions, culminating in a pilot coding exercise to develop a measure of intercoder agreement and to test the logic and utility of our codebook.

Step two of STD involves the coders examining the text with the developed theoretical framework to identify and highlight themes and subthemes. Themes (e.g., con-rapist methods) and sub-themes (e.g., the props and performances used by con-rapists) were identified in step two until reaching a saturation point (i.e., new themes no longer emerge). Serial rape stories were then analyzed and coded for content. As a result of our Proquest search, our sample consists of 1,037 identified serial rape offenders identified in news accounts. While there are clear limitations to drawing from news accounts, we attempted to draw from more than one newspaper article to develop information on each case. Like Brolan, Wilson, and Yardley (2016), who studied news accounts of contract killers, the majority of each of our serial rape cases draws data from more than one news article. Finally, step three involves using the themes discovered as data

points and employing an interpretive analysis to link the themes together in a systematic way to bring understanding to the phenomena under investigation.

Intercoder agreement estimates the degree to which researchers' coding decisions agree and, thus, gives researchers confidence in their operational definitions, concept categories, and in the effectiveness of coder training (Kolbe & Burnett, 1991). To generate an estimate of intercoder agreement, the entire research team coded the same 35 articles (5 articles per each of the 7 decades under examination). Each coder entered data on the offender, victim, time and place of attack, and attack style as it was described in news accounts. Following the work of Corovic, Christianson, and Bergman (2012)—who used agreement percentages to estimate intercoder agreement of serial and single-rape offenders—the research team computed a raw percentage value to assess intercoder agreement by calculating the percentage of our coding decisions that agreed (i.e., the total number of entries that matched as a percent of the total number of items coded and entered). After the pilot coding exercise, we calculated our overall inter-rater agreement value to be 87% (item agreement ranged from 63-100%). That is, 87% of our entries agreed. Eighty-seven percent agreement among five coders across 23 variables suggests a high-level of agreement. Moreover, intercoder agreement for our key variable, *attack style*, was estimated at 89%.

Popping (1988) argues that percent agreement is one of the most commonly used methods of estimating intercoder agreement. Percent agreement is not always an ideal measure and may overestimate reliability—especially when nominal variables with few entry options are entered (e.g., sex or race). However, Stemler (2004) maintains that the percent agreement strategy is an effective approach with most nominal data and allows coders to diagnose rater discrepancies and improve the coding process. Our assessment of intercoder agreement permitted the research team to assess the extent to which coders varied on their agreement of some entries relative to others. After examining our pilot coding data, we discovered that we had better agreement on certain variables (e.g., agreement of 'newspaper source' was 100 percent) and weaker agreement on other variables (e.g., agreement for 'victim count' was 63 percent).

This discovery alerted the research team to potential inconsistencies in the manner in which we identified and recorded victim counts as they were depicted in media accounts. Thus, the team revisited the 35 articles included in our pilot analysis and coded 'victim count' together, working through our methodological decisions. The pilot coding exercise and the resulting conversation it generated created better consensus on the identification and recording of victims counts and of other variables and guided our coding from that point forward. While the team did not re-calculate our percent agreement measure after the pilot exercise, we felt confident that the exercise helped to raise the level of agreement regarding recognizing victims counts in articles. It should be noted that all of the variables in the current analysis (e.g., offender characteristics, attack style, variations on the con approach) registered percent agreement measures above 80 percent.

Ninety-eight percent of our sample was male, and the average age of the offender at their first offense was estimated at 27.15 years old. With respect to the race/ethnicity of the offenders in our sample, 46.1% of the offenders were identified as African American, 29% were Caucasian, 19% were designated as Latino, and 5% of the sample was Asian. It should be noted

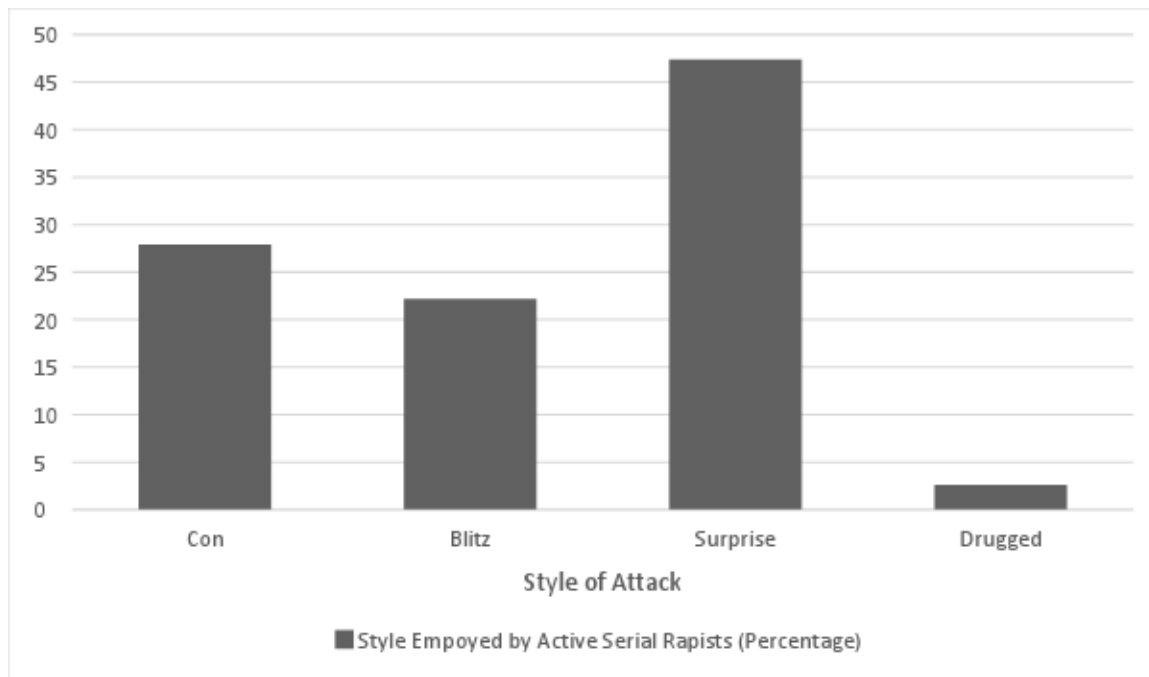
that the newspaper accounts clearly identified the race of the offender in only 297 cases. In cases where the race or ethnicity of the offender was not identified, we used identifying information in the article (e.g., offender name, age, criminal charges, and city where the offender was active) to search supplementary sources such as online sex offender registries, prison inmate directories and genealogical resources such as ancestry.com in order to identify the race of the offender. By doing so, race was identified in an additional 198 cases.

Style of attack was identified and entered for 768 of the offenders in the data. The offenders' style of attack was identified and entered using Hazelwood and Warren's (1990) original typology of the con, blitz, and surprise offender. In addition to these three methods of attack, our analysis identified a previously unmeasured method of assault—*drugging*. Drugging was considered a discrete method because it involved tactics that did not fit into the original three categories. Drugging includes the use of a medicine, anesthetic, or street drug to render the victim vulnerable to assault.

Offenders were coded as using a con style of approach if they approached their victims and engaged them in a face-to-face interaction for the purpose of deceiving and attacking them (Hazelwood & Warren, 1990). Of the 768 offenders whose styles were readily apparent in the news account, 221 of the offenders clearly employed the con style of attack at some point in their rape series.

Unlike con-style offenders, offenders using the surprise method of attack did not seek personal interaction with their victims; these offenders attacked victims in their homes or hid in waiting in unguarded spaces (e.g., apartment laundry rooms) and caught them off-guard. The blitz offender is much like the surprise offender in that they also did not rely on personal interaction with their victims—the blitz involved a sudden use of physical force to overcome the victim.

Figure 1 displays the distribution of offenders across attack style. Of the 768 offenders whose style of attack was described in the data, 47% employed the surprise attack, 28% used a con strategy, 22% blitzed their victims, and 3% used the drugging approach. In some cases, offenders employed more than one attack style during their crime series. Figure 1 displays the percentage of offenders that used each of the styles during their series of rapes.

Figure 1. Offender Attack Styles (N=768)

Newspaper articles detailing attacks committed by con offenders were coded for common themes and patterns of behavior using analytic induction. This type of analysis is used to define and redefine a specific phenomenon and explanatory factors which allow researchers to identify how "universal" relationships within the data are maintained (Katz, 2001). When initially starting our analysis, we focused on offenders who used their occupations or posed as a particular occupation in order to attack their victims. A close examination of the data revealed that, in addition to the use of occupation to deceive victims, offenders used other discrete strategies and interactional ruses. For example, the data suggested that some offenders used a plea for help or offered assistance to their victims to lure them into their trap. This discovery resulted in the addition of three other styles of attack used by the con-style serial rapist which were not anticipated as is customary when using analytic inductive coding (Katz, 2001).

Using analytic induction, we were able to identify and define four types of con-style offenders. Two coders examined all of the con-rapist cases together and reached consensus on which one of the con-rapist categories was represented in each case. In addition to constructing the profiles of each of these types of cons, the two investigators (the first and second authors) worked together to categorize the content of the con in terms of the *premise*, the *performance*, and the *props* used to approach and control each victim. The premise refers to the dramatic situation set up by the con (e.g., "there has been a car accident, and I need your help"). The premise requires the selection of certain types of victims in order to enhance the plausibility of the ruse and to reduce guardianship. The performance includes the use of language and a strategically elaborated demeanor to gain the trust of the victim (e.g., dramatic courtesy, empathy, or authoritative language). Props include physical objects used to authenticate the con

(e.g., uniforms, badges, automobiles). Each of these elements of the *con routine* is discussed in more detail as they pertain to the following con-subtypes as illustrated through case examples.

RESULTS

Drawing from newspaper account data, we estimate the social profile of the con-rapist and compare those characteristics to descriptive data for the total sample. As all of the con rapists in our sample are male, we refer to these offenders as “he” throughout the analysis below. The average age (at first known offense) of the con-style offender is 29.4 years old which is considerably older than the mean age (27.15) measured for the full sample that includes all styles. In addition, of the 101 con-style cases in which race and/or ethnicity was identified, 45% were identified as African American, 36% were Caucasian, 15% were Latino, and 3% were Asian. There were no significant patterns found in the victim population. This may be due to the con-style rapists’ selecting victims based on a lack of capable guardianship and opportunity to offend rather than an individual or physical characteristic of the victim.

Analysis of the data indicated four discrete types of con used by the serial offenders in our sample: (1) *the Working Con*, (2) *the Good Samaritan*, (3) *the Supplicating Con* and (4) *the Transactional Con*. Descriptions of each style of con approach, examples of their use of premise, performance and props, and their frequency within the data can be found in Table 1.

Table 1. Offenders by Con Method of Approach

Con Method	Identifying Characteristics	Number and % of Offenders (N = 221)
The Working Con	Assaults while on the job or under the guise of a trusted occupation. Occupational poses may include plainclothes police officers or maintenance worker	93 (42%)
The Good Samaritan	Offers victims some type of assistance or engages them in conversation; uses helpful demeanor to gain the trust of victims	68 (31%)
The Supplicating Con	Asks victims for some type of help or assistance; may ask for the time, directions or to use their telephone	38 (17%)
The Transactional Con	Assaults victims during an authentic or posed commercial exchange or economic transaction	22 (10%)

The Working Con

Premise: The working con enters into a familiar, recognizable interaction ritual with the victim by setting up the encounter as a routine occupational exercise. The working con appears to be merely “doing his job” and, in the course of his job enactment, asks the victim to perform a complementary, but subservient role. That is, he relies on the victim’s commitment to yielding to the professional authority of the occupational task that he is pretending to accomplish. Thus, the victim unwittingly accepts a role in the con’s pre-staged drama by attending to the typical role expectations associated with interacting with a professional that is “just doing his job.” The resulting ritual is a collaboration between the offender and victim, the con and the “mark,” not unlike the typical complementary performances given by the doctor-patient dyad or the teacher-student pairing.

Offenders in our sample were categorized as working cons because they either assaulted their victims while on the job or under the guise of an occupation. Table 2 lists each of the most commonly-used occupations and their frequency in the data. The working con approach was used by 42% (n=93) of con offenders and the most common occupational poses used by offenders were maintenance or repair workers and police or investigative officers.

The working con may pose as a maintenance worker directed by some unknown supervisor (and without the occupant’s knowledge) to a residence to perform routine repairs. For some potential victims, this premise is familiar and recognizable. The premise may be particularly plausible for apartment dwellers or renters who must deal with strangers working on their homes with some regularity. Working cons that were employed as law enforcement officers (or posed as them) generally stopped and detained targeted victims and used their assumed authority to isolate them and increase vulnerability.

Table 2. Frequency of Occupational Pose

Occupation	Frequency (n= 93)
Police Officers and Agents of Law Enforcement	35
Maintenance Workers or Repairmen (e.g. appliance repairmen, plumbers)	13
Doctors, Physicians, Medical Professionals	10
Postal workers (e.g. delivery boy, messenger)	6
Offered victims jobs	6
Cab/taxi driver	4
Door-to-door salesman/survey taker	4
Video/record producer	4
Other	11

Performance. The working con-rapist hides behind the mask of a profession, using authoritative, but ordinary, language and demeanor. The language and persuasive techniques used by the working con varied depending on the occupational pose used by the offender. In the case of maintenance or repair workers, the offender simply knocked on victims' doors and claimed that they were there to "fix a leak" or that they had been sent by a building supervisor. For example, one rapist in our sample was able to persuade victims to let him into their home by telling them that he was there to "check the air conditioner" (*New York Times*, 1985). The language of offenders using these types of occupations tended to be simplistic and seemingly-professional as they asked about household appliances and repairs that needed to be made within the home.

Offenders who drew upon the role of a law enforcement officer used more authoritative language and, at times, threatened their targets with imprisonment or some type of punishment if they did not comply with their demands. One alleged rapist used his job as an INS (Immigration and Neutralization Service) agent to target women of Latina descent while he was off-duty but driving his federal vehicle. The offender would show victims his badge and, after determining that the victim had no green card or legal status, placed them under arrest. The agent, who communicated with his victims in Spanish, would threaten his victims with deportation before allegedly raping them. The assailant also alternately identified himself to victims as a customs agent or undercover police officer (Lerner & Connelly, 1990).

In the series known as the "Phony Cop Rapists," two men abducted three women at bus stops in three separate incidents, convincing the women that they were police detectives investigating a robbery and that the women fit the descriptions of the robbery suspects. Assistant U.S. Attorney William D. Nussbaum described the two cons' method of attack as "the perfect scam" (Valente, 1974). By telling the victims that they matched descriptions of suspects in a robbery, the men presented themselves in a threatening and intimidating way that most likely elicited fear in the victims. In this way, these offenders were able to use their language and demeanor as techniques of impression management to put on a convincing performance and ultimately persuade their victims that they were, in fact, police officers. When selecting their victims, most offenders who used the working con chose victims with whom they were required to interact as a part of their 'job.' In the case of the police officer pose, offenders often used their authority to target women of vulnerable populations such as prostitutes or women that could be threatened with imprisonment if they did not comply with their demands.

Offenders that used the pose of a maintenance worker or deliveryman employed a more routine, subtle, professional approach creating the impression of a harmless tradesperson performing an innocuous task. By illustration, a detective on the case of an alleged rapist who posed as a deliveryman delivering a large package described him as "very well-spoken and cool" (*New York Times*, 1971). This seemingly 'well-mannered' demeanor was instrumental in his attacks because it allowed him to gain the trust of his victims who were not aware of his intentions to harm them. According to detectives, The Delivery Man Rapist chose "fashionable apartment houses and attractive young wives in their early 20's." He would then go up to the victim's apartment and ask for a tape measure to determine if a fictional package would fit through the door. Detectives said while measuring the door, he would then determine whether or

not the victim was home alone: "If he decided there was too much danger, the policeman said, he would leave saying he was going to get the package, but he would never return. If he decided it was safe, he would attack..." (*New York Times*, 1971).

The Deliveryman Rapist's method of 'scoping out' the apartments of potential victims can be seen as a clear illustration of the usefulness of integrating the routine activities approach with the dramaturgical lens. The assailant was able to first select an apartment which housed a seemingly suitable target and then used his techniques of impression management (claiming to have a large package and measuring the door of the apartment) to determine if she was home alone (in the absence of capable guardianship).

Props. Working cons produced familiar props to authenticate their pose. Props were most often used by offenders in the working con approach, especially in cases where offenders posed as a police or investigative officer. These props included items such as fake or authentic badges, handcuffs, guns and flashing dashboard lights. Some offenders in the data were so successful in their use of props that they become known by the props that they used. A 46-year-old Virginia man who was convicted of abducting and raping a young secretary, became known as the 'Flasher Rapist' because he used a flashing red light on the dashboard of his vehicle to persuade lone female motorists to stop their cars at night. Thinking the man in the car behind them was a police officer, some of his targeted victims stopped. Johnson's prop proved to represent his undoing as he was captured by police upon the discovery of the red light on the dashboard of his car (*The Washington Post*, 1973). In cases where cons posed as maintenance workers or delivery personnel, offenders used uniforms and tools as props to give legitimacy to their ruse. In the case of the Deliveryman Rapist, for example, the offender's props were illusionary in that he referred to a "large package" that he needed to deliver and asked for the use of a tape measure, a common tool of his trade.

The Good Samaritan

Premise. The Good Samaritan rapist produces a theatrical scene around his willingness to assist a woman in need. Like the Working Con, the Good Samaritan casts the victim in a subordinate role by convincing them that they need help. Consistent with Woodhams and Labuschagne's (2012) identification of rapists that start an interaction by offering help, offenders using the 'Good Samaritan' style of approach offered to help their victims and, once they built a rapport with them, assaulted them. Offenders in this category targeted stranded female motorists, women waiting at bus stops, or women hitchhiking alone. In some cases, offenders in this category creatively manufactured a problem for victims so that they would seek help or were simply nearby when victims needed assistance. This approach was used by convicted rapist Paul Seward who became known as 'The Flat-Tire Rapist' because he would let air out of the tires of female motorists' vehicles and wait for them to return to their vehicle. Once the women returned, Seward would approach them and offer to help (Feldman, 1985). Offenders who used the 'Good Samaritan' approach accounted for 31% (n=68) of offenders in the current study.

Performance. The Good Samaritan poses as a person of unusually high moral fiber who is going out of his way to ensure the safety of his ultimate target. Offenders demonstrated their "goodness" through words, deeds, and references to their attachment to socially valued roles. Like offenders who used the working con, offenders in this category appear to be adept at using

persuasive language and at giving convincing performances. However, as opposed to convincing victims of their occupational status, these offenders used language to assure victims they were of good moral character and that they could be trusted. 'Good Samaritan' cons used techniques as varied as simply engaging in conversation with their victims to offering them the chance to play Nintendo and eat ice cream (*Chicago Tribune*, 1996). One assailant, by example, told women waiting at bus stops that "the buses were not running" and offered them rides in his red Nissan Pathfinder (*The New York Times*, 1989).

The 'Flat-Tire Rapist' also relied on language and persuasive techniques when interacting with his victims. After helping the stranded female motorists with their vehicles, he would initially deny any form of compensation claiming that he had simply acted "as a good Christian" (Feldman, 1985). The Flat Tire Rapist would then concede and ask the women for a ride to the bus stop or hospital to visit his ill mother. By fabricating claims about his strong Christian faith and desire to visit his ill mother, Seward attempted to persuade victims that he was a genuinely kind and moral person that they could trust. This approach demonstrates the Con Rapist's use of dramaturgy to isolate victims and reduce capable guardianship in the process.

The 'Parking Lot Rapist' (a title assigned by the media) used a similar, family-centered claim. After lying to victims and telling them that their cars had been hit in the parking lot of a department store, he would allegedly tell them that his "...wife and kids got the license number. My wife is on the phone now" (*Los Angeles Times*, 1978). By playing the "family man," the 'Parking Lot Rapist' struck a sympathy-worthy pose, which helped him to convince his victims that he presented no threat to their safety.

Most frequently, these offenders targeted women who appeared to be alone and in need of some type of assistance. In some cases, these offenders went as far as to stake out the victims' homes or follow them in their vehicles in order to track their movements and determine when they were alone. It can be assumed, using a routine activities approach, that women were targeted in this way because the offenders perceived them as suitable targets when they were alone and without capable guardianship. In these cases, offenders may perceive capable guardians to be the victims' husbands, partners, or another individual who may overpower them in their attempt to assault the victim. This style of victim selection was used by the 'Parking Lot Rapist' (*Los Angeles Times*, 1985).

According to newspaper accounts, the offender "cruised the streets of Los Angeles, looking for unaccompanied women parking their vehicles" or staked out the parking lot of a large department store to look for possible targets. Once a female motorist parked her car, he followed her into the store and told her that her car had been hit in the parking lot. He would then walk back to the car with the victim and tell her that there might be damage to the frame of the car. He would offer to ride with the victim to see if the car "tilts" and even asked victims if he could drive the car in order to identify further damage done to their vehicle. He would then drive the women to secluded locations and assault them (*Los Angeles Times*, 1978).

Props. The Good Samaritan's premise often revolved around car accidents, car failures, or other transportation breakdowns (e.g., the buses were no longer running). Thus, the Good Samaritan sometimes used automobiles as props. One obvious and effective prop was the visibly deflated tires conjured up by the "Flat-Tire Rapist." Similarly, the "Parking Lot Rapist," used his

victims' cars as props when he claimed that they had been hit, and possibly damaged, by another motorist. In both cases, the offender's con—that the victim's automobile had been rendered untrustworthy—allowed him access to the victim's car and afforded him an opportunity to drive away with her in the guise of a mock “test run” to make sure the vehicle was safe for travel. Once in the vehicle with the victim, the Good Samaritan was able to move the victim to the ultimate crime scene where he executed the rape.

In the case of the Good Samaritan, the use of automobiles as props are especially effective. First, car failure is a familiar and plausible premise. Second, the prop or bait—in this case, the automobile—becomes the mechanism through which the offender transports the victim from the site of engagement to the unguarded crime scene. The Good Samaritan's game is a simple sleight of hand maneuver. In very short order, he transforms himself from a “good man,” an altruist, or guardian into an unfettered predator.

The Supplicating Con

Premise. The Supplicating Con category bears a resemblance to Woodhams and Labuschagne's (2012) “asking for assistance” category of con-style rapists.

Unlike the Working Con or Good Samaritan pose, the Supplicating Con strategically casts himself in a subordinate position by asking for help. His requests are simple and routine thereby normalizing the interaction. The Supplicating Con exploits the victim's desire to attend to commonly held values related to helping and assisting those in need. While the Working Con and Good Samaritan cast the victim in a subordinate role, the Supplicating Con takes a “one down” position, artificially and temporarily transferring power to the victim. He asks her to be altruistic or, at least, to extend a common courtesy (e.g., reporting the time of day). Instead of offering assistance like the Good Samaritan, these offenders asked *for* assistance. These pleas for assistance were most often simple requests, such as asking victims for the time, asking for directions, or asking to use a telephone directory. As a result, these types of attacks tended to occur in secluded public areas such as parks, on the street, or in or near the victims' homes. Once the victim agreed to help the offender and either let them into their home or became distracted by a task (such as looking at their watch), the offender attacked them. Seventeen percent ($n=38$) of offenders in the current analysis used the supplicating con approach.

