

# **CRIME AND PUNISHMENT ESSAYS**

By

Julius Wachtel

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## A BROKEN “SYSTEM”

***Exploiting yet another break, a parolee absconds.  
He wounds three police officers, and society shrugs.***

*For Police Issues by Julius (Jay) Wachtel.* We're not privy to juvenile records. So all we can say is that the first significant criminal action against Jonathan Magana took place just a few months after his eighteenth birthday, when the Los Angeles resident was arrested for armed robbery. Two months later, after pleading “nolo” to a felony, the young adult drew a year in county jail and five years' probation. As a felon, he became forbidden from ever having guns or ammunition.

Alas, Mr. Magana's first adult brush with the law apparently had little effect. Our search of L.A. County Superior Court records reveals that he enjoyed quite the criminal career. Here are his known arrests (most recent first):

- **10/5/22:** Battery on a peace officer, felon with a firearm and parole violation. Posted bail. On 2/2/23 warrants were issued for failure to appear.
- **10/27/19:** Armed robbery (two counts) and attempted robbery. Pled guilty on 2/4/20, sentenced to four years imprisonment.
- **9/14/14:** Possession of controlled substance. Pled guilty on 4/2/15, got 40 days in jail.
- **8/31/13:** Felon with a firearm. Pled nolo on 2/28/14, drew one year county jail, three years probation.
- **5/1/11:** Felon with ammunition. Pled guilty on 5/11/11, got 32 months prison.
- **12/17/09:** Hit and run, no driver license. Pled nolo on 10/25/10, got probation.
- **2/6/09:** Armed robbery. Pled nolo on 4/28/09, got one year county jail, five years probation.

Except for a gap following his 2014 arrest, Mr. Magana was always convicted on new charges well before his existing sentence would have expired. Yet punishment-wise, Mr. Magana always got a break. In December 2009, less than eight months after drawing a year for armed robbery, Mr. Magana was arrested for hit-and-run

and unlicensed driving. He got a slap on the wrist. In August 2013, less than twenty-eight months after getting thirty-two months for having ammunition, Mr. Magana was caught with a gun. That earned him county jail time and probation. And most recently, in October 2022, thirty-two months after being sentenced to two prison terms for two robberies – one for four-years, another for one year – Mr. Magana was again caught with a gun. He also battered a cop.

Mr. Magana faced a parole violation. Yet he was nonetheless allowed to post bail. And as one might have expected, he flew the coop. Five weeks later, on March 8, LAPD officers spotted the fugitive. [He ducked into a residence](#). Police ordered him to come out, but he refused. So a K-9 team went in. Mr. Magana responded with gunfire. Three officers were wounded, fortunately none critically.

SWAT took over and sent in a robot. Mr. Magana's body was hauled out later that night. He had committed suicide.

"Three officers shot" dominated the broadcast news. But when we turned to our main go-to source for happenings in Southern California, the *Los Angeles Times*, their coverage seemed to lack its usual depth. Click [here](#) for the first piece, and [here](#) for the second. Three days after the shooting, [its weekly "The Week in Photos" feature](#) was prominently tagged "A brutal killing devastates a family; meanwhile, California braces for flooding". That "family" was unrelated to the officers' shooting. As for the cops, their tragedy was accorded one measly picture, and it could only be reached after considerable scrolling. It depicts a patrol officer placing a flare on the roadway.

Fortunately, other news outlets proved quite informative. [A detailed account](#) by the *Associated Press* featured some telling comments from the board of the L.A. police officers' union:

Although we believe they will recover physically, each of these officers will live with the memory of almost losing their lives at the hands of a wanted fugitive in a hail of gunfire. What occurred last night to these Metropolitan Division K-9 officers happens all too often to law enforcement officers and is a stark reminder of the inherent danger every officer faces when they put on their uniform each day.

KTLA, a local television station, [posted a print version](#) of its comprehensive on-air coverage. After exploring Mr. Magana's criminal past and the breaks he got in some detail, it conveyed the heartfelt comments of L.A. Mayor Karen Bass, who spoke with two of the officers in the hospital:

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I think that it was just important for me to be here. This is a place that is familiar to me. I used to work here in the emergency room, in trauma, and so to go back to the emergency room now to try to bring comfort and support to officers was something that was very important and meaningful to me...It is worth repeating that we must do much, much more to protect our officers and protect our communities.

To be fair, the *Times* did (briefly) allude to Mr. Magana's criminal career. But its coverage was far less informative than what we found elsewhere. Say, [in the Washington Times](#). Its detailed account was descriptively entitled "Another felon released early from prison shot three police officers in Los Angeles."

Alas, many such encounters have produced tragically lethal endings. Here are four recent Southern California examples (see updates to "[Catch and Release](#)"):



Michael Paredes

Joseph Santana

Isaiah Cordero

Gonzalo Carrasco Jr.

- On June 14, 2022, [a multi-convicted felon](#) shot and killed El Monte, Calif. police officers Michael Paredes and Joseph Santana as they responded to a domestic violence call. Justin Flores wouldn't have been running loose had progressive L.A. District Attorney George Gascon not barred his deputies from using sentencing enhancements. Instead, the known gang member was back on the streets after serving twenty days for felon with a gun.
- On December 1, 2022 [a multi-convicted felon](#) shot and killed Riverside County (Calif.) Deputy Isaiah Cordero during a traffic stop. Two months earlier William Shea McKay was convicted of crimes including false imprisonment and evading police. But a judge released him on bail and repeatedly postponed sentencing. Police later shot McKay dead. To the *Times*' credit, it published a piece that deeply probed McKay's criminal past. It was entitled "Why a three-strikes felon — on bail twice over — was on the streets, where he gunned down a deputy."



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- On January 31, 2023 [a 23-year old ex-con](#) shot and killed Selma, California police officer Gonzalo Carrasco Jr. Officer Carrasco, who had two years on the job, encountered Nathaniel Dixon on a suspicious person call. Dixon had served a brief prison term for robbery. Once released he accumulated a series of gun and drug convictions. But thanks to [a considerate plea deal](#) and California's "Public Safety Realignment Act" (see below) he was on probation.

"[Cause and Effect](#)" traced California's easing of punishment to September 2010, when then-Governor Schwarzenegger [signed a bill](#) raising the threshold for felony Grand Theft from \$400 to \$950. One year later came the "[Public Safety Realignment Act](#)", which redirected "non-serious, non-violent" offenders from state prison to county jail. In 2014 [Proposition 47](#) reclassified all thefts where losses don't exceed \$950 (including break-ins formerly treated as burglaries) to misdemeanors. Two years later came the alluringly entitled "[Public Safety and Rehabilitation Act](#)", which directed that persons convicted of non-violent crimes be paroled after completing their primary term, regardless of other charges or sentence enhancements. And in 2022, [AB 2361](#) forbid transferring minors to adult court without proof that they couldn't be rehabilitated if treated as juveniles.

Progressive places are likely to "realign" until the proverbial cows come home. But coupling high-sounding concepts such as "realignment" and "rehabilitation" with "public safety" overlooks a chronic problem. According to a September 2021 BJS report, "[Recidivism of Prisoners Released in 24 States in 2008](#)", 81.9 percent of the members of this population of releasees was rearrested within ten years; 39.6 percent for a violent crime and 47.4 percent for a property crime (Table 11). And when rearrested, those who had been imprisoned for a violent crime were somewhat more likely than property offenders to be charged with a violent offense (44.2% v. 39.7%).

What's more, the length of prison terms proved important (Table 14). Inmates who served sentences longer than the median (15 months) were less likely to be rearrested within ten years (75.5% v. 81.1%). That was particularly so for those who had been convicted of a violent crime. For this group, 78.3 percent who served terms less than the 29-month median were arrested within ten years of release. That dropped to 66.4 percent for inmates whose sentences had exceeded the median, a statistically significant difference.

Still, as in virtually every other aspect of public policy, ideology rules. One day before Mr. Magana wounded the three officers, the Los Angeles city council [put off a decision](#) on whether to accept a \$280,000 gift to acquire an advanced robotic dog. Although its donor, the LAPD Foundation, assured lawmakers that the newfangled

creature “would allow authorities to avoid unnecessarily putting officers in harm’s way and potentially avoid violent encounters,” protesters argued that its true purpose was to help cops spy on minorities.

Your blogger is no fan of harsh policing. Nor of harsh punishment (see, for example, [“Tookie’s Fate”](#) and [“Lock’Em Up”](#)). But what he learned during a law enforcement career makes him reluctant to endorse get-out-of-jail-free cards. As the [BJS report](#) mentioned on its very first page, “about 61% of prisoners released in 2008 returned to prison within 10 years for a parole or probation violation or a new sentence.” Still, convicted persons can’t be locked up forever. While officers Paredes, Santana, Cordero and Carrasco would have certainly benefited had their assailants remained in custody, long prison terms provoke liberty concerns and are *very* expensive. At some point inmates *must* be let go.

So what *could* help? Progressively-minded California has a couple of intriguing approaches. At the state prison in Lancaster, an [“Offender Mentor Certification Program”](#) trains prisoners as alcohol and drug addiction counselors. Its intense eighteen-month program, which includes an lengthy, hands-on internship, has enabled many former inmates to secure related positions after release. And in a [brand-new effort](#), Governor Gavin Newsom announced a re-do of infamous San Quentin prison – California’s oldest lockup and the home of its only death row (he halted its use in 2019). Based on a Scandinavian model, the “Big Q” will focus on rehabilitation, education and training. California’s re-do ([it’s already in place](#) at SCI Chester, a Pennsylvania prison) has drawn interest [from across the U.S.](#)

Yet for now, when it comes to punishment, the criminal justice “system” is clearly broken. Whether their disputes reflect differences in ideology or perspective, judges, prosecutors, cops and corrections officials can’t seem to agree on basics such as length of confinement, terms of release, and what to do when efforts to give someone a “break” don’t work. And it’s not just cops who suffer the consequences. So until “Little Scandinavia” (that’s what they call SCI Chester) becomes a universal reality, perhaps we ought to encourage everyone who participates in that imperfect “system” to take a deep read of that sobering BJS report.

It couldn’t hurt.

Posted 6/6/10

## A NATION OF LIARS

### *Mortgage fraud, ordinary people and the Great Recession*

By Julius Wachtel, (c) 2010

Four to six *billion* dollars. That's what mortgage fraud [costs the U.S.](#) each year. And it's not just our pockets that are getting picked. Effects from America's financial meltdown have rippled around the world, spreading pain at the speed of the Internet and turning the Great Recession into a global event.

Let's start with a couple of definitions. [Residential mortgage fraud](#) is of two types. A [government analysis](#) of suspicious activities reported by financial institutions during 2008 revealed that 65 percent of suspected home purchase fraud and 54 percent of suspected refinance fraud was "for housing," meaning that borrowers intended to live in the home and keep payments current. Purchasers were knowingly involved in 87 percent of these suspected frauds, usually by misrepresenting their income and liabilities and offering false documentation. Fudging was facilitated by the widespread use of [stated income loans](#). More popularly called liar's loans, they carried high (subprime) rates but didn't require proof of income.

Mortgage industry workers can increase their sales volume, thus their income by inflating the creditworthiness of marginal borrowers. Indeed, it's estimated that 63 percent of suspected "for housing" schemes involved brokers, and 23 percent appraisers. Indeed, when the market was hot financial firms pressed employees to make as many loans as possible. [A State's attorney](#) who investigated the Ameriquest scandal put it succinctly: "The culture was to sell, sell, sell and do whatever it takes to sell, sell, sell." A person who identified himself as a [loan underwriter](#) (verifies that loans conform to policy) posted this revealing comment on an Internet bulletin board:

Now...the initial [loan] application...was submitted [by the loan officer] as [an] unsigned telephone interview so that the gory REAL details of the borrower's data could be swept under the rug and compel the underwriter to approve the loan....I am an underwriter and caught this numerous times to the dismay of my employers who wanted every loan approved. I was not their favorite underwriter...I caught on to the malfeasance...not appreciated. Did this happen on a regular basis, you betcha...every day.

Wait a minute: why would a lender carelessly dole out cash? We'll get to that in a moment. For now let's turn to the other kind of mortgage fraud, "for profit." There are many varieties (for an overview click [here](#) and go to page 13.) One of the most popular is "flipping," the repetitive purchase and resale of a home by corrupt investors. It often starts with a desperate homeowner. Inflating the home's value through an exaggerated appraisal (see photo above), fraudsters get the seller to kick back the difference between the loan and the secretly agreed-to purchase price. Using straw buyers, they then "flip" the property through a series of sham resales, at each step profiting from the income generated by ever-larger appraisals. Eventually the property is abandoned to foreclosure or sold to an unsuspecting mark. (Click [here](#) for a recent example.)

Builders are often involved in mortgage scams. With a purchaser's assent they may inflate the selling price and apply the excess loan amount as a pretend down payment, thus creating the illusion that a borrower has equity. Many buyers consider this a quasi-legitimate way to acquire a home with no real money down. Of course, if they default the lender will quickly discover that a good chunk of the home's "value" has vaporized.

[Reports filed with the Treasury Department](#) suggest that 61 percent of borrowers are knowingly involved in "for profit" schemes. That's second only to brokers (62 percent) and far more frequent than appraisers (23 percent).

When real estate was hot the mortgage industry was more than happy to qualify the unqualified and look the other way as shady brokers and appraisers artifactually increased the value of already overpriced property. In an overheated, go-go atmosphere, with home prices rising before lunch, everyone was eager to play along.

It's not that the Feds didn't realize what was going on. As early as 2004 [the FBI's top criminal investigator](#) warned that mortgage fraud "has the potential to be an epidemic." One year later [FBI's Mortgage Fraud Report](#) pointed out that "combating significant fraud in this area is a priority, because mortgage lending and the housing market have a significant overall effect on the nation's economy."

And it's not that they lacked legal tools. Mortgage applicants complete a [standard form](#) that warns false statements are crimes. Thanks to the interstate commerce clause and the government's insuring of financial institutions and backing of loans, virtually every shady move is a violation of Federal law. Among the applicable statutes are [18 USC 1341](#), mail fraud; [18 USC 1343](#), wire fraud; and [18 USC 1014](#), false statements in loans and credit applications (click [here](#) for an example of a charging document in a Federal prosecution.)

Yet as the real-estate bubble grew the number of investigators overseeing the loan industry fell sharply. In the wake of 9/11 the FBI reassigned 2,400 agents from criminal duties to chasing Al Qaeda; by 2007, as the bubble was set to pop, [a mere 100 agents](#) were working mortgage fraud. As [a retired supervisor](#) said, “we knew that the mortgage-brokerage industry was corrupt....But the agents with the expertise had been diverted to counterterrorism.”

Once the nation started slipping into recession [the FBI had second thoughts](#). Many agents were brought back to fight white-collar crime. Their return was welcome. Naturally, much of the damage was already done.

Really, mortgage shenanigans were the worst-kept secret in the financial industry. Why did lenders encourage unqualified borrowers to sign on the dotted line? Why didn't they challenge exaggerated appraisals? Because when times were good churning out loans regardless of quality paid rich dividends. Risk was passed along. Mortgages – including the many stinkers – were sold by smaller lenders to the larger, then bundled by the latter into securities that were peddled throughout the world. As long as homeowners paid their debts, investors got their dividends. If a few borrowers defaulted it hardly mattered.

Except that when the bubble burst the cash stopped flowing, *fast*. Firms that had purchased highly-rated mortgage-backed securities (yes, the ratings agencies were in on it too) turned on the Wall Street firms that got them into the fix. In the end Uncle Sam decided that some financial houses were “too big to fail” and propped them up with taxpayer cash. Soon the big fish were again making money hand over fist and vacationing in the Hamptons. (Click [here](#) for an entertaining slide show that tracks the mortgage debacle.)

Dreams of home ownership and, yes, profit led many upwardly mobile members of the middle class to take out subprime loans and buy homes that were well beyond their means. Encouraged by brokers and loan officers, ordinary individuals gambled that rising prices would give them enough equity to refinance before teaser rates expired. Holding their noses, they exaggerated their income, minimized their liabilities and dove in. Then the economy collapsed, taking home values with it. Unemployment soared. But like ticking time-bombs the mortgages were still there, their interest rates resetting to stratospheric highs. Without equity getting a new loan was impossible. Jobless or underemployed, owing far more than their properties were worth, millions walked away or were driven from their homes. Once-manicured neighborhoods fell to blight, becoming breeding grounds for crime and disorder.

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There's plenty of blame to go around. By all means, point the finger at greedy lenders who peddled loans for which a schnauzer could have qualified. Lock up the crooks who took advantage of the wild-west atmosphere to line their pockets. Go after the financial giants who ignored warning signs and recklessly marketed mortgage-based securities for the sake of a buck. But don't forget that it couldn't have happened without help from the many borrowers who decided that the time was ripe to get theirs, and that if all it took was a few white lies and a little bit of imagination, why that was perfectly acceptable.

After all, things could only go up!

Posted 2/24/08

## A TALE OF THREE CITIES

By Julius Wachtel, (c) 2010

“The drug economy *is* the economy.” So said New Jersey prosecutor [Joshua Ottenberg](#) as he bemoaned the sad state of affairs in **Camden**, where stretches of its once-thriving downtown resemble the hollowed, bombed-out cities of World War II. Bucking a national trend of decreasing violence, with America’s three leading metropolitan areas, New York, Chicago and Los Angeles enjoying record-low homicide rates, the city of less than 80,000 suffered forty-five murders in 2007, *thirteen* more than in the previous year. (If anyone’s counting, that’s a *forty-one percent* increase.) The surge came despite a declining population. Census figures reveal that between 1990-2006, Camden lost nearly [nine percent](#) of its residents, while a stunning [thirty-six percent](#) -- more than one-third -- lived below the poverty level.

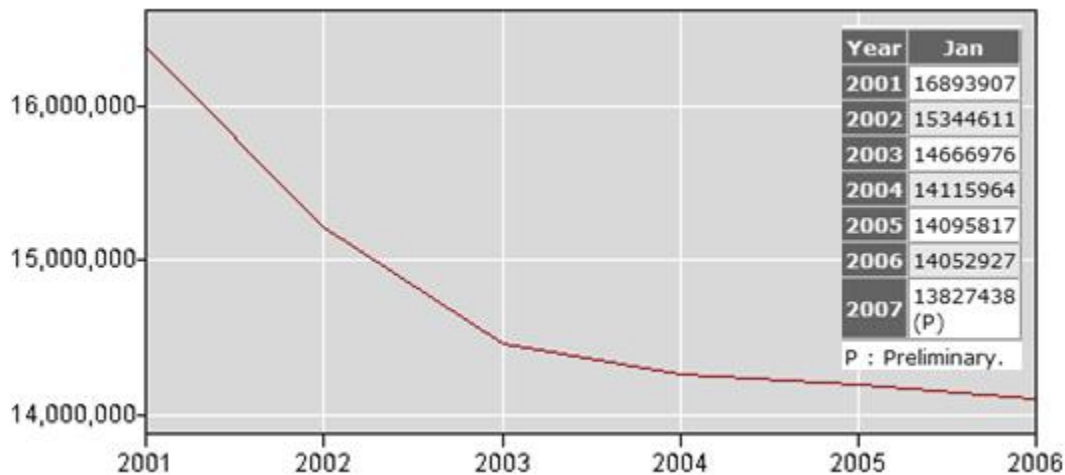
It’s a similar story in **Baltimore**, where [murders soared](#) from 133 in 2006 to 155 in 2007, a gain of seventeen percent. Ohio’s capital has also lost residents in less dramatic ways. Between 1990-2006 it endured a [14 percent](#) population decline. Nearly [twenty percent](#) of its citizens live under the poverty level.

What about **Philadelphia**? Glad you asked. In the city made famous by cream cheese, [murders rose](#) from 185 to 203, a gain of “only” ten percent. Between 1990-2006 its population dropped nearly [nine percent](#), with a full [twenty-five percent](#) living below poverty level.

There seem to be as many explanations for the causes of crime as there are those studying it. Much of the attention has been focused on poverty and its correlates, including broken families, lousy public education, weak social and familial controls, deviant subcultures and the ready availability of guns and drugs. While most poor people are law-abiding, if poverty is a critical antecedent of crime and violence it seems reasonable to look for ways to increase income.

But it’s awfully hard to do it when the only jobs available are at McDonald’s. Good-paying manufacturing jobs, the one-time universal entrée to the middle class, have been disappearing at a rapid clip: more than 18 percent were lost between 2001-2007, *a span of only six years*.





### [Total number of U.S. manufacturing employees -- all company sizes](#)

America's industrial belt took the biggest hit. Nine of the twelve States suffering a decline in manufacturing positions between 1992 and 1997 were in the Northeast. [Among these](#) were New Jersey (9.7 percent lost), Maryland (3.4 percent lost) and Pennsylvania (.8 percent lost). Note that statewide figures may significantly *understate* losses in hard-hit urban areas. During the four decades ending in 1990 Baltimore lost a whopping *sixty-six percent* of manufacturing jobs; Philadelphia, *seventy percent*, drops that according to [Fannie Mae](#) clearly "contributed to the cycle of decline in inner-city neighborhoods." Recent figures reveal that the crisis continues. As recently as [2007](#) manufacturing employment in the Northeast had the highest average monthly drop (.3 percent) and yearly drop (2.0 percent) of U.S. regions.

Can a shortage of decent-paying jobs be blamed for inner-city violence? When [reporters](#) asked Camden's police chief what could be done to curb his city's abysmal homicide rate he answered, "it would be great to get a manufacturing plant." He might be on to something. A recent study concluded that the industrial shift that stripped manufacturing jobs from America's inner cities significantly increased the homicide rate of black males ("Industrial Shift, Polarized Labor Markets and Urban Violence," *Criminology*, August 2004).

How do we defeat poverty? The fix isn't in more McJobs. Neither is it to improve academically-oriented education, as worthy as that goal may be for other reasons. We desperately need to create good-paying work for the majority of the male population that isn't -- and never will be -- interested in math, science and social studies, no matter how many Jaime Escalantes we throw at them. One step



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might be to immerse secondary-school students who eschew academics in intensive vocational programs. Another might be to create incentives for keeping manufacturing at home -- or disincentives for sending it overseas.

A country that helped rebuild Europe after the war has no excuse for not instituting a Marshall Plan to pull its own beleaguered cities from what threatens to become an irreversible decline. If we don't stop bleeding jobs, our young men will keep bleeding buckets.

Count on it.

Posted 1/20/24

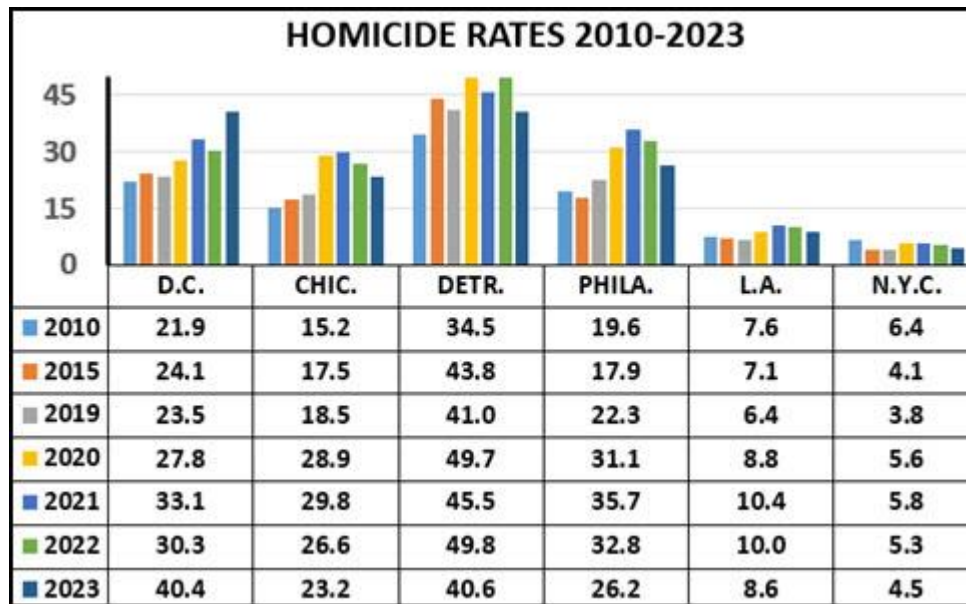
## AMERICA'S VIOLENCE-BESET CAPITAL CITY

***Washington, D.C. is plagued by, among other things, murder.  
Has the President noticed?***



*For Police Issues by Julius (Jay) Wachtel.* “We need the National Guard in D.C.” Recently delivered to reporters for the *Washington Post*, Councilmember Trayon White Sr.’s [sobering call to arms](#) aptly conveyed how citizens and officials feel about the Capital District’s unending struggle against crime and violence

Just how bad *are* things? Using numbers from the [Census](#), the FBI’s [Crime Data Explorer](#) and [agency websites](#), here’s where D.C.’s 2010-2023 homicide rates per 100,000 population sit on *Police Issues*’ list of “usual suspects”:



Between 2010-2021, D.C. and each of its companions except the Big Apple experienced steady upticks in homicide. But things turned around in 2022 when all but chronically

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crime-ridden Detroit enjoyed a decline. That so-called “great crime drop” continued in 2023. This time it included Detroit, where the murder rate fell 18.5 percent. But our nation’s capital was sadly left out. During 2023 D.C.’s murder rate increased by an astounding one-third, winding up only two-tenths of a point short of Detroit’s. [According to the Post](#), “the District was deadlier than 55 of the country’s 60 most populous cities, behind only New Orleans, Cleveland, Baltimore and Memphis.”

Alas, the *Post* didn’t publish its data. Usual suspects aside, where does the District sit, crime-wise, among the nation’s major cities? With many agencies, including our hometown LAPD, still not fully aboard the NIBRS, we turned to the Major City Chiefs Association (MCCA). According to [its most recent tally](#), which reports violent crimes from January thru September 2022 and 2023, the news for D.C. really is all bad. Using population figures, we calculated homicide and robbery rate per 100,000 residents and the percent change between 2022-2023 for the MCCA’s fifty-eight member cities. Again, note that these are nine-month rates. Here are comparos between Jan-Sept. 2022 and Jan-Sept. 2023 for the ten cities at each extreme of the murder and robbery spectrums:

## HOMICIDE RATES, 58 MAJOR CHIEFS CITIES, JAN-SEPT 2022/23

TEN HIGH RATE	2023		2022-23 PCT CHG	TEN LOW RATE	2023		2022-23 PCT CHG
	#	RATE			#	RATE	
1. St. Louis Metro MO	132	46.1	-14.8	49. Virginia Beach VA	22	4.8	29.4
2. New Orleans LA	157	42.5	-25.6	50. Raleigh NC	22	4.6	-35.3
3. Memphis TN	238	38.1	31.5	51. Boston MA	29	4.5	7.4
4. Baltimore MD	207	36.3	-17.9	52. Austin TX	43	4.5	-15.7
5. Cleveland OH	129	35.5	12.2	53. Arlington TX	15	3.8	-11.8
6. Detroit MI	206	32.9	-8.0	54. Long Beach CA	17	3.8	-43.3
7. Washington DC	213	31.7	37.4	55. El Paso TX	24	3.5	26.3
8. Kansas City MO	146	28.7	16.8	56. Omaha NE	17	3.5	-22.7
9. Milwaukee WI	130	23.1	-22.6	57. San Diego CA	36	2.6	-10.0
10. Oakland CA	97	22.5	1.0	58. San Jose CA	20	2.1	5.3

## ROBBERY RATES, 58 MAJOR CHIEFS CITIES, JAN-SEPT 2022/23

TEN HIGH RATE	2023		2022-23 PCT CHG	TEN LOW RATE	2023		2022-23 PCT CHG
	#	RATE			#	RATE	
1. Oakland CA	2818	654.5	34.6	San Jose CA	630	64.9	1.6
2. Baltimore MD	2276	398.9	-5.2	San Diego CA	888	64.3	-9.1
3. Washington DC	2613	389.0	67.5	Las Vegas NV	981	58.8	-20.2
4. Cleveland OH	1375	378.0	2.1	Fort Worth TX	548	57.8	1.5
5. Memphis TN	2028	324.5	17.5	Tampa FL	228	57.3	-23.7
6. Chicago IL	7845	294.4	25.0	Omaha NE	242	49.9	-20.9
7. Philadelphia PA	3998	255.1	-9.5	Arlington TX	191	48.8	-12.4
8. Milwaukee WI	1435	254.7	3.5	Mesa AZ	217	42.3	-9.2
9. Minneapolis MN	1079	253.8	-23.5	El Paso TX	258	38.0	26.5
10. San Francisco CA	1920	237.5	7.1	Virginia Beach VA	111	24.4	-24.5

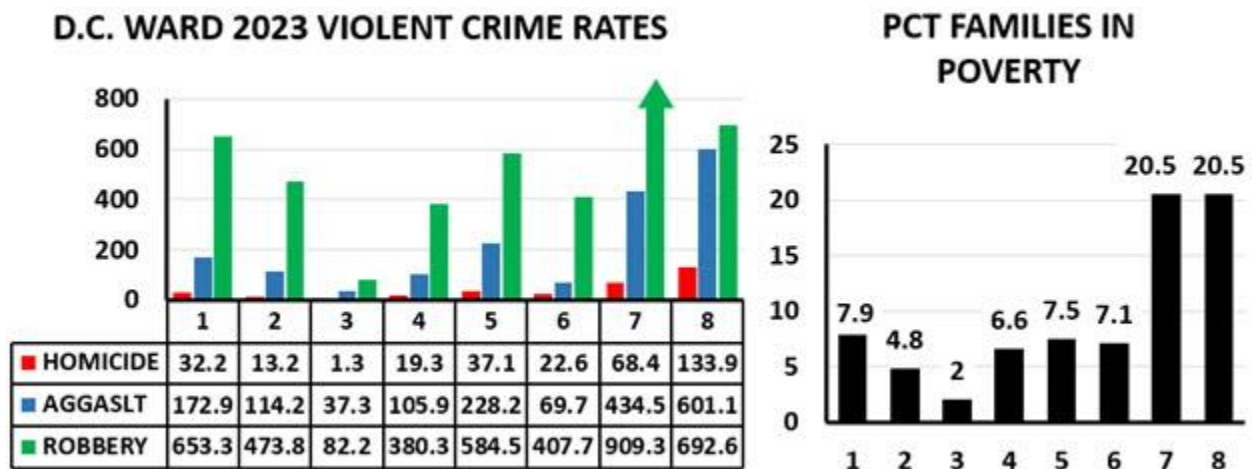
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As of September 30, 2023, Washington D.C. was “only” seventh worst murder-wise. Note that its rate increased thirty-seven percent in 2023, the most recorded by any of its counterparts. Ditto its astounding 67.5 percent leap in robbery, which helped it land in third place, robbery-wise. (We left out aggravated assault. Our review of pre- and post-2019 NIBRS numbers suggested that some agencies have been defining it differently.)