Performance. Since most supplicating offenders asked for small favors from their victims, their language tended to be straight-forward and the interactions with victims were relatively brief. In the case of offenders who asked the time in order to engage in interaction with their victims, victims complied because it was a question they could answer rather easily. It was during this brief moment of distraction that many offenders then attacked and over-powered their victims. This method was allegedly used by a serial rapist in Stoneham, Massachusetts in 1973. According to an intended victim, the offender approached her from behind while she walked alone one night and asked, “Do you know what time it is?” and then lunged for her. Fortunately, she was able to escape and call the police (Richwine, 1973).

An eighteen-year-old offender was described by some of his victims as having a “pleasant and disarming manner.” In selecting his victims, the offender would ride around on his bicycle looking for a woman or girl walking home alone. He would then ride ahead of her,

choose a parked vehicle which was unlocked and wait for her. Once she reached the vehicle, he would then approach her and engage her in conversation. During these conversations, Steffey would either ask for directions or ask if they had met before. He would then force the victim into the vehicle and assault her, pretending to have a gun in his coat pocket (Korman, 1942). According to media accounts, the offender was able to use his youth and physical attractiveness in order to disarm his victims and put on a successful performance.

In some instances, the Supplicating Con added emotional power to his request for help by manipulating targets with recognizable images of vulnerability and innocence. Consider the case of a 30-year-old offender, who was convicted of raping six children in the Chicago area in 1985. As part of his performance, the offender seemingly played upon the compassion that children have for animals in order to move them to the attack site. In one of the attacks on a 12-year-old girl, the offender claimed that his cat was trapped in a basement and asked her to help him. He then led the young girl to an abandoned basement—beyond the reach of capable guardianship—where he threatened to kill her and then executed the rape (Myers, 1985).

Props. Offenders who used the supplicating con approach rarely used props or specific styles of dress when approaching their victims. However, exceptions to this rule were also found in the data. One offender, for instance, would allegedly dress in jogging clothes and go to a park where he stopped women jogging alone to ask for the time. His jogger pose, recognizable exercise uniform, and simple inquiry as to what time it was contributed to his ability to engage with his victims successfully. Another offender prop, the fictitious trapped cat, represented the kind of innocence that moved victims to accompany the offender to the eventual attack site.

The Transactional Con

Premise. The Transactional Con sets the bait by offering to enter into a routine monetary transaction. Here the recognizable premise is a simple exchange of goods and services. The "mark" is especially vulnerable here because he or she has voluntarily joined the interaction in order to make a desired transaction of some kind. Offenders who used the transactional con approach used the ruse of a commercial transaction (buying or selling a good or service) to contact and assault their victims. Offenders either pretended to be customers interested in purchasing an item or service or falsely advertised a good or service in order to lure their victims. If offenders contacted their victims, they would often use the transactional ploy to gain entry into victims' homes where they would then assault them. In other cases, offenders posted false advertisements for items for sale and waited to be contacted by potential victims.

The transactional con offender accounted for 10% ($n = 22$) of the con offenders in the current sample. Several of the offenders in this category either posed as buyers interested in subleasing a room or buying a home ($n=5$) or targeted female sex workers ($n=10$). In instances where offenders posed as prospective buyers, they would visit the homes of the victims and inquire about the item for sale. In cases where the offenders were the ones placing the advertisement, the offenders would use these ads to lure victims once they voiced interest in purchasing the item. An alleged robber and rapist terrorized women in the Lincoln Park area of Chicago in the early '90s when he assaulted three women while they were working in small boutiques. According to police detectives, the man "pretended to buy something and then pulled

a gun and demanded that victims ‘hand over the money’” (Mitra, 1992). A similar approach was used to target shopkeepers in Queens by an assailant who would pose as a customer just as a store was closing. After entering the store, he would then allegedly force the victims into the back of the store where he would assault them (*New York Times*, 1990).

Performance. Victims of the transactional con who worked as prostitutes often told police that cons who posed as potential clients were professional in demeanor and not out of the ordinary. Offenders agreed to pay the women before taking them away in their vehicles. Men who posed as clients and targeted prostitutes relied heavily on this professional demeanor and followed scripted protocol associated with these transactions. As a result, they were able to convince victims that their transactions were legitimate.

A transactional rapist of four prostitutes in Brockton, Rhode Island in 2008, approached one victim and “asked how much she would charge for sex.” When the victim told him \$100, he allegedly invited her into his pickup truck and drove her to a secluded location. According to detectives, “the ‘date’ started off casually before the offender became violent: “The woman asked if she could smoke; the man said that was fine because he was smoking a cigar. He asked if she was a cop; she said she was not. He parked in a secluded parking lot, grabbed a rope, a knife and wooden bat from behind where she was sitting, and threw her to the ground...” (Carroll, 2008).

Compared to the other types of con offenders in the current study, those who used the transactional approach selected their victims from a much smaller victim pool. For instance, almost half of these offenders exclusively targeted victims who were prostitutes. In the case of offenders who responded to advertisements for housing, their victim selection was confined to those individuals who had posted the ads. The ‘Real Estate Rapist,’ who was linked to attacks on seven women in the Washington D.C. area, responded to ads for houses for sale and pretended to be an interested buyer. This offender, who was never apprehended by police, entered homes “on the pretense that he [was] a prospective buyer of the property” in order to assault housewives who were home alone at the time (*The Washington Post*, 1974).

Props. If the transactional con used a false advertisement to lure their victims, these advertisements served as their props. These ads were perceived as authentic by victims because the language resembled that of any other ad. Thus, victims of transactional cons had no way of knowing that these prospective buyers or sellers would harm them because they relied on the language of a printed or online advertisement. The online marketplace has grown exponentially in recent years. On-line trading sites provide thick camouflage for serial predators to stalk victims. Transactional cons may increasingly use trading sites, like Craigslist, to lay traps in the form of ads to ensnare victims. And criminologists argue that guardianship is chronically low and ineffective on such websites, making internet marketplaces attractive resources for predators.

DISCUSSION: IMPLICATIONS AND FUTURE RESEARCH

The current analysis seeks to fill a gap in knowledge about the interaction rituals of serial rapists by providing a systematic, qualitative analysis of the con-style serial rapist. There is still, however, a tremendous amount of work to be done concerning the analysis of serial rape offenders and their victims. Our data suggest that a common ploy of the con-style rapist is to use

his occupation (or to strike an occupational pose) to amplify the vulnerability of their human targets. As discussed, some con-rapists pose as maintenance workers or trades specialists to gain access to the homes of victims. Thus, such offenders may be seen as variants of the doorstep criminal. Scholars of doorstep crime argue that policies might be constructed in a way to discourage deceptive offenders from posing as laborers or specialists in the trades in order to get access to victims. For example, Gorden and Buchanan (2013) suggest that appropriate measures might include adopting a registration system for domestic contractors, which would provide homeowners with a list of reliable and authentic contractors. In addition, this research may also inform prevention or self-defense programs that are aimed at educating women about these types of offenders and their tactics. This knowledge may increase the likelihood that potential victims could identify a potential offender before the offender has the opportunity to attack.

The most common occupational role employed as an attack resource in our sample was the law enforcement officer. In fact, 38% of the Working Cons in our sample used a law enforcement position or pose to isolate victims. This strategy gained national attention recently when police officer Daniel Holtzclaw was convicted of using his badge and authority to sexually victimize 13 African-American women in one of Oklahoma City's most socially disadvantaged neighborhoods (Crump, 2016). Allegedly, Holtzclaw selected marginalized women with criminal histories (e.g., prostitution or drug charges) who he believed lacked the social leverage, guardianship, or credibility to report his attacks.

Police violence scholars suggest that there are a variety of reasons for predatory behavior perpetrated by those expected to "protect and serve." In studies of police sexual violence, researchers have demonstrated that officers who are repeat sexual offenders are likely to be transferred across numerous jurisdictions while they await formal charges or convictions (Rabe-Hemp & Braithwaite, 2012; Kraska & Kappeler, 1995). These findings—alongside the results of the current study—suggest that finding more effective methods for identifying these offenders would be an important enterprise.

Currently, there are systems in place within police organizations that are designed to increase officer accountability. Some of these strategies include increasing supervision of police officers, mandatory reporting of critical incidents, rigorous performance evaluations, thorough investigations of police misconduct, and the monitoring and alteration of department policies (Archbold, 2013). However, these programs are enforced by individual police organizations and often lack third-party oversight.

Some police agencies also use virtual supervision in the form of early warning/intervention systems (EW/EI). These are "data-driven computer programs that monitor the performance of police officers" by identifying patterns of police behavior that may be problematic (Archbold, 2013). These behaviors include reported incidents of use of force, the use of firearms, citizen complaints, liability claims, excessive sick leave and damages to department vehicles. All police agencies should monitor police sexual misconduct in a similar way by using EW/EI programs to track allegations of sexual improprieties.

More generally, our findings have implications for theoretical development. The strategic practices of con rapists suggest that they use performative techniques to isolate potential victims and to reduce guardianship. Thus, the dramaturgical perspective brings to life the motivated

offender described in the routine activities approach. Generally, the routine activities approach treats the convergence of motivated offenders, suitable targets, and lack of capable guardianship as a coincidental, unintended consequence of patterns of social traffic. Our analysis of con rapists, on the contrary, suggests that motivated offenders use dramaturgical techniques to facilitate low guardianship. This approach is especially relevant for con rapists that use dramaturgical approaches to get victims into their automobile where they can move the victim away from potential guardianship to the attack site.

Finally, there are clear limitations to the research and drawing conclusions from media reports. First, newspaper stories are accounts; the facts they report are not empirically-derived in a systematic way. While crime reporters strive to draw information from reliable sources (e.g., law enforcement sources, court records, and eyewitness statements), news stories reflect the biases and instincts of individual reporters who may be motivated to shape their accounts in ways that sensationalize and dramatize criminal acts for an audience that is drawn to extreme and incomprehensible violence. Furthermore, the body of reporting on a particular crime series is often produced by a number of independent reporters who may not share information with one another or cross-check their sources in a structured manner. Thus, reporting on a given crime series may be inconsistent and include contradictory information.

Future research implications also include tracking the behaviors and tactics used by the con-style serial rapist over time to see how they change or evolve. The methods of the Transactional Con, for example, have certainly changed in synchrony with developments in the virtual, online world. Financial transactions are increasingly initiated on websites and in chatrooms—sites with relatively little guardianship. The door-to-door salesman is a thing of the past. Transactional Cons are more likely to use Facebook, Craigslist, and the like, to lure hopeful buyers and sellers into a high-risk transaction that may result in sexual coercion. Increasing online guardianship is no easy task. As Reyns, Henson, and Fisher (2016) argued, online behavior is generally a solitary activity, and social control is scarce. Thus, finding innovative ways to increase guardianship in the virtual world may provide promising strategies for reducing serial victimization in "the real."

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ETHNIC POLICE HUMOR AS ETHNIC BOUNDARY-MAKING IN THE SWEDISH POLICE FORCE¹

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Abstract

All professions display their own specific humor shaped by the occupational culture, type of work, and working conditions defining them. In this article, the role of ethnic jokes and banter in police humor, including their functions and consequences, are investigated drawing upon interviews with Swedish police employees from an ethnic minority background. A typology is developed containing six distinct types of ethnic police humor. Based on it, some of the ways in which ethnic boundary-making occurs and operates within the Swedish police force are analyzed. The consequences of ethnic humor for police work both internally within the police organization and externally, in the daily work of police officers out on the street, are examined. Particular attention is paid to the police's interactions with the public and, more in general, to the role of ethnic police humor in contributing to the production and reproduction of an ethnified social order.

Keywords: audience degradation; discrimination; emotional labor; ethnic boundary-making; police humor

INTRODUCTION

Just like all the other professions, also the police have their own specific type of workplace humor, reflecting the police's occupational culture, the character of the work the officers do, and their working conditions. This humour is regulated by implicit rules concerning the "safe places", social contexts, and social situations suitable for its exercise, and by a shared understanding that the use of the humor in question is to remain confined to those present and not to be shared with or relayed to one's superiors, family members, or friends, or members of the general public (Gayadeen & Philips, 2015; Holdaway, 1988; Sollund, 2007; Uhnöo, 2013; Waddington, 1999). In this article, the focus, however, is not on police humor overall, but on a specific subtype of it, namely, ethnic police humor. Humour as such, researchers agree, is a complicated social phenomenon: it is "more readily demonstrated than described" (Hatch & Ehrlich 1993, p. 506) and remains intrinsically contradictory in its nature, relying on a relationship evincing "a peculiar combination of friendliness and antagonism" (Radcliffe-Brown, 1952, p. 91). For the purposes of this article, ethnic humor refers to a particular type of humor manifesting itself as joking that uses cultural, national, linguistic, or physical aspects of ethnicity as its material. It represents "a type of humor in which fun is made of the perceived behavior, customs, personality, or any type of other traits of a group or its members by virtue of their specific sociocultural identity" (Apte, 1987, p. 27).

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The article departs from the theory of police humor developed by Pogrebin and Poole (1988), which it also attempts to develop further. Its aim is two-fold: to examine different types of ethnic police humor as encountered inside the police force, and to consider the consequences of that humor for police work and mission. The main question guiding the investigation is whether, when, and how ethnic police humor might serve the function of ethnic boundary-making, or “a process of *constituting* and *re-configuring* groups by defining the boundaries between them” (Wimmer, 2008, p. 1027). To better illustrate how ethnicity can be made and unmade in the everyday interaction between individuals within the police, a typology of ethnic police humor is developed. The focus in the examination is, however, not only on how such mechanisms for ethnic boundary-making among the police function per se: what the discussion also concerns itself with is how the analyzed ethnic police humor influences police work, both internally within the police organization and externally, in the daily work of police officers out on the street. Here, particular attention is paid to the police’s interactions with the public and, more generally, to the role ethnic police humor may have in contributing to the production and reproduction of an ethnified social order in contemporary Swedish society.

Police humor, blue humor, and racism in the police

The sort of black humor cultivated in police organizations and the police profession more in general is also known as “blue humor.” That humor has been proposed to have the function of serving as a resource or a tool that police individuals, groups, and organizations can use to facilitate the successful performance of, or even enable, their daily work (e.g., Alexander & Wells, 1991; Charman, 2013; Fletcher, 1996; Gayadeen & Philips, 2015; Kerkkänen, Kuiper, & Martin, 2004; Pogrebin & Poole, 1991, 1988; Vivona, 2014; Waddington, 1999; Young, 1995). From another angle, it has also been described as an integral part of a police culture marked by hegemonic masculinity, cynicism, aggressiveness, scepticism, unfriendliness, prejudices, homophobia, sexism, and racism (e.g., Cashmore, 2001; Holdaway, 1997; Loftus, 2009; Reiner, 1992).

Only a few studies, however, have focused on the uses and functions of blue humor. Among the exceptions is Pogrebin and Poole (1988), who, based on data from their yearlong ethnographic field research on a US American police station, identify four types of strategic use their study participants had for humor. In their study, blue humor was used for audience degradation, normative neutralization, diffusion of danger/tragedy, and jocular aggression. The first two uses concern aspects frequently addressed in critically oriented police culture research, such as on racism in the police force (e.g., Holdaway, 1997; Loftus, 2009; Sollund, 2007). As Pogrebin and Poole (1988, p. 196–197) formulate it, audience degradation refers to “humorous putdowns of complainants served to promote the police sense of moral superiority and to maintain the dichotomy between police and policed.” Normative neutralization, on the other hand, involves police’s use of humor to play down the seriousness of job-related incidents occurring, or actions committed, in the grey zones of the law when recounting them to colleagues. This type of humor is something the police are socialized to use, and it helps to define the norms that guide one’s work actions in practice: it provides “examples of informal standards and expectations for behavior by which officers may be judged” (Pogrebin & Poole, 1988, p. 202; see also Fletcher, 1996). Diffusion of danger/tragedy, for its part, involves police’s use of humour to express emotions that otherwise might be deemed as incongruent with their professional image as confident and fearless (Pogrebin & Poole, 1988, p. 197; see also Charman, 2013; Kerkkänen et al., 2004; Waddington, 2009; Young, 1995). Pogrebin and Poole’s fourth, and final, type of strategic use of humor by the police, jocular aggression, is defined as “a humorous attack against supervisory or management personnel” that provides police employees with a means to collectively and in an acceptable fashion criticize rules, guidelines, and orders from superiors (Pogrebin & Poole, 1988, p. 189; cf. Loftus, 2009). Altogether, Pogrebin and Poole’s

typology presents itself as a comprehensive account of the strategic uses of police humor in the particular context of the police organization. Yet, the question remains as to whether, and how, the model may also lend itself to understanding the specific phenomenon of *ethnic* police humor.

Examining that question a little more closely, in this article, a suggestion will be made to the effect that Pogrebin and Poole's model stands in need of further development if it is to be able to contribute to a sociological understanding of *ethnic* police humor, its particular nature, and meanings. One of the difficulties involved in applying the model to ethnic police humor is that it does not sufficiently take into account the significance of horizontal power structures among the police: the kind of internal power relations that shape interactions among police colleagues at the same level in the organization. In Pogrebin and Poole's analysis, such colleagues form a uniform group characterized by consensus, mutual solidarity, mutual loyalty, and a shared sense of humor unifying the group internally while distancing it externally from superiors and the general public.

This image contrasts sharply with the one presented by contemporary police research, however, which shows gay, women, and ethnic minority officers and police employees in especial to work in hierarchies built around mechanisms of inclusion and exclusion, and not just of vertical but also of horizontal kind (e.g., Cashmore, 2001; Fletcher, 1996; Holdaway, 1997; Lander, 2013; Loftus, 2009; Miller, Forest, & Jurik, 2003; Peterson & Uhnnoo, 2012, 2013; Uhnnoo, 2013; van Ewijk, 2011). Several studies have investigated the racial/ethnic discrimination within the police force itself, exposing different forms of exclusionary practices directed at ethnic minorities (e.g., Haarr, 1997; Martin, 1994; Pogrebin, Dodge, & Chatman, 2000; Stroshine & Brandl, 2011; Wilson & Wilson, 2014). Holdaway (1997, p. 30), for instance, found police humor in the British police workforce to often be directed at fellow officers who externally deviated from the standard: "officers who are overweight, religious, short in height, and others defined as deviating from what is regarded as the norm." Also in Sweden, police employees from minority backgrounds have been found to often be met with distrust and scepticism from their co-workers, having frequently to cope with subtle forms of exclusion and discrimination along with ethnic jokes "testing" whether they can be relied on and are loyal towards their non-minority co-workers and the police agency more in general (Peterson & Uhnnoo, 2012, 2013; Uhnnoo, 2013). In this article, consequently, the focus is on the possibility that not just vertical, but also horizontal power structures within the police workforce might serve as the basis and topics of ethnic police jokes and humor, becoming either reproduced or challenged in the process.

METHODS

This qualitative study focuses on different types of ethnic police humor as encountered inside the police force. The empirical material was collected in 2011 as part of a broader study of the working conditions of Swedish police employees with a foreign background (Peterson & Uhnnoo, 2012, 2013; Uhnnoo, 2013). In 2010 Swedish Radio aired a critical programme on "racism within the police." Police employees with an ethnic minority background testified anonymously in the programme to widespread discrimination and abusive jargon directed at ethnic minorities. In the wake of the ensuing media debate, a local Police Commander in a large municipal police authority appointed an external inquiry into the situation for ethnic minority employees. Uhnnoo and a colleague were contacted to conduct the evaluation, and this article draws on the data collected for this larger research project (Peterson & Uhnnoo, 2012, 2013; Uhnnoo, 2013).

A purposive sample of twenty-one police employees working for a large municipal police authority and identifying themselves as "a person with a foreign background" were interviewed. The study participants were recruited through a notice posted on the Swedish police's intranet system.

The study participants were to share their views and experience of their own working environment within their police organization and of the working environment of this particular group of police employees more in general, and present any suggestions they might have for changes and improvements to make the police organization a better workplace for employees with a foreign background. Their anonymity was guaranteed, and the participants were invited to read the report prior to its release.

Twenty individuals responded to the call, nine of whom were women. Seven respondents worked as civilian police staff, while the rest were uniformed officers. One additional woman participant joined the project at a later stage. The interviewees formed a heterogeneous group. Some had worked for the police authority for more than 20 years, while others had significantly shorter work experience. The work roles and responsibilities varied notably depending on the police district one worked for, the department and unit one belonged to, one's exact work position and tasks, and so forth. The "foreignness" of their background meant anything from having been born in the country from parents of whom at least one was born outside it, to having oneself been born in another country in or outside Europe or to having been adopted from abroad by Swedish parents. Only one interviewee hailed entirely from another Nordic country. The interviewees had lived in Sweden for different durations, and their religion, skin color, mother tongue, and degree of foreign accent in Swedish varied.

Semi-structured face-to-face interviews were conducted on the influence of foreign background on conditions of work in the police organization, especially concerning the role of jargon, humor, and ethnic jokes by police employees. The interviews were recorded with the subject's consent. They lasted from one to two and a half hours, and were conducted in locations of the interviewee's choosing, such as university rooms or offices, cafes, pubs/bars, and libraries, and sometimes the interviewee's workplace. Participation was voluntary, and participants could withdraw at any time without consequences. To ensure the confidentiality of the participants, all identifiers of date, time, place, the interviewee's position, and ethnicity were removed from the transcripts and other interview materials.

The starting point for the analysis of the 21 digitally recorded and verbatim transcribed interviews was a constructivist grounded theory approach (Charmaz, 2000), but the grounded theory guidelines were used "as flexible tools rather than [...] as rigid rules" (Hallberg, 2009, p. 141). In accordance with a grounded theory approach, I did not formulate any hypothesis about ethnic police humor in advance and tried to approach the data with as few preconceptions as possible. Initial open coding was carried out whereby data were examined line by line to discover and name recurring concepts or ideas and to ensure sensitivity to unanticipated data patterns (Charmaz, 2000). Tentative categories and relationships were identified from these recurring concepts. In the next phase, a core category was selected (ethnic humor), and the products of the open coding process were sorted into seven larger identifiable general codes related to the core category: police humor in general, ethnic discrimination/harassment, ethnic stereotypes, ethnic slurs, and explanations for ethnic humor, as well as experiences of ethnic humor and ways of managing incidents of it. Although open coding was used, the analyses also involved a significant deductive element with a back-and-forth movement between the data and the theoretical tools. In the final step of the analysis, the data were analyzed and interpreted with the help of sensitizing concepts (Bowen, 2006), such as Pogrebin and Poole's categories of police humor and Wimmer's concept of "ethnic boundary-making," and concepts and ideas from previous research on police culture, ethnic minorities within the police force, profession-specific humor, and discrimination in working life. In this last step, I focused the analysis on types of ethnic police humor and the social functions of different types.

The result of this analytical and interpretative process was a typology of ethnic humor in the police force consisting of six categories. The first four categories are derived from Pogrebin and Poole's (1988) study, and their concepts are extended to apply specifically to ethnic police humor. The final two expand the original theory with two additional theoretical concepts grounded in the analysis of the empirical material in this study but taken from previous research on discrimination in working life and on rebellious forms of humor such as black, feminist, or queer humor. To enhance the study's validity, the analytical codes were reviewed and revised using the constant comparison method (Hallberg, 2006). Peer review was conducted by other researchers to check the reliability and validity of interviews and interpretation.

FINDINGS

A typology of ethnic police humor

The analysis yielded a new typology of ethnic humor in the police force. Extending on research on organizational or profession-specific humor, police humor, and racism in the police, the typology consists of six categories reflecting the multi-faceted function of police humor at the workplace:

- Derogatory jokes about police clients;
- emotional labor;
- norm-neutralization;
- resistance to “political correctness”;
- subtle discrimination;
- anti-racist resistance.

In the following, each of these categories is presented, described, and discussed, before moving on to a concluding discussion about the effects and consequences of ethnic humor in the police force. The main focus in the examination is on the extent to which ethnic police humor might function as a mechanism for ethnic boundary-making among and by the employees of the police.

Derogatory jokes about police clients

This first type of ethnic police humor identified in the data for this study is rather similar to Pogrebin and Poole's (1988) audience degradation. It involves the telling of ethnic jokes referring to cultural, national, linguistic, or physical appearance-related aspects of ethnicity to disparage or ridicule a person or persons, in the interest of strengthening a shared sense of the moral superiority of the police and the corresponding inferiority of the police's clients. The humor in question is often of an inclusionary nature, and it is aimed at promoting a sense of solidarity by confirming and enforcing social boundaries; thereby, it can thus also be exclusionary in nature, effecting separation through the creation of distinctions and difference between the police and those policed (Pogrebin & Poole, 1988; Sollund, 2007). It is the humor of superiority, used to position oneself and one's kind accordingly in relation to others, typically by means of scapegoating (Charman, 2013).

Ethnic humor as practiced among the police gains its profession-specific character from the fact that it, to a large extent, consists of jokes presenting either “immigrants” in general or some individual ethnic group in particular as connected to illegitimate behaviors in society. Accordingly, it tends to be negative, often disparaging in its basic tone, serving typically as a tool for ethnic boundary-making linked to an exercise of moral demarcation. One joke recounted during the interviews for this study went: “What's the worst thing for a Gypsy/Bosniak to run into? A bicycle with 1,000 locks.” The ethnic humor engaged in could, however, also be about *naming*, about

jocularly calling an ethnic group by a disparaging or derisive name (cf. Finstad, 2000; Granér, 2014; Sollund, 2007; Uhnö, 2013; Van Maanen, 1978; Waddington, 1999). Terms reported about here included “nigger,” “Arab militant,” “Taliban leader,” and other similar epithets. The last mentioned was used about a man who happened to walk by: “Hey, check out, that’s got to be a Taliban leader, right?” The officer’s intention was to sound a humorous note, but, in this case, his audience, another officer, responded with annoyance, seeing the comment as something that, if heard by outsiders, could undermine the public’s trust in the police.

While ethnic stereotypes were commonly portrayed through jokes of this kind, told among co-workers, they were also given non-verbal expression in the police’s concrete encounters with ethnic minorities. In such cases, the question was often of making fun of or ridiculing individuals from an ethnic minority background, in front of a public consisting of one’s police co-workers. One interviewee in this study recounted an incident where his colleagues from another police unit mocked a person who, speaking with a foreign accent, had called in to request information about a detained relative. Instead of providing the information, the police employees present in the room began to imitate the caller’s accent and satirized him through song. The kind of ethnic humor practiced here served to manifest the power position of the police vis-à-vis the general public and the dependency relationship in which those seeking the police’s help find themselves. What is also important, however, is that even when the joking was aimed at others – not one’s co-workers and colleagues – it could also result in the drawing up of hierarchical oppositions between “Swedes” and “non-Swedes” within the organization itself, leaving police employees from a minority background feeling mistrusted and excluded (cf. Holdaway, 1997; Uhnö, 2013).

Emotional labor

This category of ethnic police humor entails the use of humor as a means for preparing oneself for, handling, or afterward working through in a shared process certain on-the-job experiences encountered in one’s profession (cf. Hochschild, 1983; Gayadeen & Philips, 2015). This definition corresponds to the dominant view, presented for example by Waddington (2009), of police humor as a functional strategy and necessary resource for the backstage handling of the tensions of police work and for dealing with emotionally charged incidents and/or emotionally stressful, even traumatic, events at work (see also Charman, 2013; Kerkkänen et al., 2004; Loftus, 2009; Pogrebin & Poole, 1991; Young, 1995). Humour is here assumed to create solidarity and facilitate the effective performance of police work. In that capacity, the kind of jocular story-telling typically engaged in by the police may indeed be considered to serve the purposes of on-going therapy and function as a social glue (Fletcher 1996).

The police employees in this study explained and sought to rationalize and legitimize ethnic police humor in similar terms. It was stated, for instance, that, compared to most other professions, the police needed to engage in “rougher” or “coarser” in-group banter in order to be able to deal with the everyday stress, fear, anger, and frustration brought by their job, especially those on patrol duty. Ethnic humor was seen to constitute an unavoidable reaction to work-related “frustration” caused, for instance, by people from a certain ethnic group who were seen as certain to have committed a crime while nevertheless managing to go unpunished. At times, this could then, the interviewees suggested, in a flare of tempers resulting from the frustration lead to expressing oneself in a biased way about ethnic minorities. As one study participant put it, “You have to keep in mind that police officers who in their work deal with that clientele all the time – I mean, you’re no more than a human being, and eventually it just gets to be a bit too much.” Many of the interviewees spoke of police employees using metaphors from mechanics such as “pressure-cookers” holding in emotions to the bursting point where they no longer can be contained, or “a boiling point” where “the steam needs to

come out.” In such situations, the interviewees explained, ethnic jokes served the necessary function of a safety valve, allowing one a quick, situationally induced affective response serving the purposes of emotional discharge and relief (cf. Billig, 2005). As one interviewee stressed, officers regularly found themselves in difficult and trying situations that entailed significant risk, especially in the more outlying, socio-economically segregated areas of the cities: “to do your rounds here on a Saturday night or go out into the suburbs, that’s no joke; you’re putting your life at risk”.

The general understanding was that the reason for officers’ frequently felt need to engage in ethnically blunt joking was that, in their line of work, they frequently found themselves in emotionally trying and even hostile situations in which the (adversarial) individuals encountered were from ethnic minority backgrounds. In these circumstances, ethnic joking then offered them a way to perform the kind of emotional labor required for successfully coping with one’s everyday realities (cf. Reiner, 2000; Sollund, 2007; Uhnnoo, 2013). As this manner of speaking about the causes and functions of ethnic police humor indicates, the police employees in this study had construed the nature of police work as involving stressful, high-pressure situations that nevertheless required from one unswerving bravery, even capability for heroism. At the same time, however, it also implied an image of police work as a form of ethnic boundary-making through which an ethnified view of society is created and re-created.

Norm neutralization

The police profession is known for its highly developed internal, and in some cases even internally segmented and compartmentalized, storytelling culture (Fletcher, 1991). In this study, ethnic police humor as norm neutralization implied humorous re-telling of situations involving police employees’ work-related encounters with ethnic minorities. One of the interviewed officers, for example, recounted an occasion in the station canteen where a co-worker of his joked humorously about the way he had lured a little Muslim boy to eat a piece of sausage with pork in it; the story prompted hearty laughter among the co-worker’s audience (while the interviewee felt his colleague’s behavior to have been “disgusting”). According to the interviewees, such stories were indeed typically met with laughter and amusement by the police employees listening to them. When no one present questions the jocular tone being used in their narration, the stories can, however, have the effect of making the breaches against norms, values, and even laws described in them appear less problematic as police behavior. That way, they may help legitimize the use of discriminatory practices among law enforcement officials (cf. Pogrebin & Poole, 1988; Fletcher, 1991). Accordingly, police employees, for instance, who in this study shared a laugh together over a story of a Polish truck driver made to wait for help longer than others at the reception desk of their police station might, through their participation in the ethnic humor, have helped legitimize future discriminatory behaviors of similar sort among their colleagues.

Resistance to “political correctness”

The above three types of ethnic police humor all involved police employees laughing together at people outside of their profession – ethnic minorities or “immigrants” as a group. Sometimes, however, the humor was directed at superiors in the police organization, against what one perceived as hypocrisy or excessive political correctness among police management, the media, or the general public (cf. Pogrebin and Poole’s jocular aggression). The joking or ironical commentary/sarcasm could in these cases be targeted at the official rhetoric of the police, an on-going police reform work, or the police authority’s prevailing policies and core values regarding issues such as diversity and anti-discrimination. Here the humor was rebellious in nature, and it was resorted to by individuals in a hierarchically subordinate position, to undermine what one perceived as repressive or oppressive

discourses promoted by superiors (cf. Godfrey, 2016; Holmes, 2000). Since the jocular tone hid the felt dissatisfaction underneath it, ethnic jokes could safely and without public consequences be used for criticizing police leadership (cf. Loftus, 2009; Pogrebin & Poole, 1988).

Somewhat similarly, Sefton (2011, p. 10) has identified an informal practice within the Swedish police, one the police themselves unofficially call the “Core Values Timeout” (*värdegrunds-timout*), in which humorous banter or language is used by police employees to “joke about that which they are not supposed to joke about.”² In the present study, ethnic humor was used to criticize what many of the police employees either interviewed or referred to in the interviews saw as the police’s secret affirmative-action recruitment strategy favoring ethnic minority applicants. The humor in these cases consisted of jokes and sarcastic comments ridiculing the suggestion that officers with a minority background would present an asset for the police organization, as the official line on the police force diversification efforts had had (and continues to have) it. One of the interviewed officers, for instance, himself from a Finnish background, jocularly questioned the assumption that foreign-born officers with “un-police-like” looks would bring something special for the force, being, for instance, particularly well-suited for undercover surveillance operations in ethnically segregated suburbs; breaking out in laughter, his response to the suggestion was:

If that's what they want, then they could also just send me in, as I'm one of the few around here who'd actually be able to stake out a brown shirt party in Svenljunga [a small Swedish village]. I'd blend in pretty well with my face, with my hairstyle, with my personality, if that's the type of people they're interested in.

The jocular resistance towards perceived excessive political correctness could in this study also derive from dissatisfaction with the rules and regulations that governed the police’s actions and speech. The preferred means of expressing the resistance in these cases was irony and sarcasm, as in the case of the following officer commenting laughingly on the Swedish police’s prohibition against using racial and ethnic descriptors in crime reports:

It gets a bit ridiculous when you're supposed to report, say, an on-going break-in or a beating and you describe the suspect...as you can't just go out and say it's a nigger [*neger*].... If it's people coming from Africa, you know, they can be Arabs or they can be niggers so black they're almost blue. I mean, they all look different. [...] you know, they all look different in Africa. It gets so contrived if you know what I mean.

The police employees who resorted to this kind of ethnic humor positioned themselves as underdogs in their organization, with their humor functioning as part of an informal culture of resistance. A tool by which to create solidarity among co-workers and colleagues, the ethnic humor in these cases targeted the media, police management, the public, and what was perceived as an externally or from above imposed political correctness, one, moreover, that was seen as creating injustice and inequality (affirmative action policies and practices), unnecessarily complicating police routines (crime reporting), and implicitly suggesting that individual officers or the police organization as a whole

² All translations from the original Swedish by the author. In the “Core Values Timeout” practice, a V-shaped finger gesture is used to signal a break during which one is allowed to express oneself inappropriately and say what otherwise is out of the question, for example, joke about ethnicity. The “core values” here refer to the results of a comprehensive, for the police itself extremely time and energy-consuming but afterwards internally criticized, “Core Values” project that aimed at transforming Swedish police’s public image and work ethics (Sefton, 2011; The National Police Board, 2009.)

were biased, prejudiced, or even racist, needing to be “corrected”. The most problematic aspect of this humor can thus be said to be its ability to undermine the effectiveness and even real implementation of the police’s diversity policies, core values, and anti-discrimination/anti-racism measures (cf. Fletcher, 1996; Loftus, 2009).

Subtle discrimination

Sometimes, the ethnic humor described in this study could also serve the purposes of exclusion, through ethnic boundary-making between different categories of police employees or through the construction of in-groups and out-groups within the police organization (cf. Charman, 2013). The joking in these cases took the form of subtle everyday discrimination of certain police employees. Also in other interviews with minority police employees, descriptions of such negative effects of ethnic police humor on the psycho-social work environment have been put forth, such as a feeling of disempowerment (e.g., Holdaway, 1997; Uhnöo, 2013). The ethnic minority interviewees in this study overall felt ethnic police humor to be “tiresome,” “unnecessary,” “vulgar,” “stupid,” “unprofessional,” “annoying,” and “embarrassing.” One interviewee stated that if she wanted to be entertained, she would go and listen to a stand-up comedian, preferring not to be subjected to prejudiced jokes at her workplace. The jokes her colleagues told about certain ethnic groups left a lump in her throat along with, despite often laughing together with the others in the actual situation, “a bitter taste in the mouth” and “a knot in the stomach.”

Making fun about a co-worker’s ethnic affiliation was one way for police employees to engage in discriminatory behavior in a “safe” way, without the risk of appearing prejudiced, biased, or narrow-minded. Jokes tend to be easy to legitimize or rationalize, both by those themselves who tell them and by the members of their audience – it was all said “in jest,” “just a joke” (cf. Billig, 2001). As one interviewee in this study described his experience of such brushing away of possible criticism:

I’ve sometimes objected to them. “Oh, we’re just joking,” they counter. But for me, that joking has gone a bit too long. I don’t think [it’s fun] with all those generalizations...about darkies [*blattar*] here, darkies there, and so on.

The joking could, however, also be about one’s colleagues or even co-workers who were seen as deviating from the police norm. The interviewees described how their co-workers joked about and made fun of them because of their minority background. There were anecdotes such as “I’ve got this co-worker who says: ‘My wallet’s still here!’ when I come and sit down nearby” and, describing the kind of loud joking engaged in by another interviewee’s fellow police employees when seeing him, “Hold on to your wallets, here comes [an epithet for a person from a certain country]!” A third interviewee told of how he had received from his co-workers an outboard motor as a birthday present, although he did not own a boat: a popular joke in his unit was that outboard motors in Sweden are most often stolen by people from his ethnic background, so the present was now given as a preventative measure in order for him, so the presenters suggested, not to need to steal one himself. Such jokes all associated the police employees’ ethnicity with a criminal lifestyle and thus insinuated that they, too, were potential thieves.

Another interviewee, a Muslim, recounted an incident where a co-worker showed him a film clip on his mobile phone in which a Muslim person was shot to death. Throughout the film, the person showing it kept laughing while the interviewee felt it all to be extremely offensive. Yet another interviewee reported about how a co-worker of his, calling up another police unit in official matters and introducing himself, got a response that “But we’ve got no Alis here [in our unit]”, followed by a

laughter and “We’ll just have to come down and take a look at you.” There were also reports of similar behavior from the interviewees’ time at the police academy. One interviewee, for instance, was instructed during boxing training that she, owing to her immigrant background, would play the part of “the Darkie” [*blatten*] while her sparring partner, who was ethnically Swedish, got to act as “the Police Officer.”

Such subtle discrimination through demeaning ethnic humor is often unconscious and unintended (see Van Laer & Janssens, 2011). However, even where this is so – and in some cases the jokes and humor can be thought to be funny also by those targeted by them – the use of ethnic humor by police employees can have the effect of preventing those in the organization with a foreign or minority background from feeling themselves included in the workplace or even professional community. When, in this study, police employees invoked ethnicity by positing co-workers or colleagues as “immigrants” or as belonging to some specific ethnic category, the persons in question were put forth as a deviation from the “Swedish” police norm and their membership as “immigrant officers” in the national police community was no longer so obvious and automatically accepted a fact.

Anti-racist resistance

Paradoxically enough, however, ethnic police humor could also lend itself to use as a form of anti-racist resistance by ethnic minority employees themselves (cf. Holdaway, 1988, p. 86). Some interviewees had used their own ethnic background to create and express self-ethnicizing humor (cf. Wieslander, 2014, p. 254). As police humor, this was typical of rather rebellious or subversive nature, resembling what in other contexts has been termed as black, feminist, or queer humor (e.g., Boskin & Dorison, p. 1985; Chiaro & Baccolini, 2014). Through this kind of humor, different groups endeavor to “reinterpret or change the normative principles of stratified ethnic systems” (Wimmer, 2008, p. 1037), either by displaying pride about their ethnicity or by stressing universal similarities between people (“all police employees are equally competent”). Self-deprecating ethnic humor can be geared at demonstrating the irrelevance of the prevailing ethnic categorizations in the case of some specific individual or group, through a form of ethnic boundary-making that Wimmer (2008) has termed ‘individual boundary crossing’ or ‘re-positioning.’ In such efforts, the question is thus not about attempts to change the way ethnic boundaries have been drawn, but rather about finding individual strategies for managing, coping, or coming to terms with the existing demarcations.

In this study, such humor was sometimes geared at highlighting the absurdity, even ludicrousness, of the ethnic boundaries drawn and assumed, but at other times it was aimed directly at racism, ethnic prejudices or biases, or a lack of ethnic diversity experienced or perceived within the police organization. One interviewee, for example, told of how a co-worker of hers drew attention to the ethnic homogeneity of her workplace, by, during a training day where also police employees from other units were present, loudly stating during the introductions that “We’re the mandatory darkie representation [*blattekvoten*] here today.” Just like humor as an expression of resistance to superiors more in general, ethnic humor can have the effect of creating solidary and fellowship among the excluded, subordinated police employees (cf. Holdaway, 1988). One woman police employee, for instance, described how she and her co-worker, who both came from a foreign background, together “laughed a lot at the situations” as their way to respond to for prejudices being expressed. In one case when the two, in their capacity as police officers, were to give testimony in court but were mistaken for family members of those accused, who simply happened to be originally from the same country as them.

To initiate humor, to play along, or to joke back in such cases often represented a conscious, even a deliberate strategic, choice on the part of the person in the subordinate position. Some interviewees went as far as describing that choice as a survival strategy they had to resort to in order to be able to deal with the prejudices and curiosity of their co-workers and the public. Couching one's issues in laughter provides an opportunity for highlighting forbidden, politically charged subjects difficult to take up using a more serious tone of voice (Emerson 1969), such as precisely, racial or ethnic bias among one's police colleagues. In one case in this study, for example, a woman police employee and her co-worker, both with a "non-Swedish" appearance, responded to criticism directed at them by a fellow police employee whom they felt to be racist, by jokingly turning to each other and noting about the latter that "he sure doesn't like wogs". This was a form of reverse stigmatization (see Wimmer 2008, p. 1037) whereby those from a majority background were posited as racists by those normally representing the stigmatized group.

The question, however, needs be posed here as to whether, in these kinds of setups, it is even possible for one *not* to play along with the prevailing rules and initiate joking or humor in similar situations (cf. Holdaway, 1988). Among the police corps in Sweden at least, there appears to be a strong norm according which police employees from foreign backgrounds are supposed to joke about themselves, laugh at their own expense, and be prepared to tolerate others making fun of their ethnic background (Uhnöo, 2013). As also evidence from this study suggests, it seems indeed more of a privilege than a right to not to have to hear ethnic jokes or humor aimed at oneself, or to resort to ethnic joking about oneself, when coming from a foreign background. Can the humor practiced then really be rebellious in nature, contributing to the building of, or genuinely expressing, a culture of resistance towards a dominant form of police talk? Or is it rather of a counterproductive kind, one that, instead of advancing resistance, ends up merely reproducing the ethnic boundaries, the differentiations, and the distinctions it initially aimed to object to?

CONCLUDING DISCUSSION: ETHNIC POLICE HUMOUR AND ITS EFFECTS

The above analysis of the forms and functions of ethnic police humor shows its complex, multi-dimensional, and ambivalent character. Just as other profession-specific humor, also police humor can have both an inclusive and an exclusive effect when used for the purposes of boundary-drawing, either vis-à-vis outsiders or within one's work community/organization. In this study, it could be aimed at those above or below oneself in the organization, and it could target individual persons, groups or categories of people, policies, or standards of behavior.

Accordingly, also the potential effects and consequences of ethnic police humor were multiple and variable: it was used, for instance, to produce increased solidarity, loyalty, or mutual trust among police employees, or to provide an arena for resistance to orders, resolutions, directives, or commands issued from above. In terms of its consequences for police work, the ethnic police humor described in this article had the potential to directly affect the police in four distinct ways, either externally or internally. To begin with, as a form of ethnic boundary-making it reproduced racialized constructs of reality concerning the society with which the police employees came to direct contact in their work, in particular representations of the "immigrant" as a category overrepresented among criminals and of criminality as associated with certain ethnic groups (cf. Sollund, 2007; Uhnöo, 2013). Ethnic police humor, however, can also have the effect of helping more general prejudices and racist/xenophobic attitudes and notions spread in society. When police's in-group backstage behavior leaks into the public domain, or when police officers employ ethnic humor openly in

public, there is a risk of increased distrust in police and that the social distance between the police and the public, especially ethnic minorities, grows. Diminished public trust will for its part undermine effective police work, while an image of the police force as a socially and ethnically insensitive organization can lead to problems in recruiting officers from ethnic minorities, preparing the conditions for a vicious circle to emerge (cf. Cashmore, 2001).

Secondly, ethnic police humor can be expected to cause a devaluation in practice of the police's professional norms, which then may lead to more discriminatory police practices vis-à-vis ethnic minorities. Humorous stories told about encounters with ethnic minorities in this study, too, functioned as descriptions of the informal rules and behavioral expectations at one's workplace, influencing where the boundary line between legitimate and illegitimate behavior of the police is perceived to be. Thirdly, ethnic police humor may undermine the police's organizational goals and objectives, formal guidelines, and reform programmes, thereby complicating the police's core values work, diversity efforts, and anti-discrimination work (cf. Loftus 2009, p. 112). Fourth, employment of such humor can contribute to the reproduction of hierarchical divisions between different groups of police employees (e.g., "Swedish cops" vs. "immigrant cops") and lead to ethnic boundary-making in the form of norm reinforcement concerning, as in the present case, the police employees' expected "Swedishness", or "white" skin color and perfect, unaccented Swedish (cf. Hansen Löffstrand & Uhnnoo, 2014; Lander, 2014; Uhnnoo, 2013). As a consequence, ethnic minorities may become victimized by exclusion within the police organization itself, and thus denied equal possibilities for participation (cf. Cashmore, 2001, 2002; Holdaway, 1997; Loftus, 2009; Peterson & Uhnnoo, 2012).

Ethnic police humor can thus have consequences for not just the internal workings of police organizations (their psycho-social work environment and reform efforts), but also the everyday work of the police officers on the street, including their encounters with ethnic minorities out in public. The way ethnic police humor was spoken of and employed in this study suggests that humor to potentially have an ability to either reproduce or challenge both horizontal and vertical power structures. While in previous research police humor has, for the most part, been approached as an expression of an oppositional culture directed against those in a superior position in the organization (e.g., Pogrebin & Poole, 1988), the present study shows police humour as an oppositional culture to also be directed against co-workers and colleagues located at the same organizational level as oneself. Such opposition was expressed in the form of subtle discrimination, but also as anti-racist resistance whereby other police employees, through a process of reverse stigmatization, are posited as racists.