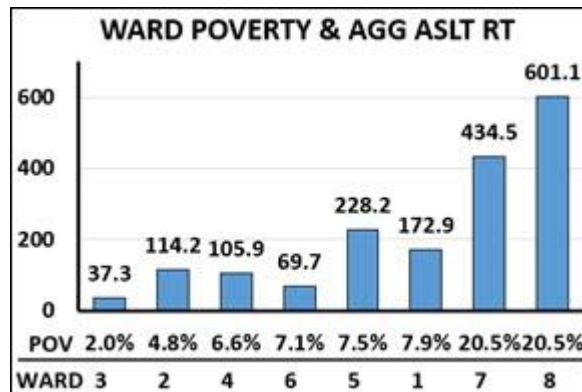
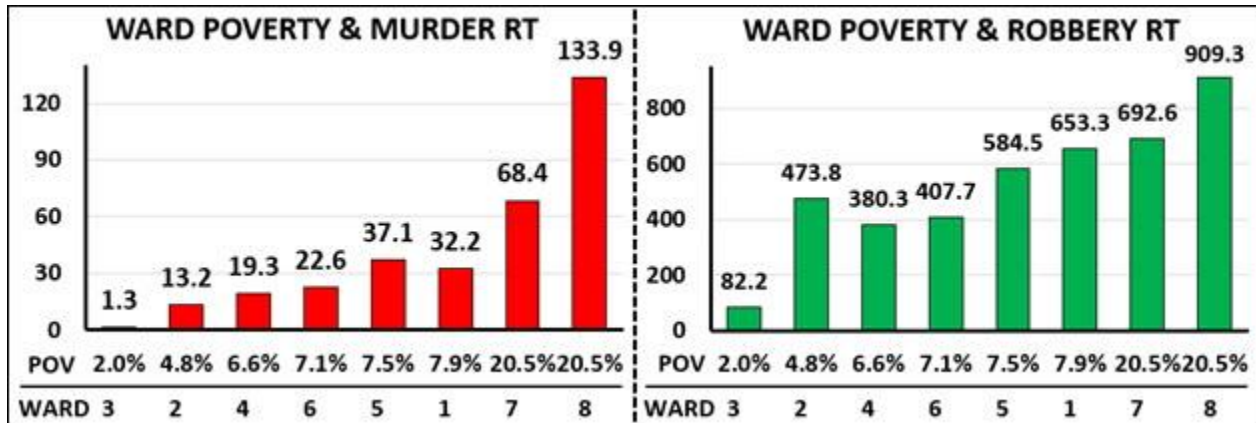
*Police Issues* is far less concerned with aggregate crime rates than with what’s happening in the neighborhoods where people actually live. As our [Neighborhoods essays](#) frequently point out – most recently, in “[See No Evil – Hear no Evil – Speak no Evil](#)” – economically-challenged places have always absorbed most of the brunt. D.C. councilmember White had plentiful reason to speak out. D.C. has eight Wards, and his – [the Eighth](#) – happens to carry the distinction of being the most dangerous.

Just *how* dangerous?

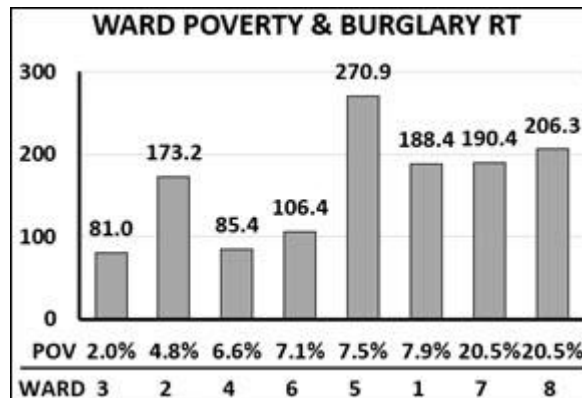
We downloaded [2023 crime data](#) from Open Data DC. Our graph and table on the left report full-year rates/100,000 pop. for Homicide, Robbery and Aggravated Assault. And the graph on the right displays [2022 poverty percentages](#) for each of the District’s eight Wards:



Sure enough, the Eighth can’t be beat. Its homicide rate is *twice* that of its closest competitor, the Seventh. By a comfortable margin, the Eighth is also worst in aggravated assaults and comes in second to the Seventh in robbery. Now check out poverty. The violence-ridden Seventh and Eighth Wards also happen to be far the poorest, while the crime-free Third Ward is (surprise!) the most affluent. These graphs depict poverty’s unholy influence on violent crime:



And just like in our previous forays (see, most recently, “[Good News/Bad News](#)”), the relationship between poverty and the serious property crime of burglary is far less pronounced:



Crime	<i>r</i>
Homicide	0.91
Robbery	0.83
Agg Aslt	0.95
Burglary	0.45

The *r* coefficient is used to depict the strength of relationships (*r*'s range from zero, or none, to 1, or a perfect, lock-step association). All the *r*'s are “positive” (+), meaning that crime rates and percent in poverty increase and decrease together. But while poverty and violent crimes seem very closely associated, the relationship between poverty



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and burglary is only moderate.

None of this should come as a surprise to the District's political establishment and its hard-pressed residents. While the national media gloats about the supposedly steep decline in America's crime rates (check out, say, [NBC](#) and [ABC](#)), the *Washington Post* keeps running stories about the District's problems with violence. And yes, they have suggestions. A few days ago its editorial board penned "[A Crime-free D.C. Starts With Drug-free Zones](#)." It favors having police (once again) designate "crime hot-spots" where drug possession and use are forbidden. And keeping persons accused of violent crimes in jail from arrest through trial. And broadening the definition of "carjacking." And having all cases involving "organized retail theft" classified as felonies. And even getting cops to enforce the civil laws against fare evasion.

Indeed, these provisions (and more) were part of "[Addressing Crime Trends Now Act \(ACT Now\)](#)", a D.C. bill that Mayor Muriel Bowser introduced last October. Touted as "New Legislation to Support Safe and Effective Policing", it would supposedly enhance "accountability for those who choose to commit crimes and inflict fear in our neighborhoods." Long-standing legal constraints that have "made it more difficult for police to keep the community safe and hold criminals accountable for their actions" would also be relaxed:

The new legislation clarifies the distinction between a serious use of force and incidental contact with the neck, ensures officers can review their body-worn camera footage prior to writing their initial police report in certain circumstances, makes permanent clarification of vehicular pursuit, and defines what information will be posted publicly related to officer discipline and more.

George Floyd forever altered the socio-political landscape in which cops work. One consequence was that police agencies across the U.S. abandoned long-standing practices such as stop-and-frisk. To be sure, after considerable fiddling, some cautiously returned them to the shelf. And as one would expect, there's been blowback. Only two weeks before the *Post*'s editors championed "drug-free zones" its lowly reporters authored [a story](#) that concluded the Mayor and D.C. Council had "turned away from progressive strategies meant to ease the footprint of law enforcement in the community". [Hot-spots was back!](#) (Officials, though, insist that its new, improved incarnation incorporates the very best aspects of "community policing".)

It's not that we oppose being pro-active. After all, hot-spots *does* carry [NIJ's seal of approval](#). But several weeks ago, as we looked for something to write about, our attention fell on a *Post* reader's skeptical reaction to the rebirth of "crime-free drug zones":

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I don't think incarceration is going to do much but just fill prisons. But I don't think excusing it and never calling out family structure break-down, kids with no boundary setting parents, etc, is the answer either. Because it's my neighbors and my neighborhood and my community that winds up carrying the brunt of all of this weaponized empathy

Bingo! Let's get back to the basics! Really, no matter how well policing is done, it's *not* the ultimate solution. As we often do, let's self-plagiarize from "[Fix Those Neighborhoods!](#)":

Preventing violence is a task for society. As we've repeatedly pitched, a concerted effort to provide poverty-stricken individuals and families with child care, tutoring, educational opportunities, language skills, job training, summer jobs, apprenticeships, health services and – yes – adequate housing could yield vast benefits.

To be sure, the District would need a considerable chunk of change to give its needy neighborhoods a chance to prosper. Yet D.C. *is* America's capital. It should exemplify our nation's very *best*. Not, as things stand, its very *worst*. (Well, *almost* very worst. Thanks, Detroit!). Perhaps Silly Circus (that's what your author and his Federal colleagues called the Secret Service) could apprise the Chief of what's happening all around him, twenty-four/seven. He clearly doesn't know.

Posted 12/6/09

## AN ILLUSION OF CONTROL

### *Can dangerous out-of-State parolees be adequately supervised?*

By Julius Wachtel, (c) 2010

Where once stood a young (16) year old misguided fool, who's (sic) own life he was unable to rule. Now stands a 27 year old man, who has learned through 'the school of hard knocks' to appreciate and respect the rights of others. And who has in the midst of the harsh reality of prison life developed the necessary skills to stand along (sic) and not follow a multitude to do evil, as I did as a 16 year old child.

Maurice Clemmons was eleven years into a ninety-five year sentence for armed robbery, burglary and other crimes when [his words](#) stirred former Arkansas Governor and one-time Presidential candidate Mike Huckabee to grant him clemency. Convicted when only seventeen, Clemmons was paroled against the advice of prosecutors who feared that the explosively violent youth was still dangerous. "Mr. Huckabee made him parole-eligible twenty-one years before he would have been," Larry Jegley, the current D.A. said in a recent interview. "Otherwise, he'd [still] be cooling his heels in the Department of Corrections." Clemmons certainly wouldn't have been in position to [murder four Lakewood \(Wash.\) police officers](#) last week. But he was, and he did.

It took less than a year for Clemmons to break his promise to the Governor. In July 2001 the supposedly reformed man landed back in prison for robbery. He wound up doing three years for parole violation, while the robbery charge was dismissed because of an administrative blunder. Clemmons was released in 2004 and his supervision was transferred to the State of Washington.

Shortly before relocating Clemmons reportedly [robbed a man at gunpoint](#) but wasn't charged because the victim stopped cooperating with police. His criminal ways continued. In 2005 the Feds linked Clemmons, then living in Tacoma, to an interstate drug trafficking ring. He then apparently took up armed robbery; a composite drawing bearing an uncanny resemblance makes him a prime suspect in a string of holdups between April 2008 and April 2009. But in May 2009 his luck ran out. Arrested on a variety of charges ranging from punching a Sheriff's deputy to raping a 12-year old relative, he faced a third strike. Arkansas promptly issued a no-bail warrant. It seemed that the incorrigible offender's get-out-of-jail-free card was finally revoked.



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Clemmons was detained for a mental evaluation. Despite outbursts, threats to kill jail workers and self-reported hallucinatory episodes about “people drinking blood and people eating babies, and lawless on the streets, like people were cannibals” a judge ultimately declared him competent to stand trial and [set bail at \\$190,000](#). On November 24, 2009 Clemmons and his friends forked over a tidy ten percent to a bail agent and he was let go. He would kill the officers five days later.

What about the parole warrant? Despite Washington’s protests, Arkansas dropped the no-bail provision. They later [explained their decision](#) (which saved them having to pay for their ward’s return) as being motivated, in part, by the fact that Washington seemed so blasé about Clemmons that it had him on unsupervised status before his arrest.

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To find another parole transfer that went horribly wrong we need look no further than [Phillip Garrido](#). In 1977 Garrido drew a 50-year Federal term for kidnapping and a concurrent five years to life in Nevada for rape. Twenty-two years later, after serving eleven years in Federal and Nevada prisons and another eleven on Federal parole, his supervision was transferred to Nevada. A few months later, in June 1999, it was transferred to California.

What authorities didn’t know was that Garrido had kidnapped an eleven-year old girl eight years earlier and, helped by his wife, was holding the teen and the two daughters he fathered with her as captives. And that’s where things were in August 2009 when a suspicious cop who saw Garrido with the children ran his name and discovered he was a registered sex offender. Parole agents detained Garrido, then released him with instructions to return the next day. Amazingly he did so, bringing along his wife, the kidnap victim and the two kids. Both women lied their heads off – the kidnap victim said she was an abused wife on the run – and had it not been for the intercession of a local officer who got Garrido to admit the truth the fiend would still likely be free.

How is it that a registered sex offender who kept a young woman and two children penned up in a shack could avoid being caught for a decade? A recent [State investigative report](#) suggests that California had little interest in the man. Only five months after his arrival agents began trying to get Nevada to release him from supervision. Ignoring the many red flags in his thick Federal parole file, they inexplicably construed Garrido’s most serious offense (kidnapping) as “non-sexual.” Categorized as a low-risk offender, Garrido was only visited once to three times per year, a clear violation of even the most permissive rules. Even in 2008, when Garrido’s status was upgraded and he was fitted

with a GPS, a lack of concern persisted, and alerts about his unauthorized wanderings and the device being repeatedly turned off were ignored.

Disinterest in Garrido was evident on the few occasions when agents actually visited. Not only did they miss the utility wires that ran to the shed where the kidnapped teen and the children lived, but when they encountered one of the kids in the house they took Garrido's word that she was his brother's daughter. Had agents checked with neighbors they would have learned that one had spoken with the kidnap victim through the fence. Had they bothered to compare notes with local police they would have discovered that an officer was called to the residence in 2006 by a neighbor who said that Garrido was a sex addict and had children living in tents in his backyard.

But they didn't.

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It's impossible to draw conclusions from a sample of two. Still, considering how poorly these indisputably serious offenders were "supervised" one can't help but be skeptical of parole oversight in general and of out-of-State offenders in particular. A [1998 study](#) of the compact governing interstate parole faulted receiving and sending States, the former for being slow to report misconduct and the latter for their reluctance in retaking violators. One frustrated manager complained that savvy offenders took advantage of the situation, "[making] supervision a waste of time and a mockery to the criminal justice system as a whole." Serious problems were reported for high-risk parolees and particularly sex offenders, for whom special transfer policies and controls did not exist.

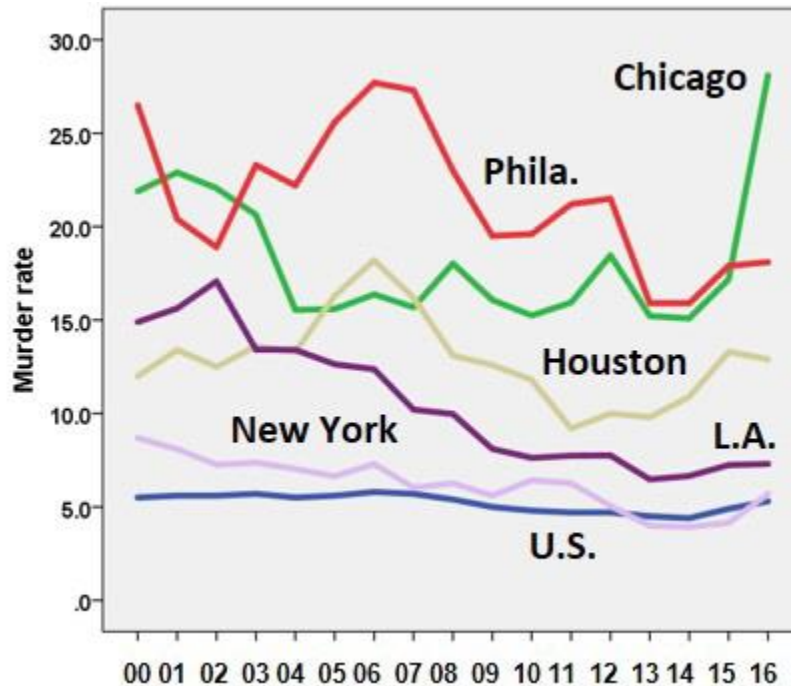
To address these and other issues [a new Interstate Compact](#) was put into place in 2000. Did things change for the better? A 2008 "[compliance issues survey](#)" lists "failure to retake an offender" as agents' third most frequent complaint.

For lovers distance might make the heart grow fonder, but in the criminal justice system it mostly breeds contempt. Parole agencies are primarily concerned with their own clients, who after all constitute their funding base. Legal differences between jurisdictions and uncooperative judges can make it difficult to keep problematic out-of-State parolees locked up long enough to sort out the means of their return. Even agents who want to do the right thing are hampered by information gaps and the pressures of everyday business. Really, in times of diminishing resources transferring supervision of dangerous offenders to distant jurisdictions with different laws, procedures and priorities flies in the face of reason. It's just another recipe for disaster.

Posted 1/15/18

## BE CAREFUL WHAT YOU BRAG ABOUT (PART I)

*Is the Big Apple's extended crime drop all it seems to be?*



By Julius (Jay) Wachtel. Remember the “Great Crime Drop” of the nineties? [Observers trace its origin](#) to the end of a decade-long crack epidemic that burdened America’s poverty-stricken inner cities with unprecedented levels of violence. Once the crack wars subsided the gunplay and body count eased. But the news didn’t remain positive everywhere. In “[Location, Location, Location](#)” we identified a number of less-prosperous burghs (e.g., Chicago, St. Louis, Baltimore, Detroit, Newark, Cleveland and Oakland) that have experienced recent increases in violence. [Murder in Chicago](#), for example, soared from 422 to 771 between 2013-2016 (it backed off a bit last year, but only to 650.)

In some lucky places, though, the crime drop continued. Few have crowed about it as much as [New York City](#), which happily reports that its streets keep getting safer even as [lawsuits and Federal intervention](#) have forced cops to curtail the use of aggressive crime-fighting strategies such as stop-and-frisk.

Indeed, [New York City’s numbers](#) look very good. As the above graph shows, its 2016 murder rate of 5.7 per 100,000 pop. was the lowest of America’s five largest cities and

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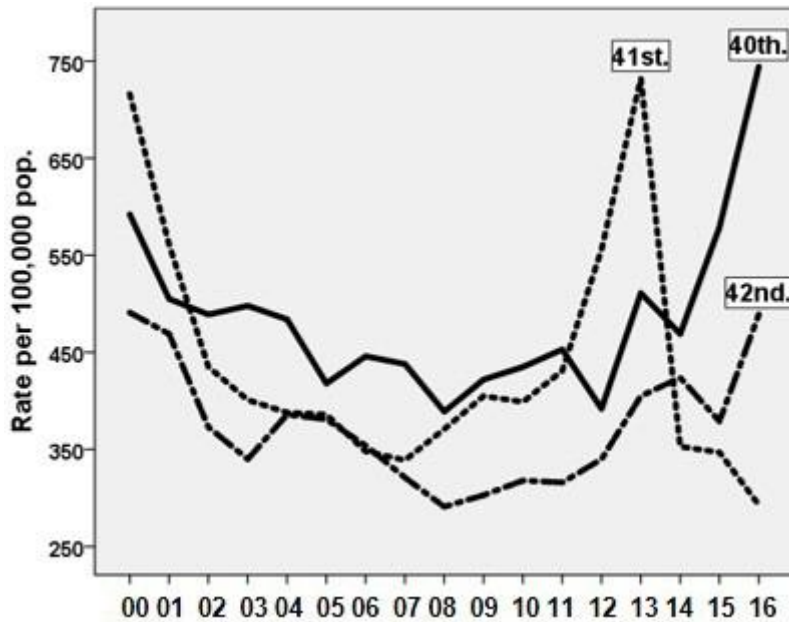
just a tick above the U.S. composite rate of 5.3. (Los Angeles was in second place at 7.3. Then came Houston, at 12.9 and Philadelphia, at 18.1. Chicago, with a deplorable 765 murders, brought up the end at 28.1.) Even better, it's not only killings that are down in the Big Apple: *every* major crime category has been on a downtrend, reaching [levels substantially lower](#) – some far lower – than at the turn of the century:

MAJOR CRIME IN NEW YORK CITY	2000	rate/ 100K	2016	rate/ 100K	% Chg
MURDER & NON- NEGL. MANSLAUGH.	673	8.4	335	3.9	-53
RAPE	2068	25.8	1438	16.8	-35
ROBBERY	32562	406.6	15500	181.5	-55
FELONY ASSAULT	25924	323.7	20847	244.2	-25
BURGLARY	38352	478.9	12990	152.1	-68
GRAND LARCENY	49631	619.7	44279	518.6	-16
GRAND LARCENY MOTOR VEH.	35442	442.6	6327	74.1	-83
TOTAL SEVEN	184652	2305.8	101716	1191.4	-48

Year 2016 precinct crime rates were computed using population estimates on the NYPD precinct map. Year 2000 crime rates were computed by adjusting for estimated population changes in each Borough. For population data sources click [here](#) and [here](#).

What's responsible for the persistent progress? New York City's freshly-reelected Mayor and his police commissioner [credit innovative law enforcement strategies and improved community relations](#). But in a recent interview, Franklin Zimring, [whose 2011 book](#) "The City That Became Safe" praised NYPD for reducing crime, called the reasons for its continued decline "utterly mysterious."

Causes aside, when it comes to measuring crime, complications abound. Even "winners" may not be all that they seem. As we discussed in "[Cooking the Books](#)" and "[Liars Figure](#)," lots of agencies – yes, including NYPD – managed to look good, or better than they should, by creating crime drops with tricks such as downgrading aggravated assaults (which appear in yearly FBI statistics) to simple assaults (which don't). That problem has apparently not gone away.



This graph uses the [NYPD's own data](#) to display 2000-2016 felony assault trends in three highly crime-impacted precincts, the 40th., 41st. and 42nd., all in the Bronx. Just look at that pronounced “U” curve. Soon after cops outed NYPD for fudging stat’s ([that happened in 2010](#)) each precinct’s trends reversed. But the 41st.’s return to presumably more accurate reporting was only brief. Between 2013 and 2014 felony assaults in “[Fort Apache](#)” plunged from 732 to 353, an inexplicable one-year drop of fifty-two percent. And the good news kept coming, with 347 felony assaults in 2015, 293 in 2016 and a measly [265 in 2017](#).

There is plenty of reason to be wary of NYPD’s numbers. Still, assuming that the 41st.’s recent shenanigans are unusual – we couldn’t find another example nearly as extreme – the city’s post-2000 gains against crime seem compelling. But assuming that they’re (mostly) true, how have they been distributed? Has every citizen of the Big Apple been a winner? Let the quest begin!

NYPD has seventy-six precincts. Our main data source was [NYPD’s 2000-2016 online crime report](#). (We excluded precincts #14, Times Square and #22, Central Park, for methodological reasons, and #41 because its recent numbers seem untrustworthy.) We also coded each precinct for its official poverty rate by overlaying the [city’s 2011-2015 poverty map](#) on [NYPD’s precinct map](#). (For how NYC measures poverty click [here](#).)

We’ll start with the total major crime category, which combines the seven major offenses. Its 2016 rate per 100,000 pop. ranged from 3.1 (123rd. pct.) to 45.6 (18th. pct., Broadway/show district.) Comparing the means for total major crime of the ten lowest-rate districts (6.25) with the means of the ten highest-rate districts (24.13) yields a

statistically significant difference ( $t=-7.36$ , sig .000). So these groups' total major crime levels *are* different. But their proportion of residents living in poverty is not substantially dissimilar. Actually, the raw results were opposite to what one might expect: the mean poverty rate was *higher* in the low major crime than the high major crime precincts (19.3 & 15.9, difference statistically non-significant.)

Similar results were obtained when comparing the 2000-2016 change in the major crime rate of the ten most improved precincts (mean reduction, 62.05%) with the ten least improved precincts (mean reduction, 14.69%). While the magnitude of these groups' crime decline *was* significantly different ( $t=14.37$ , sig .000), the difference between the proportion of their residents who lived in poverty was slight and statistically non-significant (poverty mean for most improved, 19.28 pct.; for least improved, 21.31 pct.)

We then (by this point, somewhat unsteadily) ran the numbers the other way, comparing total major crime and its improvement over time between the ten high and ten low poverty precincts. Our central finding didn't change: poverty wasn't a significant factor. With all seventy-three precincts in the mix we also tested for relationships between total major crime rate and poverty, and between 2000-2016 changes in the major crime rate and poverty, using the  $r$  coefficient. Again, neither total major crime nor its change over time seemed significantly related to poverty.

So poverty doesn't matter? New Yorkers are equally likely to benefit from the crime drop – or not – regardless of their place on the pecking order? As it turns out, not exactly. But that's enough for now. We'll deliver “the rest of the story” in Part II!

Posted 1/25/18

## BE CAREFUL WHAT YOU BRAG ABOUT (PART II)

### *Citywide crime statistics are ripe for misuse*

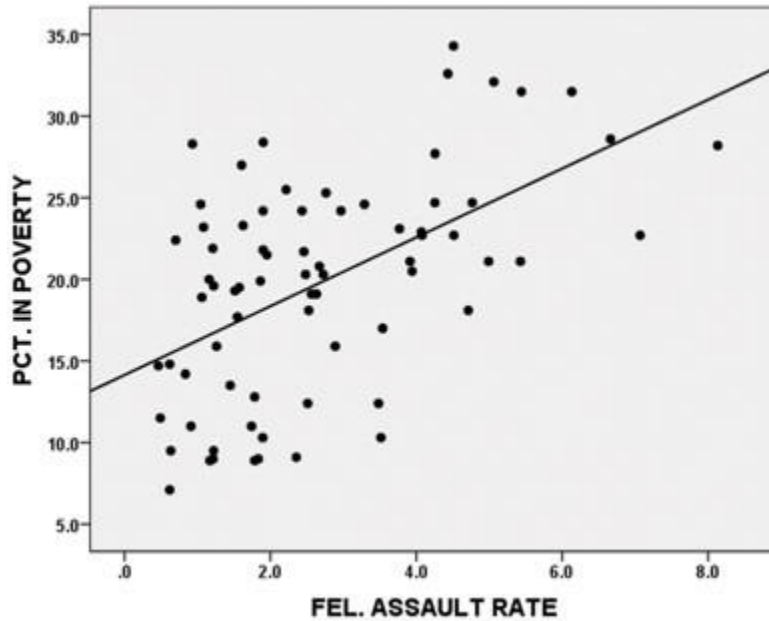
*By Julius (Jay) Wachtel.* Part I ended on a perhaps surprising note. Poverty and crime may be deeply interconnected, but our analysis of New York City crime data revealed that neither the city's 2016 total major crime rate nor its change since 2000 were significantly related to the proportion of residents living in poverty.

NYPD [tracks seven categories](#) of major crime: murder, rape, robbery, felony assault, grand larceny, and grand larceny of motor vehicle. Their sum yields an eight measure, "total major crime." (See table in Part I, below. NYPD reports yearly frequencies and percentage changes. Instead of raw numbers we used population data to generate rates per 100,000 residents.)

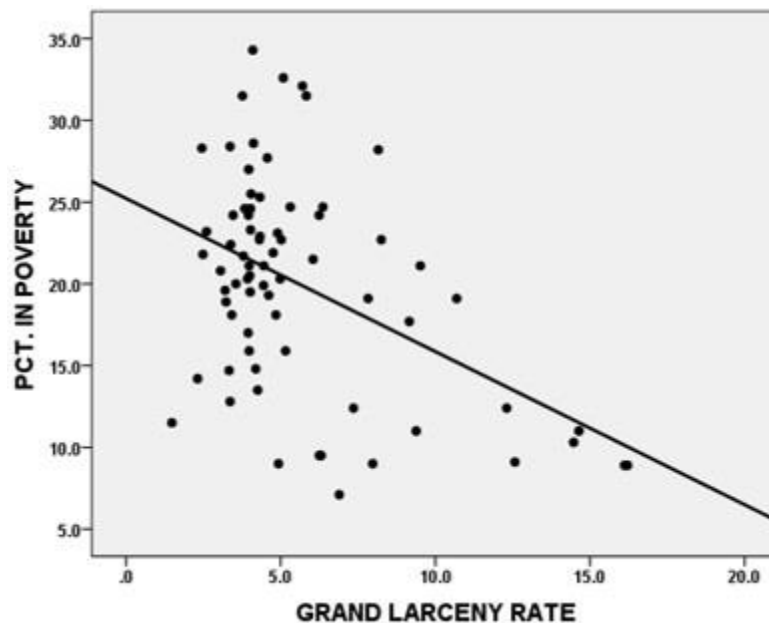
When total major crime didn't yield the anticipated results we turned to one of its components, felony assault. Its 2016 rate per 100,000 pop. ranged from 0.5 (112th. and 123rd. precincts) to 8.1 (40th. pct.) (Precincts 14, 22 and 41 were excluded from analysis. See Part I). As expected, the mean rates of the ten lowest-felony assault rate districts (0.7) and the ten highest-rate districts (5.8) were significantly different ( $t=-4.9$ ,  $p < .001$ ). They also differed markedly as to poverty. That difference was in the expected direction: persons living in poverty comprise 15.8 percent of the population in low felony assault districts and 26 percent in the high rate districts ( $t=-3.7$ ,  $p < .002$ , statistically significant).

Correlation analysis was used to test the aggregate relationship between felony assault and poverty for all 73 precincts in this study. That revealed a statistically significant relationship in the "positive" direction, meaning that poverty and felony assault increased and decreased in unison ( $r=.54$ ,  $p < .000$ ). Here's the graph (each precinct is a dot):





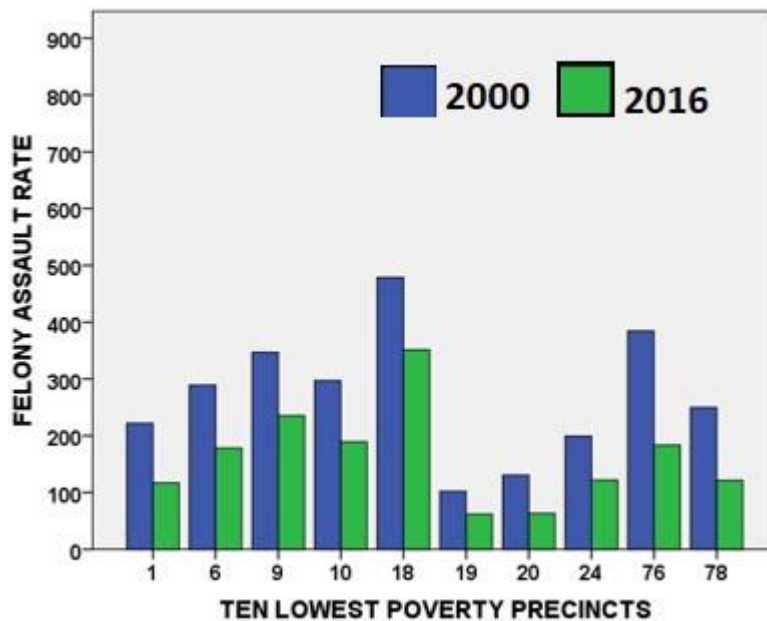
Statistically significant findings were also produced when we tested the relationships between poverty and the remaining violent crimes: robbery ( $r=.53, p < .000$ ), rape ( $r=.46, p < .000$ ) and murder ( $r=.48, p < .000$ ). Poverty and all forms of violent crime went up and down together. There was also a significant positive relationship, of slightly lesser magnitude, between poverty and grand larceny of a motor vehicle ( $r=.31, p < .007$ ; see comment below). In contrast, ordinary grand larceny (not of a vehicle) had a “negative” relationship with poverty: as one increased, the other decreased ( $r=-.43, p < .000$ , statistically significant). Here’s that graph:

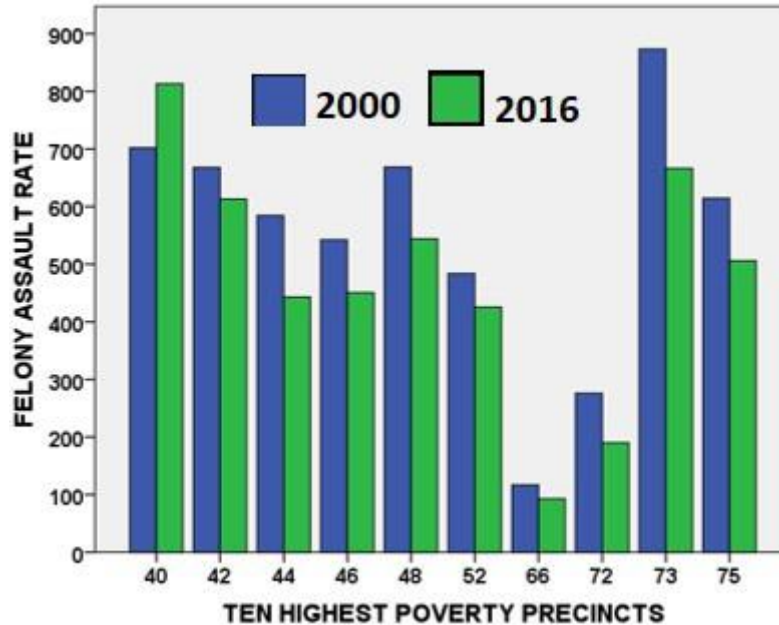




We concluded that this was the reason why there was no observable relationship between total major crime and poverty. In New York, larceny of the “grand” kind [requires a loss exceeding \\$1,000](#). These are presumably more common in affluent areas. As by far the most common form of serious crime, grand larceny’s strong negative relationship with poverty apparently countered the influence of the other factors. (Incidentally, the positive relationship between grand theft of a motor vehicle and poverty is likely caused by the fact that in New York, the theft of any vehicle valued at \$100 or more – that’s *two* zeroes – is “grand.”)