This latter kind of ethnic police humor showed potential in principle to challenge, and even bring about change in, the dominant prejudices and biases in the police organization. It did, however, also show itself to be risky, unpredictable, and double-edged as a tool adopted for the purpose. Both outside and within a police organization, humor tends to always reflect the prevailing power relations. To change the humor culture in the workplace through anti-racist resistance can be difficult, even impossible, for a police employee, since the tone of that humor, by force of tradition and sheer numbers, is set by the majority, or, in the context of this study, the ethnically Swedish police employees. When the police organization lacks diversity but has strong internal hierarchies, for which groups in it is the use of ethnic humor "strategic"? If, similarly to what Charman (2013) found among British police and ambulance crews, there is something like a mutually accepted and culturally defined joke-book in use in Swedish police organizations, who decides its content? When police employees from a minority background initiate ethnic humor, whether to highlight an incidence of racism or ethnic stereotyping, to draw attention to a lack of diversity in the workplace or the broader organization, or, simply, just to be accepted or left alone, there is always a risk that also

other forms of ethnic police humor become legitimized in the process, forms that, moreover, will likely have different functions, effects, and implications.

Ethnic boundary-making is a phenomenon occurring through everyday interactions in many different social fields, but the police are not just any kind of workforce and not just one organizational actor or institution among many. As holders of the monopoly on legitimate violence, the police occupy a pivotal role in the production and upholding of social order and a sense of safety among the public and, as we have seen, ethnic police humor provides a means for ethnic boundary-making, a process for maintaining, shifting, or modifying of ethnic boundaries in the society, which then confers to the police agency a special responsibility in this regard (cf. Wimmer, 2008). The more exact or specific outcomes of ethnic police humor in terms of these processes – the creation or re-creation of groups through the demarcation of the boundaries between them – remain, however, a question for closer empirical investigation encompassing national contexts of different kinds.

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HARLEM PIMPS' ACCOUNTS OF THEIR ECONOMIC PATHWAYS AND FEELINGS OF INSIDERNESS AND OUTSIDERNESS

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Abstract

This study analyzes semi-structured interviews with 85 pimps in New York City to explore how pimps discuss their economic pathways – i.e., how their pimping leads to distinct types of work outcomes and how they discuss their associated feelings and attitudes. We compare younger (18-23) to older (24-67) pimps, anticipating that younger participants would be more adaptive and produce discourse less entrenched in outsider thinking. Pimps' movements between licit and illicit work worlds mirror those of drifters (Matza, 1964) and align with Murphy and Robinson's (2008) concept of maximizers (i.e., economically benefiting from both work worlds simultaneously). Younger pimps, despite their at-risk status, boast of several distinct advantages in moving between worlds, such as flexibility and technological savvy. How pimps' experiences in both worlds connect to insider (mainstream orientation) or outsider discourse (oppositional orientation) is also examined. Many older pimps who identify as 'hustlers' express oppositional discourse that aligns with Sandberg's (2009) 'gangster' discourse. Those pimping to survive tend to express 'oppression' discourse. Despite their at-risk statuses, many younger pimps demonstrate a hybrid (insider/outsider) orientation, which is one of versatility where participants describe an ability to master both illicit and licit worlds or at least maximize their opportunities by participating in both worlds.

Keywords: pimps, offender narratives, U.S. economy, inclusion/exclusion

INTRODUCTION

Underlying the dominant narrative about pimps¹ is that they predominantly exist in a deviant, subterranean underworld and that their social identities are entrenched in pimp counter-

¹ In this paper, we define a pimp as someone who has procured, facilitated, managed, or similarly contributed to commercial sex transactions in some ancillary way. We discuss this study's inclusion and exclusion criteria in the methods section below. We acknowledge that "pimp" is a highly contested, racialized term, but this term is more recognizable than alternatives like "third party" to readers as well as participants in this study. We give a special thanks to our two gatekeepers (who will remain unnamed) for allowing us access to their communities and to all of the participants who agreed to share their stories.

culture (Slim, 2009; Milner & Milner, 1973; Quinn, 2000). We know, based on existing desistance and criminal social identification research, that criminal behavior often represents only a small fraction of offenders' behaviors (e.g., Sampson, 2009), and it does not necessarily correspond to lasting pathways (Maruna & Roy, 2007). Sykes and Matza (1957) suggest that all offenders absorb mainstream cultural orientations despite high levels of criminal activity. Subsequent studies testing neutralization theory, or the ways that offenders justify or excuse engagement in crime, suggests that many types of offenders have mainstream orientations (Maruna & Copes, 2005). We explore how exposure to licit and illicit economic worlds shapes pimps' pathways towards licit work, to continuing in illicit work, or to being in both illicit and licit worlds, and how this relates to their mainstream (insider), oppositional (outsider), or hybrid (interdiscursive) discourse.

We focus on variation in how younger (18-23) and older (24-67) pimps interact with the economy and how they feel about this. The participants of this study are mostly lower socioeconomic status African-American and Latino males, with the primary source of variation being age. In general, younger people are more economically disadvantaged, and we expect the same of younger pimps; however, they potentially have experienced less negative contact in licit spheres due to their limited life experiences. They may traverse worlds more readily because they are less entrenched in pimping, and therefore may have more flexible accounts. The ways that pimps experience the U.S. economy may provide important information about these criminal entrepreneurs and how their experiences in licit and illicit economies correspond to their accounts of insiderness, outsiderhood or both.

Theoretical Frameworks: Strain and Neutralization

There is a useful body of research on offenders' experiences in licit and illicit economies and how this can shape their pathways away from crime or toward continuing in crime. Generalizations about the division between licit and illicit worlds are evident based on the popularity of the "dual-city" hypothesis, or the idea that there is 1) a licit world and 2) a distinct alien, subterranean underworld (see Bauman, 1998). In *Urban Outcasts*, Wacquant (2008) compares American 'ghettos' and French 'banlieues' to understand urban marginality in advanced capitalist countries. His work supports the 'dual-city hypothesis,' finding that in these contexts there are firm spatial, social, cultural and economic boundaries between insiders and outsiders, and even 'cities within cities.' These dual cities are not just about separation in physical space, but also mental or ideological structures. Wacquant analyzes the mental structures of marginality, and he is able to draw links between social and spatial boundaries and what 'ghetto' residents feel is possible.

Related to these mental structures of marginality, there is a long history of criminologists who explore whether offenders express mainstream or oppositional orientations (Becker, 2008; Presser, 2004; Sykes & Matza, 1957; Sandberg, 2009; Topalli, 2005). In the 1960s, the notion of a firm boundary between worlds was challenged by Matza in his seminal work *Delinquency and*

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Drift, where he argues that people drift back and forth from non-criminal to criminal activities, including labor.

Historically, lower-echelon pimping was more street-based and therefore more public. Matza rightly emphasizes that a component of oppositional crime is its publicness. From the 1970s through the early 1990s (end of the crack era), street-based pimping was common in some New York City boroughs, such as Harlem and the Bronx. The publicness of the pimp “hustler” originated from resistance to white culture and subverting existing power structures (Cleaver, 1968; X & Haley, 1965). The street pimp of this era is imagined as being the embodiment of extreme oppositional masculinity or performing masculinity by inverting or subverting mainstream values (Messerschmidt, 1997). Yet many studies show that pimping in the 21st century has been moving off the street (Dank et al., 2014; Musto 2014; Venkatesh 2011). Unless publicness is similarly reconfigured online or inside, pimps may lose some of this historical style of public oppositionality or outsidership.

In his research, Sandberg (2009) challenges the dichotomy that both Wacquant and Matza present, showing that it is difficult to imagine ‘deviant’ actors fully embodying an oppositional or mainstream orientation. In accounts, oppositional and neutralization discourse can be readily performed within a single narrative (Sandberg, 2009). Sandberg interviewed minority drug dealers in Norway and found a ‘bilingual’ discursive practice. What he called ‘gangster discourse’ focuses on being ‘hard, sexy, and smart,’ and importantly is in relation to garnering the respect of other outsiders engaged in street life. In this type of scenario, gangster discourse can be seen as an expression of oppositional masculinity. Sandberg also identified ‘oppression discourse,’ which focuses on unemployment, racism, and lack of assistance, and is used by respondents to justify crime. Sandberg surmised that these supposedly opposing positions are rarely traced simultaneously because recognizing the co-existence of these positions threatens prevalent criminological models like Matza’s or Wacquant’s. Sandberg challenges the dominant binary distinction on methodological grounds by arguing ‘deviant actors’ relationship to culture should not be construed in either/or terms. Both ‘oppression’ and ‘gangster’ discourses are ‘at-risk’ discourse, but oppression discourse is used to justify crime (a mainstream orientation), whereas gangster discourse is oppositional.

Pimping is an activity where the goal of money-making is inherent (see Goines, 2012; Slim, 2009). The more general American cultural emphasis on profit motive has been explored in many studies addressing the American Dream, including its underbelly (Merton, 1938; Messner & Rosenfeld, 1995). Merton’s (1938) classical strain theory explores how people position themselves to the U.S. economy. He explores ‘American dream’ goals/means discrepancies. People who accept the U.S. cultural goal of money-making and the institutionalized means of attaining money, i.e., licit work, are ‘conformists,’ and ‘innovators’ are those who accept the cultural goal, but who are barred from opportunity and instead generate money in creative “off-the-books” ways. Murphy and Robinson (2008) expand upon Merton’s typology and add a more flexible category of ‘maximizer’ or someone who is simultaneously a conformist and an innovator. A maximizer as compared to Matza’s drifter has more intentionality in moving between illicit and licit spheres because he/she seeks to generate the most economic return. One’s marginality, which is often dictated by intersectionality between factors like race, class, gender, and age, may dictate one’s ability to conform or to maximize by operating in both illicit and licit worlds.

Intersectionality and Economic Marginality: Gangster and Oppression Discourses

Intersectionality across race, class, gender, and age is tied to opportunity in the U.S. economy and also to feelings of insiderness and outsidership. In terms of job opportunities, employment rates broken down by race show the differential impact of race on joblessness. For example, according to the Bureau of Labor Statistics (2016), black males aged 16 to 19 had a 33.3% unemployment rate in the third quarter of 2016, whereas the unemployment rate for their white counterparts was 13.9% and for Latinos 19%. The realities of young black joblessness and other economic, cultural, and socio-political marginalization provide the context for our analysis.

For black youth who enter the licit economy, prospects of success remain risky as they enter middle age (Hulme & Shepherd, 2003; Larson & Mohanty, 1999; Shulman, 1996). As the U.S. labor market has moved away from manufacturing and other blue-collar jobs toward service-sector jobs, black adults (especially males) increasingly suffer from disproportionate unemployment and underemployment (Larson & Mohanty, 1999; Shulman, 1996; Wacquant, 2008; Wilson, 2011). For African-Americans, educational credentials like a high school diploma have become more and more necessary but less and less sufficient to overcome various barriers to entry in the job market – even for entry-level jobs, which increasingly require college degrees at minimum (McDaniel & Kuehn, 2013). Even within predominantly black neighborhoods, black businesses are less likely to receive loans and support from banks, making licit entrepreneurship unattainable for most (Immergluck, 2002). Thus, the unregulated illicit markets may present risk but also present greater opportunities to advance economically compared to the risky, less lucrative licit markets. Paradoxically, the illicit market may be perceived as a less risky option for young people, at least in the short term.

Age is an important component of intersectionality, with some critical social scientists arguing that the U.S. extension of a lengthy period of adolescence may be explained through the political economy model (Côté and Allahar, 1996). For instance, governmental policies about legal age requirements for entering the labor force, the low standards for minimum wage, and business practices requiring more educational credentials for jobs for technical or professional work are beneficial to middle-aged workers (Côté & Allahar, 1996; Dornbusch, 1989; Hynes & Hirsch, 2012; Shanahan, 2000; Shanahan et al, 2005; Vondracek et al, 2003). The result is that the ever-widening category of youth can be construed as relegated to a disenfranchised class (Arnett, 2002; Côté & Allahar, 1996; Hertz, 2005). Youth are often excluded from positions of power, as they often work in part-time, service sector jobs with no benefits (Wacquant, 2008). While many young people in the U.S. may choose to be cheap, surplus labor, some entrepreneurial youth, especially people of color living in housing projects who have historically been barred even from these lowly positions, may develop illicit means of income such as drug dealing or pimping (Wacquant, 2008).

Offenders' interpretations of barriers or openings to more economic return can be explained by Merton's ideas of opportunity, and life course theorists' emphasis on 'turning points' or changes that alter pathways (Sampson & Laub, 1995). They are both theories attuned to human adaptation, and lower echelon pimps' interpretations of barriers and openings will allow for an understanding of their different perceptions of their economic pathways as driven by adaptation. We expand on Matza's idea of drift to explore how pimps interpret their engagement in both worlds, with some experiencing both economic worlds simultaneously.

Younger as compared to older pimps are more 'at-risk' due to their position in the U.S. economy, but because they are young, they may produce accounts that are less entrenched in oppositional or outsider thinking. These illicit experiences may provide them with more power as compared to their counterparts who work in the licit sector, but as youth in the overall economy, they should be more disenfranchised in both worlds. While they are technically more marginalized due to reasons outlined in the 'political economy of youth' model, they may be less committed to this type of work and the social identifications that go along with it. Also, they may be more optimistic about their opportunities due to not yet having had disappointing or alienating experiences within the licit U.S. economy (Kirschenman & Neckerman, 1991). However, their disenfranchised status in both worlds may loosen their attachment to both insider and outsider positions and corresponding ideologies.

In general, pimping involves both an economic motivation and the feelings associated with higher status, such as neighborhood level status and feeling more independent from socio-structural constraints. Younger and older pimps may both disparage "straight" work in menial positions and focus on the hustle, the glamour, and fast money. We do expect them both to use all types of 'at-risk' discourse described by Sandberg, but we also expect the younger pimps to show more hybrid discursivities.

CURRENT STUDY

The current study explores how pimps discuss their economic pathways – i.e., how their pimping leads to distinct types of work outcomes and how they discuss their associated feelings and attitudes. We compare younger (18-23) to older (24-67) pimps, anticipating that younger participants would be more adaptive and produce discourse less entrenched in outsider thinking.

First, we examine pimps' movements between licit and illicit work worlds. Our research questions explore the main pathways between pimping and these work worlds: how do these pimps understand their pimping as part of a movement toward or away from licit work, and what does that tell us about the motivations behind their pimping? How do other factors such as age and education opportunities influence how they understand those pathways?

Second, we analyze their stories to see how their experiences in both worlds connect to insider or outsider discourse. Insider discourse in this context reflects a more mainstream orientation, and outsider discourse a more oppositional orientation. How do certain types of pimps use a more oppositional, outsider discourse that aligns with Sandberg's 'gangster' discourse, versus others using a more insider, mainstream discourse that aligns with Sandberg's 'oppression' discourse? What else do these discursive patterns tell us about how pimps make sense of their movements between work worlds?

Method

Sample and Data Collection. To investigate how pimps feel about their position in the U.S. economy and the 'dual-city' dichotomy, 85 male pimps were recruited from housing projects in Harlem for qualitative interviews. We used the term "pimp" during recruitment because other academic terms, like "third-party," are unfamiliar to this population. To qualify for this study, participants had to have played at least an ancillary role in commercial sex, such as

connecting sex workers and clients and/or facilitating sex work through providing resources or other aid (Davis, 2013). These inclusion and exclusion criteria were expressed in clear language to make sure that participants had actually procured, facilitated, managed, or otherwise contributed to commercial sex.

The majority of the interviews took place in open courtyards in three housing projects in East Harlem, New York, with people from these communities. East Harlem has one of the largest concentrations of low-income housing in the country and has more than 16 public housing developments with over 16,000 residents (Harlem Community Justice Center, 2011). The first and primary location was Taino Towers in East Harlem. The complex spans one city block and has over 3,000 residents. Other research sites for this study included the George Washington Carver House. People living in these housing projects are at high risk for family poverty, under-employment, and high rates of juvenile delinquency (Harlem Community Justice Center, 2011). East Harlem is one of the nation's poorest communities. According to census data from the Office of Juvenile Justice and Delinquency Prevention, Harlem is rated 10 out of 10 on the community disadvantage index, which means that it is poorer than 99% of communities nationally (as cited in Harlem Community Justice Center, 2011).

Harlem residents fit Wacquant's categorization of those experiencing new kinds of exclusion at the margins, or *advanced marginalization*. Wacquant identifies distinctive properties of the rise of marginality, including de-socialization of wage labor; mass joblessness; concentrated advanced marginalization in bounded territories, such as housing projects; and the alienation and deteriorating sense of community in these spaces (Wacquant, 2008). The levels of deprivation experienced by those relegated to American ghettos influences how they connect to licit sectors and how they operate in the overall commercial sex market. The participants in this study operated in the ground-floor tier of the market, and historically their work is street-based.

Our sample was not representative, which is typical of most studies conducted on this hidden population. Snowball sampling was the intended strategy because it typically is used in non-probability fieldwork studies, particularly when participants are active offenders (Flick, 2009). In this sampling technique, initial research participants (or gatekeepers) refer similar participants in a chain of referrals. One limitation of snowball sampling is selection bias because the pool of participants is derived through a few initial contacts or seeds. With this hard-to-reach population, the initial gatekeepers remained the primary sources of referral.

The study shifted to a convenience sample and an *agora* sample, or a sample obtained from public open space (Horning & Sriken, 2017; Horning et al., 2018). Interviews took place in housing project courtyards that are akin to a town square. Residents and their friends and acquaintances socialize in these spaces. Participants witness the on-site interviews and ask about the study. Participants who are actively offending may feel more comfortable because they can see that other participants safely complete interviews without being arrested.

Two gatekeepers facilitated access to these communities. They both lived in these housing projects and formerly worked as pimps within families who sold sex. The gatekeepers escorted the team through security at different housing projects (since only residents or those with permission were allowed entrance). During the winter months, we moved indoors to two nonprofit organizations in Harlem.

Interviews and ethics. The interviews were semi-structured and lasted from 30 to 90 minutes. Pimps were paid \$30 for participation. Pimps were asked about how they conduct work on a daily basis and about their relationships with sex workers and clients. Interviews were confidential and tape-recorded, and verbal consent was given for participation. We received Institutional Review Board (IRB) approval for participants in the study to waive written documentation of their informed consent because the main threat to these participants would be the existence of written documentation of their participation in the study. There are no identifiers, and participants gave pseudonyms. Participants were warned about the potential risks and benefits of participation. Participants were given the option to do interviews inside or in public space.

Analytic approach. Initially, each interview was analyzed using the *Listening Guide* (Doucet & Mauthner, 2008). This was followed by several readings of the interviews using queries such as, “How do participants speak about themselves and their social worlds?” and “What are the structured power relations?” Based on this initial exploration of the data, the sensitizing concepts of their positions within illicit and licit economies arose. These sensitizing concepts or general guides (Blumer, 1954) helped us formulate research questions around economic pathways (that support and challenge the dual-city hypothesis, Merton’s deviance typology and Matza’s idea of ‘drift’). Then, we explored how participants used outsider discourse identified by Sandberg, that is, gangster discourse. Gangster discourse is about being hard, respected and “street smart,” thereby bypassing the need to be included in the licit sector economy (derived from Sandberg, 2009). Oppression discourse involves personal narratives of unemployment and racism used to describe why one is precluded from the licit sector economy (derived from Sandberg, 2009). Those who use this are coming from positions of exclusion, but they are aligned with a mainstream orientation because they feel compelled to justify ‘bad’ behavior. Insider discourse is where participants express alignment with mainstream goals of licit working or traditional education. Based on Murphy and Robinson’s concept of a maximizer, we included a third discourse, one of versatility that is more of a hybrid orientation (outsider and insider). Versatility discourse involves talk of being adept at navigating both illicit and licit sector economies. Pimps’ relationship to illicit and licit economies will be explored with flexibility in positions and accounts in mind.

In all, 85 pimps were interviewed for this study. Most of the participants are racial minorities: African-American, (n=63, 74.1%); Latino (n=13, 25.3%); Other (n=9, 0.6%). The prevalence of African-American participants is higher, and the percent of Latinos is lower as compared to the local population. All participants are male. The average number of sex workers a pimp manages is six (1-63 workers). The average time spent pimping is six years (1-30 years). Most pimps started this labor when they were young, with the average starting at age 17 (9-37 years old). The mean average current age is 27 years old (range 18 – 67 years old; median=23).

There were 40 younger pimps (18-23) and 45 older pimps (24-67). We categorized those from 18-23 as younger pimps because those in this age bracket encompasses those who experience the most disenfranchisement in the U.S. economy (Côté & Allahaar, 1996). They have more recently attended high school and have had parental guardianship. Those from 18-23 are often relegated to menial labor in the licit economy, and after college-age, they are expected to be credentialed if they plan on escaping low-paying and degrading work.

Several study participants work in both the illicit and licit economies. At the time this research was conducted, 16.5% (N=14) worked in the licit economy. Generally, they perform service jobs at fast-food restaurants and grocery stores or do manual labor jobs, such as delivering packages for the United Postal Service. Other participants have a history of legal employment. Over one-fourth, or 28.2% (N=24), formerly worked in the legal economy. 15.3% (N=13) of the participants would like to have licit work, but they more often aspire to higher-level positions, such as being managers or owning their own business in the formal sector. Overall, 60% of study participants had some relationship to the legal economy, 35.3% (N=38) never had licit work, and many did not express interest in this type of work, and 4.7% (N=4) did not provide responses to these questions. For the majority of their pimping careers, n=31, (36.5%) operated in the licit and illicit worlds simultaneously.

Pimps' Pathways Towards Licit, Illicit Economies or Both

Based on age and socio-structural factors, many pimps encounter barriers to crossing the boundary between the licit and illicit work world, while others find opportunities in licit worlds or both. We explore different pathways garnered through pimping and the various barriers or gains that pimps encounter that shape their trajectories.

Table 1: Pathways to Licit and Illicit Work

Pimping toward illicit work (n = 32, 37.6%)
Pimping → prison and check the box → illicit work only
Pimping → bad experience in the licit sector → illicit work only
Pimping → hustler identity → illicit work only
Pimping toward licit work (n = 21, 25.9%)
Pimping → prison → licit work
Pimping → developed human capital in other ways → licit work
Pimping → bad experience in illicit sector → licit work
Pimping toward mastery of both worlds of work (n = 31, 36.5%)
Pimping → college and pimping → licit and illicit work
Pimping → maximizing licit and illicit work

We asked participants about their positions in relation to illicit and licit work, and several types of pathways emerged (see Table 1). The first pathway is *Pimping and Continuing Illicit Work* (n=32, 37.6%), in which pimps were blocked from opportunities due to being labeled as felons, so they had bad experiences in the licit market and/or they continued pimping to survive and/or to maintain their dignity. The second type of pathway is *Pimping Toward Licit Work* (n=22, 25.9%), in which pimps experience a change in human capital, and legal work and/or college become more attainable. The third pathway is *Pimping Toward Mastery of Both Worlds of Work* (n=31, 36.5%), in which pimps are simultaneously in illicit and licit worlds.