Clearly, aggregate measures such as total major crime should be used with great caution. Fine. So, just how *were* the benefits of New York City’s crime drop distributed? Let’s compare crime rates for the ten poorest and ten most well-off precincts at two points in time: 2000 and 2016. (Precincts #14 and #22 were excluded for methodological reasons, and #41 for trustworthiness. See Part I.) We’ll begin with felony assault:

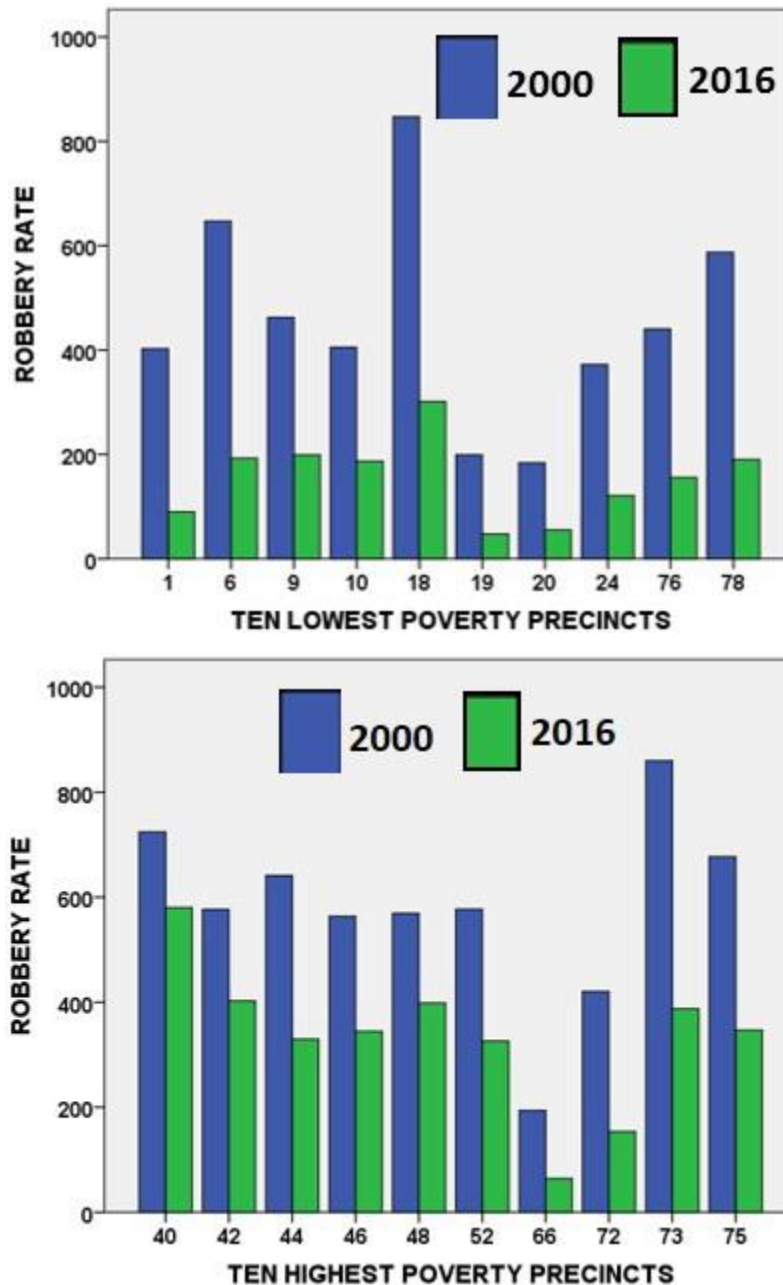




These graphs dramatically depict income's differential effects. In 2016 the mean felony assault rate in the high-poverty precincts was nearly *three times* that of their well-off counterparts (474.5 v. 162.4,  $t=4.3$ ,  $p < .001$ , a statistically significant difference.) Note that in both sets of precincts, scores clustered in observable groups. Felony assault rates in all but one of the low-poverty precincts topped out at 235.5. Add nearly *two-hundred* points to that and you'll reach the *lowest* score (425.7) in a group of eight high-poverty precincts.

Poverty-stricken precincts had more lousy news. Excluding the besieged 40th., where the felony assault rate *increased* 15.8 percent between 2000-2016, its group's mean decrease of 19.2 percent was *less than half* the 41.4 percent decrease enjoyed by the low-poverty group. That old saw about "the rich getting richer" seems to apply to felony assaults in the Big Apple.

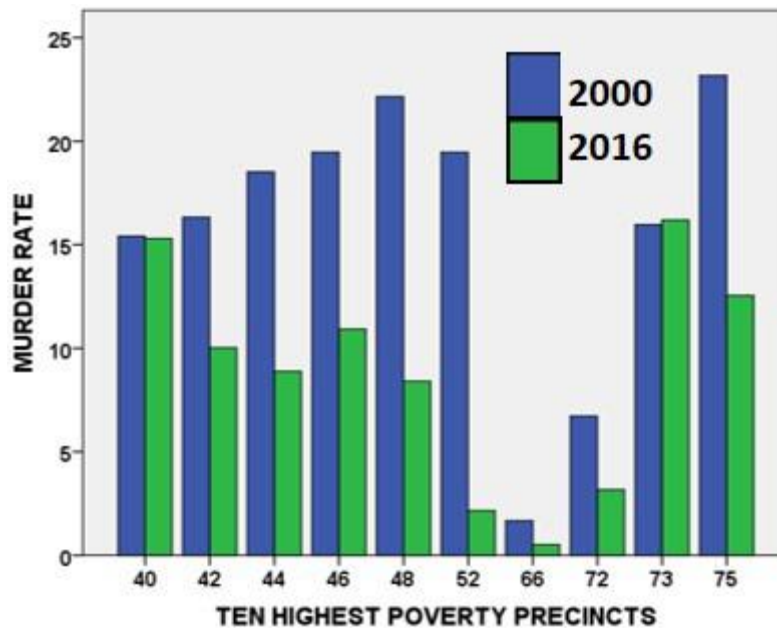
Let's look at the graphs for robbery:



In 2016 the mean robbery rate of the high-poverty precincts was slightly more than *twice* that of their low-poverty counterparts (333.4 v. 154.1,  $t=3.5$ ,  $p < .003$ , difference statistically significant.) Except for the 18th. (rate=301.5) low-poverty precincts clustered at the lower end of the scale, topping out with the 9th.'s 198.8. One-hundred points later we encounter the trailing edge of a loose group of eight high-poverty precincts, with rates ranging from the 52nd.'s 325.9 to the 40th.'s skyscraper-worthy 580.3.

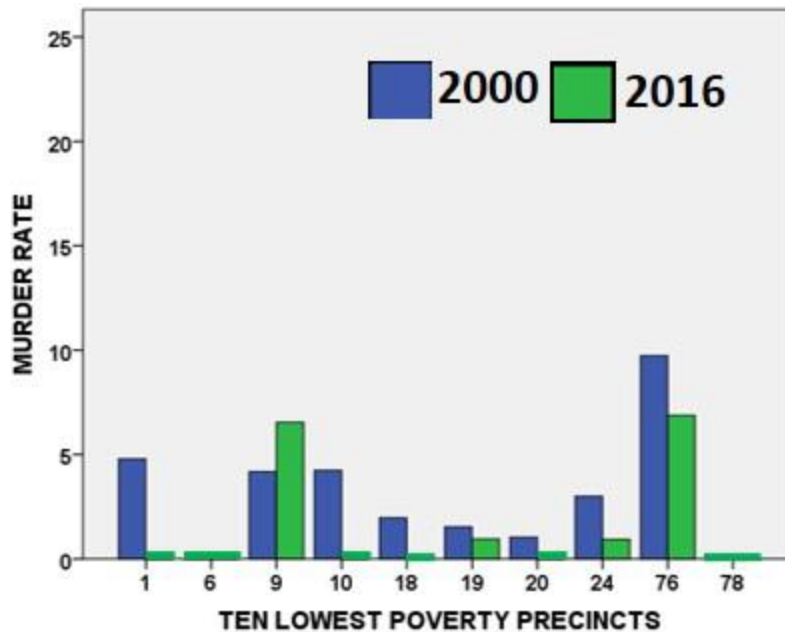
Between 2000-2016 robbery rates declined 66.9 percent overall in low-poverty precincts and 44.5 percent in the high-poverty group. While both trends seem substantial, so was their difference ( $t=-4.2$ ,  $p < .001$ , statistically significant). Rates were also distinctly dispersed: narrowly within low poverty (range 53.8 to 77.6 percent) and broadly within high poverty (19.9 to 66.8 percent.) Why this difference between differences we don't know, but such volatility inevitably reminds us of tendencies at NYPD and elsewhere to fudge the numbers (see Part I).

And then we arrive at murder. This time we'll begin with the high-poverty precincts:



Let's skip rates and talk actual counts. In 2016 the range for the high-poverty group was from one murder in the 66th. to twenty-three in the 75th. These two precincts also had the extreme scores in 2000, when there were three killings in the 66th. and *forty* in the 75th. By 2016 murder receded in all high-poverty precincts but two, the 40th. and 73rd. In both killings ticked up a bit, going from thirteen to fourteen. Murders otherwise fell, most markedly in the 44th. (25-13), the 46th. (23-14), and especially, the 52nd., which plunged from twenty-five in 2000 to only three in 2016. (However, this precinct had twelve murders each in 2013 and 2015, so its numbers are volatile.)

We won't sweat the details: for lots (but not all) poor New Yorkers, the murder news seems at least somewhat favorable. Now consider the horrors the wealthier set faced:



Six of the ten low-poverty precincts had zero murders (thus, zero rates) in 2016. Scores for the other four ranged from one killing in the 24th. to five in the 9th. Only two precincts, the 6th. and 78th., scored zero murders in 2000. Others ranged from one killing in the 18th. to four in the 76th. (note that a relatively low population of 43,643 lends its rate an inflated appearance.) Murders during the 2000-2016 period increased in only one low poverty precinct, the 9th., which went from three to four.

Glancing at the charts, does it seem that the rich get to ride up front, crime-wise, while the poor are consigned to the caboose? If so, that's hardly unique to Gotham. Consider Los Angeles. In "[Location, Location, Location](#)" we mused about our hometown. Between 2002-2015 murders fell from 656 (rate=17.3 per 100,000) to 279 (rate=7.3), a stunning drop of *fifty-seven percent*. Now consider two of the dozens of communities that comprise the "City of Angels": poverty-stricken Florence, pop. 49001, and upscale Westwood, pop. 51485. During 2002-2015 murder in Florence dropped from an appalling *twenty-five* killings (rate=51.0/100,000) to a merely deplorable eighteen (rate=36.7). Kind of like...New York City's 44th.! Meanwhile murder in Westwood went up: from zero in 2002 to (yawn) one in 2015, a rate of 1.9. And that resembles...NYC's 24th!

Back to New York. Our chart in Part I indicates that between 2000-2016 murders in Gotham fell from 673 (rate 8.4/100,000 pop.) to 335 (rate 3.9.) But let's look *within*. In both the downtrodden 40th. (2016 pop. 79,762, poverty 28.2 percent) and the equally challenged 73rd. (pop. 86,468, poverty 28.6 pct.) killings ticked up from twelve to thirteen, yielding rates of 15.3 and 16.2, *four times* the citywide rate. Meanwhile, in the

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affluent 18th. (pop. 54,066, poverty 10.3 pct.), murders declined from one to zero (rate of zero) while in the large and fabulously rich 19th. (pop. 208,259, poverty 7.1 pct.) they fell from three to two, generating a rate of, um, *one*.

That's our "point." New Yorks' [citywide poverty rate is 19.9 percent](#). As long as it has a sufficient proportion of well-off residents, it can use summary statistics to brag about "great crime drops" until the cows come home. Except that unlike citywide numbers, people aren't composites. Can we assume that residents of the 40th. and 73rd. precincts feel – or truly are – as well served as those who live in the more fortunate 18th. and 19th.? What do poorer citizens think when they hear [Mayor de Blasio boast](#) that his administration has turned crime around? Are they as reassured about things as their wealthier cousins?

As we suggested in "Location," it really *is* about neighborhoods. Aggregating seventy-six precincts because they're located within a single political boundary, then acting as though the total truly reflects the sum of its parts, is intrinsically deceptive. Actually, when it comes to measuring crime and figuring out what to do about it, the 40th., the 73rd. and a host of other New York City precincts really aren't in the Big Apple. They're a part of that other America – you know, the one where the inhabitants of L.A.'s beleaguered Florence district also reside.

Posted 5/25/20

## **BUT IS IT *REALLY* “SATAN”?**

*A Sheriff's lament reflects the hopelessness of urban decay*



*For Police Issues by Julius (Jay) Wachtel.* “Satan has taken over Bogalusa, and it’s time we take it back.” Louisiana Sheriff Randy Seal’s [memorable words](#) came on May 18, two days after more than five-hundred local residents staged an outdoor memorial service in Bogalusa, a distressed city of about 12,000 seventy miles north of New Orleans. According to authorities, citizens assembled at a major intersection (in violation of COVID-19 restrictions) to mourn the passing of a local resident, Dominique James, 29. Suddenly a vehicle drove by, and a barrage of gunfire rang out. Thirteen were struck by bullets, apparently none fatally.

“I am burying my son and I just think it was heartless for someone to come through and just ring out gunshots,” [said his grieving mother](#), Rena Robertson. Her laments carried special resonance, as her son had recently gone missing, and it took an air search to find his vehicle parked deep in the woods. [Dominique’s murdered remains lay inside](#).

Our next stop was the [UCR](#). And the story it told was depressingly familiar. In 2018, the most recent year with full data, Bogalusa, pop. 11,730, reported 124 violent crimes. That yields a miserable per/1,000 rate of 10.6, about twice Louisiana’s 5.4 and close to three times the national 3.7. Looking back, 2018 was actually a pretty good year for the town. Its 2010 rate was 14.5; in 2015, it was 13.3. (p.s. the UCR lists rates per 100,000.)

As its readers know, *Police Issues* is very much of the mind that crime and economic conditions are two sides of the same coin. So our very next stop was the [Census](#). No surprise there. In 2018, a depressing 40.1 percent of Bogalusa’s citizens lived in poverty. To compare, it was 11.8 percent for the U.S. and 18.6 percent for Louisiana.

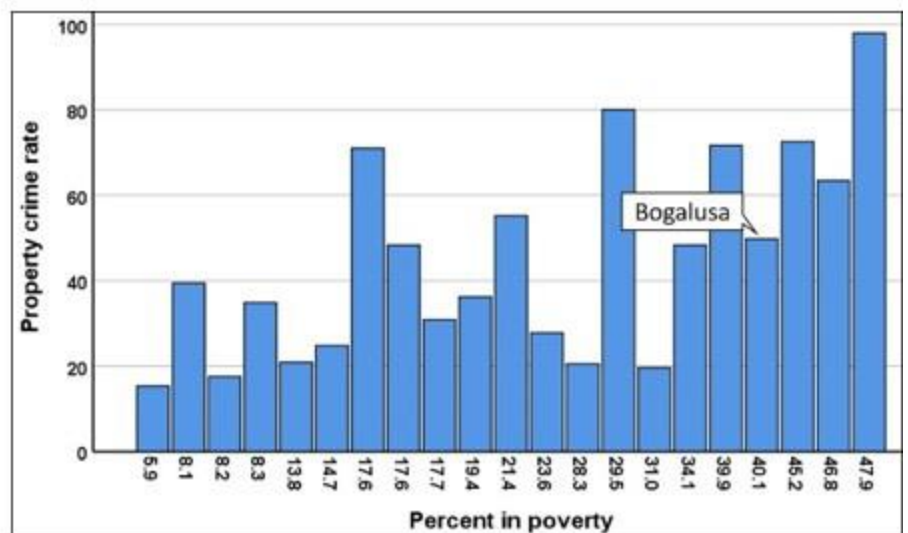
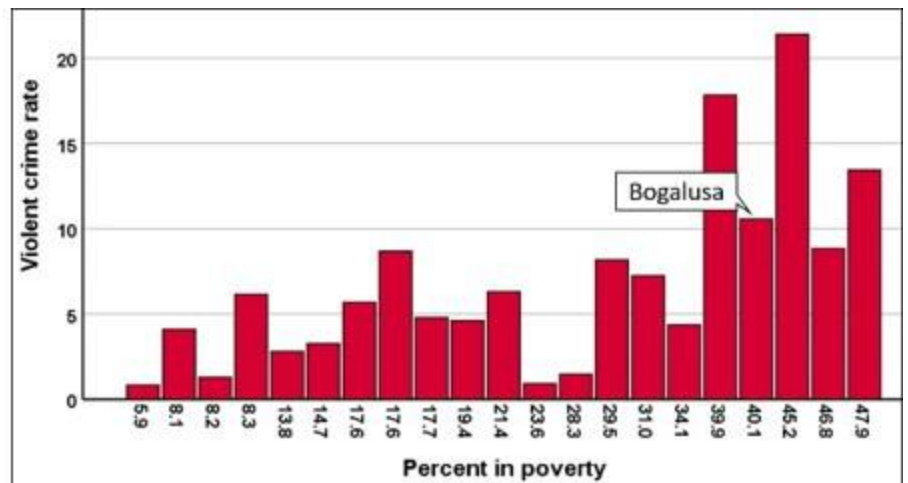


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Well, maybe Bogalusa is special. Maybe it's not poverty that underlies its struggle with violence. Perhaps it really is the Devil! (Normally we prefer to look at neighborhoods, whose inhabitants are exposed to similar doses of the influencers that propel crime. That's the thought that underlies our "[Neighborhoods](#)" section. But we lack a ready source of within-city crime and economic data for these burg's, so must stick with their overall statistics.) Including Bogalusa, Louisiana has 21 cities with populations of 10,000-20,000. The graphs below depict, for each, percent of residents in poverty from the 2018 Census, and violent and property crime rates per 1,000 pop. from the 2018 UCR. (Violent crimes include murder, non-negligent manslaughter, rape, robbery, and aggravated assault. Property crimes include burglary, larceny-theft, motor vehicle theft, and arson.)

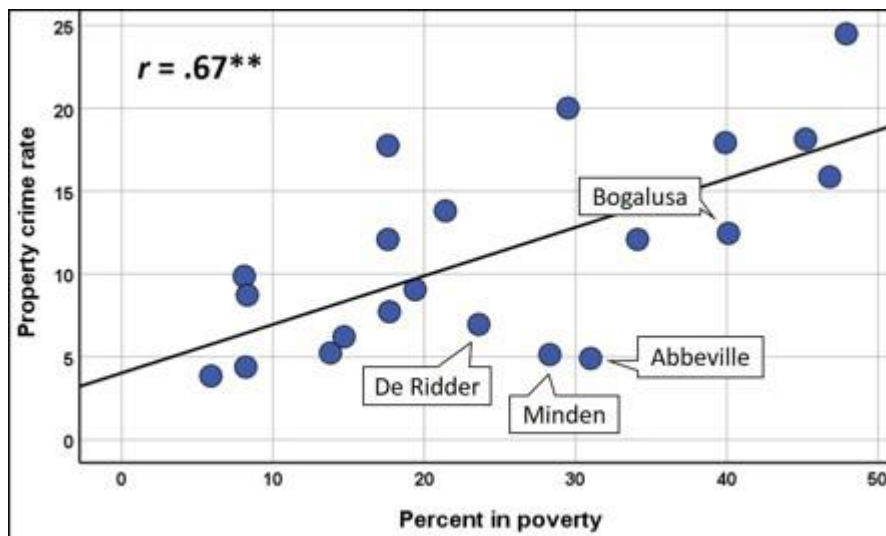
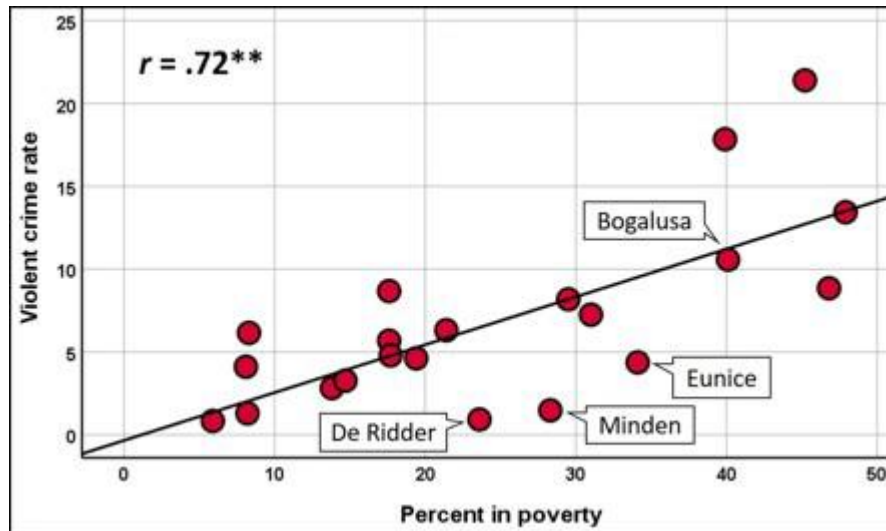
Louisiana cities with populations between 10,000-20,000 (n=21)

City	Pop	PovRate
Youngsville	14370	5.9
Broussard	12672	8.1
Mandeville	12371	8.2
Zachary	17884	8.3
Covington	10658	13.8
Baker	13487	14.7
Morgan City	11066	17.6
Gonzales	10916	17.6
Gretna	17965	17.7
Thibodaux	14745	19.4
Pineville	14415	21.4
De Ridder	10820	23.6
Minden	12215	28.3
West Monroe	12594	29.5
Abbeville	12279	31
Eunice	10073	34.1
Crowley	12779	39.9
Bogalusa	11730	40.1
Opelousas	16262	45.2
Natchitoches	17981	46.8
Bastrop	10270	47.9





To be sure, there are plenty of ups and downs. Yet one trend is difficult to miss: as poverty goes up, so does crime. To double-check here are the corresponding “scattergrams”:



With a few exceptions – De Ridder, Minden and Eunice for violent crime, and De Ridder, Minden and Abbeville for property crime – poverty is strongly associated with both types of offending. That relationship is evident by the magnitude of the “*r*” statistics. (It’s on a scale of minus one to plus one. Either extreme denotes a lock-step association; zero, none.) Both coefficients (.72 and .67) demonstrate a strong “positive” relationship, meaning that poverty moves up and down pretty much in sync with violent crime as well as property crime. As for the two asterisks, that means the results are statistically “significant,” with a probability of less than 1/100 that they were produced

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by chance. (For a more thorough discussion of such things check out “[Scapegoat \(Part I\)](#)” and “[Human Renewal](#).”)

Of course, the adequacy of policing can also affect crime. We collected [UCR police employee data](#) for each town. As expected, there was a statistically significant association between population size and the number of sworn officers ( $r=.59^*$ ). But that doesn’t necessarily mean that needs were being met. This table compares the four least violent towns (mean/1,000 rate, 1.1) with the four most violent (mean/1,000 rate, 15.8):

City	Pop	Violent Crimes	Violent Crime Rate	Property Crimes	Property Crime Rate	Poverty rate	Sworn officers	Sworn rate/ 1,000 pop.
Youngsville	14370	12	0.8	221	3.8	5.9	25	1.7
De Ridder	10820	10	0.9	301	7	23.6	25	2.3
Mandeville	12371	16	1.3	217	4.4	8.2	37	3
Minden	12215	18	1.5	251	5.1	28.3	32	2.6
Bogalusa	11730	124	10.6	584	12.4	40.1	35	3
Bastrop	10270	138	13.4	1006	24.5	47.9	32	3.1
Crowley	12779	228	17.8	916	17.9	39.9	36	2.8
Opelousas	16262	348	21.4	1180	18.1	45.2	40	2.5

For all 21 cities, sworn staffing ranged from 1.67 to 5.7 per 1,000 pop. But the differences between these two groups was slight. The least violent places – Youngsville, De Ridder, Mandeville and Minden – averaged 2.4 officers/1,000 citizens, while the high-violence places – Bogalusa, Bastrop, Crowley and Opelousas – averaged 2.85/1,000. (Comparing the top four/bottom four for property crime produces only two differences. De Ridder, the second least-violent city, deteriorates to seventh place, while Bogalusa, which is only three steps from being the most violent, improves a bit to fourteenth.)

Mandeville looks peaceful. Let’s contrast it with two burg’s that seem much less so:

- Bogalusa is close in both population and police staffing. It’s also nearly *five times* poorer and has nearly *eight times* the number of violent crimes.
- Opelousas has nearly four-thousand more residents. But it only has *three* more cops – that is, one per shift. Its poverty rate is also more than *five times* worse. With that we’d expect more violence. But more than *twenty times* as much? Yikes.

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Clearly, Bogalusa and Opelousas (and Bastrop, and Crowley) could use more cops. Only problem is: who'll pay for them? "Why, like other small Louisiana towns, Bogalusa is slowly dying" is the title of a [July 5, 2019 story](#) in the *New Orleans Advocate*. According to the well-written piece, it really is all about economics. "The only thing left here is that mill" said a long-time resident who once worked at the city's remaining industrial plant, a large paper mill. But automation displaced most of its workers, and good jobs remain scarce. A block away, a once-booming retail strip "is now a rundown row of storefronts, many of them abandoned, with papered-over windows."

But something important escapes notice. While the town's poverty load and abysmal finances (Alabama placed it under "fiscal administration") get prominent billing, violence draws absolutely no mention. Indeed, the word "crime" comes up only once, in the context of the gunning down of a black sheriff's deputy by white extremists fifty-five years earlier. Yet as its inhabitants well know, armed violence is no stranger to Bogalusa. Less than a year has passed since that [infamous two-week period](#) in July 2019 when the community experienced eleven shootings and six wounded in fifteen days. Police chief Kendall Bullen (he's still on the job) managed the chaos [with an understaffed force and truculent survivors](#). "A lot of the victims are not cooperating," he said. "They don't want to give us information."

Of course, it takes a lot more than cops to effectively counter crime. Poverty, and the crime-generating factors that go along with poverty, have beset Bogalusa for many years. It may be impolitic to mention, but consider that the memorial service's honoree, 29-year old [Dominique Audrell James](#), is likely one and the same as "[Dominique A. James](#)," a 23-year old Bogalusan who was booked into jail in early 2014 for "distribution of schedule II drugs and criminal conspiracy."

We've long argued that urban violence is best tackled through intensive, geographically focused campaigns of socioeconomic renewal. For example, there's [Jobs-Plus](#), a national program that provides residents of housing developments with everything from job training and placement to rent assistance. Or a local variant, Birmingham's (Ala.) "[Promise Initiative](#)," a city-run program that connects high-school juniors and seniors with apprenticeships so they can learn vital skills. Graduating seniors can also get tuition assistance to attend two and four-year colleges.

Sadly, such things seem absent from the current political debate. Other than preaching, we've actually *mailed* several letters (really, in *envelopes*) to politicians recommending that Presidential campaigns connect with, say, Birmingham's mayor to get better informed about the needs of places like, say, Bogalusa, Bastrop, Crowley and

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Opelousas. How can America's many struggling communities be transformed? Really, whoever our next President turns out to be, getting *that* done should be her "job #1."

Posted 1/25/09

## **CARONA FIVE, FEDS ONE (BUT THE FEDS WON)**

By Julius Wachtel, (c) 2010

Getting convicted of a felony is hardly a reason to rejoice. But after being tried for one count of conspiracy, three counts of [mail fraud](#) by depriving the public of the [honest services](#) of a public official, and two counts of witness tampering, charges that could have landed him in prison for decades, it's easy to see why his acquittal nine days ago of everything but a single count of witness tampering left ex-Orange County Sheriff Mike Carona feeling "[beyond vindicated](#)."

Carona was originally elected in 1998, then re-elected in 2002 and 2006. His travails date back to his first term, when he appointed two friends to top positions in the Sheriff's Department. George Jaramillo, a lawyer and ex-Garden Grove cop (he left the department over a bitter personnel dispute) was installed as chief of operations, while Don Haidl, a wealthy businessman with no law enforcement background took charge of the reserves.

Jaramillo and Haidl would stumble badly. In 2004 Jaramillo was charged in State court for misusing deputies, patrol cars and a helicopter to promote a vehicle immobilizing device for a private firm. Incensed at Carona's lack of support (the Sheriff promptly fired him) Jaramillo eventually pled no contest to felony conflict of interest and served six months. That same year Haidl's son was charged in a gang rape. Carona again proved of little help. The boy was convicted and imprisoned and an embittered Haidl resigned.

The Feds seized on the opening. In March 2007 Haidl and Jaramillo were [secretly indicted](#) on tax charges, Haidl for not declaring business funds he spent on his son's defense, and Jaramillo for failing to disclose cash and other gifts he got from Haidl. Seeking leniency, and perhaps revenge, they ratted on Carona, accusing him of selling his office by accepting cash and gifts from Haidl and doling out badges and gun permits to contributors. In October 2007 a Federal Grand Jury returned a [multi-count indictment](#) against Carona, his wife Deborah Carona and his mistress Debra Hoffman.

Carona's trial took place first. It was extensively reported by the [Orange County Register](#) so we won't go into all the details. Here what we're most

interested in is why it fizzled out. The single conviction, for witness tampering, stemmed from a meeting between Carona and Haidl, who was wired up and working as an FBI stoolie. Although Carona knew that the Feds were sniffing around, he still felt close to his former confidant, and when Haidl displayed a fictitious Grand Jury subpoena and asked what to do Carona suggested being evasive. But try as he might, Haidl couldn't get Carona to admit he accepted cash or did favors for money. As far as the Sheriff was concerned, whatever gifts he received, including the mechanically-challenged boat he got from Haidl were tokens of friendship. Unable to confirm that Carona acted corruptly -- the reason for the investigation in the first place -- Haidl got so frustrated that once they parted he muttered "it's like f\*\*\*ing pulling teeth." And yes, the hidden microphone was still on.

Interviewed after the trial, the [jury foreman](#) said that most jurors disbelieved Haidl because of his cooperation agreement with the Feds. Aside from Haidl's uncorroborated statements there was no evidence that Carona sold his office, hence citizens weren't "cheated" of anything. Things might have gone differently had Jaramillo testified about the cash bribes, most of which supposedly passed through him. As it was, Jaramillo was never called to testify, an absence that one juror said cost the Government dearly: "It would have been different if Jaramillo was there, and that was the consensus of the group."

Not everything went smoothly in the jury room. Before the ink on the [verdict form](#) was dry [two jurors were already complaining](#) that they were browbeaten into voting for acquittals on the more serious counts. One said that it was only through his persistence that Carona was convicted at all. "I'm the one who did that one [charge]. I think it was a miracle. It was the only one that had an absolutely good, unadulterated tape where nobody could say something contrary." But the [transcript](#) has no smoking gun. Carona never flat-out told Haidl to lie. What he did say, though, was so crudely put (among other things, he boasted about his affairs and sexual prowess) that Federal prosecutors probably charged him with obstruction just for the sake of bringing the tape into court.

Carona is liable to a ten-year penalty. If the conviction holds -- there's concern that it might not, as there was no proceeding to "obstruct" -- it's likely that the judge will make him serve at least a token term behind bars. As a convicted felon, Carona will also lose many of his civil rights. He himself admits that his reputation is toast. Yet while there's relief that a man with such a weak moral compass is no longer Sheriff, his trial ended with a whimper. Sure, Carona's election, and re-elections, were probably tainted with campaign-law violations

(due to the five-year statute of limitations, much of the evidence was inadmissible.) And like Sheriffs elsewhere -- [Los Angeles County, for example](#) -- he gave a bunch of wealthy, unqualified civilians badges and gun permits. But jurors didn't equate these shenanigans with being a crooked cop. [As one juror half-seriously suggested](#), "they should have given us a list of all the women he didn't sleep with, it would have been shorter. But that doesn't matter. Having an affair isn't illegal."

If nothing else, Carona's trial illustrated the foibles of American jurisprudence. Here are four lessons to carry away:

- *Good lawyers are everything.* Carona is by no means wealthy, yet he enjoyed the services of two top-notch, big-bucks lawyers, both partners in the renowned firm of Jones Day. Not only that, but they worked for free! What might his chances have otherwise been? Hmm, can you spell p-l-e-a?
- *Throw enough dirt and something will stick.* Propping up a thin case with muck (and with a character like Carona, there was plenty of that to go around) is a time-tested lawyer's trick. But when the Government tries to get a target to incriminate themselves after the fact by sending in a secretly indicted good buddy with a fake Federal subpoena, desperation begins to show. Not even your loyal blogger, who worked undercover on and off for years, ever did anything that slimy (or would fess up to it if he did.) Which brings up the question of how far the good guys should go. Prosecutors have a greater obligation than to convict. Should they be bound to no higher an ethical standard than the defense?
- *Jurors may only be finders of fact, but they tend to view their roles more broadly, as their community's moral agents.* Extraneous factors such as a defendant's character are always in play. Prosecutors knew that Carona's dalliance with at least three women other than his wife would be looked on poorly. At the same time, the Government's greasy investigative techniques probably did its own cause harm. Balancing the defendant's nauseating conduct against the FBI's, jurors might have settled on guilty to a single, lesser count as a compromise. It's the kind of decision-making that one sees time and again. And it's not necessarily a bad thing.
- *Electing Sheriffs is a terrible idea.* Politicians who supported Carona for election and re-election [now argue](#) that they didn't know the man behind



the badge. (Well, they *did* know that Carona lacked any law enforcement experience other than as County Marshal, where he oversaw security and process service for the courts.) That, as [this blog has pointed out](#), is why Sheriffs should be selected like police chiefs, competitively and only after extensive vetting.

Since Carona resigned while in office the Board of Supervisors had to select someone to complete his term. After a nationwide search, detailed background checks and multiple interviews they chose Sandra Hutchens, formerly a division chief with the Los Angeles County Sheriff's Department. While the outcome didn't please CCW permit holders (she promptly [revoked dozens of concealed-carry licenses](#) that Carona issued) the process assured citizens that the County's new top cop would be a well-regarded law enforcement professional. Of course, she will soon have to run for office, once again injecting a political spin into a process that, as events conclusively proved, should be completely removed from politics.

Posted 12/6/21

## CAUSE AND EFFECT

***California eased up on punishing theft.  
Did it increase crime? Embolden thieves?***



*For Police Issues by Julius (Jay) Wachtel.* Believe it or not, Jerry Brown got his start as a law-and-order type. In 1976, only a year into his first term as Governor, California's former Secretary of State [signed a bill](#) replacing the state's forgiving, indeterminate sentencing structure with tough-on-crime policies that prioritized punishment.

Of course, considering the "crime wave" [that beset the era](#), his move was likely inevitable. As were the consequences. In time the state's prisons became appallingly packed, creating insufferable conditions for inmates and guards alike. It took more than three decades, but in 2011 the U.S. Supreme Court affirmed [a 2009 ruling](#) by a special three-judge panel ordering the release of more than thirty-thousand inmates.

At the time that the Supremes issued their slap-down, the Yale law school grad had just completed a four-year term as State Attorney General, and his second eight-year stint as Governor was underway. Despite his earlier leanings, Brown quickly fell in line with the new, less punitive approach, and during his term he would sign a host of measures reflecting California's new normal. But we'll begin our review with a law that was placed into effect by that famous "Red" politician whom Jerry Brown replaced.

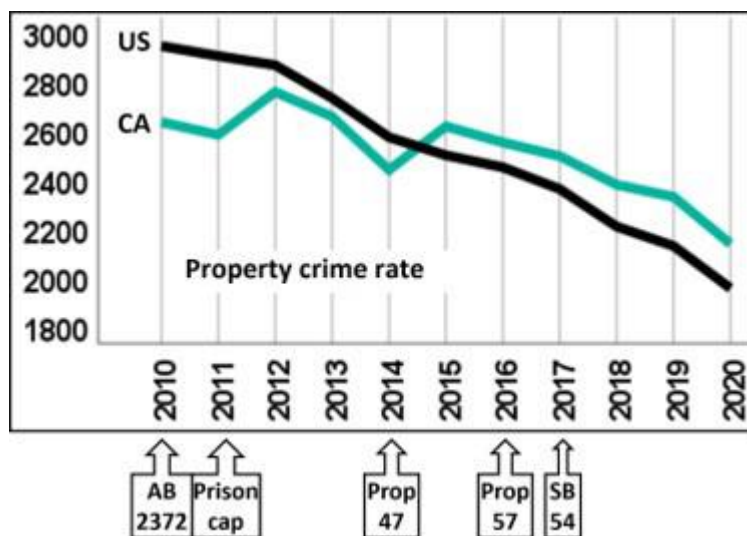
- [Assembly Bill 2372](#). In September 2010, outgoing Governor Arnold Schwarzenegger signed a bill raising the threshold for the felony crime of Grand Theft from \$400 to \$950. Most other thefts became misdemeanors.
- [Assembly Bill 109](#). In 2011, shortly after the Supreme Court upheld the prisoner cap, Governor Brown signed the "Public Safety Realignment Act." Under its provisions, "non-serious, non-violent" offenders would serve their time in county jails instead of state prison. Generous good-time credits were thrown into the

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mix. During 2010-2012 California's combined jail/prison population [reportedly fell by more than twenty-thousand](#).

- [Proposition 47](#). Signed into law in November 2014, the enticingly (some would say, misleadingly) entitled "Safe Neighborhoods and Schools Act" created the new offense of "shoplifting," a misdemeanor punishable by up to six months imprisonment. It applied to all thefts from businesses, including those planned in advance, as long as losses did not exceed \$950. Since then "shoplifting" has kept most planned thefts from being charged, as was once customary, [as felony burglary](#), as that requires entry with the intent to commit "grand or petit larceny or any felony."
- [Proposition 57](#). Effective November 2016, the alluringly entitled "Public Safety and Rehabilitation Act" allows non-violent felons to be considered for parole upon completion of the term for their main offense, regardless of other crimes for which they were convicted or any sentence enhancements that may have been imposed.

Progressives have championed Jerry Brown's legacy. Although the *Los Angeles Times* acknowledged in 2018 that there had been ["spikes" in violent and property crime](#) in the years following the enactment of AB 109 and Proposition 47, when the life-long servant finally, finally left public office it nonetheless applauded his decision [to "change course."](#)

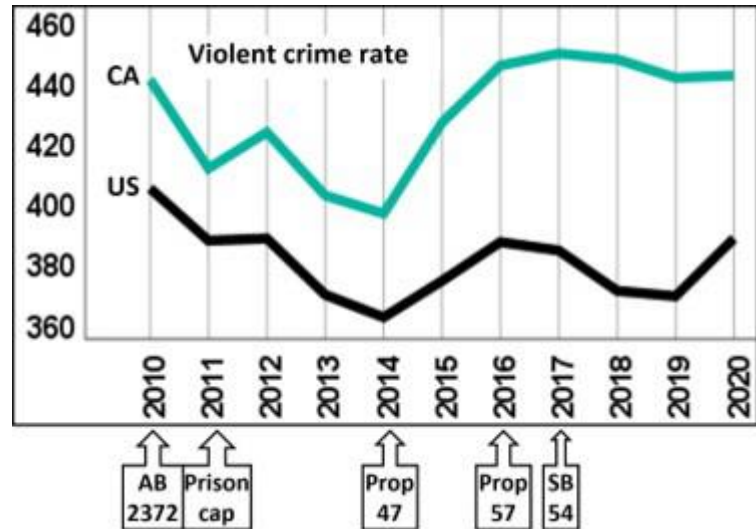


Concerns about the potentially criminogenic effect of the Golden State's new, go-easy approach have received considerable scrutiny, academic and otherwise. Before getting into the studies, though, we thought it best to present [relevant data from the FBI](#). Our graphs depict property and violent crime rates per 100,000 population for California and the U.S. between 2010-2020.

California and national crime trends seem mostly in sync. But there are a few exceptions. First, as to property crimes. Assembly Bill 109, the "prison cap," slashed prison terms and transferred inmates to

local custody and supervision. It went into effect in 2011. During the following year property crime spiked 6.8% (2583.8 to 2758.7). Proposition 47, which created the offense of “shoplifting,” became State law in late 2014. By the end of 2015 property crime was up 7.3% (2441.1 to 2618.3). Its largest component, larceny-theft, increased 9.8 percent (1527.4 to 1677.1).

Shifting our attention to violent crime, in 2014 California’s rate was at a decade-low 396.1. Three years later, following the enactment of Propositions 47 and 57, it reached a decade-high 449.3, an increase of 13.4 percent.



How have experts interpreted these numbers? In “[The Effects of Changing Felony Theft Thresholds](#)” (2017) the Pew Charitable Trust reported that twenty four of thirty States that raised the felony theft threshold during 2010-2012 enjoyed lower property crime rates in 2015 (California, which passed AB 2372 in 2010, was one of six exceptions.) While the Trust conceded that rates in the twenty States that *didn’t* change their threshold wound up even lower, the difference was not considered “statistically significant.”

Let’s skip forward to Proposition 47. Here are three prominent data-rich reports:

- According to the [Public Policy Institute of California](#), there is “some evidence” that Prop. 47 caused the 2014-2015 increase in larceny-theft. Rearrests and reconvictions for this crime also substantially declined (10.3 and 11.3 percent, respectively).
- An NSF-funded study, “[Impacts of California Proposition 47 on crime in Santa Monica, California](#),” found that thefts fitting the definition of “shoplifting” increased about fifteen percent in Santa Monica after the measure went into effect. Other crimes fell about nine percent. According to the authors, the surge could have been caused by the easing of punishment. Increased awareness might have also led to more reporting.

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- In “[Can We Downsize Our Prisons and Jails Without Compromising Public Safety?](#)”, two clearly reform-minded researchers conceded that larcenies and motor vehicle thefts seemed to increase after Prop. 47 went into effect. So [they generated a statistical comparison group](#) that estimated how many thefts would have occurred had the law *not* changed. They concluded that the difference between what actually happened and what *would* have happened was very small. So small, in fact, that releasing prisoners seems a perfectly safe approach.

At present one can hardly turn to the media without being bombarded by breathless accounts of “[smash and grab](#)” thefts plaguing higher-end retailers, and particularly in California. In one of the most brazen heists, ninety suspects in twenty-five cars “stormed” a Northern California store last month, making off with “more than \$100,000” worth of goods “in about a minute.”

But the problem isn’t new. [According to a notable “Red” media source](#), “brazen acts of petty theft and shoplifting” supposedly enabled and encouraged by Prop. 47 were being reported across California two years ago. [Proposition 20](#), an initiative submitted to the state’s voters last year, promised to remedy things by lowering the bar for charging felony theft and doing away with early paroles, in effect reversing the easings brought on by Propositions 47 and 57.

Full stop. In the immediate post-Floyd era, justice and equity [remain of grave concern](#). So much so, that even after retiring, former Governor Jerry Brown leaped back into the fray and called Proposition 20 a “[prison spending scam](#).” And scam or not, [it got trounced](#). But time has passed, and as [a breathless article](#) in the *Washington Post* just reported (it features video from hard-hit San Francisco), the chaos persists:

Retail executives and security experts say the rise of such robberies — which have gone viral online and in some cases, spurred copycats — is the culmination of several factors, including a shortage of security guards, reluctance by police and prosecutors to pursue shoplifting offenses, and the growing use of social media as an organizational tool.

Evildoers are seemingly capitalizing on the less punitive atmosphere for their own selfish gain. What might happen should a “new and improved” Proposition 20 be introduced is anyone’s guess.

Posted 11/20/24

## CITIZEN MISBEHAVIOR BREEDS VOTER DISCONTENT

*Progressive agendas face rebuke in even the “Bluest” of places*



*For Police Issues by Julius (Jay) Wachtel.* This image from Google maps depicts a modest home in a working-class area of Los Angeles. We’ll have more to say about it later. But let’s begin with a major California city that’s even “Bluer” than L.A. We mean, of course, San Francisco. That’s where ardently progressive Mayor London Breed just lost her bid to continue serving the City by the Bay. While the victor, Daniel Lurie (a heir to the Levi Strauss fortune) is also “Blue”, he prides himself as being a moderate sort. In fact, his avowed goals of “restoring safety, ending homelessness and shutting down open-air drug markets” actually [led the “Reds” to anoint him](#) as their number-one pick.



Across the Bay the story was much the same. Voters in “Blue” Oakland [recalled Mayor Sheng Thao and Alameda County Dist. Atty. Pamela Price](#), two strong liberal voices who had only been in office since 2022. According to a spokesperson for the Mayoral recall, Oakland’s progressives “did the same thing they did in San Francisco. They ignored the crime. They ignored the poverty.”

Ditto, L.A. That’s where voters just handed D.A. George Gascon [an overwhelming thumbs-down](#). A nationally-known progressive, his liberal policies, which forbid charging juveniles as adults, barred the prosecution of a wide range of misdemeanors, and disallowed the use of sentence enhancements, made more than a few assistant D.A.’s livid. In his place the electorate installed Nathan Hochman. A former Federal prosecutor and (surprise!) defense lawyer, his campaign pledge to cast aside Gascon’s permissive agenda drew fervent support from police and, as one might





expect, from the D.A.'s disgruntled subordinates. And ultimately from the public, who handed the self-avowed crime fighter a twenty-percentage point margin.

And that's not all. [By an even greater margin of 40 percent](#) California voters hollowed out a decade-old progressive measure, [Proposition 47](#), that had watered down punishments for theft and drug crimes. Spanking-new [Proposition 36](#) addressed the alleged consequences – a plague of smash-and-grabs that continues to beset retailers – by increasing penalties for group thefts and designating all thefts committed by repeaters as felonies. To combat the fentanyl and hard-drugs scourge that plagues the Golden State, punishments for drug dealing were also substantially stiffened.

Still, even if true, Mr. Hochman's reassurance that [cops' hands won't be "tied" during his shift](#) at best offers an incomplete solution. According to newly-appointed LAPD Chief Jim McDonnell, the failure to prosecute "low-level" offending (read: bad-old George Gascon) made victims less likely to call police. Their reluctance to report crimes, he fears, has become so deeply entrenched that it's actually exaggerated the magnitude of the so-called "crime drop."

Chief McDonnell wants citizens to call the cops even for relatively minor crimes. Problem is, the reluctance to prosecute may have made cops reluctant to act. In any event, what ultimately happens has never been controlled by the first two wheels of



the criminal justice system. Courts with judges and a correctional system with probation and parole agents occupy the *really* definitive end. Even if cops and assistant D.A.'s do their very best, the consequences of criminal misconduct are for others to decide. As we've frequently pointed out, those "consequences" often seem insufficient, sometimes wildly so. Check out our November 8, 2024 update to "[A Broken System](#)":

Darion C. McMillian, 23, [was recently released from parole](#) after being imprisoned for a 2019 shooting. And on November 4 he was on electronic monitoring for a pending drug case when Chicago police officers approached the double-parked car that he occupied. McMillian opened fire with a pistol converted by a "switch" to full-auto, killing Officer Enrique Martinez and, apparently by accident, the driver of his own vehicle. McMillian fled but was soon arrested. Officer Martinez, himself a young person, had less than three years on the job.





Soon after completing his parole term for the 2019 shooting, a crime for which he served four years in prison, McMillian picked up two arrests for felony drug offenses. Both times he was released with an ankle monitor to await further proceedings. He would



soon use a homemade machinegun to murder [Chicago police officer Enrique Martinez](#). A felon's compassionate treatment was arguably responsible for a young officer's violent death. [And there's been political consequences](#). Chicago Mayor Brandon Johnson, a progressive figure who's considered no friend of the police, caught a lot of flack. Here's what Hizzoner announced a few days before the fallen officer's funeral:

I heard from the family and am honoring their request and will no longer plan to attend the honors funeral services.

Back to L.A. And to our image of that house. On November 7, 2024 [its 93-year old resident told LAPD officers](#) that she was hearing “knocking sounds” from underneath. Officers discovered that a 27-year old man had taken up residence in the crawl space. After “an hours-long standoff,” the naked trespasser

Arrest date	Charge	Disposition
5/15/24	Violate post-release supv.	10/16/24: 142 days jail, half served, balance waived
2/15/24	Violate post-release supv.	4/8/24: 120 days jail
10/5/23	Trespass, occupy property w/o owner's consent (misd.)	4/12/24: Dismissed int. of justice
9/1/23	Violate post-release supv.	10/12/23: Supv. revoked/Reinstated
7/5/23	Violate post-release supv.	8/18/23: Supv. revoked/Reinstated
10/18/19	Elder/dep. adult abuse, assault w/deadly wpn, threats, obstruct.	10/16/22: Pled nolo to felony abuse, other chgs. dismiss. <b>Three years prison.</b>
7/31/19	Lying in doorway	10/23/19 Dismissed int. of justice
10/10/16	Loitering, peeking, public intox.	1/23/17 18 mos. diversion
1/22/16	Vandalism, obstruct bus., trespass	6/22/16 Dismissed int. of justice

emerged. His [L.A. Superior Court](#) record is summarized above. As one might expect, his most recent tangle wasn't his first. Also note that his record includes a felony conviction for crimes including “elder abuse,” which led to a prison term. His most recent offending – that crawl space thingy – is “only” a misdemeanor. So he was released, with a court date in December.

Care to wager on his behavior until then?

As we've repeatedly pointed out (see, for example, "[Catch and Release](#),") even chronic evildoers get breaks. Here, for instance, is our November 4, 2024 update to "[A Broken System](#)":

Nineteen-year old Nhazel Warren had recent arrests for gun possession and fleeing [when officers caught him illegally packing a pistol in July](#). He was released with an ankle monitor. Warren then committed a home invasion. He was arrested and released on bond and, again, with an ankle monitor. He went on to commit several more armed robberies; his most recent arrest was a week ago. Again, he was released on bond. And again, with a monitor. All along, Warren was supposedly being monitored by the Probation Dept. But there's no record that they ever put his "tracking" devices to work.

Warren's most recent release, which followed his reportedly *fifth* armed robbery arrest, was on \$150,000 bail. Again, care to wager on how he'll behave?

Misbehavior by releasees is commonplace. There's a reason why one of our related posts (see below) was entitled "[Cause and Effect](#)." Whether cops and prosecutors will vigorously address "lower level" offenses – and whether repeaters will be strictly dealt with by judges and agencies of supervision – is yet to be seen. Hopefully the measures promised by L.A.'s new D.A. and police chief will take hold, and there will be no need for us to wag "naughty, naughty" again.

Check back!

Posted 9/24/11

## **DID GEORGIA EXECUTE AN INNOCENT MAN? (PART I)**

***Deconstructing the murder of a Savannah police officer,  
with no axe to grind***

*By Julius (Jay) Wachtel.* During the early morning hours of August 19, 1989 Savannah police officer Mark MacPhail was in uniform working an off-duty security job at a Burger King when he came to the aid of a citizen who was reportedly being mugged. Officer MacPhail was shot and killed.

Two years ago, in [“With Some Mistakes There’s No Going Back,”](#) we concluded that Troy Davis, the man whom Georgia authorities executed three days ago, was more likely than not responsible. Our less-than-ringing endorsement reflected a verdict whose factual basis had been eroded by a string of post-conviction witness recantations, including accusations that the man who fingered Davis later confessed to being the shooter.

Davis’ voluble throng of supporters, led by [Amnesty International](#) and the [ACLU](#), never expressed any doubts. ACLU called the execution “unconscionable and unconstitutional,” and not just because they oppose the death penalty, a position with which we happen to agree. Davis, they insist, was at the very least a victim of mistaken identification. He was an innocent man.

In our criminal justice system what really counts is what the courts think. And none counts more than the Supreme Court. By 2009 Davis had been turned away by the [Georgia Supreme Court](#) and the [Eleventh Circuit](#). His final option was to apply directly to the Supreme Court for a Writ of Habeas Corpus. Normally the justices brush off such applications. But this case was all but “normal.” Facing formidable national and international pressures to insure that justice was done. the high court punted. In what two dissenting justices (predictably, Scalia and Thomas) called an “extraordinary” move, [the Court accepted the petition](#) and assigned a trial judge to “receive testimony and make findings of fact as to whether evidence that could not have been obtained at the time of the trial clearly establishes [Troy Davis’] innocence.” Observers said no such step had been taken in fifty years.

Unraveling the merits of the petition fell to United States District Judge William Moore, sitting in Savannah. Prosecutors and Davis’ lawyers presented their evidence on

June 23 and 24, 2010. (Click [here](#) and [here](#) for news accounts.) Two months later the judge filed his opinion. It ran a startling 172 pages. (Click [here](#) for Part I, and [here](#) for Part II). Davis, the judge ruled, hadn't come close to meeting his burden. Calling him "not innocent" and slamming much of his evidence as "smoke and mirrors," Judge Moore effectively sealed the man's fate. Thirteen months later Davis lay on a table, poison coursing through his veins.

How did the judge reach his damning conclusion? We'll start by summarizing Judge Moore's account of the state's case as told in police reports, the preliminary hearing and trial.

## **Investigation and Preliminary Hearing**

The incident began in a pool hall and spilled over into a Burger King parking lot. There is general agreement that it began with an argument between Sylvester Coles and Larry Young in the pool hall, and that as they moved outside they were joined by two of Coles' associates, Troy Davis and Darrell Collins. That's where Davis allegedly struck Larry Young with a gun butt. Young ran off and his yelling drew the attention of officer MacPhail, who came to intervene.

**Larry Young** told police that he had bought beers for himself and his girlfriend. A man demanded one of the beers, and when he refused the man kept arguing and followed him outside. Young was then accosted by two other men. One struck him on the head with a gun butt. Young ran for help. Several days later police showed him photo arrays. Young couldn't identify his assailant. But he tentatively identified Davis as the man who demanded the beer. Three weeks later, at Davis' preliminary hearing, Young said that man was actually Sylvester Coles. Young said that he couldn't identify the man who struck him, but that he was wearing a white shirt with printing, black pants and a white baseball cap.

**Sylvester Coles** and his lawyer went to the police one day after the murder. Coles told officers that he was the one who argued with Young, and that Davis struck Young with a small, black gun with a wood handle. Darrell Collins was present but not otherwise involved. Coles said that Davis ran off when a police officer showed up, and that the cop chased him. Coles then heard a gunshot, saw the officer on the ground and fled. Coles admitted that he had been carrying a chrome long-barreled revolver, but said he left it behind while playing pool. Coles gave essentially the same account at Davis' preliminary hearing.

**Darrell Collins** told police that on the day preceding the murder he, Davis and a friend Eric Ellison were at a party when rival gang members shouted slurs from a passing car. Davis pulled a small black gun and fired once. That evening they drove to a gas station. On arrival Davis walked to an adjacent pool hall to see Coles. An argument broke out between Coles and another man, and as it moved outside Davis “slapped” the man on the head. Collins was on his way to join them when a police officer appeared, so Collins returned to the car. He heard a gunshot and he and Ellison left. Collins said that Davis was wearing blue or black shorts and a white t-shirt with writing on the front. He didn’t testify at the preliminary hearing.

Many of Davis’ associates were interviewed. **Jeffrey Sapp** told police that Davis said he slapped a man who argued with Coles and then shot the cop who responded. **Monty Holmes** told police that Davis said he shot the officer in self-defense when he reached for his gun. Both Sapp and Holmes testified at Davis’ preliminary hearing. Two others spoke with police but didn’t testify at the hearing. **Eric Ellison** said that he didn’t see the shooting. **Craig Young** also said he saw nothing. However, he heard that Davis had shot at a vehicle and killed a cop.

There were nine citizen witnesses. Two, Harriet Murray (Young’s girlfriend) and Dorothy Ferrell testified at the preliminary hearing.

**Harriet Murray** told police that the gunman was wearing a white shirt and dark pants. Ms. Murray could not identify the gunman from the first photo lineup, but picked Davis from another lineup the next day. She also identified Coles as the one who argued with her boyfriend. At the hearing she said that Davis was the man who struck Young and shot officer MacPhail. Davis’ gun misfired the first time, and when the officer reached for his gun Davis fired again, striking the officer’s face, then shot the officer two or three more times as he lay on the ground.

**Dorothy Ferrell** supposedly told police that she saw officer MacPhail order the gunman from the area hours earlier. She described the shooter as wearing a white t-shirt with writing, dark shorts and a white hat. Ms. Ferrell later said that she had seen Davis’ photo in a patrol car while speaking with an officer on an unrelated matter and told the officer that he was the gunman. She had seen Davis’ photo on TV and was eighty to ninety percent certain he was the one. She repeated this account at the preliminary hearing.

Witnesses Antoine Williams, Anthony Lolas, Matthew Hughes, Eric Riggins, Steven Hawkins, Steven Sanders and Robert Grizzard apparently didn’t testify at the hearing. **Antoine Williams** told police that the suspect on a wanted poster (Davis) was the one

who “slapped” Young and shot the officer. He was apparently shown photographs and said he was “sixty percent sure” that Davis was the gunman.

### **Trial**

Davis was charged with the murder of officer MacPhail and the wounding of Michael Cooper, an occupant of the vehicle that Davis allegedly fired on. Davis pled innocent to everything and was tried in August 1991.

**Larry Young** admitted his original mixup in identifying Davis. He reiterated that Coles was the man in the yellow shirt who demanded the beer, and that a man in a white shirt struck him on the head.

**Sylvester Coles** testified essentially as at the hearing. He admitted that he had been carrying a gun, but not when the shooting occurred, and said he didn’t see Davis shoot the officer.

**Darrell Collins** recanted his testimony about Davis shooting at the vehicle. He said that police pressured him to say so under threat of being charged as an accessory. Collins said that he didn’t see Davis with a gun that day, only in the past. As for the shooting of officer MacPhail, he saw Davis slap the man with whom Coles argued then saw the officer head in their direction. He heard gunshots and ran away. He said that Davis had been wearing a white shirt with writing and blue or black shorts. He also confirmed that Coles put his gun away before entering the pool hall.

**Jeffrey Sapp** testified that Davis told him he shot the officer but didn’t fire at the car. Sapp admitted that he had lied to police and at the preliminary hearing when he said that Davis went back to finish off the officer so he couldn’t be identified. Sapp said he had made that up to get back at Davis over an ongoing dispute.

**Harriet Murray** reprised her testimony from the hearing. She reaffirmed her identification of Davis as the shooter. Ms. Murray conceded that when she first picked Davis she said he was one of the three men, not specifically the gunman. She admitted giving inconsistent accounts of the shooter’s physical description.

**Dorothy Ferrell** testified to essentially the same effect as at the hearing. She identified Davis as the shooter in court. Ms. Ferrell said that she did not see pictures of Davis before spotting his photo in the police car. Contrary to the police report, Ms. Ferrell said that she had only seen officer MacPhail run off someone who looked like Davis. Like Ms. Murray, she conceded giving conflicting descriptions of the shooter.

Three citizen witnesses who apparently didn't testify at the hearing did so at trial. **Antoine Williams** said he saw the shooting. He confirmed his "sixty-percent certain" identification of Davis as the man who shot the officer and struck Young, but admitted that he had viewed a wanted poster. **Steven Sanders said** that he witnessed the shooting. Although he told police that he wouldn't be able to identify the shooter he nonetheless identified Davis in court. Sanders conceded that he had seen Davis' photo in the paper. **Robert Grizzard** testified that he saw the shooting but could not identify the gunman. However, he was sure that it was the same man who struck Young. He described the murder weapon as dark with a short barrel.

Cole's sister, **Valerie Coles Gordon**, also testified. She said that she heard gunshots from her home. About fifteen to twenty minutes later her brother came in gasping for breath and changed out of his yellow shirt. He explained that someone was trying to kill him. Davis then arrived, shirtless. Coles gave him his shirt, which Davis donned. But Davis left without it.