Table 2: Relationship Between Pimps' Age and Pathways

	Younger (n=40)	Older (n=45)	Total (n= 85)
Pimping and Continuing Illicit Work	25.0% (n=10)	48.9% (n=22)	37.6% (n=32)
Pimping Toward Licit Work	37.5% (n=15)	15.6% (n=7)	25.9% (n=22)
Pimping Toward Mastery of Worlds	37.5% (n=15)	35.6% (n=16)	36.5% (n=31)

Note: Pearson $\chi^2=7.172$, p-value=0.028.

Table 2 shows a clear quantitative difference between younger and older pimps' types of pathways. The χ^2 test finding a statistically significant difference between the actual and expected counts of younger versus older pimps' pathways. Of the younger pimps, 10 (25%) are pimping and plan on continuing illicit work, compared to 22 (48.9%) of older pimps. Of the younger pimps, 15 (37.5%) are pimping and are moving towards doing licit work, compared to only 7 (15.6%) of older pimps. Last, of the younger pimps, 15 (37.5%) are trying to master both worlds, and 16 (35.6%) of older pimps are doing the same thing. Older pimps are more entrenched in the purely illicit pathway as evidenced quantitatively and shown in accounts below; however, a number of younger and older pimps are within both worlds to maximize, but they perceive their positions in qualitatively different ways.

The first pathway is *Pimping and Continuing Illicit Work* with older pimps showing discursive themes of *barriers*, *missed opportunities* and/or *humiliation in licit markets*. Those with felony labels (obtained from all types of convictions) felt that this stigma precluded from joining the licit workforce. Chicago Blue discusses this real problem.

As long as I am on the earth, I can walk and breath, nobody gonna hire me. I am a convicted felon. Government ain't gonna give me no job. Police ain't gonna give me no job. Sanitation ain't gonna give me no job. Construction ain't gonna give me no job and the MTA ain't gonna give me no job. So who gonna hire me? So what else am I gonna do? Ain't nothing else to do.

Some older pimps (ages 24 to 67) are barred from licit work because of prior felony convictions that preclude them from holding many licit jobs. In most U.S. states, felons are required to identify their status on job applications. Many of them are bypassed as unsuitable even for menial labor (Mathias, 2015). In 2015, New York City passed a groundbreaking policy called the Fair Chance Act that means felons are no longer required to check the box on job applications that identifies them as having a prior conviction. As of 2015, similar policies had passed in 17 states and more than 100 cities (Mathias, 2015). However, these policies only apply to private-sector jobs, which is problematic because this bars felons from applying for civil service positions that historically have been accessible to racial minorities (Rubio, 2010). Also, in some states don't check the box policies only hide the felony during the initial screening; background checks can be done on serious candidates. If this type of "fair chance" policy

remains intact, improves and gains traction in other states and/or expands to public-sector positions, then this pathway may become obsolete.

Many older pimps have missed important milestones such as first jobs, training, college, and licit job histories. They feel too old to get college degrees and are unable to get jobs requiring technological skills. Many older pimps also have a disadvantage in licit markets because they are not native to technology. Even though pimping has moved online and technology is more readily used for this kind of work, many describe lacking the technological savvy required for jobs other than menial labor. Chicago Blue ponders the idea of returning to college to update his knowledge of technology, but he reflects on the impossibility of actually becoming proficient enough, even with training.

Can't go back to school. I'm forty-something years old. Go back to school and learn what? Technology? Computers? What that gonna do for me? Nothing. What's it gonna do? Everything changes. They got the iPads, and you know, the iPhones. All them technologies, for what? I remember *Total Recall*, remember when Arnold Schwarzenegger back in the day? That's the same shit they're doing now. Have you ever noticed, all the movies that came out, that has something to do with technology, it's coming. It's a cycle; everything changes.

Early on in life, some pimps foray into licit jobs and quickly realize that minimum wage jobs do not allow for a basic living wage and they are humiliating. These early bad experiences repel them from pursuing licit work. The economic returns from customer service positions do not amount to enough. For instance, Baby Sean, 26, reflects on the low wages he once received at McDonald's and compares this to the fast economic returns from pimping.

I wouldn't give up this for no McDonald's. No, not anymore. I mean I'm making a little minimum wage, 7.25 or 7 dollars an hour. Back then, uh, it wasn't doing nothing compared to what this is doing for me right now. No way. I can make that in about a couple minutes you know (through pimping).

Both younger and older pimps showed the theme of *pimping to survive*. However, younger pimps are in a different position having recently been underage and often coming from at-risk families. For some of these pimps, earning money to help their struggling families was evident. They typically have parents who are unable to support them. Moreover, many of them use their income to support family members by paying rent and buying food, clothes, and even schoolbooks. For instance, Buddy Love, 21, talks about the "bigger picture," or how he uses his income to help his family, especially his siblings.

I'm looking at the bigger picture. I don't wanna live with my parents for the rest of my life. The majority of them (my family) work, but I feed them too, so it's like I make sure they good. I have two more older brothers. They in school (college). I pay for them to get they books. (---) Send 'em they checks they can just do whatever they want with it so like. I'm the type I give you money. I don't want it back.

Due to their young age, younger pimps demonstrating this theme in accounts often reflects disruptive family environments. For instance, many respondents describe how they and

other at-risk teens ban together in order to get money. The need for this cooperative activity stems from an array of problems, including having ill, poor, or absentee parents. Others are disconnected from their parents and meet in places such as foster care, homeless shelters, or the streets. Their disenfranchised status is magnified by the reality that they live with little to no adult guardianship. Having limited options in licit markets, they facilitate selling sex and engaging in sex work to survive. Older pimps reflected on this theme in their early lives as coming-of-age stories. For older pimps, pimping as a method of survival was normalized, or in other cases, it was no longer about survival because they acquired enough economic capital through the years of working.

Younger people have had a shorter experience with both economies, and they have a special position in the economy based on the political economy of youth paradigm. Of the 40 younger pimps, 27.5% (n=11) serve as cheap, surplus labor in the illicit marketplace; many work for older family members. Those pimps who work for family members (e.g., fathers, uncles, or cousins) either work for free or serve as apprentices for a period of time. Only half (n=20) of the younger pimps in this study qualify as cheap, surplus labor if you combine their participation in legal and illegal sectors. Although this study does not involve a statistically representative probability sample, the fact that half of the young pimps in our sample do *not* discuss themselves as cheap, surplus labor stands in contrast to the majority of young men of color in the legal U.S. labor market, who tend to be relegated to low-skill, low-wage jobs or unemployment (Côté & Allahar, 1996; Wilson, 2011). The young pimps' accounts of their work suggest they feel that they are faring better than their counterparts working in legal sectors. They feel the illicit sector may give them more agency or opportunities than they could have access to in the legal economy, and their accounts reflect themes of relative empowerment. However, their accounts suggest they may also be harnessed to illegal work at least until they can afford to leave their family homes and/or leave the business without too much family conflict.

Older pimps who worked for family describe similar apprentice roles while growing up, but the majority had graduated from these lowly apprenticing positions. Only one older pimp was being exploited by older family members. If you include work in the licit and illicit sectors, (28.9%) (n=13) of the older pimps in this sample qualify as cheap, surplus labor. Both younger and older groups who straddle economies supplement their income with low-level jobs, such as cashier and sales positions or blue collar work. These jobs often have little to no benefits or limited room for upward mobility. Only a few had higher level jobs such as working for the Board of Education or mid-level positions. The older pimps who quit pimping described being content with low-level work, such as janitorial work, but they do reflect back on more exciting times in the illicit world. The older pimps were more resigned to this lower-level work, whereas the younger pimps describe their cheap, surplus labor jobs as unimportant or temporary.

The second type of pathway is *Pimping Toward Licit Work* and the discursive themes are *openings, opportunities, and transferability of illicit skills*. Tenacious, 35, discusses how access to college in prison changed his opportunities.

I caught a bid and went upstate for a couple of years and wind up going to school. I went to college. I got a college degree and got an Associates, a Bachelors, and I got into...um business wise...advertisement, you know. And did that for a while, you know and that I tell you I'm fortunate.

Although many older pimps resign themselves to criminal lifestyles, a few like Tenacious found that some rehabilitative aspects of their prison experiences helped them develop the capital necessary for the licit sector. For example, when Tenacious spent time in prison in the 1970s and 1980s, there were more educational opportunities for people who were incarcerated. These types of programs began in the 1950s and showed some positive results in reducing recidivism (Steurer & Smith, 2003; U.S. Department of Education, 1994; Vacca, 2004). However, in the 1990s most educational programs in prison were discontinued, despite prison wardens on the ground supporting expanded education and vocation programs due to their perceived clinical success (Cullen et al., 1993; Phelps, 2011). Unless such programs are re-established, it is likely that this pathway will diminish.

Some pimps described gaining a lot of general knowledge about running businesses from pimping. They tried to develop and hone skills, such as marketing, negotiating, and managing workers and these are transferrable in other business contexts. A number of these business-wise pimps also sold drugs. They used the same client list, with the idea that people wanted to party with drugs and sex. They were able to transfer their skills across illicit markets and later used their flair for business in licit worlds. Jeremiah discusses how pimping not only put food on his table but also provided him with a transferrable skill in the licit sector.

Shit, well I just got promoted at my job so they pushing me into management. I'm probably gonna be manager by then. More likely than you know. It's, you know, just understood this much. I don't know what nobody else said, but a large part of what I was doing was just survival (---). That was another business and that's it. I'm attracted to money and that's it. That's another way to get money.

In this pathway, the ability to leave pimping depended on the acquisition of some kind of capital, whether it was garnered through programs, such as college or job training or through engaging in the job of pimping. This period of learning and acquiring new skills gave pimps the human capital to pursue and succeed at jobs in the licit world.

The third pathway is *Pimping Toward Mastery of Both Worlds of Work*, and the discursive themes are *versatility*, *making ends meet* and *maximization*. Some younger pimps in this sample attend school and college. Over half 22 (50.6%) of the younger pimps currently or used to attend school. Many of them feel that through college they can gain skills to improve their illicit businesses. They discuss business courses, such as marketing or communication and talk about how this gives them business ideas. For others, college is a great place for learning about business and for their business. For instance, Jason chose a large community college where he can easily expand his client base and recruit more workers. John, 22, is pimping in order to finance purchasing multiple legitimate businesses, and he claims to have already saved over \$100,000 as a starting point. He drew a picture of his business plan that envisioned his owning a condo and multiple businesses, which can be interpreted as an ambitious, if not plausibly feasible, American Dream. He reported that he is currently a business major and seems to be constructing his business model based on various courses he is taking, such as online marketing. His goal is to gain enough capital through pimping to expand to licit-sector businesses, such as a limousine company, various online endeavors, and eventually ownership of a Fortune 500 company. He reported that he had already invested in the stock market and was increasing his capital. He claims to have the money to purchase a condo and to be in the process of saving for

the rest. He is trying to maximize his opportunities and plans to remain in both worlds, even if some of the details of his plans might seem fanciful. This is an example of a young man who values successfully mastering both work worlds.

The border between licit and illicit spheres is not so firm for these pimps for whom skills learned in one arena can be used in the other, and who blend these spheres in creative ways. Almost none of the younger pimps describe firm boundaries between their licit and illicit lives, but many of them are not yet in long-term or higher-level positions in the licit world.

Some younger pimps are in this line of work to maximize their income in order to participate in U.S. consumer culture, which generally is important to young people (Côté & Allahar, 1996). A common theme in the accounts of the younger pimps was on spending their often meager earnings on clothes and sneakers. Many mention a need for sneakers, a symbol of status for many black teenagers (Collins, 2006). The ability to sport the latest fashion trends, despite being poor, is very important to youth in lower echelon markets (Vigil, 2003). Percy reflects on this necessity.

I told her, do you love me? She said yes. And it was like OK, the newest Jordans came out. I'm not gonna lie. The newest Jordans came out. I really wanted 'em. And a guy he wanted her. So I told her, I said, yo I really need this. It's a dire need.

Younger pimps also talk about how these social status symbols are important to young sex workers. In some cases, youth may band together so they can successfully don symbols of social status. Javalucci, 20, and his girlfriend do not make much money in the licit market. One day, they decide to sell sex for basic living costs. Javalucci talks about saving for the future, but a portion of his earnings go to new clothing. He says, "I'm saving it for the future, of course. Like I said, it takes money, takes time to add up. You know, so I take time to buy my sneakers you know. ... You know, she gets her stuff too. She wears nice clothes. Louis Vuitton, Hermes. Haha. Just adds up." This spending of meager earnings on clothes and entertainment is typical of most youth who are disenfranchised because of their age.

Older pimps were also interested in fashion, and they do spend on their attire. Both groups were invested in masculine street performativity. The importance of attire in street culture and those engaged in illicit markets has been well-documented (Katz, 1988; Vigil, 2003). Clothing and sneakers are status symbols in more street-based markets. However, older pimps' accounts focused on the practicality in buying sex workers clothes and how such investments would improve business. Some of them described not "spending too much" "being frugal" or even shopping at the "thrift store." In most scenarios, the purchase of clothing for workers had a practical element that was lacking in the accounts of younger pimps.

Older pimps straddle the legal and illegal economies, yet they are more attuned to the boundary. George talks about how he works for the Board of Education during the week, but from Thursday to Saturday he works as a pimp in the evenings. He identifies with the clients who like to keep the dual worlds separate.

Like I said once in occasionally like Sundays, once in a blue moon I would get a phone call during the regular weekday or something like that. One of the guys would call me. Hey, man, what you doing? Listen, I feel like hanging out with one of the girls? You think you can set something up? But that didn't really happen too often during the week 'cause you know they still had to maintain their regular lives, too.

Vikel, 27, has a 9-to-5 job as a salesman, as do many of his sex workers, who work during the day as sales associates but spend the evenings selling sex. He says both forms of employment are necessary because of the low wages that they receive in the shoe sales industry. Many of the older pimps who maximize through participation in both economies do so in order to make a basic living wage. Some older pimps do move across illicit and licit sectors, but this is usually because they need both to survive economically. The types of jobs they obtain in licit sectors are low-level positions. With the decline of factory work, decreasing menial labor positions and the increase in technological skills needed to work (even in service-sector positions) (Côté & Allahar, 1996), this pathway may become more infrequent.

Outsider, Insider and Versatility Discourse

This study's participants express different types of discourse depending on their pathway and age group. Older pimps (24 to 67 years old) who continued in illicit work in the study expressed an outsider position where 'hustling' constitutes a lifestyle. When asked where he sees himself in five years, Leon, 30, replies, "I am a pimp forever." Some individuals have worked in this arena and other illegal sectors for so long that they cannot even imagine themselves doing licit work. Isaac Taylor, 27, who pimped for 12 years, says, "I never worked before regular. All my life I was just selling drugs, selling ass, and robbing. Robbing and stealing." Even the ones that age-out still identify as pimps. Many of the geriatric pimps sat around the courtyard swapping pimp stories, and many still attended local Player's Balls or events showcasing successful pimps and their sex workers. These descriptions of being street savvy and therefore respected and powerful are aligned with Sandberg's gangster discourse, which reflects oppositional masculinity.

These pimps who regularly use gangster discourse view their positions as high-status, especially in comparison to those working long hours for little return. In their remarks, they suggest that they are empowered by taking control in illicit sectors and through bypassing the degradation and low returns of menial labor. This is evident in their self-characterization of "being the boss," "having an empire," "being respected," and taking the reins in their communities within a capitalist system. Also, they are aligned with Merton's innovator or even Murphy and Robinson's maximizer. They are aligned with the mainstream cultural goal of money-making, but due to their socio-structural positions and the fact that they are barred from conventional opportunities, their masculine performance has more success in the illicit sector.

For those pimps who needed the money for basic survival, Sandberg's oppression discourse is commonly used to justify their histories. These pimps frequently tell of how they have limited opportunities due to their disenfranchisement in licit sectors. The need to survive should not be downplayed as this is a community classified as one of advanced marginalization, but they are justifying their crimes through neutralization techniques, such as denial of

responsibility. Wes discusses pimping for survival by imagining that he might be lacking in the most basic aspects of human needs. Many younger pimps are focused on immediate needs such as paying bills, eating, and basic survival.

I was thinking about what can I do with my life for me to get some kinda money out of it? Cause it's like I don't wanna walk around the streets broke. Cause when I'm hungry I'm a-be starving. When I'm thirsty ... when I need something to drink, I'm a-be thirsty.

Younger pimps also discuss access to education, a topic that older pimps tend to disregard as a possibility. But some younger pimps do feel that college is out of their grasp. Some pimps believe they do not belong in college because of their marginalization, which respondents articulate through oppression and gangster discourse. A team of three pimps speaks frankly about how, for them, some things were unattainable. The team leader states, "We're obviously not gonna be, you know, lawyers or doctors or CIA or anything." But they also say that they are also too badass for that kind of setting. Such remarks are more aligned with gangster discourse. Even though at-risk discourses are prevalent in their accounts, they are optimistic about their idea to "make dreams come true" in the licit sector. They are rap artists who pool all of their money from pimping to record their music. Trio 2:

It's like when we was young coming up we had dreams of doing that, but it's like now how you see reality is like, you know, some dreams can't come true. But it's like that's not gonna stop me from making it come true you know.

Steve, 19, uses oppression discourse to explain his line of work. His reason for pimping is to pay bills; he just moved out of his family home, and he could not otherwise afford to be independent. He uses oppression discourse to clarify why he uses pimping as a creative way to earn and save money, but he wishes to return to school to study business administration. He does not see an impenetrable boundary between himself and college guys.

Just made my ambition higher to get money. That's it. Everybody's life is not planned out for them. So everybody can't go to college, get degrees, and make money. It's not easy. You know what I'm saying? It's not as easy as it looks. It's the right way to go, but it's not as easy living in the hood. You living through poverty. You know. You don't got it. Whatever, you got little sisters making some money and you they need sneakers. Gotta go out and get it one way or another.

Interviewer: Not everybody is doing this though, right?

Nah, nah, everybody do they own thing. Everybody get they own type of money through they own way.

Percy, 21, started pimping at age 14. He calls pimping "straight negativity." But at the same time, he talks about the perks of being his own boss. For Percy, the independence he obtains through pimping provides a means of escaping the confines of menial labor. The traditional institutions of work do not regulate his movements, and no one has the power to fire him. Percy's feelings of control are derived from the fact that, while he is engaged in money-making endeavors (similar to mainstream accounts) along with other members of his

demographic, he has freedoms that other working-class people from his demographic do not. Oppression and gangster discourses are both present in these types of accounts. Many young people talk of initially being limited to low-wage jobs. Rejecting that position, they are now badass. They are bosses who can do as they please. These accounts are about difference, but they still align with American cultural goals of money-making (Merton, 1938).

Percy: I went from being a kid with a lot of positive outlooks to straight negativity. And yes, pimping has done that. But then you gotta look at a pimp's life. Pimp nigger, do what he wanna a do. You clock in when you wanna clock in. You clock out when you wanna clock out. You pay yourself how much you wanna pay yourself. If I wake up 9 o'clock and say I wanna drink liquor, I'm gonna drink liquor. If I wake up and say I wanna smoke, I'm gonna smoke. I'm my own boss.

Interviewer: So you set your own . . .

Percy: I tell myself, I hire and fire myself

The more surprising accounts are from those who describe moving seamlessly between worlds and attempting to master both. Travis discusses always knowing that he could pimp but feeling unsure of his ability to be a college man. He tells the story of how he discovers that he may excel in both arenas, but without a specific aspiration of quitting either. While he sees a boundary between them, he also sees himself as not only being able to glide across it, but also to skillfully be in control in both worlds. This is reflective of a discourse of versatility, where both licit and illicit spheres are navigated.

In the street I hustle, go to school part time. I got to X college. I study, I'm studying communication. Like that right here (pimping), that is a part time job. That thing, lifestyle, I came into that. I already knew I could be that, that's something that I wanted to be (college guy).

Younger pimps' ideas about education and going to college vary. Eleven of the younger pimps (28.2%) believe that education is worth it, and they aspire to complete Associate or Bachelor's degrees, typically in business or communications. Some believe that being credentialed will positively change their futures. Other younger pimps challenge this idea. For example, Reno is quite aware of the enormous debt incurred by his educated counterparts. He feels that social movements at the time of the interview, such as Occupy Wall Street, reflect young people's reluctance to believe in the "American Dream."

So many people are part of that whole Zuccotti Park and the one percent, and I think people from your school and those schools have gone and protested about that, their, you know, their tuition hundred thousand, two hundred thousand dollars in tuition. There's not jobs. And so the American Dream has changed. . . . Don't go to college anymore.

Reno's point about the widening gap between the rich and the poor reflects a sophisticated awareness of important political debates happening at the time of the interviews. A few decades ago, his sentiments might have been considered oppositional, but in this period

some of his ideas became more mainstream on the political left and right. For example, former Secretary of Education and conservative pundit William Bennett echoed Reno when he argued that a four-year higher education was not financially worthwhile or necessary for success.

Furthermore, Reno's sentiment may apply to those in various social strata, not just those experiencing marginalization like his own. In Reno's quote about Occupy Wall Street, his position does not align with the standard oppression discourse, where exclusion is framed through being at risk because of race and other marginalized positions. Instead, he directly references angry college students in the Occupy Wall Street movement, and specifically the protesters in Zuccotti Park on the other end of Manhattan, a socioeconomic world away. The main slogan there was about solidarity among the 99% united against the 1% who hold wealth and power. As such, Reno implicitly aligns himself with the majority of the population.

Some pimps refuse to see the difference between licit and illicit work. They appear to de-emphasize this boundary and instead see sameness between themselves and the mainstream. They view degradation and subordination as inherent in any kind of labor. They argue, moreover, that "pimp" and "ho" are merely imposed labels. For instance, Cyril believes that irrespective of race, many people operate in the pimp-and-ho paradigm, although unlike him and his workers, these other people are being paid only minimum wage.

I would say this not only a black and Spanish thing, and when you put the word pimp, ho, you limit it. You know. Because it's much bigger than the four-letter word. And two-letter word. You know.

Interviewer: That's true.

There's people that's pimping people right here working at this desk, and there's hos that's running to the fax machine back and forth. That ain't never gonna leave that minimum wage bracket that they working for. And at the end of the day they saying damn, I been here for three years and I ain't going nowhere. And the boss is like, you been here for three years and you been doing a good job. Now keep on doing it and you gonna be here for another three.

Some of these younger pimps who seek to maximize and master both worlds seek a version of the American Dream. Jason reports that he has been effectively saving money and attending college, and he has elaborate, if impracticable, plans to master both, resulting in his idea of living an opulent but also sophisticated lifestyle.

Interviewer: In five years what do you see yourself doing?

Jason: I'm trying to be self-employed, man. I wanna own two businesses. And a condo.

Interviewer: You're gonna do all of it?

Jason: That's my goal. Man, I got enough for the store. Right now, I got a couple hundreds, hundred thousand (dollars) stacked up (saved). But for the condo,

man. That's what I wanna get first. I wanna get my main place. I want my own spot. Like I could call mines. Know what I mean? Now me I wanted to be official. I want a piano in my shit type shit, I want like carpets, cashmere carpets. Understand? I want to live good type. You know what I mean. ...So, I'm not gonna quit no time soon. Know what I mean, stack, know what I mean.