Prosecutors called several witnesses to testify about the earlier shooting. **Michael Cooper**, the victim, said that he rode to a party in a vehicle driven by a friend. His friend got into an argument with rival gang members, Davis among them. When they left their vehicle came under fire and he was struck in the jaw. He didn't know Davis or the man who fired the gun. **Craig Young** recanted a prior statement to police, that Davis told him he had argued with "Mike-Mike." He said officers had pressured him and that he was also trying to get back at Davis over a disagreement. **Eric Ellison** confirmed that he saw Davis walking back from a direction where shots had just been fired. He said that Davis was wearing a white t-shirt with writing and dark shorts. Ellison testified that he later drove Davis, Collins and another man to the pool hall. He heard gunshots and drove away with Collins and the other passenger, leaving Davis behind.

And what would a case be without a jailhouse informer? **Kevin McQueen**, an inmate, said that Davis admitted killing officer MacPhail to avoid being arrested for the earlier shooting. McQueen admitted he had seen a news story about the events and discussed them with other inmates. He denied that his testimony could help him as he had already been sentenced.

In following weeks we'll summarize Judge Moore's account of the defense case and review the conclusions that placed Davis on the fast track to execution. It will then be up to readers to decide whether Georgia killed the wrong man.



Posted 10/1/11

## **DID GEORGIA EXECUTE AN INNOCENT MAN?**

### **PART II – JUICING IT UP**

***Prosecutors wanted a slam-dunk case. They figured out how to get one.***

*By Julius (Jay) Wachtel.* Jurors didn't convict Troy Davis only for killing a cop. What's been virtually ignored about this intriguing case is that the jury also found him guilty of aggravated assault in the wounding of a rival gangster a few hours earlier. How these incidents came to be tried together, and most importantly, *why*, we'll get to in a moment.

As we mentioned in [Part I](#), Davis and his homies went to a party several hours before officer MacPhail's murder. Members of a rival gang were also present. While exactly what happened is muddled, a vehicle occupied by the rivals was later fired on. One round struck an occupant, Michael Cooper, in the jaw. Darrell Collins, an acquaintance of Davis, later told police that he, Eric Ellison and Davis had left the party and were on foot when the car drove past and its occupants shouted slurs. Davis pulled a small, black gun and fired. At Davis' trial Collins recanted, saying that he wasn't present at the shooting and that officers had pressured him to finger Davis. Ellison also denied being there; however, he did testify that he saw Davis walk back to the party from the direction of gunfire.

Cooper, the victim, also took the stand. He said he didn't know Davis and had no idea who shot him, or why.

Evidence that Davis murdered officer MacPhail seemed far more substantial. Five eyewitnesses, Sylvester Coles, Harriet Murray, Dorothy Ferrell, Antoine Williams and Steven Sanders testified that they were in or near a Burger King parking lot where the incident happened and saw Davis shoot the officer.

Each account had its issues. Coles, the man who originally turned in Davis, was one of three gang members (the other two were Davis and Collins) connected with the incident, so his identification of Davis was an act of self-interest. On the other hand, Murray and Ferrell were ordinary bystanders. However, as we pointed out in [Part I](#), their memories were far from impeccable. When Murray was first questioned by police she couldn't identify Davis, and she later suggested it was Coles before correcting herself. Ferrell was positive of her identification, but she had seen Davis' photo on the

seat of a patrol car, so her memory was likely contaminated. Williams was only “sixty percent certain” that Davis was the shooter. And while Sanders was sure it was Davis, he had told officers that he wouldn’t be able to identify the shooter.

Two persons testified that Davis told them he killed the officer. One, Jeffrey Sapp, admitted that he and Davis had a falling out; the other, Kevin McQueen, was a jailhouse informer whose account was riddled with inconsistencies.

Considerable circumstantial evidence pointed to Davis. For example, the mugging victim was pistol-whipped, most likely by the same man who later shot the officer. The victim (he ran off before the shooting) and several passers-by who saw the pistol-whipping but not the shooting said the assailant wore a white shirt and dark pants or shorts, attire that matched Davis but not Coles.

Last week we summarized the trial evidence. Now let’s turn to the defense case. As before, our source document is Judge William Moore’s ruling on Davis’ application for a Writ of Habeas Corpus. (For the pertinent section click [here](#) and go to page 74. For the full document see “Related Articles and Reports,” below.)

**Joseph Washington.** A local gangster, then in jail for robbery, Washington testified that he saw Davis at the party but not Coles. Washington said he later went to a location near the Burger King to meet his friend “Wally,” whose last name he couldn’t recall. While there he saw Coles and two other men arguing. Coles hit one of the others. A cop then appeared and Coles fired at him. Washington then returned to the party but didn’t say anything for fear of getting involved.

**Tayna Johnson.** She saw Davis and Coles at the party. After leaving she heard gunshots coming from the Burger King. She ran into Coles and a man named “Terry.” Coles was nervous and asked her to find out what had happened. She reported back that police were investigating a shooting. On cross-examination Johnson conceded that Coles didn’t act as though he had known. She also said that he was wearing a white shirt.

**Jeffery Sams.** He saw Davis at the party. He later went with Davis, Collins and Ellison to the pool room. Coles came by and put a shiny gun on the car’s front seat. Sams didn’t want the gun in the car so he placed it outside the pool room. After spending a short time in the pool room he returned to the car. He didn’t see Davis with a gun.

**Virginia Davis.** Davis’ mother said that her son wore a multicolored shirt to the party. He acted normally when she woke him for breakfast the next morning.

**Troy Davis.** The defendant testified that he was at the party for twenty or thirty minutes. On leaving he saw a speeding vehicle and heard a gunshot. He went home, changed from his pink and blue polo shirt into another garment (he didn't specify its color) and accompanied Collins, Ellison and Sams to the pool hall. Coles was already there. Coles later tried to coerce a man into giving up one of his beers. Coles followed the man into the Burger King parking lot, threatened his life and slapped him on the head. The man ran off and Davis left. He then noticed that Collins was running from the area so he did, too. Davis saw a police officer walk into the Burger King parking lot. There was a gunshot, then several more. Coles ran by and didn't respond when Davis called out.

Davis denied ever speaking with McQueen, the jailhouse informer.

It was a weak defense. Looking back to our first posting and considering the eyewitnesses and such, the prosecution's case was on balance much stronger. But was it so compelling that a jury should be able to find Davis guilty in *two hours*? So yes, we've left something out. There was physical evidence. A forensic examiner – indeed, the director of the Georgia Crime lab – testified that bullets recovered from Michael Cooper's head were similar to those taken from officer MacPhail's body, and that cartridge casings recovered at both scenes were close to identical, thus strongly suggesting that the same weapon was used in both crimes (for the pertinent section of Judge Moore's opinion click [here](#) and go to page 162.) Here is a snippet from the State's closing argument:

And then there are the silent witnesses in this case. Just as Davis, wearing a white shirt, pistol-whipped Larry and murdered Officer MacPhail, so also did Troy Anthony Davis, using the same gun, shoot Michael Cooper and murder Officer MacPhail.

You will recall the testimony of Roger Parian, director of the Crime Lab, when he was discussing the bullets. He was talking about the bullets from the parking lot of the Burger King and from the body of Officer MacPhail, and he was talking then about comparing that with the bullet from – that was recovered from Michael Cooper's head when he'd been shot in the face. And what Roger Parian told you is that they were possibly shot from the same weapon. There were enough similarities in the bullets to say that the bullet that was shot in Cloverdale into Michael Cooper was shot – was possibly shot from the same gun that shot into the body of Officer MacPhail in the parking lot of the Burger King.

But he was even more certain about the shell casings. He was quite more certain about that, and he said in fact that the one that was recovered from the Trust Company Bank right across from the Burger King parking lot was fired from the same weapon that fired four other shell casings that were recovered in Cloverdale right down the street from the pool party, Cloverdale and Audubon.

By juicing things up prosecutors fashioned a whole that was considerably greater than the sum of its parts. Supposedly scientific testimony by a highly credible witness linked two frightening events, lending the impression that the accused had been on a murderous rampage and assuring that jurors returned the one verdict that anyone really cared about: murder in the first degree, with aggravating circumstances. That the panel did so in record time only proved the thesis.

Ballistics evidence also piggybacked a weak case on one that was far stronger. Without physical evidence it's unlikely that the aggravated assault could have been charged. Still, considering the abundant (albeit, imperfect) witness testimony, the murder case would have undoubtedly gone forward and most likely been won.

Of course, a lot can change in two decades. In this series' third and final post we'll review what took place at last year's evidentiary hearing and analyze Judge Moore's decision to overlook the flaws and let the trial outcome stand.

Posted 10/16/11

## **DID GEORGIA EXECUTE AN INNOCENT MAN?**

### **PART III – A QUESTION OF CERTAINTY**

#### ***Controversial recantations and over-reliance on affidavits helped seal Troy Davis' fate***

*By Julius (Jay) Wachtel.* This much is certain. During the early morning hours of August 19, 1989 Sylvester Coles accosted Larry Young. Coles was soon joined by his gangster buddies Troy Davis and Darrell Collins. One of them hit Young, who ran off. Police officer Mark MacPhail soon arrived. Coles and several witnesses would later testify that Davis struck Young and shot officer MacPhail. Bullet evidence and witnesses also linked Davis with the wounding of a passenger in a vehicle some hours earlier. Both incidents were tried jointly. Davis was convicted of everything, sentenced to death and, ultimately, executed. (For details about the trial see Parts [I](#) and [II](#) of this series.)

Many notable individuals and organizations including former president Jimmy Carter and the [NAACP](#) argued on Davis' behalf. [Amnesty International](#) held vigils on the eve of his execution and declared October 1, the day of his funeral, as a "Day of Remembrance." Davis' defenders insisted that he was innocent of everything and that Coles was the one who murdered officer MacPhail. Police were blasted for taking Coles at his word and pressuring witnesses to go along, while prosecutors were criticized for biasing the jury by tying the shootings together with shoddy ballistics evidence and refusing to concede that Davis was innocent even as witnesses began to recant.

Facing international pressures, the Supreme Court ordered an extraordinary Habeas hearing. It was conducted in Savannah on June 23 and 24, 2010 by U.S. District Judge William Moore. He delivered his [decision](#) two months later. Its first and most important section assessed the evidentiary value of purported recantations by seven witnesses who had testified at Davis' trial. Four appeared at the Habeas hearing; Davis' lawyers submitted affidavits for the others.

#### **Witness recantations (pp. 125-50)**

**Larry Young.** He testified at trial that Coles, who was wearing a yellow shirt, was the man with whom he argued, and that a man in a white shirt struck him. Other witnesses described the incident similarly. Young was on the petitioner's list for the Habeas hearing but he wasn't called to testify. His new version of events – that he

actually saw nothing but that police had told him what to say – came in through an affidavit (pp. 147-49.)

**Darrell Collins.** He testified at the preliminary hearing that he saw Davis shoot at the vehicle. At trial he said that was a lie. However, he did concede that he saw Davis slap Young. But at the Habeas hearing he recanted everything and claimed that officers had coerced him to implicate Davis (pp. 136-39.)

**Jeffrey Sapp.** A friend of Davis, he testified at trial that Davis told him he shot the officer but didn't fire at the car in an earlier incident. He recanted at the hearing, saying that his statement was coerced by police (pp. 133-36.)

**Harriet Murray.** Larry Young's girlfriend gave police conflicting identifications of the killer. At the preliminary hearing and trial she settled on Davis as being both the slapper and shooter. She didn't appear at the Habeas application hearing. Instead Davis' lawyers presented an unnotarized affidavit in which she attested that the man who argued with Young, which everyone agrees was Coles, was the one who both slapped him and shot the officer (pp. 139-143.)

**Dorothy Ferrell.** She identified Davis at trial as the shooter. Although she showed up at the Habeas hearing she wasn't called on to testify. Davis' lawyers instead presented the Court with her affidavit. In the document she stated that her trial testimony had been coerced and that she didn't see who shot officer MacPhail (pp. 143-46).

**Antoine Williams.** At trial he testified that the man who struck Larry Young was the shooter, and that he was "sixty percent certain" that this individual was Davis. But at the Habeas hearing he said he wasn't sure who shot the officer, but that police pressured him to identify Davis. Under cross-examination he retracted the part about being pressured (pp. 127-30.)

**Kevin McQueen.** A jailhouse informer, he testified at trial that Davis confessed. McQueen recanted at the Habeas hearing. He said that he lied to get back at Davis over a fight, or in exchange for consideration on his charges, or both (pp. 130-32.) His was the only recantation that Judge Moore believed.

According to Judge Moore, none of the recantations absolved Davis. Young, Murray and Ferrell's accounts came in through affidavits, a tactic that he criticized for making cross-examination (thus truth-finding) impossible. Every witness but Murray claimed that their accounts had been coerced by police, a notion that seemed implausible and

which officers heatedly denied. Two witnesses who had been in the thick of things, Young and one of his assailants, Collins, now knew nothing. Neither, it seems, did Sapp or Williams. Judge Moore reserved special contempt for Sapp, whom he accused of lying to protect Davis, for example, by claiming to not know of his moniker “RAH”, which stood for “rough as hell.”

Judge Moore had other concerns. He wondered why Murray didn’t simply say she misidentified Davis. (For this and other reasons he dismissed her affidavit as “valueless.”) He had equally little regard for Ferrell’s recantation. Her claim of coercion made little sense as she was the one who first approached officers. And while she was present at the Habeas hearing Davis’ lawyers didn’t call her testify, suggesting that they feared her recantation wouldn’t survive cross-examination.

### **Other evidence (pp. 150-164)**

**Firearms.** Concerns were raised at the Habeas hearing about questionable forensic evidence that the state presented at trial linking the same gun to both shootings. This issue, which we discussed at length in [Part II](#), was pondered at length by Judge Moore, who ultimately decided that even if the evidence was mistaken it didn’t weigh against Davis’ guilt in the murder because there was abundant testimonial evidence that he killed officer MacPhail (decision p. 164.) Curiously, Judge Moore didn’t address what we thought was the obvious issue, that prosecutors attributed the earlier shooting to Davis so as to bias the jury against him.

**Sylvester Coles as the shooter.** Several individuals submitted affidavits linking Coles and firearms, which the judge found unsurprising insofar as many on the night of the shooting seemed to be packing a gun. (Coles had already conceded that he was carrying a gun that evening.) But perhaps the most startling new evidence were eyewitness accounts by two persons who said they saw Coles murder the officer, and by several who said that he confessed.

One man, **Benjamin Gordon**, tried to cover both bases. In 2008 he signed an affidavit in which he said that Coles told him “I shouldn’t ‘a did that shit.” At the Habeas hearing he testified for the first time that he saw Coles pull the trigger. Why didn’t he say so earlier? He was afraid of Coles. Judge Moore found him not credible (p. 158.)

A second witness, **Joseph Washington**, said through an affidavit that he saw Coles kill the officer. Washington, who testified to that effect at Davis’ trial (he was then in jail for armed robbery) was also thought not credible. According to Judge Moore his trial testimony had been “badly impeached” by evidence that he had been elsewhere when



the shooting took place. Judge Moore surmised that Davis' lawyers didn't summon Washington to the Habeas hearing to avoid having him impeached once more.

Several witnesses said that Coles incriminated himself. One, **Anthony Hargrove**, testified that Coles told him that he was the killer. Three others submitted affidavits to the same effect. Judge Moore gave it all little credence, particularly as Coles didn't testify.

**Concluding comments (pp. 164-end)**

Judge Moore found Davis' "new evidence" unpersuasive. Nearly all the recantations were deeply flawed. Other than for the jailhouse informer, whose trial testimony Judge Moore called unbelievable in the first instance, the witnesses were simply not credible. Three "appeared" through affidavits and thus couldn't be questioned. Coles' alleged confessions, which came in as hearsay, were equally untestable, as Coles wasn't there. Judge Moore was clearly peeved at Davis' lawyers. Instead of asking the Court to have marshals serve Coles, defense attorneys waited until "the eleventh hour" to try (unsuccessfully) to serve him themselves. Judge Moore thought this was an obvious ploy to avoid having him appear at all, as there was nothing Coles was likely to say that would help Davis (decision p. 170.)

Judge Moore's patience had worn thin:

Ultimately, while Mr. Davis's new evidence casts some additional, minimal doubt on his conviction, it is largely smoke and mirrors. The vast majority of the evidence at trial remains intact, and the new evidence is largely not credible or lacking in probative value. After careful consideration, the Court finds that Mr. Davis has failed to make a showing of actual innocence that would entitle him to habeas relief in federal court. Accordingly, the Petition for a Writ of Habeas Corpus is DENIED.

Judge Moore undoubtedly called it as he saw it. Still, it was obvious that given the witnesses' new slant on things, it would have been impossible to convict Davis had he been granted a new trial. All the pro-Davis publicity had had a devastating effect on the state's case. Here's what [one of the trial jurors](#) who originally found Davis guilty and voted for death now had to say:

I feel, emphatically, that Mr. Davis cannot be executed under these circumstances. To execute Mr. Davis in light of this evidence and testimony

would be an injustice to the victim's family [and] to the jury who sentenced Mr. Davis.

Set Davis aside. It's the sheer difficulty of retrying cases, let alone those twenty years old, that makes judges such as William Moore jealous about the finality of jury decisions. Yet when the state intends to kill, the moral if not legal calculus is different. To date *seventeen* death-row prisoners [have been exonerated through DNA](#). It's also widely accepted (though not by Texas) that one who wasn't, [Cameron Willingham](#), was wrongfully executed in 2004.

When a judge says "I thought it was a verdict that could go either way," as [one did](#) after a recent conviction, he's only stating the obvious: that some jury verdicts *are* close calls. Most citizens would probably agree that in such cases the death penalty is inappropriate. As former New York Governor Mario Cuomo, an opponent of capital punishment [recently pointed out](#), in the real world of criminal justice there is no such thing as absolute certainty. That's one reason why he favors the alternative of life imprisonment "with no possibility of parole under any circumstances."

Would that penalty have satisfied the citizens of Savannah? Probably not. Indeed, many seem more convinced than ever that Davis got what he deserved. For example, check out [this editorial](#) in the Savannah News. And when you're done be sure to peruse this self-serving but nonetheless [fascinating commentary](#) by Spencer Lawton, the prosecutor whose efforts may or may not have sent the right man to death.

As for your blogger, he thinks [the same as two years ago](#), that it's "more likely than not that Davis is guilty." Of course, "more likely than not" isn't enough to convict someone of jaywalking.

Posted 7/1/19

## CAN YOU “ENFORCE” WITHOUT “FORCE”?

### ***Decriminalizing illegal immigration would have serious consequences***

*For Police Issues by Julius (Jay) Wachtel.* Given a belt-busting load of twenty candidates and only four hours air time, we didn’t expect that the Democratic debates of June 26 and 27 would dive into crime and justice in any depth. And for the most part we weren’t surprised. What’s more, the “arguments” that did take place seemed so fine-tuned to avoid offending ideological sensibilities – in this case, of the “blue” persuasion – that we were unsure whether the owners of those lips knew that should their quest prove successful they would be [Constitutionally bound](#) to faithfully execute the laws that already exist.

That takes us to immigration. (We’ll be referring to debate transcripts published by the *New York Times*. Click [here](#) for a transcript of the first debate and [here](#) for the second.) [Title 8, U.S.C., Sec. 1325](#), “improper entry by alien,” makes it a crime to sneak in. First offenders can draw six months in prison, and repeaters can get two years. That’s essentially how the law has read [since 1950](#), when its text used the terms “misdemeanor” and “felony” to distinguish between penalties.

In all, the debaters seemed opposed to treating illegal entry as a crime. During the first round, former H.U.D. Secretary [Julián Castro](#) advanced perhaps the most extreme view. First, he called for repealing section 1325 and making immigration a strictly civil matter. While that drew nearly unanimous approval – Senator Cory Booker, Newark’s former mayor, promptly interjected “I already have” – Castro cranked it up by explicitly calling for the Government to establish pathways to citizenship for potentially “millions” of otherwise law-abiding illegal immigrants already in the U.S. And as a back-handed concession to worry-warts, Castro also championed a new “Marshall plan” that would enable citizens of Central American countries to “find safety and opportunity” – meaning, of the economic kind – “at home instead of coming to the United States to seek it.”

That’s a bold approach, and not everyone was sold. Instead, most of his colleagues tried to navigate around cost and ideology by specifically tailoring their remarks to families escaping violence. Among them was former Representative [Beto O’Rourke](#). Even then, he apparently felt compelled to address the expense of admitting immigrants fleeing “the deadliest countries on the face of the planet” by suggesting that potentially

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impacted communities adopt his supposedly cost-effective “family case management” approach.

Of course, laying out a welcome mat has all kinds of consequences. When it became obvious that the debaters were avoiding a key issue, [NBC moderator](#) Savannah Guthrie stepped in. Here are brief extracts from her tangles with Senator [Amy Klobuchar](#) and Representative [Tim Ryan](#):

GUTHRIE: He [Castro] wants to no longer have it be a crime to illegally cross the border. Do you support that? Do you think it should be a civil offense only? And if so, do you worry about potentially incentivizing people to come here?

KLOBUCHAR: Immigrants, they do not diminish America. They are in America and I am happy to look at his proposal but I do think you want to make sure that you have provisions in place that allow you to go after traffickers and allow you to go after people who are violating the law. What I really think we need to step back and talk about is the economic imperative here and that is that seventy of our Fortune five hundred companies are headed up by people that came from other countries....

GUTHRIE: Congressman Ryan, same question. Should it be a crime to illegally cross the border or should it be a civil offense only?

RYAN: Well I—I agree with Secretary Castro. I think there are other provisions in the law that will allow you to prosecute people for coming over here if they are dealing in drugs and other things. That is already established in the law. So there is no need to repeat it and I think it’s a bore it we are talking about this father who got killed with his daughter and the issues here....

Guthrie soon gave up trying to get a direct answer. On the next evening, NBC anchor Jose Diaz-Balart brought up decriminalization:

DIAZ-BALART: If—if you would be so kind raise your hand if you think it should be a civil offense rather than a crime to cross the border without documentation? Can we keep the hands up so we can see them?

[According to the New York Times](#), eight candidates put up their hands, while a ninth, former V.P. [Joe Biden](#), “raised a finger.” During follow-up questions, all, including Biden, focused on their humanitarian obligation to help families fleeing violence and disorder:

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BIDEN: The first thing I would do is unite families. I would surge immediately billions of dollars' worth of help to the region the immediately...second thing we have to do, the law now requires the reuniting of those families. We would reunite those families period and if not we would put those children in a circumstance where they were safe until we could find their parents....

Here's a bit of what Senator [Bernie Sanders](#) had to say:

SANDERS: ...picking up on the point that Joe made, we got a look at the root causes. And you have a situation where Honduras, among other things, is a failing state, massive corruption. You got gangs who are telling families that if a 10-year-old does not join their gang, their family is going to be killed....

And here's an extract from Representative [Eric Swalwell's](#) reply:

SWALWELL: Day one for me, families are reunited. This president, though, for immigrants, there is nothing he will not do two separate a family, cage a child, or erase their existence by weaponizing the census. And there is nothing that we cannot do in the courts and that I will not do as president to reverse that and to make sure that families always belong together....

No one ventured into dangerous turf. And they really didn't have to. Unlike his more probing colleague, Diaz-Balart didn't probe the possible effects of creating incentives. Needless to say, none of the guests volunteered.

One might think that for those, like Border Patrol agents, who must personally deal with the problem, creating incentives that generate even more illegal crossings might be the last straw. But it gets worse. *Much* worse. Should illegal immigration be decriminalized the issue of incentives would take a back seat to a more fundamental concern. As every border agent – indeed, as all cops well know – physical force is an intrinsic aspect of catching those who run away. But your blogger, who's been there a few times, knows of no legal or procedural precedent that authorizes forcefully detaining someone who is neither a criminal suspect nor dangerously mentally ill. Given current controversies, allowing, let alone *encouraging* the use of force when no crime has been committed and no one is at risk of physical harm seems a non-starter. Indeed, it would likely require a new body of law.

Bottom line: should section 1325 be repealed and illegal immigration ceases being a crime, all that Border Patrol agents will be able to do is beg for compliance. Well, good luck with that. Trump's walls would have to go up. (Good luck with that, too.) There is one possible workaround. Section 1325 includes a provision that prohibits eluding

“examination or inspection by immigration officers.” If that aspect remains a crime, illegal entry might be compared to, say, traffic enforcement. Doing forty in a twenty-five mile an hour zone isn’t a criminal offense. But if you don’t stop for the cop, the running away *is*. (It’s not a perfect analogy, as the high speeds and dangerous maneuvers intrinsic to getting away *are* crimes. But it’s as close as we can get.)

And there’s yet another vexing issue. Even the staunchest anti-immigration types concede that most illegal immigrants aren’t criminals but are fleeing poverty and violence. [Yet as we’ve pointed out](#), good intentions can’t always make up for a lack of income, skills and education:

Imprisonment data reveals that third-generation Hispanic males are more than twice as likely to be incarcerated as non-Hispanic whites. Why is that? Many illegal immigrants are unskilled, poorly educated and reside in poverty-stricken, crime-ridden areas. This might expose their descendants to role models and behaviors that the grandchildren of legal migrants can’t begin to imagine.

America’s crime-ridden inner cities offer a uniquely poor landing spot. Yet where else would the immigrants whom the panelists are so eager to welcome go? We might be more upbeat had our President followed through [on his campaign promise](#) to invest in and revitalize our poverty-stricken urban areas. But, gee, he didn’t. So until that “New Deal” really happens (we’re not holding our breath) encouraging immigrants to flee their own troubled neighborhoods to find relief in America seems at best a false promise, and at worst, foolish.

But don’t take that from your blogger. Take it from a long-retired Fed who got (legally) dragged from South America to the U.S. when he was ten. His name – which he’s sorry to have changed – was “Julio.” Oops, that’s me! Oh, well...

Posted 12/6/21

## CAUSE AND EFFECT

***California eased up on punishing theft.  
Did it increase crime? Embolden thieves?***



*For Police Issues by Julius (Jay) Wachtel.* Believe it or not, Jerry Brown got his start as a law-and-order type. In 1976, only a year into his first term as Governor, California's former Secretary of State [signed a bill](#) replacing the state's forgiving, indeterminate sentencing structure with tough-on-crime policies that prioritized punishment.

Of course, considering the "crime wave" [that beset the era](#), his move was likely inevitable. As were the consequences. In time the state's prisons became appallingly packed, creating insufferable conditions for inmates and guards alike. It took more than three decades, but in 2011 the U.S. Supreme Court affirmed [a 2009 ruling](#) by a special three-judge panel ordering the release of more than thirty-thousand inmates.

At the time that the Supremes issued their slap-down, the Yale law school grad had just completed a four-year term as State Attorney General, and his second eight-year stint as Governor was underway. Despite his earlier leanings, Brown quickly fell in line with the new, less punitive approach, and during his term he would sign a host of measures reflecting California's new normal. But we'll begin our review with a law that was placed into effect by that famous "Red" politician whom Jerry Brown replaced.

- [Assembly Bill 2372](#). In September 2010, outgoing Governor Arnold Schwarzenegger signed a bill raising the threshold for the felony crime of Grand Theft from \$400 to \$950. Most other thefts became misdemeanors.
- [Assembly Bill 109](#). In 2011, shortly after the Supreme Court upheld the prisoner cap, Governor Brown signed the "Public Safety Realignment Act." Under its provisions, "non-serious, non-violent" offenders would serve their time in county jails instead of state prison. Generous good-time credits were thrown into the

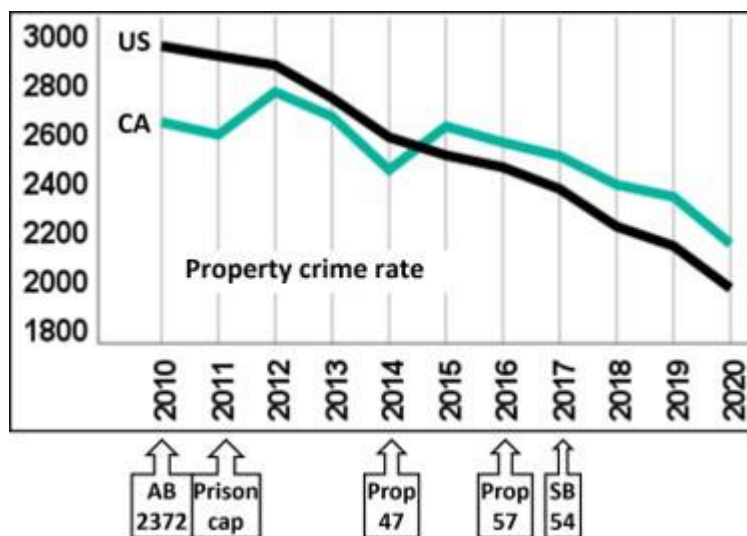


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mix. During 2010-2012 California's combined jail/prison population [reportedly fell by more than twenty-thousand](#).

- [Proposition 47](#). Signed into law in November 2014, the enticingly (some would say, misleadingly) entitled "Safe Neighborhoods and Schools Act" created the new offense of "shoplifting," a misdemeanor punishable by up to six months imprisonment. It applied to all thefts from businesses, including those planned in advance, as long as losses did not exceed \$950. Since then "shoplifting" has kept most planned thefts from being charged, as was once customary, [as felony burglary](#), as that requires entry with the intent to commit "grand or petit larceny or any felony."
- [Proposition 57](#). Effective November 2016, the alluringly entitled "Public Safety and Rehabilitation Act" allows non-violent felons to be considered for parole upon completion of the term for their main offense, regardless of other crimes for which they were convicted or any sentence enhancements that may have been imposed.

Progressives have championed Jerry Brown's legacy. Although the *Los Angeles Times* acknowledged in 2018 that there had been ["spikes" in violent and property crime](#) in the years following the enactment of AB 109 and Proposition 47, when the life-long servant finally, finally left public office it nonetheless applauded his decision [to "change course."](#)

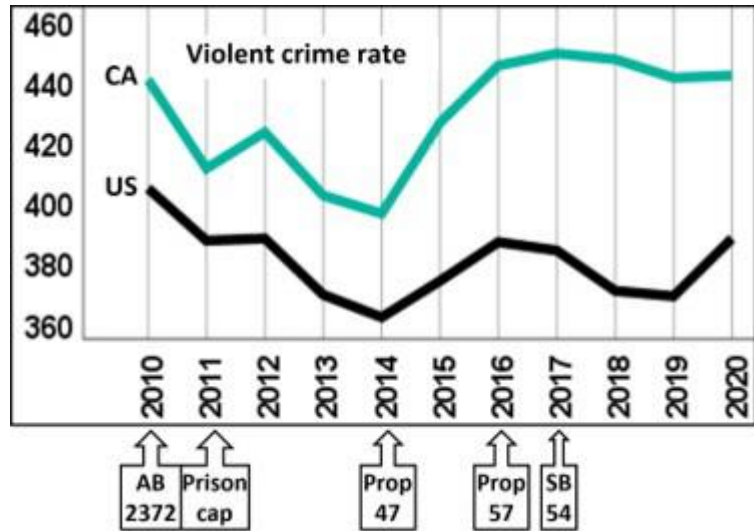


Concerns about the potentially criminogenic effect of the Golden State's new, go-easy approach have received considerable scrutiny, academic and otherwise. Before getting into the studies, though, we thought it best to present [relevant data from the FBI](#). Our graphs depict property and violent crime rates per 100,000 population for California and the U.S. between 2010-2020.