Interviewer: You want some nice stuff.

Jason: Half a mill mark, something. You know.

Jason does sound like he has internalized consumerist, mainstream American values like accumulating money and status, but he yearns for an "official" life replete not only with luxury but with symbols of high culture such as a piano and fancy carpets. Although such goals may be grandiose, the details of his fantasies shed light on his values, motives, and interior emotional attachments. His main imaginings are not just about simple financial gain, but also aesthetics and something much more emotionally palpable than the process by which money is earned.

Despite their at-risk statuses, many of these young pimps pride themselves on skillfully navigating both worlds, and, in some cases, while skating over dangerous boundaries without so much as a scratch. More often, these younger pimps seem unbothered by their at-risk status and undeterred by social and cultural barriers. While their talk of economic solvency comes from positions of outsidership based on raced and classed identities, some of these pimps could be considered insiders because they are currently college men, or at least feel they can be included by eventually becoming businessmen in formal markets.

LIMITATIONS

This study is based on the lower echelon pimps who experience advanced marginalization as described by Wacquant (2008). The pathways and the discursive themes that emerged in the findings may not be applicable to pimps in higher strata of the market. Weitzer (2009) discusses how the sex market is segmented based on race, ethnicity, and class. This lower echelon sample of pimps ascribe particular meanings to their work. Their heightened emphasis on money-making may not be evident in accounts by middle to upper echelon actors in the market. Many participants in this sample straddle both markets, which was linked to themes of earning a basic living wage and maximizing, but there are also social and emotional reasons to engage in pimping that might be more common in other echelons. The accounts in this sample do highlight profit over all other motives, which reflects their advanced marginalization. Generalizations based on this sample may not be made to the overall population of pimps, whose backgrounds and contexts vary substantially.

The main demographic difference within this group is age, and variation in this sample was often based on this distinction. However, many of the older pimps in the sample reflected on their early years, and some of their experiences and sentiments were parallel to themes that came up in younger pimps' accounts. The variation in the results by age group could be due to different stages in developmental trajectories. This could only be verified by following the group of younger pimps longitudinally. Some of the younger pimps portrayed themselves as confident

and as able to access to both worlds, but this may reflect of lack of experience in licit worlds and the overconfidence of the young.

DISCUSSION

In this sample, pimps' accounts of their economic pathways from pimping to licit, illicit, or a combination of licit and illicit work are crucial to understanding how they perceive themselves within both economies. As described, there are various reasons for pimping, which range from survival to fantasized or real economic gain. Some pimps' motivations are aligned with mainstream consumerist agendas, including money-making in the all-encompassing economy. For others, this labor is a pathway to attaining higher status. The idea of a higher status connects to aesthetics, ranging from having teenage status symbols such as the hottest sneakers to a home replete with middle- to upper-class items. In this sample, accounts of pimping involve both an economic motivation and the feelings associated with higher status, such as being "badass" at a local level and feeling more independent from socio-structural constraints (in line with oppositional theory). This is similar to other findings about illicit laborers and how they feel outsidership (Anderson, 2000; Bourgois, 2002). In future studies, the feelings associated with success in illicit and licit economies should be explored more in depth.

In this sample, it is evident that these pimps are aware of their presumed outsidership and at-risk status when they talk about their positions in the U.S. economy. Many of the younger pimps describe the actual boundary between illicit and licit activities as quite eroded, in line with Matza's idea of delinquency and drift. While some of the younger men in this study saw boundaries and even barriers between themselves and opportunity, many did not seem to feel that it was as pronounced as depicted in the 'dual-city' hypothesis, where there is an "underworld" that is more distinctly demarcated (physically, mentally, and ideologically). We are not proposing that there are no boundaries, but it is striking that many young pimps did not construct their accounts this way. Alternatively, older pimps who straddled worlds often sought to keep them separate, indicating that they see a bifurcation. Instead of feeling mastery, they expressed a discursive theme of struggling to survive and straddling both worlds more out of necessity.

Many of these older pimps describe feeling like outsiders with subpar possibilities outside of the illicit world, or lowly positions in the licit sector. Due to their age, many discuss already having prior felony convictions that have precluded them from good, licit job opportunities in New York City. Some were educated in prison and used these opportunities to quit pimping. Because some of them were given a free education and attained it in a correctional facility, their accounts are grounded in desistance and reform rhetoric. This style of reform discourse has been reported in studies of ex-offenders who have undergone correctional treatment (Maruna, 2001). Even though many older pimps are more invested in pimping and outsider positions, many of those who quit did so because of the removal of educational or employment barriers. In terms of future generations of lower echelon pimps, some of the current issues facing those identified as felons may change as prisoner reentry strategies change.

The street-based, public pimping that many of the older participants describe is more reflective of outsidership and oppositional crime. In this sample, younger and older pimps disparage "straight" work in menial positions and focus on the hustle and fast-money, showing

subcultural narratives or gangster discourse. However, Matza's requirement of publicness as a criterion for subcultural crime is an important point, as counter-culture without the contrast of the mainstream may have little potency. These younger pimps rarely work in visible neighborhood areas. Based on differences in how the younger and older pimps work, the young may change the outsidership that has historically been a part of pimping. Younger pimps, despite their at-risk status, seem to have several distinct advantages in moving between licit and illicit worlds. Among them are technological savvy and attributes such as versatility that go hand-in-hand not only with being postmodern but with being millennial or Gen Z. They try to make both worlds work for them, and their accounts may portend future trends toward fluidity and mobility between worlds.

Despite age, many pimps in this study express at-risk discourse in line with Sandberg's oppression and gangster discourse, but with mainstream and oppositional orientations, respectively. Sandberg found that non-white, Norwegian drug dealers showed similar interdiscursivity, using both types of discourse in single accounts, which indicates conformity and oppositionality to mainstream culture. Oppression' and 'gangster' discourses are at-risk discourses showing that these pimps are experiencing 'advanced marginalization' (Wacquant, 2008). Some of the younger pimps in this study demonstrate a third type of discourse — one of versatility and even mastery of both the illicit and licit markets. This perceived mastery differs from the Mertonian goals of achieving cultural goals such as money-making, but through illegal channels, because many of these young men also attend college and have plans to remain in the licit and illicit sectors simultaneously. It appears that the actual boundary between illicit and licit activity is not firm. While some of these young men see boundaries and even barriers between themselves and opportunity, many do not seem to feel that this is so pronounced. There are certainly real boundaries, but many do not construct their accounts this way. The actual realities of these men's lives cannot be verified, but one purpose of this study is to understand how they narrate and socially construct these boundaries.

Versatility discourse aligns with Murphy and Robinson's (2008) category of adaptation, where people maximize their opportunities in both illicit and licit worlds. In their conceptualization, maximizers are people who are simultaneously conformists and innovators. They both accept the U.S. cultural goal of money-making, but they simultaneously accept and reject the institutionalized means of making money — that is, they are comfortable generating in both economies. The accounts of pimps who were maximizers did not align singularly with insidership or outsidership. Also, they not only gave accounts of insidership (neutralization) and outsidership (subcultural), but they also used a 'versatility' discourse, which is the ability to be in the dual-city and master that position. Whether these maximizers actually yield higher economic returns or their claims are braggadocio could be tested in future studies to see how their perceptions mesh with reality.

The older pimps who occupied both illicit and licit worlds describe doing so primarily to make a basic living wage. A common theme in their accounts is that their prospects in the licit markets were so poor that they supplemented this through illicit work, including other hustles. They are maximizers, but only in the sense that they are maximizing within the boundaries that are possible for them. Their discussions of being in both worlds were not empowered or centered on versatility, but mostly reflected the inability to make a basic living wage in only one market.

For future research, younger pimps should be followed longitudinally to determine if their accounts of insiderness, outsidership or versatility change over time. With more interactions in both the licit and illicit economies as they age, their perspectives may change. Younger pimps may find more barriers in the licit sector, or they may quit pimping for more conventional activities. More time spent in a profession such as pimping may solidify identification with a criminal lifestyle and increase outsider accounts. Also, understanding the trajectory of pimping over the life-course may yield important information about how pimps traverse, straddle or manage work in both economies, and how these changes affect their attitudes about the mainstream and foster different discursivities at various developmental ages.

The experiences and related discourse of both younger and older pimps in this study may be applied to desistance models tailored to those pimps with similar backgrounds. Many states require that those convicted of domestic sex trafficking or modern-day pimping join the sex offender registry, and some require sex offender treatment (Williamson & Marcus, 2017). Understanding how typical lower-echelon pimps interface with the economy, their motivations for getting into the work and their orientations to cultural values would help us understand their diverse motives and allow treatment providers to tailor more effective corrective interventions for this population. As of 2010, more than 60% of those prosecuted for domestic sex trafficking in the U.S. were African-American males (Banks and Kyckelhahn, 2011), so those with convictions may have similar demographics as the pimps in this sample. However, there are many distinct types of pimps and domestic sex traffickers, so this kind of discursive analysis should be tested on different types of pimps in different contexts.

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HEARING ON THE DEAF PENALTY: THE INTERSECTION OF DEAFNESS AND CRIMINAL JUSTICE

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Abstract

The Deaf population in America's criminal justice system is far under-acknowledged, researched, and accommodated. Each year, gross negligence toward Deaf individuals results in exponentially costly lawsuits regarding violations of their constitutional and Americans with Disabilities Act (ADA) rights. The purpose of this study is to empirically identify the current deficits experienced by the Deaf within the criminal justice system through 18 qualitative interviews with two sub-populations: Deaf individuals who have directly interacted with the criminal justice system and professionals who witness the interaction of the Deaf within the criminal justice system. Results from the qualitative investigation revealed that the top three problems in the system were: 1) the lack of qualified, reliable interpreters; 2) the lack of communication accommodations available in prisons and jails; and 3) the lack of accommodative resources. The results suggest a disconnect between the professionals who serve the Deaf in the system and the Deaf themselves, which limits the potential benefit of those professionals to aid the population. The research implications of this investigation are presented.

Keywords: deaf offenders; professionals assisting the deaf; deaf accommodations, deaf inmates

INTRODUCTION

The criminal justice system was created to provide protection and justice to the citizens of America. Yet, this is not the case for many in U.S. society—particularly those with disabilities. While much research has been put forth on the intellectual disabilities of offenders (see Davis, 2009; Petersilia, 2000), less is known about offenders with physical disabilities such as deafness. For instance, Felix, a Deaf man, was convicted in 1981, at a mere age 19, to a life sentence for first-degree murder and armed robbery (Ridgeway, 2012). Born hearing, Felix lost his ability to hear as a child, and at trial in 1983, a doctor diagnosed Felix with severe hearing loss. In 2010, at age 48, he was raped in prison (Ridgeway, 2012). Unable to communicate with the guards, he felt he had no personal safety. He spent every night for weeks crouched in the back of his cell with his face plastered against the concrete, helplessly hoping that he would feel a vibration should someone be on their way to once again victimize him. To this day, he claims

¹ The authors would like to thank Courtney Erickson for her kind assistance in the early stages of this research design

his innocence and even reports that he had a solid alibi for the time of the crime (Ridgeway, 2012). In the courtroom, he was provided a loudspeaker, a moot point to accommodate his deafness. Due to a lack of understanding of the judicial system, his plea for a habeas petition was twelve years too late. The isolation of prison proved to be a traumatizing experience for Felix, and similar trauma still manifests for d/Deaf individuals housed in correctional facilities today (Green, 2014). Despite the expectation that d/Deaf people are afforded rights in the criminal justice system, d/Deaf individuals with all levels of hearing loss continue to face the rejection of basic rights, such as due process, education, and personal safety, due to their disability (Gardner, 1985; Grossman, 2015; Miller, 2001; Smith, 1994; Tucker, 2008; Vernon 2009; Vernon 2010).

The injustice is misunderstood as many do not realize that disability prevalence is substantially higher among America's incarcerated population versus the non-institutionalized adult population (Reingle et al., 2016). Inmates with disabilities face enhanced risks of illness and injury while incarcerated and increased risk of recidivism (Griefinger, 2006). For example, in a 2016 study, out of over 18,000 inmates, 41% of inmates self-reported disabilities. Among those inmates, 31% endorsed specific learning disabilities, 25% reported vision deficits, and 17% reported hearing difficulties (Reingle et al., 2016).

While 17% was the estimate indicated above, the number of d/Deaf or Hard-of-Hearing inmates in the United States is difficult to appraise. This is due, in part, to the fact that deafness is not reliably reported during institutional intake processes (Duvall, 2004; Grossman, 2015; Miller et al., 2005). It is estimated that approximately 30% of America's offenders fall under the spectrums of d/Deaf or Hard of Hearing (Miller, 2002). "Deafness" can range from the profound inability to hear any sound levels to different levels of Hard-of-Hearing. Typically, deafness is measured by the level of sound pressure, or decibels (dB). A hearing loss of more than 81 dB is considered a profound hearing loss/deaf, and a hearing loss of more than 40 dB is considered a hearing impairment (PubMed Health, 2017). An important distinction within deafness and the Deaf community is cultural identity. An individual who suffers from hearing loss but identifies with hearing culture is considered linguistically deaf and is grammatically identified as "deaf" with a lower-case "d." However, individuals who are immersed in the culture and community of American Sign Language identify as culturally Deaf and are grammatically identified with an upper-case "D."² Even with nearly one-third of the inmate population requiring accommodations for their hearing loss, their needs go unmet, and they face the denial of basic human rights (Duvall, 2004). This specific population within America's justice system is under-researched and, as a result, faces undue discrimination through interactions with police, courts, and corrections (Miller et al., 2005). Without adequate cultural awareness, the conditions of the Deaf people in the system will remain unchanged (Vernon & Miller, 2005).

The research on the experiences of the d/Deaf in the criminal justice system is extremely scant and limited (see Kelly 2017; 2018). This purpose of this study is to begin to fill the void in literature regarding the contemporary deficits the d/Deaf community experiences within the criminal justice system. In addition, the purpose of this study is to provide empirically-supported implications for the future research needs of this population. Through interviews of d/Deaf

² By the capitalization of the "D," Deaf individuals identify themselves as members of the Deaf community and facilitators of Deaf culture. Deaf culture has a unique set of traditions, arts, social practices, and values that are unique to the Deaf community. Those who are Deaf do not view Deafness as a disability and are strong proponents of Deaf pride.

individuals and professionals that work with Deaf individuals in the criminal justice system, this study will provide both an exploration and an examination of the problems that individuals who are linguistically and culturally d/Deaf face during their interactions within the justice system. The results and implications of this study are relevant to both those who are linguistically and culturally d/Deaf. For clarity purposes, the population will be referred to henceforth as "Deaf" out of respect for the community, however, it should be understood to encompass both "deaf" and "Deaf" individuals. Further, the study aims to illuminate the most critical deficits the Deaf community is currently experiencing and direct future research implications to the gravest needs of the community—a step that previous researchers have not taken.

LITERATURE REVIEW

The review of the literature encompasses the necessary elements to understand the emergence of the problems Deaf individuals face in the justice system today, including explanations of Deafness and Deaf Culture. Beyond, it also reviews the implications of the protective legislature for Deaf individuals within the criminal justice system.

Definition and Prevalence of Deafness

There are approximately one million Deaf and eight million Hard-of-Hearing individuals in the United States (Mitchell, 2006). This includes a population of individuals who self-identify as Deaf by utilizing American Sign Language as their primary language and view themselves as a minority population with a unique set of values, traditions, and culture (Padden & Humphries, 2005). The capitalization of the "D" in Deaf signifies an alliance within the Deaf community, which has emerged with the use of signed languages throughout America's history (Lewis, 2015). The word "deaf" with no capitalization signifies the biological inability to hear and the inability to rely on hearing to process information (Lewis, 2015). Also along the hearing loss spectrum is "Hard-of-Hearing," which refers to the segment of the population with moderate hearing loss and who typically grow up oral (Lewis, 2015). Thus, the spectrum of being deaf varies from profound hearing loss, Hard-of-Hearing, or acute hearing loss. The politically correct way refer to an individual within this population is either "Deaf" or "Hard-of-Hearing," as "hearing impaired" is no longer culturally accepted and often viewed as offensive.

The Deaf community differs from the hearing population; their mannerisms; their slang; their close connection with the members of the Deaf community; and their strong sense of pride for their culture are vastly different (Miller, 2002). In the United States, the most common form of communication for the Deaf is American Sign Language, a non-universal language completely separate from the linguistics of spoken English (Duvall, 2004). Signed languages were not recognized as official languages until 1960 when William Stokoe utilized the empirical tools of descriptive linguistics to determine signed communication had the scientific capacity to be its own legitimate language (Stokoe, 1960). The emergence of the American Deaf Community occurred in the early-to-mid nineteenth century along with the establishment of Deaf residential schools (Burch, 2000). Due to the historical oppression of sign language, the culture of Deaf individuals arose into a tight-knit community where members allied to preserve the language, socialize in their natural language, and, in turn, promote cultural identity (Burch, 2000). Today, there is a united Deaf community within America who use American Sign Language as their primary language (Humphries & Padden, 2005). American Sign Language (ASL) is recognized as its own distinct language (Burch, 2000). American Sign Language is not

universal and differs from other regional sign languages, such as Kenyon Sign Language (KSL) or British Sign Language (BSL).

Legislation/ADA/ Rehabilitation Act

Legislation passed in American history to secure rights for individuals with disabilities, including the Deaf community. To combat the challenges individuals with Disabilities experienced in the United States, the *Rehabilitation Act* of 1973 was passed (Goldberg, 1980). This Act is referred to as the “Bill of Rights” for citizens with disabilities (Goldberg, 1980). The *Rehabilitation Act* (1973) is broken down into four key sections, 501 – 504. The first section requires affirmative action to hire, train, and promote their disabled employees. Section 502 requires all federally funded buildings to provide accessibility to all facilities for disabled individuals. The third section extends affirmative action past the federal government to any entity in which the government provides \$2,500 or more through federal contracts. The fourth and most comprehensive section prohibits any discrimination of disabled persons by entities that receive federal funding. These include hospitals, educational establishments, social service agencies, jails, prisons, probation/parole offices, and courthouses. In terms of the criminal justice system, this would extend the mandated non-discrimination to federally funded entities including jails, prisons, intermediate sanctions, and courthouses (1973).

To fill the voids left by the broad *Rehabilitation Act*, the *Americans with Disabilities Act* (ADA) was established in 1990. The ADA prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, state and local government services, public accommodations, commercial facilities, and transportation. Furthermore, the ADA extended anti-discrimination in titles concerning employment, public services, public accommodation, privately operated services, and telecommunication relay services. An example of the ADA’s extension on the Rehabilitation Act is the revision of section 504. Whereas before institutions were only obligated to provide accommodations if they were federally funded, the ADA extended the act to encompass all institutions regardless of funding. Though the ADA provides landmark representation for those with disabilities, there is often a crux utilized by agencies who are in non-compliance; agencies are not required to provide services if it changes the nature of the service or constitutes an undue financial burden (Glick, 1998).

ADA and the Deaf Community

Without question, the ADA impacted the lives of those with disabilities, including the lives of those who are Deaf. It is important to note that even while the members of the culturally Deaf community do not identify as disabled, they are still granted rights and protections within the ADA. Each of the titles under the ADA impacts the Deaf community: Title I requires equal opportunity employment from both private and public employers. This title impacts the Deaf community by requiring employers to provide reasonable accommodations to the employees ranging from auxiliary aids to interpreters. Title II requires full accessibility to those with disability for any local government programs and services. For the Deaf community, this will be represented through items of accessibility that encourage participation. Furthermore, Title II of the ADA defines “qualified interpreter” to mean “an interpreter who is able to interpret effectively, accurately, and impartially both expressively and receptively, using any necessary specialized vocabulary” (28 C.F.R. § 35.104). Next, under Title III, the ADA mandates that all public accommodations benefit the disabled community equally to the non-disabled. For the Deaf, public accommodations might include places of recreation, places of lodging, and post-

secondary educational settings. Lastly, title IV of the ADA requires the twenty-four-hour availability of relay services from all telephone companies. This greatly impacted the Deaf community by ensuring 24/7 manner of communication to hearing and Deaf contacts alike (Tucker, 1997). Moreover, a poignant right included in the ADA for the Deaf community is the mandatory provision of accessibility tools. There are many accommodative resources available for the Deaf, and the individual circumstances of Deaf citizens must be evaluated to determine which tool is the best fit.

One form of accommodations that must be provided is adequate alarm systems synced with building alarm systems to alert Deaf individuals to emergencies (Glick, 1998). These systems come in the form of blinking light alarms as well as vibratory systems. There is also a system called WAVE that transmits both sound and visual messages on LED (light-emitting diode) panels that can be seen across far distances. The images displayed by WAVE communication can emit sign language images if required (Glick, 1998). A third technological resource for the Deaf is real-time captioning devices. It is a text display using the tools of a court-reporter, stenographer, and a computer. It translates the recorded speaker's words into written text in real-time. For those individuals who fall into the Hard-of-Hearing category, there are assistive listening devices that may provide adequate accommodation. Specifically, assistive listening systems allow the Hard-of-Hearing individual to hear and comprehend speech by eliminating the interference of room noise and distance (Glick, 1998). This occurs by a sound system set up by a technician that allows the speaker to talk into a microphone and the Hard-of-Hearing individual to wear a receiver and headset that then enhances the sound of the speaker's voice.

As far as telephone communication, the dated version is known as a teletypewriter (TTY). This device is a telephone with a keyboard on it that allows the Deaf individual to send writing back and forth to another TTY. If the desired party to contact does not have a TTY, they will be routed through a relay service where a third person is mediating the conversation between the parties (Glick, 1998; Mozzer-Mather, 2002). The modern version of the TTY is known as the videophone (VP). These devices allow Deaf individuals to contact one another through face-to-face video calls in which they can utilize sign language. It works through connection with high-speed internet. Similar to the TTY, if the desired party to contact does not own a VP, the call will be routed through a video relay service interpreter.

The Federal Communications Commission (FCC) published via their website a guide to their *Twenty-First Century Communications and Video Accessibility Act* (CVAA) signed in October 2010 by President Obama. The CVAA ensures that the dated legislation established in the 1980s-1990s is updated to require new technologies. This would include text messaging, e-mail, and video communications (Federal Communications Commission, 2010). Though there are many technological options, the preferred accommodation for the Deaf population is certified interpreters. Technology is seen as providing two-dimensional help, while the interpreter in the room can provide a three-dimensional understanding of the situation. There are traditional interpreters who can be qualified in different capacities. For example, there is a national certification, local state training programs, and the specialized certification: legal (SC:L) (NAJIT, 2015). As of 2009, there were a total of 229 registered interpreters with their legal certification (Washington Courts, 2009). Alternately, there are also certified Deaf interpreters (CDI), Deaf people who undergo formal training in ASL, interpreting, and legal proceedings in

order to act as a liaison between the Deaf client and the hearing interpreter, primarily in a legal setting.