California and national crime trends seem mostly in sync. But there are a few exceptions. First, as to property crimes. Assembly Bill 109, the "prison cap," slashed prison terms and transferred inmates to

local custody and supervision. It went into effect in 2011. During the following year property crime spiked 6.8% (2583.8 to 2758.7). Proposition 47, which created the offense of “shoplifting,” became State law in late 2014. By the end of 2015 property crime was up 7.3% (2441.1 to 2618.3). Its largest component, larceny-theft, increased 9.8 percent (1527.4 to 1677.1).

Shifting our attention to violent crime, in 2014 California’s rate was at a decade-low 396.1. Three years later, following the enactment of Propositions 47 and 57, it reached a decade-high 449.3, an increase of 13.4 percent.



How have experts interpreted these numbers? In “[The Effects of Changing Felony Theft Thresholds](#)” (2017) the Pew Charitable Trust reported that twenty four of thirty States that raised the felony theft threshold during 2010-2012 enjoyed lower property crime rates in 2015 (California, which passed AB 2372 in 2010, was one of six exceptions.) While the Trust conceded that rates in the twenty States that *didn’t* change their threshold wound up even lower, the difference was not considered “statistically significant.”

Let’s skip forward to Proposition 47. Here are three prominent data-rich reports:

- According to the [Public Policy Institute of California](#), there is “some evidence” that Prop. 47 caused the 2014-2015 increase in larceny-theft. Rearrests and reconvictions for this crime also substantially declined (10.3 and 11.3 percent, respectively).
- An NSF-funded study, “[Impacts of California Proposition 47 on crime in Santa Monica, California](#),” found that thefts fitting the definition of “shoplifting” increased about fifteen percent in Santa Monica after the measure went into effect. Other crimes fell about nine percent. According to the authors, the surge could have been caused by the easing of punishment. Increased awareness might have also led to more reporting.

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- In “[Can We Downsize Our Prisons and Jails Without Compromising Public Safety?](#)”, two clearly reform-minded researchers conceded that larcenies and motor vehicle thefts seemed to increase after Prop. 47 went into effect. So [they generated a statistical comparison group](#) that estimated how many thefts would have occurred had the law *not* changed. They concluded that the difference between what actually happened and what *would* have happened was very small. So small, in fact, that releasing prisoners seems a perfectly safe approach.

At present one can hardly turn to the media without being bombarded by breathless accounts of “[smash and grab](#)” thefts plaguing higher-end retailers, and particularly in California. In one of the most brazen heists, ninety suspects in twenty-five cars “stormed” a Northern California store last month, making off with “more than \$100,000” worth of goods “in about a minute.”

But the problem isn’t new. [According to a notable “Red” media source](#), “brazen acts of petty theft and shoplifting” supposedly enabled and encouraged by Prop. 47 were being reported across California two years ago. [Proposition 20](#), an initiative submitted to the state’s voters last year, promised to remedy things by lowering the bar for charging felony theft and doing away with early paroles, in effect reversing the easings brought on by Propositions 47 and 57.

Full stop. In the immediate post-Floyd era, justice and equity [remain of grave concern](#). So much so, that even after retiring, former Governor Jerry Brown leaped back into the fray and called Proposition 20 a “[prison spending scam](#).” And scam or not, [it got trounced](#). But time has passed, and as [a breathless article](#) in the *Washington Post* just reported (it features video from hard-hit San Francisco), the chaos persists:

Retail executives and security experts say the rise of such robberies — which have gone viral online and in some cases, spurred copycats — is the culmination of several factors, including a shortage of security guards, reluctance by police and prosecutors to pursue shoplifting offenses, and the growing use of social media as an organizational tool.

Evildoers are seemingly capitalizing on the less punitive atmosphere for their own selfish gain. What might happen should a “new and improved” Proposition 20 be introduced is anyone’s guess.

Posted 11/20/24

## CITIZEN MISBEHAVIOR BREEDS VOTER DISCONTENT

*Progressive agendas face rebuke in even the “Bluest” of places*



*For Police Issues by Julius (Jay) Wachtel.* This image from Google maps depicts a modest home in a working-class area of Los Angeles. We’ll have more to say about it later. But let’s begin with a major California city that’s even “Bluer” than L.A. We mean, of course, San Francisco. That’s where ardently progressive Mayor London Breed just lost her bid to continue serving the City by the Bay. While the victor, Daniel Lurie (a heir to the Levi Strauss fortune) is also “Blue”, he prides himself as being a moderate sort. In fact, his avowed goals of “restoring safety, ending homelessness and shutting down open-air drug markets” actually [led the “Reds” to anoint him](#) as their number-one pick.



Across the Bay the story was much the same. Voters in “Blue” Oakland [recalled Mayor Sheng Thao and Alameda County Dist. Atty. Pamela Price](#), two strong liberal voices who had only been in office since 2022. According to a spokesperson for the Mayoral recall, Oakland’s progressives “did the same thing they did in San Francisco. They ignored the crime. They ignored the poverty.”

Ditto, L.A. That’s where voters just handed D.A. George Gascon [an overwhelming thumbs-down](#). A nationally-known progressive, his liberal policies, which forbid charging juveniles as adults, barred the prosecution of a wide range of misdemeanors, and disallowed the use of sentence enhancements, made more than a few assistant D.A.’s livid. In his place the electorate installed Nathan Hochman. A former Federal prosecutor and (surprise!) defense lawyer, his campaign pledge to cast aside Gascon’s permissive agenda drew fervent support from police and, as one might



expect, from the D.A.'s disgruntled subordinates. And ultimately from the public, who handed the self-avowed crime fighter a twenty-percentage point margin.

And that's not all. [By an even greater margin of 40 percent](#) California voters hollowed out a decade-old progressive measure, [Proposition 47](#), that had watered down punishments for theft and drug crimes. Spanking-new [Proposition 36](#) addressed the alleged consequences – a plague of smash-and-grabs that continues to beset retailers – by increasing penalties for group thefts and designating all thefts committed by repeaters as felonies. To combat the fentanyl and hard-drugs scourge that plagues the Golden State, punishments for drug dealing were also substantially stiffened.

Still, even if true, Mr. Hochman's reassurance that [cops' hands won't be "tied" during his shift](#) at best offers an incomplete solution. According to newly-appointed LAPD Chief Jim McDonnell, the failure to prosecute "low-level" offending (read: bad-old George Gascon) made victims less likely to call police. Their reluctance to report crimes, he fears, has become so deeply entrenched that it's actually exaggerated the magnitude of the so-called "crime drop."

Chief McDonnell wants citizens to call the cops even for relatively minor crimes. Problem is, the reluctance to prosecute may have made cops reluctant to act. In any event, what ultimately happens has never been controlled by the first two wheels of



the criminal justice system. Courts with judges and a correctional system with probation and parole agents occupy the *really* definitive end. Even if cops and assistant D.A.'s do their very best, the consequences of criminal misconduct are for others to decide. As we've frequently pointed out, those "consequences" often seem insufficient, sometimes wildly so. Check out our November 8, 2024 update to "[A Broken System](#)":

Darion C. McMillian, 23, [was recently released from parole](#) after being imprisoned for a 2019 shooting. And on November 4 he was on electronic monitoring for a pending drug case when Chicago police officers approached the double-parked car that he occupied. McMillian opened fire with a pistol converted by a "switch" to full-auto, killing Officer Enrique Martinez and, apparently by accident, the driver of his own vehicle. McMillian fled but was soon arrested. Officer Martinez, himself a young person, had less than three years on the job.





Soon after completing his parole term for the 2019 shooting, a crime for which he served four years in prison, McMillian picked up two arrests for felony drug offenses. Both times he was released with an ankle monitor to await further proceedings. He would



soon use a homemade machinegun to murder [Chicago police officer Enrique Martinez](#). A felon's compassionate treatment was arguably responsible for a young officer's violent death. [And there's been political consequences](#). Chicago Mayor Brandon Johnson, a progressive figure who's considered no friend of the police, caught a lot of flack. Here's what Hizzoner announced a few days before the fallen officer's funeral:

I heard from the family and am honoring their request and will no longer plan to attend the honors funeral services.

Back to L.A. And to our image of that house. On November 7, 2024 [its 93-year old resident told LAPD officers](#) that she was hearing “knocking sounds” from underneath. Officers discovered that a 27-year old man had taken up residence in the crawl space. After “an hours-long standoff,” the naked trespasser

Arrest date	Charge	Disposition
5/15/24	Violate post-release supv.	10/16/24: 142 days jail, half served, balance waived
2/15/24	Violate post-release supv.	4/8/24: 120 days jail
10/5/23	Trespass, occupy property w/o owner's consent (misd.)	4/12/24: Dismissed int. of justice
9/1/23	Violate post-release supv.	10/12/23: Supv. revoked/Reinstated
7/5/23	Violate post-release supv.	8/18/23: Supv. revoked/Reinstated
10/18/19	Elder/dep. adult abuse, assault w/deadly wpn, threats, obstruct.	10/16/22: Pled nolo to felony abuse, other chgs. dismiss. <b>Three years prison.</b>
7/31/19	Lying in doorway	10/23/19 Dismissed int. of justice
10/10/16	Loitering, peeking, public intox.	1/23/17 18 mos. diversion
1/22/16	Vandalism, obstruct bus., trespass	6/22/16 Dismissed int. of justice

emerged. His [L.A. Superior Court](#) record is summarized above. As one might expect, his most recent tangle wasn't his first. Also note that his record includes a felony conviction for crimes including “elder abuse,” which led to a prison term. His most recent offending – that crawl space thingy – is “only” a misdemeanor. So he was released, with a court date in December.

Care to wager on his behavior until then?

As we've repeatedly pointed out (see, for example, "[Catch and Release](#),") even chronic evildoers get breaks. Here, for instance, is our November 4, 2024 update to "[A Broken System](#)":

Nineteen-year old Nhazel Warren had recent arrests for gun possession and fleeing [when officers caught him illegally packing a pistol in July](#). He was released with an ankle monitor. Warren then committed a home invasion. He was arrested and released on bond and, again, with an ankle monitor. He went on to commit several more armed robberies; his most recent arrest was a week ago. Again, he was released on bond. And again, with a monitor. All along, Warren was supposedly being monitored by the Probation Dept. But there's no record that they ever put his "tracking" devices to work.

Warren's most recent release, which followed his reportedly *fifth* armed robbery arrest, was on \$150,000 bail. Again, care to wager on how he'll behave?

Misbehavior by releasees is commonplace. There's a reason why one of our related posts (see below) was entitled "[Cause and Effect](#)." Whether cops and prosecutors will vigorously address "lower level" offenses – and whether repeaters will be strictly dealt with by judges and agencies of supervision – is yet to be seen. Hopefully the measures promised by L.A.'s new D.A. and police chief will take hold, and there will be no need for us to wag "naughty, naughty" again.

Check back!



Posted 4/27/24

## ***DE-PROSECUTION? WHAT'S THAT?***

***Philadelphia's D.A. eased up on lawbreakers. Did it increase crime?***

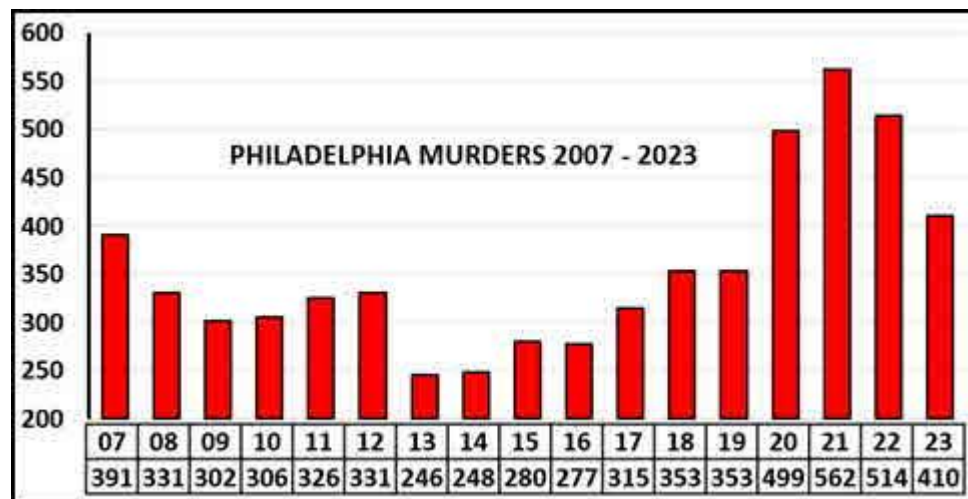


*For Police Issues by Julius (Jay) Wachtel.* The slugfest between academics kicked off in July 2022. That's when [Criminology & Public Policy](#) published Thomas P. Hogan's "[De-prosecution and death: A synthetic control analysis of the impact of de-prosecution on homicides](#)". Mr. Hogan, a lawyer, has served as a Federal prosecutor and D.A. He holds a Master's in criminology and is a skilled statistician. His deeply-researched article, which focused on Philadelphia's purposeful throttling back of felony and misdemeanor prosecutions between 2015-2019, compared its criminal homicide numbers and case characteristics with those of the other largest 100 U.S. cities, applying elaborate controls on everything from demographics to prosecutorial policies and resources. He concluded that Philadelphia D.A. Larry Krasner's policy of de-prosecution, which he instituted in February 2018, only a month after taking office, had caused a "historically large increase in homicides" of about 74 more per year.

And yes, there was blowback. In an elaborate critique, "[De-prosecution and death: A comment on the fatal flaws in Hogan \(2022\)](#)", researchers Jacob Kaplan, J.J. Naddeo and Tom Scott argued that methodological and data issues essentially nullified Mr. Hogan's findings. In a prompt and mind-numbingly elaborate rejoinder, "[De-Prosecution and A Cordial Reply to Kaplan, Naddeo and Scott](#)," Mr. Hogan countered that it was the critique that was fatally flawed. Among its other failings, it supposedly relied on severe undercounts of Philadelphia homicides. He insisted that once these (and many other) errors were corrected, the contrarians actually lent his conclusions even more weight. He also insisted that his findings were not surprising. After all, they're consistent with the classic model of deterrence, which is based on "swiftness and certainty of apprehensions, then leading to sanctions"

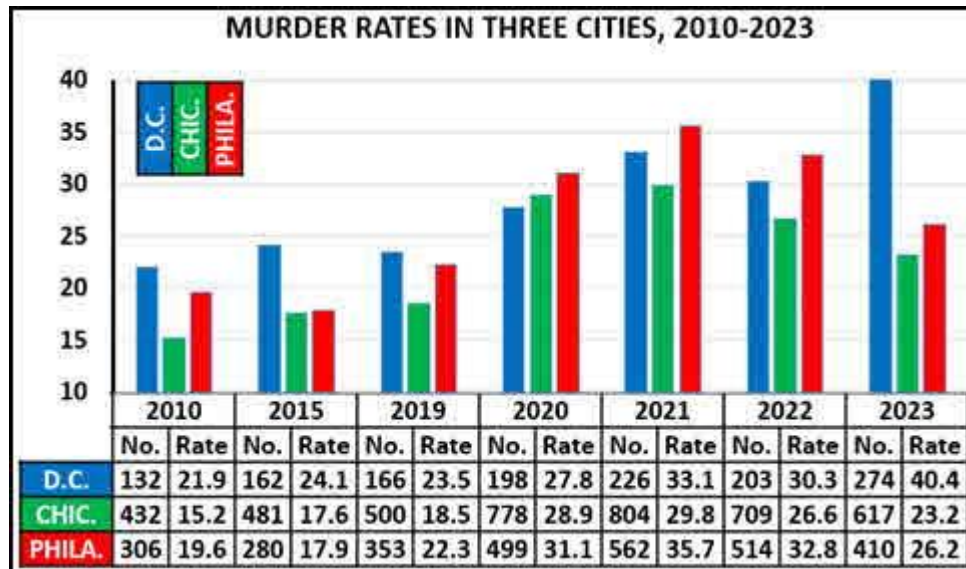
Concerns about the effects of de-prosecution have drawn the attention of other academics. A new essay in *Criminology & Public Policy*, “[Do progressive prosecutors increase crime? A quasi experimental analysis of crime rates in the 100 largest counties, 2000–2020](#)”, concludes that progressive prosecutorial policies led to a statistically significant seven-percent jump in property (but not violent) crime rates.

Slugfest over “cause” aside, what’s not at issue is that the alleged “effect” – an increase in violence – *did* take place, and that Philadelphia’s steep rise [has been more-or-less in sync with its progressive D.A.’s tenure](#). Elected in a community where “Blues” outnumber the “Reds” seven to one, Mr. Krasner took office in January 2018 vowing to tone down the harsh, punitive policies of his predecessors. He was re-elected in 2021, and his current, second term will end in 2026.



We used [Philadelphia PD data](#) to build this graph. After a steep retreat in 2013, when murders reached a low of 246, criminal homicides began to increase. In 2017 there were 315, and by the end of 2018 – Mr. Krasner’s first full year in office – they reached 353. After remaining at that level through 2019, murders really took off. In pandemic-addled 2020 they numbered 499, a single-year increase of 41 percent. And they kept going up, reaching a decade-and-a-half high of 562 in 2021. Things then toned down, and by 2023 killings were “only” sixteen percent higher than in 2019.

Full stop. The pandemic supposedly increased violence *everywhere*. Switching to murder rates per 100,000 population, let’s bring in two demographically similar, violence-prone places, D.C. and Chicago. Check out this graph (click [here](#) for Philadelphia stat’s, [here](#) for Chicago, and [here](#) for D.C.)



As one would expect, each city experienced a substantial uptick during 2019-2020. Chicago's rates increased the most, by 10.4 points. Philadelphia came in second at 8.8 points, and D.C. was third with 4.3 points. Murders in Chicago and Philadelphia have since eased back. But as we recently mentioned in "[America's Violence-Beset Capital City](#)", D.C.'s criminal homicide count shot through the roof.

Note that killings in Chicago and Philadelphia track quite closely. Might that bring the "cause" behind Philly's increase (de-prosecution) into question? Actually, Chicago's experience lends support to Mr. Hogan's thesis. You see, Kim Foxx, its elected D.A., has also come under severe fire for her progressivism. While the political blow-back has been most harsh from "Red" ideological sorts, [former members of her own staff have roundly blamed her](#) for the Windy City's violence problem.

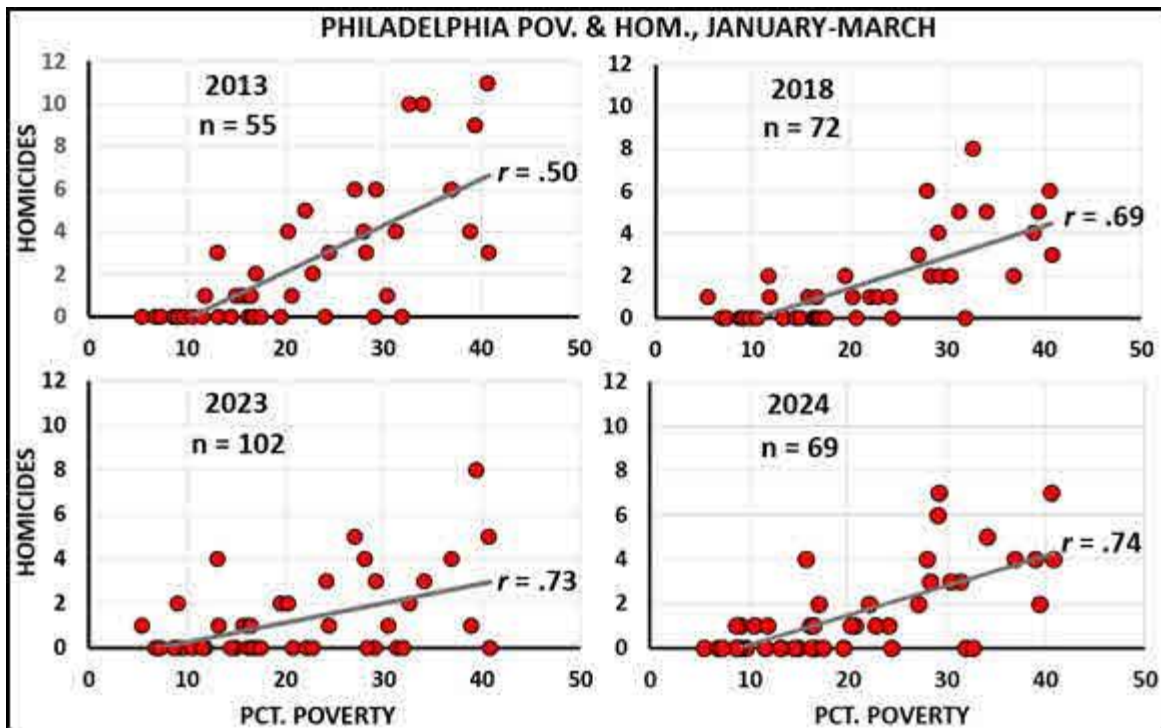
Philly, meet Chicago!

The reasons for Philadelphia's sharp, post-2018 spike in violent crime was ultimately addressed by State legislators. [Pennsylvania House Resolution 216](#), adopted during the 2021-2022 session, established a committee to "investigate, review and make findings and recommendations concerning rising rates of crime, law enforcement and the enforcement of crime victim rights." Issued in October 2022, its "[Second Interim Report](#)" blamed D.A. Krasner's progressive policies. Among many other things, he had prohibited assistant D.A.'s from charging crimes relating to marijuana or prostitution, strongly discouraged them from prosecuting lesser retail thefts, and severely limited requests to impose cash bail. More than a few prosecutors had objected. Thirty-one were promptly fired:

One of the 31 ADAs let go by DA Krasner in his first week in office told the Select Committee that DA Krasner’s mismanagement led to an office that is essentially full of defense attorneys who just want to get defendants out of jail.

It’s not just Philadelphia and Chicago. Many current and former deputies have criticized Los Angeles County D.A. George Gascon for a “soft on crime” approach that, among other things, limits the use of sentence enhancements and prohibits transferring juveniles to adult court. Several sued alleging that he retaliated against them for opposing his policies; [one was just awarded \\$1.5 million](#). Although a recall campaign failed, Gascon faces eleven challengers in the forthcoming primary. His prospects are decidedly uncertain.

Posts in *Police Issues*’ “[Neighborhoods](#)” special topic frequently comment on the strong link between violence and poverty. Police precincts in economically downtrodden areas throughout the U.S. report substantially higher rates of murder, aggravated assault and robbery. For example, check out recent probes of D.C. (“[America’s Violence-Beset Capital City](#)”) and New York City and Los Angeles (“[See No Evil, Hear No Evil, Speak No Evil](#)”). Philadelphia is no exception. These graphs use Philadelphia’s [official crime data](#) to illustrate the relationship between poverty and criminal homicide during the first three months of 2013, 2018, 2023 and 2024 (each murder is a “dot”). Addresses were coded for their Zip’s, and Zip poverty figures were drawn from the [Census](#).



We computed the  $r$  (correlation) statistic between poverty and murder for each of the four three-month datasets. It ranges from zero, meaning no relationship between variables, to plus or minus 1, meaning a perfect association. In 2013 the relationship,  $r = .50$ , was of moderate strength. Generally, as poverty increased, so did homicide. By 2018 their link had become stronger, producing an  $r$  of .69. And the correlations in 2023 and 2024 (.73 and .74) were even more substantial. Bottom line: residents of Philadelphia's poorer areas were disproportionately affected by murder from the start. And things only got worse.

According to [Zipcodes.com](https://www.zipcodes.com), Philadelphia has 46 residential Zip's. We broke them down into low- and high-poverty groups (less than or more than 20 percent poverty), then used population figures to compute homicide rates per 100,000 population:

	Zips	Poverty	Avg Pov	TT Pop	Avg pop				
Pov <20%	25	5.4-19.5%	12.6	680,659	27,226				
Pov >20%	21	20.3-40.8%	30.1	873,779	41,609				
Totals	46	5.4-40.8%	20.6	1,554,438	33,792				
	Cr. homicides Jan-Mar				Cr homicide rt. Jan-Mar				
	2013	2018	2023	2024	2013	2018	2023	2024	
Pov <20%	13	12	10	8	1.9	1.8	1.5	1.2	
Pov >20%	42	60	92	61	4.8	6.9	10.5	7.0	
Totals	55	72	102	69	3.5	4.6	6.6	4.4	

One caveat is that a few Zip's extend beyond the city limits, so some murder counts may be slightly understated. That aside, there is a profound difference in murder rates between better-off Zip's and their economically-struggling counterparts. In 2013 the average murder rate for all 46 Zip's was 3.5. But the average rate for the poorer (4.8) was two-and-one-half times that of the wealthier (1.9). And it got worse. In 2023 the disparity (1.5/10.5) was seven-fold, and in 2024 it was nearly six-fold (1.2/7.0). That's why the  $r$ 's got so pronounced.

Once again: residents of poorer areas got the short end of the stick from the very start. And things got worse over time. Much worse. No, we're not blaming it all on de-prosecution. According to [NIJ](https://www.nij.gov), "the likelihood of being caught and punished" are crucial to deterrence. That automatically brings cops into the picture:

The police deter crime when they do things that strengthen a criminal's perception of the certainty of being caught. Strategies that use the police as "sentinels," such as hot spots policing, are particularly effective.

An article just published in *Criminology & Public Policy*, "[Can increasing preventive patrol in large geographic areas reduce crime?](#)", concludes that "increased police



presence and increased police patrols” (say, a so-called “hot spots” approach) led to statistically significant reductions in both property and violent crime. And when cops (perhaps driven by the likelihood that D.A.’s won’t prosecute) step back, the consequences can be dramatic. [“When police pull back: Neighborhood-level effects of de-policing on violent and property crime”](#) examined the effects in Denver. A post-Floyd decrease in traffic and pedestrian stops (there were 32,000 fewer in 2020) was significantly associated with an increase in violent crime. And the corresponding drop in drug arrests was tied to an increase in property crime.

Bottom line: “de-policing” is probably more likely than “de-prosecution” to encourage misbehavior. [After declaring “a public safety emergency” in January](#), Philadelphia’s new Mayor, Cherelle Parker asked that officers return to using “stop and frisk,” a practice they had apparently discontinued after complaints it was being abused. The desire for a more active police presence is also percolating through violence-beset D.C. On March 11, Mayor Muriel Bowser signed [“Secure D.C.”](#) One of the massive bill’s provisions directs police to designate “drug-free zones” in areas troubled by crime and disorder. Another stipulates that violent crimes, whether committed by adults or juveniles, carry a “rebuttable presumption in favor of pretrial detention”. And a brand-new law invokes heavy penalties for directing organized retail theft.

A desire for more policing has even made itself felt in...San Francisco! Faced with a steep rise in drug use and homelessness, the most progressive major burg in progressive California recently loosened its reins on the cops. By a 60-40 majority, [voters set aside a bucketful of rules](#) that severely restricted what officers do and how they go about doing it. For example, instead of limiting pursuits to the most aggravated circumstances, [cops can now chase](#) if they have a “reasonable suspicion that a person committed, is committing or is likely to commit a felony or violent misdemeanor” (emphasis added).

Your writer is for immediately de-commissioning de-prosecution (so long, Mr. Krasner!). It’s a lousy concept, and has probably led cops to pull back as well. After all, if a D.A. won’t follow through, why bother? As a former law enforcement practitioner he also supports focused policing; i.e., the “hot-spots” approach. Still, as our posts often point out, cops *are* human. And when some badge-wearers encounter uncompliant citizens, they seem unable to set aside their inner monsters. So before returning to a more aggressive posture, we’d prefer a pause. Let’s make a concerted effort to refine mechanisms, including selection, training and supervision, that can help officers take on – and maintain – the perspective of a skilled craftsman at *every* encounter. Then, and *only* then, crank it back up.

Deal?

Posted 6/26/20

## DON'T "DIVEST" – INVEST!

***Stripping money from the police is foolish.  
So is ignoring the plight of poverty-stricken neighborhoods.***

*For Police Issues by Julius (Jay) Wachtel.* George Floyd's legacy has reached Oregon. After admitting that being white has unfairly worked to his advantage, [Mayor Ted Wheeler pledged](#) to take funds from the police and other city departments and use them to invest in economically disadvantaged areas. He also urged a rethinking of law enforcement's role and warned that some police units would lose funding. Among them is the department's [violence reduction team](#), which has been in operation since 2019. According to one of its operatives, [the squad investigated 426 shootings last year](#). Among these were a number of inter-gang battles involving multiple shooters.

Portland also got [a new chief, Jack Lovell](#). A veteran African-American officer, he pledged to "better align" public and officer views of how policing ought be done. With [thirty-six homicides in 2019](#) and "[an unprecedented wave](#)" of twenty-three shootings during the first ten days of 2020, he clearly faces a tough task. Still, outgoing chief Jamie Resch (a white female) described him as "the exact right person at the exact right moment." She hopes that his influence as well as the redirected funds will help stem the violence that besets Portland's poor areas.

Where *does* Portland stand, violence wise? According to the [UCR](#), its 2018 crime rate, 5.2/1,000, is about on par with New York City. While that's considerably higher than the U.S. overall (3.7), it's nonetheless much better than the 7.2 posted by Minneapolis, that other city we'll talk about. Still, as essays in our "[Neighborhoods](#)" section have repeatedly argued, when it comes to crime it's not really about cities: it's about places *within* cities. And

Offense Count by Category		
Person	Assault Offenses	9,103
	Homicide Offenses	35
	Human Trafficking Offenses	25
	Kidnapping/Abduction	47
	Sex Offenses	695
	Sex Offenses, Nonforcible	25
	<b>Total</b>	<b>9,930</b>
Property	Arson	258
	Bribery	3
	Burglary	4,190
	Counterfeiting/Forgery	813
	Embezzlement	160
	Extortion/Blackmail	30
	Fraud Offenses	3,470
	Larceny Offenses	24,588
	Motor Vehicle Theft	6,553
	Robbery	995
	Stolen Property Offenses	95
	Vandalism	6,288
	<b>Total</b>	<b>47,443</b>
Society	Animal Cruelty Offenses	32
	Drug/Narcotic Offenses	1,725
	Gambling Offenses	0
	Pornography/Obscene Material	70
	Prostitution Offenses	48
	Weapon Law Violations	669
	<b>Total</b>	<b>2,544</b>



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Portland (pop. 654,741) has plenty of those, with [ninety-four neighborhoods](#) in seven districts. Using neighborhoods as the unit of analysis, let's compare!

Our information came from three sources. For crime, we turned to [2019 police data](#) (see above right). In that year Portland reported 59,917 criminal incidents. All but 1,754 were coded for neighborhood. Eliminating neighborhoods with low population counts or those whose Census data was unavailable left 87 neighborhoods with a total population of 611,124. We coded each neighborhood for population and percent in poverty using [2017 Census estimates](#) assembled by the *Portland Monthly*, and for race using [2010 Census figures](#) reported by the City of Portland.

Correlation analysis was applied to examine relationships between poverty, crime rates (no. of crimes per 1,000 pop.) and the percent of black and white residents. The below table displays the Pearson “r” that quantifies the relationships. This statistic ranges from -1 to +1. Zero depicts no relationship; -1 a perfect “negative” relationship (as one variable goes up, the other goes down, in lockstep), and +1 a perfect “positive” relationship (both variables go up and down in lockstep.)

		Pov	PerRate	PropRate	SocRate	TotRate
Pov	Pearson Correlation	1	.464**	.461**	.435**	.463**
	Sig. (2-tailed)		.000	.000	.000	.000
	N	87	87	87	87	87
PctBlack	Pearson Correlation	.232*	-.007	.015	-.031	.009
	Sig. (2-tailed)	.031	.948	.891	.773	.937
	N	87	87	87	87	87
PctWhite	Pearson Correlation	-.450**	-.073	-.077	-.046	-.075
	Sig. (2-tailed)	.000	.500	.479	.675	.489
	N	87	87	87	87	87

- Poverty and crime (first row): Moderately strong, statistically significant positive correlations between poverty and crime, meaning they tend to go up and down together. (Two asterisks mean that the probability the statistic was generated by chance is less than one in a hundred.)
- Poverty and race (first column): Moderate positive relationship between blacks and poverty, also statistically significant (one asterisk means the probability the statistic was generated by chance is less than five in one-hundred.) And a moderately strong, statistically meaningful negative relationship between whites and poverty. Clearly, blacks are somewhat more likely to live in poor areas, and

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whites are moderately less likely to do so.

- Race and crime: No relationship.

Using total crime rate (TT rate), this table compares the ten most peaceful neighborhoods (top) with the ten most seriously stricken by crime (bottom).

Neighborhood	Pop.	Pct. Pov.	Pct. Black	Pct. Wht	TT crime	Pers. rate	Prop. rate	Soc. rate	TT rate
Pleasant Valley	12743	16.9	1.4	85.4	361	0.1	22.4	0.0	0.6
Crestwood	13916	7.3	0.6	89.7	35	0.2	2.3	0.0	2.5
Collins View	10027	9.2	1.1	90.1	39	0.7	3.2	0.0	3.9
Marshall Park	1358	5.0	0.4	94.3	14	0.7	9.6	0.0	10.3
Cathedral Park	24107	16.5	5.8	78.3	277	1.4	10.0	0.2	11.5
Arnold Creek	2811	3.2	0.4	92.4	36	1.4	11.0	0.4	12.8
Hayhurst	5978	8.6	1.2	90.3	96	3.0	12.9	0.2	16.1
Ardenwald	2010	9.2	1.2	91.8	39	2.0	16.4	1.0	19.4
Ashcreek	5337	7.5	1.4	89.6	109	3.4	16.3	0.7	20.4
Alameda	5622	6.9	4.1	93.8	123	2.0	19.9	0.0	21.9
Hazelwood	25183	20.7	3.4	77.3	3993	23.5	126.2	8.9	158.6
Parkrose	5870	13.1	8.3	70.9	975	29.8	126.7	9.5	166.1
Old Town/Chinatown	7057	15.3	9.1	77.3	1563	70.7	104.0	46.8	221.5
Hollywood	2022	16.6	6.8	84.3	480	22.7	208.2	6.4	237.4
Pearl	7124	16.2	3.6	84.4	1716	25.3	202.4	13.2	240.9
Eliot	3851	23.8	34.6	51.3	1333	39.5	298.9	7.8	346.1
Creston-Kenilworth	1488	20.7	3.1	77.6	624	65.9	335.3	18.1	419.4
Lloyd	2124	25.3	6.4	80.3	1560	102.2	601.7	30.6	734.5
Centennial	1344	29.7	2.2	80.7	1828	311.8	982.1	66.2	1360.1
Downtown	1811	32.8	6.3	76.3	4069	408.1	1711.2	127.6	2246.8

Blacks comprise a very small proportion of the city's population (5.8 percent, according to a [2019 Census estimate](#)) and only a tiny slice of the economically better-off neighborhoods. Here are the correlations if we only consider the twenty neighborhoods at crime's polar extremes:

		Pov	PerRate	PropRate	SocRate	TotRate
Pov	Pearson Correlation	1	.778**	.817**	.743**	.809**
	Sig. (2-tailed)		0.000	0.000	0.000	0.000
	N	20	20	20	20	20
PctBlack	Pearson Correlation	0.392	0.070	0.142	0.087	0.127
	Sig. (2-tailed)	0.087	0.771	0.551	0.715	0.595
	N	20	20	20	20	20
PctWhite	Pearson Correlation	-.657**	-0.280	-0.334	-0.291	-0.323
	Sig. (2-tailed)	0.002	0.232	0.150	0.214	0.165
	N	20	20	20	20	20

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As one would expect, whites are far less likely to live in the poorest areas ( $-.657^{**}$ , seventh row). And check out the magnitude of those  $r$ 's on the first row. When we cull out the criminally middle-of-the-road places, the statistical relationship between crime and poverty becomes truly formidable.

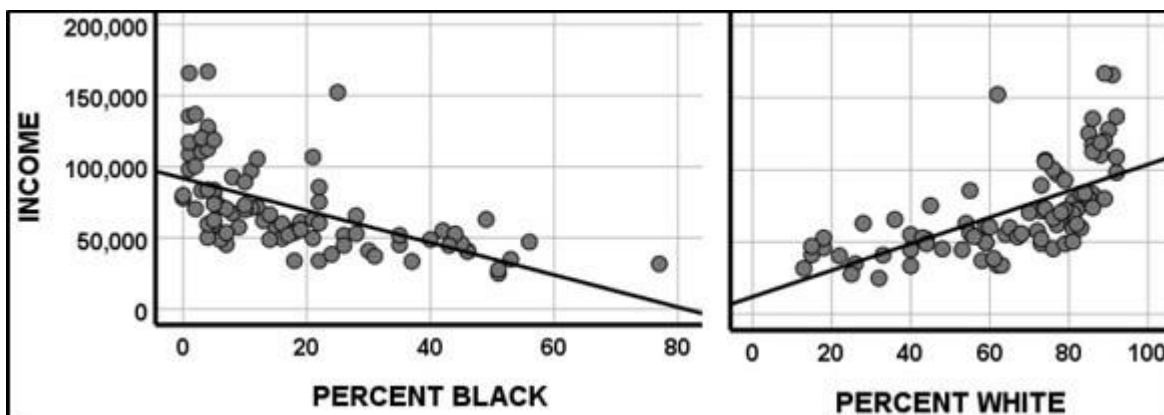
So what about that city whose police department is in the nation's crosshairs? We mean, of course, Minneapolis, where a never-to-be-forgotten video depicts an experienced cop dispassionately (and, ultimately, fatally) [pressing his knees against a helpless man's neck](#). From "[Open Minneapolis](#)," an official website, we downloaded violent crime information (MPD UCR codes 1, 3, 4 and 5) for the one-year period ending June 3, 2020. Three other sources – [Minnesota Compass](#), "[Niche](#)" and [City-Data.com](#) –

		INCOME	VIOL RATE
INCOME	Pearson Correlation	1	-.475**
	Sig. (2-tailed)		0.000
	N	85	85
PCT BLACK	Pearson Correlation	-.591**	.659**
	Sig. (2-tailed)	0.000	0.000
	N	85	85
PCT WHITE	Pearson Correlation	.638**	-.722**
	Sig. (2-tailed)	0.000	0.000
	N	85	85

were used to code each neighborhood for median family income, racial distribution and violent crime rate per 1,000 population. After some culling our dataset comprised 85 Minneapolis neighborhoods where 3,749 violent crimes had taken place.

We again used correlation analysis. The table on the left depicts the pertinent relationships. As one would expect, crimes of violence have a meaningful, statistically significant negative relationship with income – as one goes up, the other goes down.

Check out those strong, statistically significant relationships between race and income. Again, they're in the anticipated directions: positive for whites (both go up and down together) and negative for blacks (as one goes up the other goes down.) Here are the graphs. Each "dot" is a neighborhood. Catch the pronounced slope of those trend lines!



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But who needs *r* statistics and graphs? Check out another comparo between neighborhoods at crime's extremes. For Minneapolis it's between the four least violent neighborhoods and the four most:

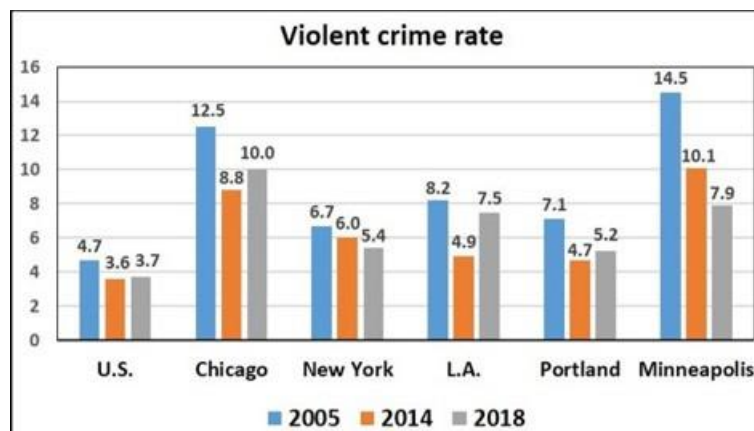
NEIGHBORHOOD	POP	TT VIOL CR	VIOL CR RATE	PCT BLK	PCT HISP	PCT WHT	INCOME
Camden Industrial	30729	8	0.3	35.0	8.0	44.0	51761
ECCO	2453	2	0.8	1.0	1.0	92.0	108841
Fulton	6355	5	0.8	2.0	1.0	92.0	136824
Linden Hills	7727	6	0.8	4.0	1.0	90.0	127961
Folwell	5742	152	26.5	46.0	6.0	33.0	40938
East Phillips	4253	135	31.7	30.0	30.0	15.0	41012
Downtown West	8084	339	41.9	22.0	4.0	60.0	60383
Hawthorne	4717	199	42.2	46.0	10.0	22.0	40378

Keeping in mind that population sizes differ, the data tells an obvious and very compelling story. Look at the income column. Check out the behavior that accompanies each entry. Then imagine policing the neighborhoods in the lower tier.

Indeed, imagine policing *Minneapolis*. [A story in the Star-Tribune](#) about a recent shooting that left one dead and eleven wounded goes on to mention a “surge” of violence that followed the killing of George Floyd, with more than ninety shot in less than thirty days. Considering that twenty-six Minneapolitans have been murdered so far this year ([last year's toll](#) to date was a relatively “measly” fifteen) police chief Medaria Arradondo's lament about a “public health crisis” seems hardly an exaggeration.

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According to 2019 Census estimates, 14.9 percent of [Portland's](#) 654,701 inhabitants live in poverty. With 429,606 residents, [Minneapolis](#) has a poverty rate of 19.9 percent, fully one-third worse. That difference is clearly reflected in our analysis. And as we alluded to, in the cities' UCR crime rates. Here is a six-way comparo:





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What to do? As our “neighborhoods” section has harped on for years, what we *really* need is a “Marshall Plan” for America’s chronically poor neighborhoods. Unless we make major efforts – job training, employment and social counseling, drug and alcohol rehab, childcare, tutoring, affordable housing, and so on – their residents will forever remain locked in crime’s embrace.

So where’s that investment going to come from? President Trump’s re-election promise of “a new deal for black America” has long faded into obscurity. Municipal budgets and politics being what they are, poor neighborhoods are essentially left to fend for themselves. Yes, there have been some valiant private efforts. Portland’s “unprecedented wave” of gunplay is being tackled by “We Are the Caution,” a *Facebook* campaign that addresses the misuse of social media to foment violence. It’s the brainchild of two former gang members who created “Men Building Men,” a nonprofit that seeks to steer young men away from the streets.

In the meantime, loose talk about “defunding” the police continues. Portland seems in a far better position to yank money from the cops than Minneapolis. Yet that 2014-2018 uptick in violence, as well as its more recent experiences, give cause for alarm. Even so, latest word is that its police budget of about \$240 million, which had been set for a small increase, *will instead be slashed* by \$15 million.

But violence-stricken Minneapolis has an even better idea: “dismantle” the police *altogether*. A brainchild of the city council, the plan proposes to have unarmed social service teams do what’s needed. That approach (it’ll supposedly take a year to finalize the details) is opposed by the mayor, who would rather “reform” the cops. Ditto, the business community, which worries about the chaos that would engulf a badge-free city. Skepticism has even been voiced by some of the affluent, progressively-oriented residents of the city’s “Powderhorn Park” area, who reacted to the killing of George Floyd by pledging to never again call the police.

Then, sure enough, “stuff” began to happen.

Posted 4/26/10

## EXTREME MEASURES

### *Angry over Federal dithering, Arizona enacts its own immigration laws*

By Julius Wachtel, (c) 2010

Sooner or later it was bound to happen. Frustrated by the Fed's laissez-faire attitude about the effects of illegal immigration, the Grand Canyon State struck out on its own. Less than a month after the [murder](#) of a goodhearted Arizona rancher (police followed the suspect's tracks to the border) Governor Jan Brewer [signed into law](#) a comprehensive [measure](#) that turns illegal aliens into state outlaws and encourages local police to seek them out and hand them over to the Feds.

Key provisions include the following:

- When practical, law enforcement officers who reasonably suspect that someone is an illegal alien must try to determine their immigration status.
- Illegal aliens convicted of violating state or local laws including misdemeanors must be turned over to U.S. immigration officers, even if they were only fined.
- Illegal aliens and non-citizens over 18 not carrying a valid immigration card law are considered "trespassers." Those in possession of drugs or a weapon are guilty of a felony; otherwise, a first offense is a misdemeanor, and a subsequent offense is a felony.
- Illegal aliens are prohibited from applying for a job, soliciting work or working either as an employee or independent contractor. Violations are misdemeanors. (Arizona law already prohibits employers from knowingly hiring illegal aliens.)
- Knowingly transporting or harboring illegal aliens or inducing them to come to Arizona is a misdemeanor; if ten or more illegal aliens are involved it's a felony.
- Private citizens are empowered to sue and collect damages from political subdivisions that restrict the "full enforcement" of Federal immigration laws.

According to the [Department of Homeland Security](#) Arizona has 460,000 illegal immigrants, the seventh most in the nation. As a proportion of the [population](#) their

number lags only behind California, and then by a whisker (6.9 percent versus 7.0 percent.)

SCAAP, the [State Criminal Alien Assistance Program](#), reimburses States and localities for part of the cost of confining illegal immigrants who are convicted of a felony or two misdemeanors and held for at least four days. (Illegal immigrants convicted of ordinary crimes are commonly called “criminal aliens.”) [The GAO reported](#) that in 2003 Arizona prisons housed 4,200 criminal aliens, costing state taxpayers \$50 million. SCAAP reimbursed \$7 million. Arizona placed fifth in numbers of incarcerated criminal aliens, behind California (30,200), Texas (11,200), New York (5,700) and Florida (5,200). But when adjusted for state [population](#), Arizona’s share was second to California’s.

In 2003 the Maricopa County (Phoenix) jail system housed 4,300 criminal aliens, costing state taxpayers \$15 million. Its reimbursement? \$1 million. Only four jails, two in California, one in Texas and one in New York City held more. Adjusting for [county](#) and [city](#) size, Maricopa was in third place, just behind the California counties.

Another [GAO report](#) examined the backgrounds of 55,322 criminal aliens who were incarcerated for any offense in Federal and State prisons and county jails in December 2003. Eighty percent came from three states: California (58 percent), Texas (14 percent) and Arizona (eight percent.)

Arizona is one of the nation’s principal gateways for illegal entry, regularly placing first in border arrests and second only to Texas, a state with a population four times its size, in [immigration prosecutions](#). It’s also a primary entry point for illegal drugs, with [Federal drug prosecutions in Arizona](#) increasing more than twofold during 2008-2010. And as we pointed out in [a prior post](#), the state’s gun dealers are a major source of firearms for the Mexican cartels.

The consequences are obvious. Human, drug and gun trafficking tear at the social fabric, attracting unscrupulous characters, consuming prodigious criminal justice resources and setting the stage for other crimes. According to the [Arizona Republic](#), Phoenix experienced an astounding 368 kidnappings for ransom in 2008, much of it ostensibly related to drug and cartel activity. What’s more, although its police chief touts the city as “one of America’s safest large cities,” [a 2008 survey](#) of cities over 75,000 population ranked Phoenix 302 out of 393. It was well behind Los Angeles, which placed 240th. (higher numbers are worse). Phoenix’s problems are no surprise to your blogger, who as an ATF agent in Arizona during the seventies got to experience the troubled city first-hand.



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Crunched by a tight economy, with a [2008 median household income](#) two percent below the national mean, Arizona has struggled for decades to deal with the social and economic consequences of being on the border. But to many observers its current response seems an overreaction. Concerns that the law will drain scarce police resources, cause racial profiling and discourage crime victims from coming forward led the Arizona Police Chiefs Association [to strongly oppose the measure](#). On the other hand many lower-ranking police officers, including presidents of police associations in Phoenix and Glendale favor it, in part because it would give officers more tools for combating crime.

It's no surprise that [political views](#) about Arizona's stern approach mirror Party affiliations. Senator John McCain (R-Ariz.) is for while President Obama, who warned that the Arizona bill would "undermine basic notions of fairness," is against. Interestingly, his Secretary of Homeland Security, Janet Napolitano, a Democrat, [repeatedly vetoed](#) similar legislation when she was Arizona governor, in part because it would "overwhelm" police. Yet in 2005 she declared a "state of emergency" at the border, then sent the National Guard to help secure it.

Within a couple of years, though, the Feds decided that physical barriers and a much-ballyhooed ["virtual" fence](#) were preferable to a heavy human presence. But only last month Secretary Napolitano [called a halt](#) to the multi-billion dollar project because of questions about its effectiveness. Arizona's senators have since proposed that the money be spent on – you guessed it – troops and additional border agents. Meanwhile the Department of Justice is getting set to challenge Arizona's new immigrant-unfriendly laws in Federal Court.

That, in a nutshell, is America's border "policy." If you're confused, join the crowd!

Posted 12/11/10

## **FASTER, CHEAPER, WORSE**

***Rehabilitation doesn't lend itself to shortcuts.  
Neither does research and evaluation.***

*By Julius (Jay) Wachtel.* Is “corrections” a non-sequitur? No, insists NIJ. Its landmark 1997 report, “[Preventing Crime: What Works, What Doesn't, What's Promising](#),” argued that carefully designed and appropriately targeted programs of sufficient dosage and duration can indeed rehabilitate. Intensive, theory based “cognitive and behavioral treatments” were particularly recommended for high-risk populations.

That's exactly what [Project Greenlight](#) offered. Developed by the Vera Institute of Justice and conducted in New York between February 2003 and February 2004, it applied a “cognitive-behavioral” approach to mitigate personality traits associated with offending such as impulsivity, antisocial attitudes and drug use. Inmates would participate in therapeutic sessions, receive housing and employment assistance, and interact with parole agents and social workers before release. Ex-offenders would leave with detailed, step-by-step plans to help them successfully reintegrate into the community.

As usual, funding issues butted in. What was intended to be a three-year pilot project was cut back to one year. While that didn't affect participants, to increase their numbers treatment was slashed to eight weeks from a design length of four to six months. Class sizes were also increased three-fold, from the recommended eight to ten participants to twenty-six. Just like elsewhere in government, notions of “faster, better, cheaper” had clearly taken hold.

Experiments normally include an experimental group and one or more control groups that are virtually identical in all respects but receive no treatment or “intervention.” Because the Department of Corrections intended to house the program in a male-only, minimum-security facility in New York City, Project Greenlight's experimental group (GL) was comprised of 344 low-risk inmates who originated from (and would be released to) New York City. There were two control groups. One, TSP, included 278 low-risk inmates, also from New York City, who would be housed at the same facility and treated with the department's five-week Transitional Services Program. A second control group, UPS, included 113 low-risk inmates from outside New York City who would be released from upstate prisons without benefit of a program.

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To assure that any differences in outcomes between groups are not due to differences in their composition, experimental subjects are normally picked at random and assigned to groups one at a time. But that's not what happened with Greenlight. According to the program's [published report](#) correctional officials at first assigned inmates to GL and TSP in large batches, rather than one-by-one. While investigators eventually regained some control, in the end they conceded that the design was only quasi-experimental. However, they declared it was sufficiently robust to eliminate the possibility that the groups were systematically different from the start.

Mean survival time (weeks)	
<i>Total Arrests</i>	
Greenlight	70.62
TSP	79.28
Upstate	78.54
<i>Felony Arrests</i>	
Greenlight	84.55
TSP	90.93
Upstate	91.17
<i>Parole Revocations</i>	
Greenlight	79.51
TSP	85.83
Upstate	88.84

Outcomes were measured one year later. Surprisingly, GL participants seemed substantially worse off. Thirty-one percent of the experimental subjects had been rearrested, compared with 22 percent of TSP participants and 24 percent of those in the untreated UPS group. GL's also "survived" for substantially briefer periods before arrest.

It's well accepted that the best predictor of future offending is past offending. That's consistent with Greenlight data, which indicated that the more serious one's criminal record the greater the likelihood of arrest after release (coefficients with asterisks denote statistical significance, the more the greater.) But study group also seemed to matter, with Greenlight participants forty-one percent more likely to fail than those treated with TSP. (Similar though statistically non-significant results were reported when comparing GL to Upstate.)

Assuming that the groups were equivalent as to all important characteristics before treatment (we'll come back to that later), investigators surmised that one or more aspects of Greenlight was making things worse. They speculated about a "mismatch" between the program, which was designed for high-risk offenders, and the low-risk nature of those actually treated. Other likely suspects include GL's highly abbreviated format, its departure from the original design, poor implementation, and subpar performance by case managers.

Greenlight and TSP		
Age at release	-.04	.96***
Education	-.02	.98
Race/Ethnicity		
NH White/other	---	---
NH Black	.05	1.05
Hispanic	-.12	.89
Prior arrests	.05	1.05***
Primary offense		
Robbery	---	---
Violent	-.27	.77
Drugs	.49	1.63**
Property	.40	1.49*
Other	-.51	.60^
Substance abuse		
None	---	---
Alcohol only	.52	1.69*
Drugs	.15	1.16
Alcohol and drugs	.15	1.16
Age at first arrest	-.02	.98
Study Group	.34	1.41**

**Exhibit 1. Percent of Participants Without a Rearrest After 30 Months**

Risk Level	Greenlight (N = 345)	TSP (N = 278)	UPS (N = 113)
Total Sample	47.5	51.8	66.4 **
Low-Risk	80.4	70.0 ^	86.4
Medium-Risk	44.0	51.7	69.0 **
High-Risk	23.7	33.8 *	32.1

Note: All comparisons of statistical significance are with the GL group. ^ p < .10; \* p < .05; \*\* p < .01

Fast-forward to November 2011 when a [Project Greenlight update](#) reported outcomes after thirty months. Participants were coded for [risk of recidivism](#), an index comprised of criminal history and other measures. While members of the experimental (GL) group did more poorly overall than those in TSP and UPS, the gap between GL and TSP was statistically insignificant and far outweighed

by the gap between both programs and UPS, whose participants fared well while receiving no treatment at all. Low and medium-risk inmates did exceptionally well in UPS, while those at medium and high-risk did especially poorly in GL. Actually, low-risk inmates tended to succeed in each program, with those assigned to GL actually doing considerably better than participants in TSP but falling somewhat short of the untreated Upstate group.

Why did GL succeed with low-risk inmates? Researchers guessed that their personal characteristics (e.g., attention span, cognitive and social skills) were most compatible with the program's intensity and its compressed format. As for the relative success of the untreated UPS sample, it might reflect the advantage of not unduly upsetting inmates by coercively transferring and programming them shortly before setting them free.

Complex after-the-fact explanations are inherently untrustworthy. What if the presumed effects were artifacts of biased assignment? Indeed, [the study's own data](#) suggests that the groups were different from the start.

Variables	GL (N=339)	TSP (N=274)	Upstate (N=112)	Total (N=725)	Sig.
<i>Total Arrests</i>					<i>ns</i>
Mean	8.65	7.81	6.67	8.02	
Std. Deviation	9.1	8.1	9.7	8.8	
<i>Total Convictions</i>					<i>ns</i>
Mean	5.94	5.31	4.33	5.45	
Std. Deviation	7.6	6.8	8.5	7.5	
<i>Felony Arrests</i>					<i>ns</i>
Mean	4.57	4.12	3.57	4.25	
Std. Deviation	4.7	3.9	4.3	4.4	
<i>Felony Convictions</i>					<i>ns</i>
Mean	1.76	1.72	1.53	1.71	
Std. Deviation	1.6	1.6	1.6	1.6	
<i>Misdemeanor Arrests</i>					<i>ns</i>
Mean	3.11	2.63	2.09	2.77	
Std. Deviation	5.7	5.2	7.4	5.8	
<i>Misdemeanor Convictions</i>					<i>ns</i>
Mean	4.18	3.59	2.80	3.75	
Std. Deviation	6.8	6.1	7.6	6.7	

Each arrest and conviction variable was at its highest level in Greenlight and at its lowest in the untreated Upstate group, with TSP holding the middle ground. Some of the mean differences appear substantial. So the implications are clear: since the GL group had more hardheads, poor results were inevitable. On the other hand, as the authors pointed out, none of the differences between means reached significance (that's probably because sample sizes were so small and the fluctuations in scores, measured by standard deviation, so large.) In any event, when nonrandom methods are used to form groups, one cannot assume that participants come from the same population, so statistical significance is meaningless. A more parsimonious interpretation is that the GL group's bias in the direction of more serious criminal records increased recidivism. Greenlighters seemed least amenable to treatment because they were the most criminally inclined. Upstaters fared relatively well because they were the least. Speculation that Greenlight itself had a criminogenic effect remains just that.

Alas, the conceit that short-term rehabilitative attempts can influence post-release outcomes is nothing new. No matter how carefully designed a program might be, convicts who spend years in prison learning all the wrong lessons are unlikely to be transformed in two months. Still, in an era of shrinking budgets there is a lot of pressure to devise solutions that are better and cheaper than simply locking people up. In "[Economic Crime Control](#)," the lead article in the November/December 2011 ASC newsletter, Philip Cook and Jens Ludwig argue for reprogramming \$12 billion a year from prisons to early childhood education and to initiatives that address the "social-cognitive skill deficits" of young persons in trouble with the law.

Effective community-based solutions, though, can be very expensive. Deinstitutionalization left us with the worst of both worlds: mentally ill persons who are untreated *and* homeless. To do better with criminal offenders would require far heavier investments in research and evaluation than bean-counters would likely tolerate. "Corrections" may not be a non-sequitur, but "economical" crime control most certainly is.

Posted 1/22/12

## **FROM *BRADY* TO THE CONFRONTATION CLAUSE**

***Continuing our roundup of Supreme Court criminal cases  
in a very busy term***

*By Julius (Jay) Wachtel.* If you're reading this, crime and justice are your bag. And if so, the Supreme Court's current term, chock-full as it is of important criminal cases, should be of great interest.

Two months ago, in "[From Eyewitnesses to GPS](#)," we prognosticated about five cases. One, [Perry v. New Hampshire](#), was recently decided. Perry, a convicted thief, argued that eyewitness testimony is so unreliable that he should have been entitled to a pretrial hearing on its admissibility. As we predicted (well, not just us) the Supremes disagreed. Unless police purposefully bias the ID process – and in *Perry* there was no such evidence – it rightfully falls on the jury, not a judge, to determine how much weight an identification deserves.

So far we're batting a thousand. Dizzy with success,<sup>1</sup> we'll offer predictions on two more pending cases. But first let's review a new decision on a case that wasn't on our radar.

### **Withholding evidence from the defense**

Every law enforcement professional knows of [Brady](#), a landmark Supreme Court case that says prosecutors must disclose potentially exculpatory evidence to the defense. In [Smith v. Cain](#) (decided 1/10/12) the Supremes reaffirmed the rule, striking down a murder conviction where the only evidence was testimony by a single eyewitness that the accused shot and killed five persons during a home invasion. Their reason wasn't that evidence was lacking: it was because prosecutors withheld a detective's notes quoting the witness as saying that he could not identify any of the intruders and "would not know them if [he] saw them."

In their defense, prosecutors argued that the witness's well-founded fear of retaliation would have nullified the contradictory statement had it come to light. No sale. In a brief and pointed 8-1 opinion, the justices held that the state trampled the defendant's due process rights as clearly articulated in *Brady*.

Now let's turn to two cases still on the burner.



## **Police immunity to Federal lawsuits**

*Malley v. Briggs* (1986) established the doctrine that police officers are only entitled to qualified immunity, not the absolute immunity that prosecutors and judges enjoy. When cops are sued in Federal court it's up to the judge to examine the record and decide whether their actions were consistent with what reasonably well-trained officers would do. If the answer is "yes," immunity is granted and the lawsuit is dismissed; if "no," the case proceeds to trial.

Just how courts evaluate "reasonableness" is the central issue in *Messerschmidt v. Millender*. Officers protecting a woman who was moving out of a residence were called away on an emergency. While they were gone the woman's boyfriend allegedly chased and shot at her with an illegal pistol-grip shotgun. Detectives obtained a search warrant for all firearms and firearms-related materials and all indicia of gang membership (the subject was reportedly a hardcore gangster.)

SWAT then hit the house – hard. It was occupied by ten persons. An extensive, highly intrusive search turned up nothing other than a legal shotgun belonging to the owner of the residence, the boyfriend's elderly foster mother. She and the others sued for search and seizure and due process violations. A Federal judge denied the police qualified immunity and the Ninth Circuit concurred. In its opinion, the warrant's objective was overbroad, as there was no evidence that the boyfriend possessed anything of evidentiary value other than a single illegal firearm. Justices faulted the issuing judge for signing a warrant that was invalid on its face, and the officers for not using "their own reasonable professional judgment" when seeking permission to search.

In their appeal, the cops insisted that they acted appropriately, as both the judge and their superiors had approved the warrant.

What's our call? To portray the officers' actions as wildly inappropriate seems a stretch. We're going with the two dissenters, who pointed out that it wasn't unlike past situations in which police goofed but were still granted immunity. One suspects that the Supremes are likely to agree, that is, to overrule the Ninth, as what the cops did doesn't seem to warrant crafting a possibly confusing cure that might be worse than the disease.

## **Right to confront one's accusers**

Just when we thought that the Supreme Court had made its feelings about the confrontation clause clear here comes *Williams v. Illinois*.