ADA and the Deaf Community within the Criminal Justice System

Members of the Deaf community who come into contact with the Criminal Justice system particularly benefit from the protections granted within the ADA (Miller, 2002). The ADA and its accommodations extend to each facet of the criminal justice system, including police, courts, and corrections. To begin, the U.S. Department of Justice regulations require specific law enforcement training regarding Deafness; there are inter-agency training opportunities to spread officer awareness to individuals with disabilities, including those who are Deaf. In the 1998 Supreme Court case *Pennsylvania Department of Corrections v. Yeskey*, it was decided that Title II also extends to local and state law enforcement agencies to mandate non-discrimination from any public entity.

To ensure non-discrimination, law enforcement is supposed to provide qualified interpreters as long as doing so does not infringe upon the immediate safety needs of the situation (McEntee, 1995). It is up to the agency to determine and provide the best mode of communication for the person's individual needs, whether it be a form of sign-language or hearing amplification device. If the Deaf person is arrested, the Miranda warning should be printed in a manner approved by the agency and presented to the individual (McEntee, 1995). Most importantly, that same form should also advise the arrestee that the agency has an obligation by the federal government to provide an interpreter, and interrogation will cease until one arrives (U.S. Department of Justice, 1980).

While the printed legislation of the Miranda warning is an attempt to ensure due process, it has been recognized by several states that Deaf criminal suspects require an interpreter to comprehend the contents (Wood, 1984). In fact, providing a written Miranda Warning is not the ideal manner of communication and does not ensure comprehension. Having an interpreter present provides an increased likelihood for full and effective understanding of rights, the nature of the accusations, and the opportunity to provide their own statements for police records (Wood, 1984). And finally, accommodation occurs within the act of handcuffing a suspect depending on the officer's discretion. Because the Deaf population uses their hands to communicate, barring that capability for the Deaf suspects, while the hearing suspects have communication capabilities, seems unjust.

Within policing, a common violation of rights stems from the lack of knowledge of both protocol and available resources. For instance, there was a case in 2014 in Washington State in which a Deaf woman was wrongfully detained and tased because the police assumed she was the attacker in the domestic dispute (Knicey, 2014). In 2012, Minnesota paid a \$229,500 lawsuit due to a Deaf man who was not provided means of effective communication with a police officer during a routine traffic stop. When the man attempted to use his hand to write and communicate, the officer pepper sprayed him in the face and took him into custody (Prison Legal News, 2012). In 2007, a Connecticut police department settled a \$50,000 excessive use of force claim against a Deaf couple who were unjustly pepper sprayed (Prison Legal News, 2009).³

³ Level of hearing loss and relationship to the Deaf community were not provided in the articles.

Secondly, the ADA impacts the court system. Title II, requiring the government entities to make their programs accessible to the Deaf population, is often represented in courtroom parties when a Deaf person has a courtroom role such as witness, defendant, or juror. In the past, the U.S. has faced challenges ensuring these accommodations in an expedited manner, and in turn, has battled providing due process rights for Deaf citizens (McAlister, 1994). In an attempt to combat this, the federal *Bilingual, Hearing, and Speech Impaired Court Interpreter Act* (1979) requires qualified interpreters in any civil or criminal proceeding initiated by the federal court in which a Deaf person must participate (McEntee, 1995). As a result, the courts are the responsible party concerning the provision of language access and interpreters (Miller & Vernon, 2001).

Even with the Act's passage in 1979, only four states provided sign language services for Deaf clients in the next several years that followed (Wood, 1984). A reason for the lack of accommodation could be the challenge of locating qualified interpreters. Out of the approximately 3,200 certified interpreters in the United States, only a minute fraction of these possess legal specialist certifications. In 2003, a Deaf defendant received a \$175,000 settlement in New Jersey as the court failed to provide an interpreter (Prison Legal News, 2005). Moreover, one of the largest inadequacies in due process rights of Deaf defendants is the right to a speedy trial (Miller & Vernon, 2001). This delay can be explained by the lack of interpreter availability, but also by the inability of the courts to understand the linguistic diversity that encompasses sign language, and in some instances, can delay trials years at a time (Miller & Vernon, 2001).

Beyond the court system, correctional institutions often face costly lawsuits from Deaf offenders (Lewis, 2015). The definition of the word "Deaf" within the correctional setting encompasses individuals who have severe-to-profound hearing loss, are unable to understand speech, and the comprehension of speech is not altered upon engagement of amplification devices. It is estimated that 30% of offenders can be classified as "Deaf" or "Hard-of-Hearing" (Miller, 2002). To compensate for this significant portion of the population, the Architectural and Transportation Barriers Compliance Board (1994) ordered that any new or altered correctional facilities must have a minimum of 3% of all cells accessible to Deaf or Hard-of-Hearing inmates (ADA Accessibility Guidelines, 1994).

The non-profit organization, *Helping Educate to Advance the Rights of the Deaf* (HEARD), is the only entity that records the number of Deaf individuals within correctional settings.⁴ They estimate that there are tens-of-thousands, possibly hundreds-of-thousands, of inmates with hearing loss nationwide (Lewis, 2014). The vast disparity in numbers is due to the variability in reporting, and because only six states actively log their Deaf inmates (Grossman, 2015). Because of the drastic under-reporting, it is difficult to obtain data on the accommodations provided to the incarcerated Deaf across the nation. However, Miller (2002) published a study including information on accommodations available in correctional settings. For instance, Miller (2002) explained the usage of vibrating alarms, TTY equipment, amplification devices, and television captioning for this population. More specifically, the researcher noted the "buddy system," or the grouping offenders with similar needs. This is controversial because hearing status does not ensure personality compatibility.

⁴ HEARD receives their data from prisoners or prisoner representatives in the form of a self-report style survey. This survey contains questions regarding prisoner demographics, linguistic capabilities, preferred methods of communications, and questions about their correctional facility. This survey can be found on the HEARD website or by following [https://www.dropbox.com/s/5sld70hyntyvvdj/Prisoner%20Survey%20Final%20\(01.23.14\).pdf?dl=0](https://www.dropbox.com/s/5sld70hyntyvvdj/Prisoner%20Survey%20Final%20(01.23.14).pdf?dl=0)

It is important to note that, even though there are accommodations available to the Deaf population, they are not uniformly provided. Kelly (2017) completed 27 semi-structured interviews with Deaf and Hard-of-Hearing inmates as well as correctional staff in England spanning across seven male prisons from 2014-2015 and observed resource denial when a Deaf inmate “was not allowed” over the ear headphones despite his inability to wear earbuds due to being born without ears. In a separate interview, another Deaf inmate was not granted a vibrating alarm clock due to it being an “unauthorized item” (Kelly, 2017, p. 8). Lastly, identification tools, such as location monitoring devices and identification tags, have also been noted. Even so, the goal is to increase professional and officer awareness of the Deaf inmates which is not currently present in the correctional system.

If the professionals working within the system are not aware of the culture, Deaf individuals can, as put by a federal judge, be sentenced to “a prison inside a prison” (Grossman, 2015, p. 16). The Kelly (2018) study revealed that the experiences of Deaf inmates vary depending on their cultural identity while in prison. Regardless, both culturally identified and linguistically d/Deaf individuals experience the pains of imprisonment more severely than their hearing counterparts (Kelly, 2018).

Further, Deaf individuals arrive with a different cultural background, and an inability to communicate in spoken English, which gives rise to unique circumstances within correctional settings (Lewis, 2015). For instance, within this subpopulation, it is estimated that the average Deaf inmate reads at a third-grade level. This would qualify as functional illiteracy, which would ameliorate the benefit of written forms of communication and the written presentations of Miranda rights. Within the correctional setting, inmates are often presented forms, such as permission for a polygraph or DNA tests. These forms require the reading comprehension of at least sixth-grade, and some instances twelfth-grade, levels (Vernon & Miller, 2005). Also to be considered, Deaf and Hard-of-Hearing inmates originate from a different cultural identity, therefore they may not integrate with the social norms of a prison society. One example provided is the Deaf community’s propensity to have very open communication amongst themselves, which in prison may earn the label “snitch” (Miller, 2002). The Deaf inmate population also runs the risk of being labeled a “rat” due to their need to require special attention from staff to provide accommodations to their activities (Schneider & Sales, 2004). Also extending from the community of origin, it is estimated that the number of Deaf inmates who are mentally ill surpass their hearing counterparts (Andrews, Leigh, & Weiner, 2004). The explanation for this, though under-researched in this specific sub-population, is that the causes of Deafness are often associated with causes of mental illness, such as scarlet fever and head injuries (Andrews, Leigh, & Weiner, 2004).

Aside from the cultural differences for Deaf inmates, the communication barrier is another unique struggle within the prison that gives rise to many other concerns. Schneider and Sales (2004) investigated the potential for Deaf offender abuse and pinpointed two major areas of concern due to communication barriers: the inability to participate in prison programs and the potential for emotional and physical abuse. The lack of communication capabilities results in denial of work opportunities and a significant unlikelihood of achieving social contact (2004). Because of this, the Deaf are often at risk of emotional harm because they are now isolated from their cultural identity and community (Schneider & Sales, 2004). Suicide and other mental illnesses are catalyzed through this isolation (Lewis, 2015). In an attempt to thwart social isolation, prisons offer programs to rehabilitate offenders. Though protected under the ADA, the

participation in rehabilitative programs, such as substance abuse counseling and religious services, may be restricted for use by the Deaf due to the inability to communicate via English and lack of an interpreter (Schneider & Sales, 2004). Furthermore, Deaf offenders are also at risk of a higher likelihood of physical abuse due to their inability to rely on all five senses for protection (Schneider & Sales, 2004). Also, they may experience more physical confrontations due to the added difficulty in perceiving intentions of other inmates as well as diffusing aggressive situations, both of which are attributed to the communication barrier (*Clarkson v. Coughlin*, 1992). Communication to the outside world is also problematic as a phone call to loved ones using a relay service is four times as expensive as a normal phone call (Lewis, 2014). Lewis (2014) noted that Deaf incarcerated offenders should have access to videophones, captioned telephones, or TTYs.

The concept of Deafness and criminal justice is largely under-investigated. Currently, there are dismal empirical data composed of first-hand narratives of the Deaf community's experiences in today's system. This research aims to begin to bridge the interagency gaps and highlight the areas in direst need of research. Specifically, this study aims to answer the following two questions: (1) What are the greatest deficits the Deaf are facing in today's criminal justice system? (2) What do professionals working with Deaf feel are the most imminent needs to combat said deficits?

METHOD

This research investigation adds to the scant existing literature by exploring the current challenges the Deaf community faces when interacting with the criminal justice system. Additionally, it extends prior research by illuminating possible solutions to those problems presented by professionals working with the Deaf community. Adhering to the eight "big-tent" criteria (e.g., worthy topic, sincerity, rich rigor, credibility, ethical, significant contribution) as noted by Tracy (2010) for quality qualitative research, this research investigation utilized semi-structured interviews with Deaf community members and professionals working with Deaf community members to address the gaps in the literature.

Procedure

Prior to the conduction of interviews, Institutional Review Board (IRB) approval was first sought from Seattle University. There were several ethical considerations to address regarding the research population. First, as the Deaf community is innately small, and the Deaf who have criminal histories results in an even more limited population, confidentiality of the participants was a poignant ethical issue. To ensure participant confidentiality, names were coded as pseudonyms, and no characteristics that could be utilized to deduce the identity of the participants are reported. In addition, the topic of prior experiences in the correctional system could be emotionally triggering; thus the primary researcher contacted several Deaf advocates who agreed to direct the participants to resources in their respective areas.

In addition, an element of professional rapport was established to promote participant comfort in discussing the potential triggering information. Rapport was obtained in two ways. First, rapport was present between the researcher and select participants due to the manner of sampling in this study. As the participants were referred to the researcher through a mutual party, the researcher was able to use this as a tool to build rapport. Secondly, rapport was secured due to the fact that the primary researcher could communicate in American Sign Language and is

involved in the Deaf community. Thus, this common link between the researcher and the participants also assisted in the cultivation of professional rapport, as the Deaf community is innately tight-knit and participants respected the researcher's goals to aid the community with the results of this study.

Finally, the ethical consideration of informed consent arose as linguistic capabilities of the Deaf population are diverse and, thus, written informed consent may not have been sufficient. To combat this, the researcher presented a signed informed consent at the beginning of each interview with a Deaf individual to ensure the participants fully understood their role in the research investigation as well as the risks and benefits of their participation. Once approved by the IRB, the investigator began sample recruitment. There are two subpopulations within this study, one composed of Deaf individuals who have directly interacted with the justice system, and the second composed of professionals within the field who have first-hand witnessed the Deaf community interact with the system.

To recruit the Deaf who have experienced interactions within the justice system, social media was used. The investigator created a new Facebook page devoted to the study, and within it, created a page called The Deaf Penalty 2016. Utilizing that page, the investigator then uploaded a video of her signing, (in American Sign Language), a recruitment request. Following such, the investigator implemented Facebook's advertising advancement option, paying \$15.00 to advertise on Facebook⁵ soliciting participants between the ages of 18-99. The keywords "Deaf," "Deaf community," "American Sign Language," "Deaf rights," "ASL interpreter," and "Deaf education" were chosen to assist Facebook in the targeted placement of the ad. The video was then uploaded onto the web page, and the participants would private message the account to set up an interview. Altogether, the video was watched 11,429 times and was "acted" upon, such as shared, commented, or liked 5,289 times.

Sample

It is important to acknowledge that one-in-twenty people in America are Deaf or Hard-of-Hearing, meaning the sample size of this study is automatically restricted (Mitchell, 2006). Members of the Deaf community who have personal experience within the criminal justice system narrow the possible sample even further. That being said, to collect enough data to achieve saturation for both of the subgroups, the sample had to consist of individuals located in multiple states in order to recruit a sufficient number of participants (Fusch & Ness, 2015). The sample consists of individuals who were located within seven different states: Washington, Oregon, Wyoming, Pennsylvania, California, Florida, and Indiana. Oral informed consents were presented before each interview with a hearing participant and signed informed consents were presented for the Deaf participants. The sample population of individuals consisted of 18 individuals, nine Deaf individuals with direct interactions within the criminal justice system and

⁵ While the Facebook ad service does not provide extremely detailed demographic information, the following is available: The post reached 10,766 people in total, 48.3% women and 51.7% men. The most women who this post reached were in the 18-24 age range (12%). The most men who this post reached were in the 25-35 age range (16%). Facebook's ad system promotes the ad by placing the ad in the Facebook feed of consumers who fit the target demographic in terms of age, country, and interests.

nine professionals in the field of criminal justice who have first-hand experience with the sub-population in the context of the criminal justice system.

Subgroup A. The subgroup composed of Deaf individuals who had direct interaction with the system consisted of six males and three females. The ages of the participants ranged from 26-63 with an average age of 33 years old. All members of this group identified as culturally and linguistically Deaf. Members of the Deaf subgroup had interacted with the justice system in multiple facets including jail (1); prison (3); house arrest (1); court (9); arrest (3); juvenile detention (1); and parole (2). For those individuals who have experienced incarceration or arrest, their alleged offenses were assault and battery (1), rape (2), molestation of a child (2), driving under the influence (1), and kidnapping (1). One individual did not know the name of his offense but stated: "you can find my name under Megan's Law." In regard to communication, only a single participant had parents who could communicate via American Sign Language. Six of the participants grew up with ASL as their primary mode of communication, and three grew up in an oral or English program.

Subgroup B. The recruitment of the professional sample occurred primarily through snowball-sampling⁶. Through professional networking in the primary researcher's Deaf community, she was directed towards the first three individuals to interview. These individuals then provided the name of other professionals they would recommend as providing an expert opinion on the experience of the Deaf within the criminal justice system. Furthermore, in the second subgroup, the researchers aimed to have professionals in all facets of the criminal justice system represented. For the professionals, there were a total of four males and five females all working for agencies within the Pacific Northwest.⁷ Due to confidentiality, the titles and ages of those will possess a certain degree of ambiguity. The ages of these nine individuals were as follows: one person in their thirties, four people in their forties, three people in their fifties, and one person in their sixties. The sample was composed of four professionals who held titles representative of expertise in either state or local ADA compliance within the criminal justice system, one Deaf attorney, one Deaf advocate representative, one representative from law enforcement, one certified American Sign Language interpreter, and one certified Deaf interpreter (CDI). Additionally, for the professional subgroup, the locations where the individuals witnessed the interaction of the Deaf within the criminal justice system were acknowledged as: court (5), police interrogation (1), probationary meetings (1), arrest (2), Deaf client/attorney interactions (2), jail (6), and prison (4).

Subgroup B was included in this study to fill the void in the extant literature on professional perspectives and opinions regarding the experiences of the Deaf in the criminal justice system as well as gauge their knowledge and needs of the population. To the researchers' knowledge, this design supplementing the narratives of the Deaf with first-hand professional experiences is the first study of its kind.

⁶ Snowball sampling occurs when you recruit one individual of a subpopulation for participation and ask him/her to identify others in the population who may wish to participate in the study. This is particularly useful when working with hard-to-reach or hard-to-identify populations, such as the community included in this study (Bachman & Schutt, 2011).

⁷ Exact state not included to protect participant confidentiality.

Interview Schedule for Subgroup A

The conduction of the interviews for subgroup A occurred via two modes: Video-Phone (VP) interviews and Video Relay Services (VRS), and were not recorded. The VP interviews were conducted within a private office at an academic institution between the primary investigator and the participant via American Sign Language (ASL), and the VRS interviews were conducted from the primary investigator's home via telephone in a designated room with no other individuals present in order to preserve confidentiality.

The semi-structured interviews for the Deaf who experienced the criminal justice system was composed of two segments: (1) demographic information about themselves and (2) their personal experiences within the system. The first segment inquired their relationship with the Deaf community, their primary language of communication, their family genealogy of Deafness, if their family can communicate with them via sign language, and their educational background.

For the "experiences" segment, questions were geared toward recounting their experiences within the system and then based on those experiences, opining on the treatment of the Deaf population within the criminal justice system. To reveal their relationship with the justice system, the following questions were asked: "In what capacities have you interacted within the criminal justice system?;" "If any, what were your convictions?;" "Please recount the day of the crime?;" "Please recount your experience within the court system?;" and "Please recount your experience within the correctional system, whether that be incarceration, intermediate sanctions, or treatment." To examine awareness within the justice system, two questions were asked: "Please share any Deaf-friendly accommodations you have seen and/or are aware of?;" and "If you felt yourself or another Deaf individual were inadequately treated, how would you report such?;"

Further, to illuminate the treatment of the Deaf within the justice system, and gauge where future avenues of research need to take place, several questions were asked as follows: "What are the top three problems you have seen the Deaf community face within the criminal justice system?;" "Why do you think the number one answer is such a pertinent issue?;" "What solution would you recommend?;" "As a whole, do you view the collective treatment of the Deaf in the criminal justice system as improving? Why or why not?;" and "Is there any specific question or concern that you would like to see investigated in the future?;"

Interview Schedule for Subgroup B

Interviews for this subgroup were conducted via a telephone call, VRS, or in-person and were not recorded. All in-person interviews were conducted one-on-one in a closed office to ensure confidentiality. All telephone interviews were conducted in private settings at the researcher's home. The interviews followed a distinct semi-structured interview schedule and were also asked demographic and experience-related questions. Their demographic questions illuminated their relationship within the Deaf community and their educational background. Their experience questions were also divided into two themes, their recount of the experiences they witness regarding of the Deaf within the system and, being catalyzed by those experiences, their assessment of the experiences of the Deaf within the system. Their experiences were expressed when answering using three questions: "What locations have you witnessed the interaction of the Deaf in the criminal justice system?;" "What have your experiences been in

regards to the adequacy of their treatment? (1-10, ten being perfectly accommodated),” and “Please share any Deaf-friendly accommodations you have seen or are aware of.”

Finally, to determine their professional opinion regarding the treatment of the Deaf within the justice system, and gauge where future avenues of research need to take place, a theme of three questions were asked: “What are the top three problems you have seen the Deaf community face within the criminal justice system? Why do you think the number one answer is such a pertinent issue? What solution would you recommend?;” “As a whole, do you view the collective treatment of the Deaf in the criminal justice system as improving? Why or why not?;” and “Is there any specific question or concern that you would like to see investigated in the future?”.

Analysis

The 18 interviews provided the data for this qualitative investigation. Each interview was at least one hour in length, utilizing a semi-structured form that inquired about personal history, experiences with the justice system, adequacy regarding the treatment of the Deaf, and the most significant deficits the population are experiencing today. The answers to the questions for each interview were recorded by hand by the primary researcher onto a semi-structured interview form and content was coded using qualitative data analyses best practices techniques (see Saldaña, 2009). Each interview was then reviewed line by line and codes were assigned to content also by hand. The primary investigator went through each interview twice to make sure all content was coded correctly and to ensure no data were missed. To aid in this process, the investigator highlighted content and affixed post-it-notes on pages organizing the codes into a readable and summarized format. As the sample size for this study is relatively small, the investigator was able to recognize the themes and trends within the interviews based on the generalized coding without the need of advanced qualitative analytic software. Experiences and deficits were coded as they appeared within the interviews, for example, "lack of interpreter present," "arrest," "court hearing with interpreter," "court hearing without interpreter," "incarcerated," "accommodations provided," and "accommodations not provided." After the re-reviewing the content, the investigator tabulated the frequency of the codes as they emerged in the data to distinguish the top three issues as experienced by the Deaf presented within the interviews. Additionally, the qualitative data was reviewed again to highlight direct quotations that were particularly illuminating of the identified themes that represented individuals' experience while interacting with the criminal justice system.

RESULTS

To begin, both subgroups were asked the question “if someone was not adequately treated within the justice system, where would you report such?,” though none of the answers provided by subgroup B were referenced by subgroup A during their interviews. The professional witness subgroup declared the place to report would be: utilizing the grievance process for the particular facility (3), file with the department of justice disability rights section (2), a formal complaint to the immediate supervisor of the law enforcement officer (1), Hearing Speech and Deafness Center (HSDC) (1), file an ADA complaint (1), and the local bar association (1). The Deaf subgroup stated that they would reach out to: a Deaf access coordinator (1), lawyer (2), the warden (1), “the system” (1), another Deaf individual (1), a policy panel (1), the news (1), and one participant “did not know.”

All participants were also asked whether they perceive the criminal justice system as improving toward the Deaf. Each of the participants from the subgroup A said “no,” while two individuals from subgroup B said “yes.” Interestingly, one participant from subgroup A stated “no, it is not improving...but I heard on the east coast, it might be better over there.”

Based on that answer, each individual was asked what they perceive the top three problems to be within the criminal justice system and were given an opportunity to present a solution to the top problem. The top three problems, in order of severity, were noted to be interpreters, accommodations in incarcerated settings, and access to language. The need for interpreters was endorsed by 40% of the respondents, while 16% of the respondents noted the top problems being accommodation in incarcerated settings and access to language. When given an opportunity to propose a solution to the problem, seven participants offered a response. Of the responses, 57% claimed the solution is to implement public awareness training. The other solutions posed were to hire an inter-agency representative who is Deaf aware, provide more advocacy funding, and to implement a system to enforce ADA compliance.

Each of the top problems was exhibited through the narrative experiences of nine Deaf individuals who had interacted within the system. The top problems as identified by both subgroup A and B are discussed in the following paragraphs.

Lack of Qualified Interpreters

There is a cry for interpreters in the incarcerated settings, as felt by all but one of the once incarcerated individuals in the sample. One common history for these ex-inmates is being forced to rely on non-sufficient interpreters, including family members or other inmates. In one interview, a former Deaf inmate stated, “At first time, I went to jail for 10 months because of violated parole rule. There will no interpreter, however, only for treatment. Indeed, there is a school but 100% no interpreter at all. Lucky I have a friend who know all sign language because of his parents are Deaf.” Similar to this Deaf individual’s experience using a non-certified interpreter for critical communications, a Deaf woman had a son who faced felony assault charges. During her interview, she explained that, due to lack of interpreters at her son’s legal proceedings, her seven-year-old daughter would miss school and stand in as her interpreter. She relayed the struggle of staring at her daughter, trying desperately to catch the court proceedings, while the child struggled to interpret the legal language. She tearfully explained “my son was sixteen when he was sentenced to twenty-five-to-life...he may get a chance at parole when he is 45...I will be so old then...at the trials, there were no interpreters provided for me. I found out his sentence when the hearing was over, and he signed to me ‘life’...Do I have the right to an interpreter?” One participant from the professional sample noted that it was not uncommon to have Deaf parolees attend their follow-up meetings and bring family members to interpret. Similarly, another participant noted that it was common to have Deaf individuals show up with family members to interpret probationary meetings or treatments.

During other grave incidences, Deaf individuals are forced to go without any means of interpretation. One of the ADA representatives in the professional sample indicated that it might be due to the facility staff believing “they can communicate fine” and do not require an interpreter. These same staff members are not aware of the nuances of Deaf culture that enable adequate communication.

In other instances, the absence of interpreters is attributed to deficits within the criminal justice system. Upon arrest, one Deaf woman was not provided an interpreter because the arresting officers did not believe she was Deaf due to her ability to vocalize spoken English. Later on, she was denied interpreters during her trial in which she was facing kidnapping charges. Another formerly incarcerated participant relayed "I was in a holding cell for days for a DUI waiting for an interpreter." A Deaf father faced an eight-year custody battle for his child due to the unreliability of legal interpreters in his small town.

A male participant who interacted with the system multiple times indicated that he was not provided an interpreter for any of his three hearings. At the end of the interview when asked "is there anything else you would like to share?" he responded "I hope someone can help me with my case and work with the Department of Justice. I was wrongfully accused because I had no interpreter to defend myself." Another former inmate shared similar frustrations and relayed that "after being incarcerated for eight months, they finally provided an interpreter." When asked why he believes it took eight months, he responded: "I think they put me on the bottom of the pile because I am Deaf."

The largest deficit experienced is stated to revolve around the lack of qualified, certified, interpreters who are willing to interpret in the criminal justice setting. According to a professional subgroup participant, these deficits are worsened in rural⁸ cities that tend to be unaware of the process to vet the qualifications of interpreters. While there are rare training opportunities presented in urban cities, one professional witness stated that the certified interpreters are drawn to steadier, more reliable work such as VRS interpreting. As reported by a professional advocate in subgroup B, the Deaf individuals who are incarcerated at a facility with hired interpreters often still face the constraint of availability. It is common in this participant's history to see Deaf inmates left with no interpreters on weekends, leaving them unable to communicate Saturdays and Sundays. In relation, interpreters were found to be the most important Deaf-friendly accommodation provided to individuals within the criminal justice system, 28% of the respondents' vote.

Lack of Accommodations

The second most significant problem as identified by this study is the lack of accommodations available to the Deaf people who interact with the criminal justice system. According to one participant, the accommodation deprivation started immediately upon his arrest. Not only was he not Mirandized, during the arrest proceeding he was handcuffed with his hands behind his back eliminating any method of communication. Per the ADA, law enforcement agencies are required to make reasonable modifications to procedures to ensure accessibility unless the modifications fundamentally alter the program or service involved. For Deaf individuals, the protocol modification is handcuffing Deaf suspects with their hands in front of their body to permit some form of communication (U.S. Department of Justice, 2006).

This study found that the largest accommodation deficits occur in incarcerated settings; One participant, a former police officer, noted that the Deaf experience "terrible oppression in prison until there is a lawsuit." Members of the Deaf sample notated various accommodation during their former incarcerations. One stated that he was unable to enjoy television with the

⁸ Understood as areas outside of heavily-populated metropolitan cities with increased resources for d/Deaf individuals.

other inmates because the prison gang did not like the closed captions blocking screen content. Another former inmate relayed, "Oh, many times I [would get written up]. They didn't give me any [accommodation devices]. I wouldn't hear the alarm, I would sleep in, and they would [write me up]." This lack of accommodations parallels the lawsuits presented in recent history, indicating the lack of accommodative services while incarcerated, including closed captioning as well as visual alarm systems (Prison Legal News, 2011). Two former inmates in the sample noted inadequate accommodations to attend school while incarcerated, and one indicated the denial of accommodations needed to obtain prison employment.

The lack of accommodations is evident from arrest to release. One participant from the professional sample opined that the problem stems from "officers, both court and police, [not] knowing what accommodations are needed for their people in custody." A specific lack of accommodation was present as the third greatest deficit in the system: lack of access to communication.

Lack of Access to Communication and Language

Navigating through the penal system is a painstaking and isolating process. For Deaf people, this barrier is enhanced due to the lack of access to communication. This study found that Deaf individuals who interact within the system are most subject to communication barriers if they are incarcerated.

While interpreters play a critical role in facilitating inmate communications, there are other modes that would permit Deaf individuals some semblance of communication without an interpreter present. The key tool is a Videophone, or VP, which allows inmates to make outgoing calls to hearing and deaf people alike. Four individuals within the Deaf subgroup noted that facilities did not have a Videophone and instead offered TTY. With TTY being obsolete, it is no longer a reliable method of communication. Even with VP access, the Deaf still face communication barriers in the system. One participant from subgroup A was using a VP to reach out to various legal resources and ask for advice and assistance. These agencies were not accustomed to receiving Video Relay phone calls and would hang up as if she was a spam caller. Another Deaf individual's VP access put his physical safety in jeopardy. While he could use a VP, his time frame was significantly more limited for calling, and he was escorted out of his cell to the VP during "lock-in." This unique treatment led other inmates to believe he was a "snitch." With no way to relay his situation to the hearing inmates, he "had no choice but to watch [his] back."

Further, access to communication is critical when communicating with their defense attorneys. Whether it be via remote video interpreting or via an in-person meeting with an interpreter present, these meetings are critical for the Deaf individual who is navigating the criminal justice system. One member of subgroup B noted a substantive lack of effective communication with attorneys which "definitely impacted Deaf individuals' due process rights." Within the Deaf sample, there was an individual who stated that he had "no direct communication with his attorney," and during the interview, he could not inform me of his official charges. His face depicted frustration as he explained his inability to contact his attorney and aid in his own defense because "they were not letting me communicate clearly before decisions were made." Another inmate faced communication barriers during arrest. During that time, he had no way to communicate with his attorney, and he was not Mirandized.

Within the questions unique to the professional witness subgroup, they were asked the adequacy of treatment of the Deaf. Many of their faces foreshadowed a bleak answer, and one participant simply stated “being a Deaf individual in the penal system SUCKS! They are so isolated.” Out of the nine individuals in that subgroup, two elected that, due to their role in the justice system, they must diplomatically decline to answer. Three of the participants enunciated on the level of variance between the adequacies of treatment depending on the city, for instance, a progressive city such as Seattle as compared to cities with smaller populations, and three of the participants answered on a scale of one-to-ten. Ten being perfectly accommodated, the three participants who gave numerical notation provided the numbers six, six, and one.

In sum, the Deaf community is in dire need of interpreters as they are viewed as the most valuable accommodation. Beyond simply that, they are also in need of accessibility devices and access to language while incarcerated. With histories of negligence and denial of accommodations, these interviews proved Deaf individuals are being denied of their rights granted within the Americans with Disabilities Act in every facet of the criminal justice system.

DISCUSSION

The largest deficits presented by Deaf individuals and professionals were: 1) the lack of interpreters, 2) lack of accommodations in incarcerated settings; and 3) lack of access to communication. These findings are consistent with the previous literature which offers that Deaf individuals disproportionately suffer in prisons due to the lack of resources, awareness, and individuals who can communicate in sign language (Kelly, 2017; 2018). The most commonly suggested solution to the problem was awareness training to professionals within the system. And, ultimately, there is evidence that Deaf individuals throughout the United States are not receiving their rights as promised within the ADA. The scant existing literature parallels these findings, noting the lack of resources accommodating this population and violation of civil rights (Greifinger, 2006; Grossman, 2015). This research adds to the scholarly literature by providing real-world and timely examples of the deficits the Deaf community experiences within the criminal justice system through narrative accounts of Deaf individuals and professionals. As there is a deficit of extant literature on this population, the findings of this study provide a much needed foundation for future research.

The problems of lack of interpreters and lack of access to language may seem similar. While their nature overlaps, the lack of interpreters refers to the availability and the quality of the interpreters provided. Access to language extends to other accommodations that facilitate communication, such as cultural competency, VPs, and TTYs. The issues revolving around the utilization of TTYs and VPs in the correctional setting in this study paralleled in Miller’s (2002) work emphasizing the danger of recognition as a “snitch” due to the inmate’s being escorted by guards at atypical hours to utilize the services. The implications behind the lack of adequate access to communication impacts each facet of the justice system. It is critical to remember that, without access to language, the Deaf individual loses any chance to communicate any maltreatment they may be experiencing, and this would create a vicious cycle of disability leading to abuse.

Also, the lack of qualified ASL interpreters in almost all U.S. jails and prisons leaves most inmates who are Deaf unaware of critical information needed for safety and survival in prison (Miller, 2001; Vernon, 2009). Without an interpreter, the Deaf individual loses their basic

rights, such as meeting with their attorney to aid in their own defense, being aware of the court proceedings, understanding the Miranda warning, attending rehabilitative classes during incarceration, speaking with loved ones, and most importantly, understanding their convictions and appreciating the legal consequences. Like Felix's case, multiple Deaf subjects in this research investigation were unaware of their charges (Ridgeway, 2012). The experiences of the inmates being ignorant to their crimes, and unable to express wrongful incarceration because of the lack of interpretation available, parallels Lewis' (2015) article and her case example of Joseph Heard. The lack of access to interpreters was startlingly present throughout this study, from the man jailed for days waiting for an interpreter for a DUI, the mother who removed her seven-year-old child from school to stand in as her interpreter, or the man who did not have an interpreter present for any of his three hearings. Deaf individuals have the right to access anything the general population can access, including work opportunities, recreational activities, and making phone calls. However, subjects in this research investigation experienced the lack of opportunity to partake in each of those things, which violated their ADA rights. That is, they lacked access to education, employment, and recreational opportunities. Further, the lack of accommodations while in an incarcerated setting speaks to the violation of ADA rights and also the violation of personal safety (Miller, 2002).

The accommodations while incarcerated pose a significant problem to the Deaf in the system today and can be attributed to a lack of cultural understanding or limited resources (Grossman, 2015). It is up to the professionals within the system to rectify these deficits. However, there is evidence of a missing step in the communication between the professionals who witness the Deaf within the system, and the Deaf individuals themselves. This is evident when considering the answers to the question inquiring the location to report maltreatment. Each professional who worked within the system had an idea of the steps to report injustices of the system pertaining to their field of expertise. The Deaf subgroup, however, was not aware of the appropriate policies or procedures to report injustices or maltreatment. This finding suggests that the knowledge possessed by the professionals in the system is not adequately being transferred to the Deaf who are in desperate need of this information.

Available accommodations are often not provided due to a lack of systematic awareness of the Deaf community behind bars. The findings in this study are similar to the findings of research conducted by Kelly (2018), where Deaf inmates were not provided appropriate technological accommodations. There is no unified method in place to log hearing status of individuals who encounter the justice system, and because of such, there is no efficient way to track the accommodations actively being employed within the system at any given time (Miller et al., 2005). This contributes to the impression of inconsistent treatment of the Deaf that varies from city to city and coast to coast as expressed within the interviews.

An added layer of complexity arises when considering that interpreters themselves are not a guarantee to equal access for the Deaf (LaVigne et al., 2003; Olsen & Kermit, 2014). Interpreters act on a clear code of ethics. Their role is to interpret, not to clarify misunderstandings or contribute to solving miscommunications (Olsen & Kermit, 2014). The possible miscommunications are not catalyzed by a lack of comprehension of the signs produced, but from the inability to fully comprehend the implications and connotations of what is being relayed (Olsen & Kermit, 2014). The utilization of a certified Deaf interpreter (CDI) is one method the criminal justice system can use to aid adequate proceedings involving Deaf clients, as the CDI's role is to clarify meaning and resolve misunderstandings.

Limitations

While this is one of the first research studies to investigate the professional perspectives on the Deaf within the justice system, it is not without its limitations. One limitation of this study was the small sample size. The 18 qualitative interviews cannot be reflective of the entire United States Deaf population who have encountered the system, nor can they speak about each existing problem. In addition, the demographics are diverse for the sample populations. Even with the limited sample size, maltreatments with the existing literature were paralleled. This implies that with a more substantive population, instances of negligence will continue to be exposed and reinforced. Furthermore, it is important to note that the interview data was collected via hand-written notes on a semi-structured interview schedule. The interviews were not recorded⁹ and transcribed, which could have enhanced the data collection process. In this study, the researcher opted to in-depth and detailed note-taking as opposed to recording and transcribing for two reasons: 1) the interviews in this study took place via multiple modalities, thus recording the conversations posed challenging and; 2) the recording of the signed conversation poses an increased risk for confidentiality breaches, as the recording shows the person's identity. Additionally, some obstacles arose during the data collection process. When attempting to reach professional witnesses, many state employees would not be at liberty to speak with the researcher due to current lawsuits in their respective states. Moreover, individuals are hesitant to volunteer their information due to the innately close nature of the Deaf community; and individuals did not want to relay any information about themselves or their titles that may reveal their identity. Furthermore, locating the participants for subgroup A was a challenge. Oftentimes, participants would agree to be interviewed, begin the videophone session, and upon discovering that the investigator was unable to provide legal advice or how to "wipe their record," they would hang up. Furthermore, within qualitative research, the limitation of self-reflexivity¹⁰ must also be considered (Tracy, 2010). While collecting data, the primary investigator remained cognizant of her place within the Deaf community and her motivations behind this research. With such a recognition, the researcher was able to acknowledge, and therefore limit, self-reflexivity from impacting the data by owning and compartmentalizing personal biases and motivations. In addition, the use of a second researcher who is not a member of the Deaf community also helped preclude self-reflexivity from impacting the research process by providing outside feedback and reliability throughout the investigation. While the study did pose challenges and limitations, it provides data to form educated research implications to progress the investigation of the intersection of Deafness and criminal justice.

Future Research Implications

Due to the limited amount of existing literature, future research is needed. There are deficits in research in each of the themes presented: 1) interpreters; 2) accommodations within incarcerated settings; and 3) access to language. For the interpreters, research must be conducted on the quality of interpreters provided, agencies used to contract out interpreters to the systems within the criminal justice settings, and the enforcement of the right to have an interpreter. Regarding accommodations provided in an incarcerated setting, a breadth of research is needed.

⁹ However, it should be noted that Video Phone technology does not offer a recording capability. Thus, if one wanted to record a VP'd conversation, he/she would have to utilize a third party person to record back and forth between the researcher in-person and the participant on the screen.

¹⁰ Self-reflexivity is defined as finding authenticity with one's self as a researcher by assessing his or her own biases and motivations and how they may impact the research investigation (Tracy, 2010).

There are no data measuring the provision of accommodations in incarcerated settings. Without knowing what accommodations are being provided, there is no way to track locations in which they are not. Thirdly, the language needs of Deaf offenders must be investigated. In the realm of Deafness, language access varies to such a wide extent that, without knowing what the population needs the most, there is no way to ensure provision.

The lack of existing research poses a need for even the most fundamental of studies. This would include compiling the number of Deaf individuals who are active in the justice system in venues such as courts, correctional settings, and intermediate sanctions; determining the amount the states pay annually to Deaf offenders due to lawsuits; whether the ADA complaints are being resolved by the organizations; demographic information about the Deaf offenders (education, family language status, primary language), belonging to a cultural minority and its impact on criminality; the point in which ADA violations in the courtroom constitute as a mistrial; and sentencing and recidivism trends for Deaf individuals versus the rest of the population.

Recommendations for Improved Practice

The findings of this study also provide a foundation for recommendations to improve the experiences of the Deaf within the criminal justice system. First, it is critical to develop a uniform recording system for Deaf inmates. Protocols can be added to existing medical intake procedures to make this population easily identifiable. Aside from identifying them as "Deaf," information regarding their preferred language and mode of communication should be obtained. Likewise, by use of a certified interpreter, they should be made aware of the accommodations they are entitled to from the facility. The next recommendation for improved practice is to have designated ADA representatives located on-site at correctional facilities who are culturally competent. This serves a three-fold purpose: 1) these representatives will be able to monitor the status of all disabled inmates; 2) they will be aware of available resources for these minority populations; and 3) they can provide cultural competency training to professionals within the criminal justice system. Most importantly, an on-site ADA representative would be able to ensure the d/Deaf inmates who are experiencing abuse have access to the communication resources necessary to report such abuse. Lastly, interpreters are a poignant resource for the members of the d/Deaf community. When the community intersects with the criminal justice system, interpreters become vital. Therefore, for improved practice, facilities must ensure there are uniform standards for qualifications of those who will be interpreting in legal settings. Interpreting an inmate's GED classes requires drastically different skills than interpreting a sentencing hearing. Thus, the diversity in skills must be addressed and standards of qualifications must be enforced.

The Deaf population within the criminal justice system is an underserved, under-researched, and often neglected population. The extant research on this population is scant, and studies that provide the lived experience of the Deaf while in the system are even more limited. By way of qualitative interviews with Deaf individuals who have interacted within the criminal justice system and professionals who observe the treatment of this population, extreme systemic deficits were discovered. The top three deficits experienced by the Deaf within the system include: the lack of qualified, reliable interpreters, lack of accommodations, and a lack of access to communication. The Deaf population is marginalized within the system; the community experiences an increased risk of isolation, abuse, neglect, and the denial of basic human rights. With improved awareness, training, and resources, the criminal justice system can begin to

combat the inequity the Deaf face daily when navigating through the legal process. Inmates and individuals with disabilities in America are considered a protected population and granted specific rights. All inmates, including the Deaf, deserve to have a voice against systemic neglect behind bars.

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Book Review:

Jeff Ferrell, *Drift: Illicit Mobility and Uncertain Knowledge*

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Reviewed by: *Travis Milburn, Tennessee Tech University, USA*

Today, one does not have to look hard for examples of populations in flux. From war refugees abandoning familiar lands for safety to migratory workers in search of economic opportunities, drift is not only a defining feature of the contemporary world, but it is indeed a global phenomenon. In Jeff Ferrell's *Drift: Illicit Mobility and Uncertain Knowledge*, we see drift in action in North America and experience the history of hoboing through a cultural, social, and political narrative. While there are many readily accessible examples of the phenomenon of drift in the world, this book shows that drift is here, there, and everywhere—and is often where we are not looking.

Ferrell describes drift as a consequence, the result of contemporary political and economic arrangements in late modernity. The specific catalysts of drift vary but include the destruction of low-cost housing, the gig economy and low-wage, part-time work, governmental oppression, and war, among others. Whatever its source, drift “has come to pervade everyday experiences, incorporating both normative and spatial dislocation, resulting from both economic development and economic collapse, and flourishing precisely in those situations meant to contain it” (Ferrell, 2018, p. 6). The idea of drift is meted out in terms of its contradictions, described early in the work, and then displayed through contemporary and historical examples.

In many ways, this work fits neatly in the backdrop of Ferrell's previous work. From overlapping topics such as graffiti art (Ferrell 1996; 2001) and dumpster diving (2006), the substance of the book also has a familiar air through the use of ethnography and an appetite for the visual. *Drift*, in this way, is an intertwining of threads from Ferrell's body of work while presenting a theoretically rich consideration of dislocation in late modernity and providing a substantive commentary on how one might investigate such a transitory phenomenon. This theorizing of drift is accomplished by tying together many sources of knowledge—academics, musicians, literary figures, photo documentarians, and collective organizers.

The book is organized into three major sections: (I) *Illicit Mobility*; (II) *American Drift*; and (III) *Uncertain Knowledge*. In Part I, Ferrell orients—or disorients—the idea of drift by contextualizing it not just within the criminological and sociological traditions, but also through analyzing the culture and collective politics of drift where resistance, disengagement, and imaginative alternatives reside. To assist in thinking about a world cast adrift, described as a complex situation which “invokes a tangle of switchback and uncertainties, a sort of sideways skittering across the surfaces of social life” (Ferrell, 2018, p. 10), he establishes four dialectics of drift which help provide an understanding of it. Beyond describing the nature of drift, his framework also flips the script on dislocation. For instance, Ferrell describes how drift may come from failures or successes of the drifter and explains that despair is not necessarily a defining feature of being cast adrift; drift may actually be a sort of freedom or an ends all on its own.

Part II examines drift through an American lens, presenting dislocation through the contours of labor strife and criminalization, but also as a solution to this dislocation. Ferrell details a hobo history, characterized by autonomy and self-sufficiency, but surely rooted in larger

social and economic forces. The rich description and contextualization of American drift through the analysis of the train-hopping hobos of yore, and more modern iterations of the hobo paints a remarkable literary picture of resilience and ingenuity in the face of contested space and social death. Here we are introduced to Zeke, a gutter punk facing legal challenges in Ft. Worth, with whom the author embarks on a train-hopping voyage westward through the desert landscapes of Texas.

In Part III, Ferrell inspects how one might attune themselves to those caught adrift, evaluating channels by which to do so along the way. This final section, about “orienting oneself to disorientation” (Ferrell, 2018, p. 154), engages with “proper” social science and its limitations, then proposes suggestions for how researchers might reorient their approaches to capture drift and its ghostly aura where much, and likely more, is to be gleaned from studying absence. One major strength of this work is this consideration of methods of discovery and analysis of drift and drifters. The final chapters articulate the challenges of this sort of work and advocates for “ghost method”—or investigating the presence of absence, examining the residue of what is no longer present, anticipating that which will soon be gone, and, importantly, having the ability to look in-between social spaces. This sort of “method” is demonstrated in the unfolding of his train-hopping experience with Zeke presented earlier in the book, grounded in a commitment to *verstehen*. The method as described, and animated, in the pages of *Drift* serves as a useful reference point for those studying dislocated groups and sources of dislocation.

This is a masterful work that has appeal for those interested in the groups set adrift, whether by force or choice, and the processes that result in such dislocation. Given the attention to epistemology and the insights for examining the interstitial spaces that are elemental to drift and drifters, the methodological implications provided are useful for qualitative researchers from many disciplines to include criminology, geography, sociology, and anthropology, among others. Through the reflexivity that has characterized his ethnographic work, Ferrell, perhaps intentionally, inspires the reader to look inward, too, and explore drift in their own life.

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