In this case, on appeal from the Illinois Supreme Court, a private laboratory (Cellmark) typed DNA from a rape kit while a state police laboratory typed the suspect's blood. At trial a state police analyst testified that she compared the profile generated by Cellmark to the one generated by her lab and concluded they matched to a high certainty. Cellmark's report was not introduced as evidence and no Cellmark employee testified. Williams protested that his sixth amendment rights had been violated because he didn't have an opportunity to confront Cellmark about their methods and findings. But Illinois courts said there was no breach as Cellmark's report was not offered "for the truth of the matter asserted" but only served as a basis for the analyst's opinion.

Whew. That's some awfully fine hair-splitting. What are the precedents? In *Crawford v. Washington* (2004) the Supreme Court ruled that the recorded statement of a wife who asserted the marital privilege was improperly introduced at trial. Whether or not they seem reliable, "testimonial statements" – those made with the understanding that they can be used in court – cannot be admitted unless defendants are afforded an opportunity to cross-examine their makers.

Exactly what is "testimonial" is a matter of controversy. Massachusetts prosecutors had taken to introducing laboratory reports instead of analyst testimony in drug cases. Not so fast, said the Supreme Court. In *Melendez-Diaz v. Massachusetts* (2009) justices ruled that such reports met the definition of "testimonial," thus requiring that their authors be made available at trial.

And wait, there's more! In-between *Crawford* and *Melendez-Diaz* there was *Bullcoming v. New Mexico*. A lab analyst took the stand to introduce a blood-alcohol report that had been prepared by an absent colleague. Somewhat weakly, prosecutors asserted that the real examiner was only a "scrivener" who did little other than write down what a machine spat out. But the Supremes didn't buy it. No examiner – no case.

Back to *Williams*. Tom Goldstein, publisher of the SCOTUS Blog, [is skeptical about Illinois' position](#). "As a practical matter," he writes, "it is hard to say that the underlying DNA report is not being used for its truth." [That end-run is exactly what worried Justice Scalia](#). Here's what he said during oral arguments:

Mr. Dreeben [*amicus* appearance for Illinois] that seems to me -- I mean, we have a Confrontation Clause which requires that the witnesses against the defendant appear and testify personally. And -- and the crucial evidence here is the testing of the semen found on the swab. That is -- that's the crux of this evidence. And you're telling me that this Confrontation Clause allows you to simply say, well, we're not going to bring in the person who did the test; we're

simply going to say this is a reliable lab. I don't know how that complies with the Confrontation Clause.

Still, a lot of DNA is being typed by commercial firms. Bringing in analysts is expensive and disruptive. So Mr. Goldstein may be on to something when he says that *Williams* may “pass the end of the line to which five Justices are willing to extend the Confrontation Clause.”

But we're of a different mind. Having come this far in support of the Clause, the Supreme Court is unlikely to pivot on such thin grounds. *Williams* really does feel like a distinction without a difference. So our money is on it being overturned.

Incidentally, two fascinating cases on the limits of punishment are also on the agenda. *Miller v. Alabama* and *Jackson v. Hobbs*, both set for oral argument on March 20, will decide whether sentencing 14-year old murderers to life without parole is cruel and unusual. Stay tuned!

<sup>1</sup> First reader to accurately attribute the “dizzy” comment gets an “attaboy” in the blog. For a hint, check out the title of your blogger's forthcoming novel in the “[About](#)” section.

Posted 11/20/11

## FROM EYEWITNESSES TO GPS

### *An unusually rich set of criminal cases land on the Supreme Court's agenda*

*By Julius (Jay) Wachtel.* Beginning last month, and continuing through April 2012, the [Supreme Court](#) is hearing oral arguments on cases accepted for the 2011-12 term. In this posting we'll look at cases where arguments have already taken place, involving eyewitness identification, strip searches, ineffective assistance of counsel and warrantless GPS surveillance.

**Witness identification.** In [Perry v. New Hampshire](#) (Supreme Court, no. 10-8974) the Court will address growing concerns about witness misidentification, a leading cause of wrongful convictions. In this case a physically distant eyewitness to a vehicle burglary [identified a man who was being questioned by officers](#) as being the perpetrator. She couldn't pick him out later from a photographic lineup or at trial. Her original identification was nonetheless admitted and the accused was convicted.

Defense lawyers appealed on due process grounds, arguing that the ID had been tainted since the man was observably in police custody. But the New Hampshire Supreme Court ruled there was no Constitutional violation because police didn't purposely orchestrate what took place.

Perry's lawyer disagreed. [In arguments before the Supreme Court](#) he insisted that eyewitness ID is so prone to error that defendants should be able challenge suggestive identifications before they are admitted as evidence whether police are to blame or not. That didn't sit well with Justice Kagan, who said that the Court has only excluded eyewitness evidence that was tainted by the authorities. Broadening the net of what is excludable worried Justice Kennedy, who thought it would infringe on the province of the jury, whose job it is to weigh competing explanations. But Perry's lawyer insisted that normal procedures didn't suffice for eyewitness testimony because it is unusually resistant to cross-examination.

Our call: Considering their reluctance to create new rules, the Justices are unlikely to let Perry off the hook.

**Jail strip searches.** In [Florence v. Board of Freeholders](#) (Supreme Court, no. 10-945) the Supreme Court will decide if a rule requiring that everyone booked into a jail be strip searched violates the Fourth Amendment.

It's a nuanced issue. [Florence was arrested on a bench warrant for not paying a fine](#), a trivial matter for which the State conceded he shouldn't have been jailed in the first place. He was strip-searched twice, once when booked into city jail and again when transferred to the county. Florence claims that such intrusions require reasonable suspicion, and that the minor nature of his offense and lack of evidence that he might harbor contraband made the strip search unreasonable.

Florence sued for deprivation of his civil rights, and a Federal district court allowed his case to proceed. But by a vote of 2-1 [the Third Circuit reversed](#). The prevailing justices were reluctant to dictate how jails should be run. They also fretted that letting jailers decide whom to strip search would open up a Pandora's box of discrimination claims.

Their reasoning was echoed in the comments made by Supreme Court Justices during [oral arguments](#). While the Justices were troubled by the fact that strip searches seldom uncover contraband, they considered Florence's proposed "reasonable suspicion" standard impractical. If, as Florence's lawyer argued, reasonable suspicion was implicit for those arrested for serious crimes, exactly where would one draw the line? Justice Sotomayor, who took on the practical aspects of building reasonable suspicion, noted that key facts about an arrestee's criminal past might not be known for days. And like the Circuit court, Justice Kennedy was troubled by the discriminatory potential of having jail employees select who would be strip-searched.

Our call: Mandatory strip-search will survive.

**Ineffective assistance of counsel in plea bargaining.** There are two cases. [Lafler v. Cooper](#) (Supreme Court, no. 10-209) concerns a Michigan man (Cooper) who went to trial on attempted murder, felon with a firearm and other charges [because his lawyer advised](#) that repeatedly shooting a woman below the waist would not sustain an attempted murder conviction. In so choosing Cooper turned down a plea deal (he says, reluctantly) that would have resulted in a minimum sentence of four to seven years. As one might expect, he was convicted of everything and got fifteen to thirty.

Cooper hired a new lawyer. His appeal was brushed off by the Michigan courts. But a Federal judge held that the attorney's abysmally poor advice violated Cooper's Sixth Amendment rights, and that he should either be offered the original deal or let go. The Sixth Circuit affirmed. Michigan appealed.

In the other case, [Missouri v. Frye](#) (Supreme Court, no. 10-444) a repeat drunk driver (Frye) pled guilty and drew a three-year prison term. What he didn't know was that [his lawyer let a plea offer expire](#) that would have reduced the charge to a misdemeanor and

the penalty to ninety days in jail. Fry's conviction was reversed on Sixth Amendment grounds by the state Court of Appeals. Missouri appealed.

In both cases the key issue is straightforward: does the right to counsel attach to the plea-bargaining phase? Lawyers representing Michigan and Missouri argued that it didn't. That didn't sit well with the Justices. [During oral arguments in \*Lafler\*](#) several tried to get Michigan's lawyer to concede that plea bargaining is a critical phase of the adjudicative process. Recognizing the trap, the lawyer switched his assault to the defendant's proposed remedy. That was essentially the tack his counterpart took in *Frye*. In effect, both said there *was* no remedy.

Our call: Not communicating a plea offer is an incredible blunder. What the remedy may be we'll soon find out.

**Warrantless surveillance.** In "[A Day Late, a Warrant Short](#)" we examined the case of Antoine Jones, a D.C. nightclub owner who is serving a Federal life term for drug trafficking. A key item of evidence was a month's worth of location data recorded by a GPS device that DEA agents surreptitiously attached to Jones's vehicle (they had a warrant but it had expired, rendering it invalid.) At times DEA physically tailed Jones, and at other times not. In his appeal to the D.C. Circuit Jones argued that planting the device for such a long duration, without a valid warrant, violated the Fourth Amendment.

[The justices agreed](#), finding that Jones had a reasonable expectation of privacy as to the intimate "mosaic" that was formed by secretly recording a month's worth of movements. [The Government appealed](#) (U.S. v. Jones, Supreme Court, no. 10-1259).

In our post we suggested that the Supreme Court was likely to reverse, as the Circuit's decision (it upheld the warrantless installation of the device, but not its use) would require judges to speculate about the relative intrusiveness of surveillance techniques. But the Supreme Court threw us a curve. In [oral arguments](#) several Justices agreed that GPS devices posed far greater risks to privacy than old-fashioned beepers, which according to precedent can be planted without a warrant. Here's how Chief Justice Roberts compared the two:

That's a lot of work to follow the car [with a beeper]. They've got to listen to the beeper; when they lose it they have got to call in the helicopter. Here they just sit back in the station and they -- they push a button whenever they want to find out where the car is. They look at data from a month and find out everywhere it's been in the past month. That -- that seems to me dramatically different.

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On the other hand, [the Justices seemed unimpressed](#) with the argument by Jones's lawyer that the mere act of planting a device was an impermissible trespass. And that's where things rest.

Our call: We'll gamble and say that the Justices will find a way to require search warrants when using GPS.

In the next weeks, as more oral arguments take place, we'll review Supreme Court cases that address other pressing criminal justice issues. Does the Confrontation clause requires that DNA analysts be made available for cross-examination? Is life without parole a permissible sentence for teens convicted of murder? Do prisoners have a right to replace their State-furnished Habeas counsel? Stay tuned!



Posted 8/20/16

## GETTING OUT OF DODGE

***For families caught in dangerous neighborhoods, there is one option***

*By Julius (Jay) Wachtel.* Milwaukee's "[Sherman Park](#)" is one of the city's oldest residential districts. [Google it](#), plop down your pedestrian and amble down the lavishly tree-lined streets. Admire the finely crafted homes, built during the early 1900s by prosperous German immigrants. Most still stand, though in truth, some just barely. Really, things don't seem as well kept as one might wish. There sure is an awful lot of chain link! It turns out that in an area less than two miles square, [more than thirty homes are in foreclosure](#).

But forget Sherman Park. Sadly, the years haven't been kind to Milwaukee. Murder in 2015 soared to 152, [a 69 percent increase from 2014](#) when 94 homicides were tallied. Blacks suffer disproportionately. In a city that is [about forty percent black](#), [seventy percent of murder victims](#) in 2014 and eighty-four percent in 2015 were black. So far this year Milwaukee has recorded 76 murders. [Seventy-six percent of the victims](#) are black (13 percent were white, eight percent Hispanic and three percent of Asian descent.)

Milwaukee's residents [have many explanations](#) for the chaos engulfing their neighborhoods:

Ask anyone in Milwaukee and they'll have a different answer: Deep systemic problems of poverty, unemployment, segregation and education. Easy access to firearms. Lack of personal responsibility and the breakdown of the family. An ineffective criminal justice system. Lax sentencing. A pursuit policy critics say too often limits police chases. Too much policing. Not enough policing.

Edward Flynn, Milwaukee's somewhat controversial police chief, [explained the uptick in violence](#) more simply, as an increased willingness to settle differences with a bullet:

Maintaining one's status and credibility and honor, if you will, within that peer community is literally a matter of life and death. And that's coupled with a very harsh reality, which is the mental calculation of those who live in that strata that it is more dangerous to get caught without their gun than to get caught with their gun.

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Over the decades, [as Sherman Park transitioned](#) from upper-middle class, exclusively-white, to working class, majority-black, crime and disorder [has taken an increasing toll](#). Still, as Sherman Park is only one troubled place out of many, no one outside Milwaukee paid attention. That dramatically changed on Saturday, August 13, when a police officer patrolling in Sherman Park [shot and killed](#) an armed man who fled on foot from a traffic stop. Sylville Smith, 23, had prior arrests for drug possession, robbery, a shooting and witness intimidation. His only conviction, though, was for misdemeanor carrying a concealed weapon, and it seems that he later obtained a concealed-carry permit. (The gun he possessed when shot had been reported stolen.)

Over the next two days, demonstrations and rioting rocked Sherman Park, and [multiple businesses were looted and set on fire](#). Milwaukee Mayor Tom Barrett issued an impassioned plea for harmony:

We are asking every resident of this community to do everything they can to help us restore order. If you're a mother who is watching this right now, and your young son or daughter is not home, and you think they're in this area, get them home right now. This is a serious situation – and this is a neighborhood that has unfortunately been affected by violence in the past. There are a lot of really, really good people who live in this area, in the Sherman Park area, who can't stand, like any of us, can't stand this violence.

Sherman Park has an active community association. Two days after the shooting, a citizen [posted this plea on their Facebook page](#). It was addressed to the local Alderman:

...Long before this weekend, many of my neighbors were afraid of “that part” of Milwaukee. They miss out on great things like the Fondy Farmers Mkt because of the perception of danger. They won't stop for gas or groceries on their way home because they are afraid. I am asking you to condemn the criminals. The youth in that neighborhood are killing each other. They are robbing each other. They are burning down businesses that serve a neighborhood that is served by too few...Please stop burying the condemnation under a pile of misguided justification, or sadly, the families in your neighborhood will continue to bury Milwaukee's youth....

In this blog we've speculated plenty about the causes of crime and disorder. (Check out, for example, the “[Crime and Punishment](#)” topical area.) Most recently, in “[Location, Location, Location](#),” we suggested that instead of obsessing about city crime rates, one ought to look to where the roots of violence actually lie, meaning neighborhoods. But this isn't a post about the causes of crime, or how to fight it. It's about *equity*. Lower-income areas of Milwaukee (and Chicago, Detroit, Baltimore, Newark...) can resemble

the Wild West. Where does that leave law-abiding families who may be economically unable to leave?

That was the core dilemma addressed during President Bill Clinton's first term by [an adventurous Federal experiment](#). Four-thousand-plus low-income families living in poverty-stricken areas of Baltimore, Boston, Chicago, Los Angeles and New York were enrolled in the "Moving to Opportunity" program (MTO). They were randomly assigned to one of three groups: an experimental group that received the usual, unrestricted "Section 8" housing vouchers; an experimental group that got vouchers restricted for use in areas where the poverty rate was ten percent or less; and a control group that received assistance but no voucher.

[A study that compared](#) effects on the voucher and control groups ten to fifteen years later paints a somewhat mixed picture. Forty-eight percent of the restricted group and sixty-three percent of the unrestricted Section 8 group actually used their vouchers. Their reasons seemed basically the same: to escape gangs and drugs and find better schools for their children. Families that used restricted vouchers ultimately wound up in areas where poverty hovered around twenty percent. That was twice the intended limit, but still about half the poverty rate of where the no-voucher controls lived, where poverty hovered around forty percent. Participants with unrestricted vouchers fell somewhere in-between. As one might expect, the lower-poverty areas were also somewhat less segregated (75 percent minority for the experimental groups versus 88 percent for the controls.) While statistically significant, the difference doesn't seem all that compelling, leading one to wonder whether the subsidies were sufficiently large to create a pronounced effect.

Issues of dosage aside, how much of a difference was there between the subsidized and control groups? In several key areas, none. Economic self-sufficiency, employment/unemployment, youth "risky behavior" and youth educational achievement came out about the same. On the other hand, families with vouchers apparently did benefit in other ways. Adults in the voucher groups liked their neighbors better, were far less likely to see drugs being sold or used, and felt much safer. That's consistent with official data, which revealed that they faced substantially lower levels of violent crime than the controls. Measures of health, including body mass, diabetes and psychological state were significantly better for adults in the voucher groups. Their subjective well-being (SWB) scores, which reflect overall experiences, were also much higher.

Still, the main reasons for using the vouchers had to do with kids, and their outcomes didn't seem improved. (In fact, moving into "better" areas seemed to set boys back.) Two years after the official report, a team of Harvard researchers [took another, more](#)

[intensive look](#) at the MTO's effects on children. They discovered that age seemed crucial. Children in the subsidized "experimental" groups who relocated before age 13 enjoyed significantly higher incomes as adults than the unsubsidized controls. They were more likely to go to college, to a better college, and to live in better neighborhoods, and less likely to become single parents. Relocating, though, had negative consequences for older children.

Baltimore's participants in the MTO program got their own study, "[Living Here has Changed My Whole Perspective: How Escaping Inner-City Poverty Shapes Neighborhood and Housing Choice](#)" (*Journal of Policy Analysis and Management*, Spring 2014.) According to its authors, relocating to better neighborhoods greatly raised families' expectations about what schools and neighborhoods should provide.

Unrestricted "Section 8" housing vouchers continue to be issued. However, funding is very limited. [HUD's fact sheet](#) cautions that waiting lists may be long. What's more, finances, work reasons, reluctance by landlords, a lack of preparedness, poor counseling and other factors can lead families who get vouchers [to wind up living](#) in areas that are far from desirable. According to the [Center on Budget and Policy Priorities](#), 343,000 children in Section 8 households resided in "extremely poor neighborhoods" in 2014. Changes, starting with far more robust funding, seem definitely called for.

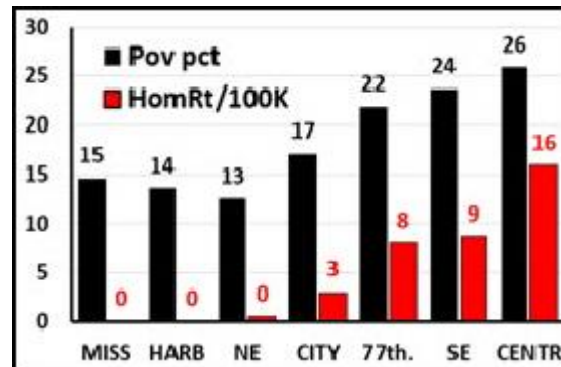
It's been argued that the "[toxic stress](#)" of life in areas ridden by poverty and violence has grave effects on child development; even if families eventually relocate, improved life outcomes may be out of reach. What to do? With all due credit to the citizen-reformers who are hard at work in Sherman Park and like communities, their efforts won't change the circumstances that kids who live in poverty faced yesterday, and will face again today and tomorrow. Your family, kind reader, and mine presumably live in "respectable" areas with good schools and minimal strife. Doing so, we know, requires a certain income. So it's a matter of simple equity (not "charity") to give children who would otherwise suffer the disadvantages of growing up in poverty the same opportunities we provide our own. While we wait (and wait, and wait) for improvements in police-community relations and such to yield their promised gains, helping families "Get out of Dodge" today – not tomorrow – seems a pressing imperative.

Of course, some would say that encouraging "good people" to leave only accelerates decay. There's truth in that, all right. So here's a corrective. Ask the skeptics to trade places with impacted families in, say, Sherman Park. It's the least they could do.

Posted 6/16/23

## GOOD NEWS / BAD NEWS

*When citywide crime “falls,” who really benefits?*



For *Police Issues* by Julius (Jay) Wachtel. Our attention was recently drawn to a *Los Angeles Times* piece with an unusually explicit Internet link: <https://www.latimes.com/california/story/2023-06-01/crime-is-down-in-la-as-city-plans-to-expand-lapd>. Entitled “What the latest police numbers show about crime in L.A., San Francisco and West Hollywood”, its message (greedy cops) was so obvious that progressively-minded readers might have been forgiven for simply nodding and moving on.

But as a long-time, home-delivery subscriber, we dove in. And quickly realized that the supposedly well-researched article was really just another feel-good account about L.A.’s citywide crime decline. Citing police data, it reported that L.A.’s 2023 violent crime rate was “more than 10%” lower than for the same Jan. 1-May 20 period last year. Homicide, in particular, had plunged a substantial twenty-seven percent. (Click [here](#) for our saved version of an LAPD report containing city-wide crime numbers for January 1-May 27 periods in 2021, 2022 and 2023.)

Forgive us if we’re not impressed. As our [neighborhoods essays](#) have long harped, people live and work in places whose characteristics can’t be accurately depicted with citywide scores. “[What’s Up? Violence. Where? Where Else?](#)” compared neighborhoods across Los Angeles and New York City. “[Don’t Divest – Invest](#)” did so for Portland and Minneapolis. And “[Punishment Isn’t a Cop’s Job \(II\)](#)” focused on Memphis. It’s long been our practice to focus on crime rates in areas *within* cities. And we always bring their poverty rates along. No, it’s not because we think that poverty “causes” crime. After all, most poor people are perfectly law-abiding. But poverty has proven to be a worthy



surrogate indicator for a host of more proximate factors, from gang activity to unemployment, that are closely linked to violence.

Here we're doing it again, and again for L.A. Our top image displays poverty and homicide rates per 100,000 population between January 1 and May 27, 2023 for six LAPD geographical Divisions (there are twenty-one) that populate the extremes of the homicide spectrum, with three at each end. L.A.'s "citywide" rate is in the middle. These tables extend that comparo to five Divisions at each end, and expands coverage to include the other two major crimes of violence: aggravated assault and robbery:

L.A. 2023 homicide rates			L.A. 2023 agg aslt rates			L.A. 2023 robbery rates		
5 lowest	Rate	Pct pov	5 lowest	Rate	Pct pov	5 lowest	Rate	Pct pov
Mission	0.0	14.6	West L.A.	47.3	10.3	West LA	25.1	10.3
Harbor	0.0	13.6	Devonsh	75.9	10.8	Devonsh	36.4	10.8
Northeast	0.5	12.5	Northeast	89.4	12.5	Foothill	37.7	10.2
West Valley	0.5	10.5	Foothill	104.4	10.2	Mission	40.8	14.6
Foothill	0.5	10.2	Pacific	107.0	7.2	WValley	46.1	10.5
<b>Avg</b>	<b>0.3</b>	<b>12.3</b>	<b>Avg</b>	<b>84.8</b>	<b>10.2</b>	<b>Avg</b>	<b>37.2</b>	<b>11.3</b>
5 highest	Rate	Pct pov	5 highest	Rate	Pct pov	5 highest	Rate	Pct pov
Rampart	6.3	23.1	Rampart	295.9	23.1	Hollywood	128.0	14.0
Hollenbeck	6.5	20.1	Newton	363.9	36.3	Southeast	153.3	23.7
77th St.	8.0	21.9	Southeast	417.3	23.7	Newton	154.5	36.3
Southeast	8.6	23.7	77th St.	446.4	21.9	77th St.	201.3	21.9
Central	15.9	25.9	Central	748.7	25.9	Central	351.1	25.9
<b>Avg</b>	<b>9.1</b>	<b>22.9</b>	<b>Avg</b>	<b>454.4</b>	<b>26.2</b>	<b>Avg</b>	<b>197.6</b>	<b>24.4</b>
<b>Citywide</b>	<b>2.7</b>	<b>17.1</b>	<b>Citywide</b>	<b>192.1</b>	<b>17.1</b>	<b>Citywide</b>	<b>81.8</b>	<b>17.1</b>

Crime rates were computed using LAPD Division crime stat's and population figures. Division poverty scores were produced as in "[Does Race Drive Policing?](#)", by overlaying precinct and ZIP code maps, then averaging [Census poverty statistics](#). Divisions appear in both groups ("lowest" and "highest") by their crime rate, from least to most.

Within each crime type, comparing the five lowest and five highest crime-burdened precincts yields stark differences in crime rates and percent of the population in poverty. High-homicide rate precincts, for example, have an average homicide rate (9.1) that's *more than thirty times* that of their low-homicide counterparts (0.3). Their average poverty score is also twice as high. Like contrasts are evident for aggravated assault and robbery. And that's not just something that came about in 2023. In the next set of tables we use [saved LAPD data](#) to extend our coverage to equivalent periods in 2021 and 2022 (# represents the actual number of crimes). We begin with homicide:



LAPD Divisions w/lowest 2023 Jan-May homicide rates									
	Pct pov	2021		2022		2023		Chg	Chg
		#	Rate	#	Rate	#	Rate	21-23	22-23
Mission	14.6	2	0.8	4	1.6	0	0.0	-100%	-100%
Harbor	13.6	15	8.3	4	2.2	0	0.0	-100%	-100%
Northeast	12.5	7	3.2	2	0.9	1	0.5	-86%	-50%
West Valley	10.5	6	3.0	4	2.0	1	0.5	-83%	-75%
Foothill	10.2	3	1.5	5	2.5	1	0.5	-67%	-80%
<b>Avg</b>	<b>12.3</b>		<b>3.4</b>		<b>1.9</b>		<b>0.3</b>	<b>-87%</b>	<b>-81%</b>

LAPD Divisions w/highest 2023 Jan-May homicide rates									
	Pct pov	2021		2022		2023		Chg	Chg
		#	Rate	#	Rate	#	Rate	21-23	22-23
Rampart	34.5	8	5.0	8	5.0	10	6.3	25%	26%
Hollenbeck	24.1	15	8.8	9	5.3	11	6.5	-27%	23%
77th St.	26.6	16	8.5	29	15.5	15	8.0	-6%	-48%
Southeast	24.8	18	11.9	19	12.6	13	8.6	-28%	-32%
Central	35.8	9	11.0	9	11.0	13	15.9	44%	45%
<b>Avg</b>	<b>29.2</b>		<b>9.1</b>		<b>9.9</b>		<b>9.1</b>	<b>2%</b>	<b>3%</b>
Citywide	17.1		4.1		4.3		3.3	-20%	-23%

Here's aggravated assault:

LAPD Divisions w/lowest 2023 Jan-May agg. aslt. rates									
	Pct pov	2021		2022		2023		Chg	Chg
		#	Rate	#	Rate	#	Rate	21-23	22-23
West L.A	10.3	90	37.0	111	45.7	115	47.3	28%	4%
Devonshire	10.8	168	72.9	206	89.4	175	75.9	4%	-15%
Northeast	12.5	232	106.4	228	104.5	195	89.4	-16%	-14%
Foothill	10.2	235	119.7	227	115.6	205	104.4	-13%	-10%
Pacific	7.2	346	158.2	295	134.9	234	107.0	-32%	-21%
<b>Avg</b>	<b>10.2</b>		<b>98.8</b>		<b>98.0</b>		<b>84.8</b>	<b>-6%</b>	<b>-11%</b>
LAPD Divisions w/highest 2023 Jan-May agg. aslt. rates									
	Pct pov	2021		2022		2023		Chg	Chg
		#	Rate	#	Rate	#	Rate	21-23	22-23
Rampart	23.1	455	284.6	473	295.9	473	295.9	4%	0%
Newton	36.3	446	298.3	508	339.8	544	363.9	22%	7%
Southeast	23.7	637	422.6	720	477.7	629	417.3	-1%	-13%
77th St.	21.9	868	463.4	843	450.1	836	446.4	-4%	-8%
Central	25.9	515	630.0	631	771.9	612	748.7	19%	-3%
<b>Avg</b>	<b>26.2</b>		<b>419.8</b>		<b>467.1</b>		<b>454.4</b>	<b>8%</b>	<b>-3%</b>
Citywide	17.1		216.3		232.8		219.5	1.4%	-6%

And here's robbery:

LAPD Divisions w/lowest 2023 Jan-May robbery rates									
	Pct pov	2021		2022		2023		Chg	Chg
		#	Rate	#	Rate	#	Rate	21-23	22-23
West L.A	10.3	66	27.2	72	29.6	61	25.1	-8%	-15%
Foothill	10.2	63	32.1	82	41.8	74	37.7	17%	-10%
West Valley	10.5	70	34.7	126	62.4	93	46.1	33%	-26%
Devonshire	10.8	83	36.0	103	44.7	84	36.4	1%	-19%
Topanga	11.8	77	37.1	102	49.2	110	53.0	43%	8%
<b>Avg</b>	<b>10.7</b>		<b>33.4</b>		<b>45.5</b>		<b>39.7</b>	<b>17%</b>	<b>-12%</b>

LAPD Divisions w/highest 2023 Jan-May robbery rates									
	Pct pov	2021		2022		2023		Chg	Chg
		#	Rate	#	Rate	#	Rate	21-23	22-23
Newton	36.3	197	131.8	281	188.0	231	154.5	17%	-18%
Southeast	23.7	224	148.6	299	198.4	231	153.3	3%	-23%
Hollywood	14	210	160.0	259	197.4	168	128.0	-20%	-35%
77th St.	21.9	358	191.1	452	241.3	377	201.3	5%	-17%
Central	25.9	274	335.2	339	414.7	287	351.1	5%	-15%
<b>Avg</b>	<b>24.4</b>		<b>193.3</b>		<b>247.9</b>		<b>197.6</b>	<b>2%</b>	<b>-22%</b>
<b>Citywide</b>	<b>17.1</b>		<b>92.2</b>		<b>112.1</b>		<b>94.2</b>	<b>2%</b>	<b>-16%</b>

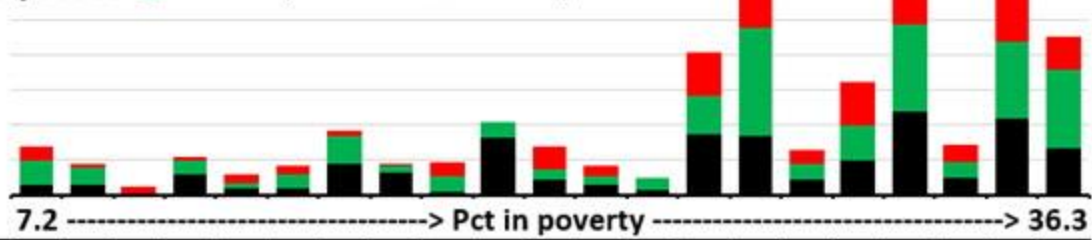
Average poverty scores for the highest-rate groups was substantially higher than for the lowest-rate groups for each year and crime type. Really, the pronounced connection between violent crime and poverty could hardly be more obvious. And unlike those comparatively benevolent “citywide” crime numbers (you know, the ones that the bosses like to brag about), the crime rates rates of “highest-crime” precincts didn’t consistently improve.

It’s not that the worker-bees are ignoring the obvious. That violence/poverty connection clearly influences how cops go about their business. In “[Does Race Drive Policing?](#)” we used [2022 LAPD RIPA stop data](#) along with [2019 LAPD arrest data](#) and [Census ZIP code data](#) to confirm that Black and Hispanic persons are more likely to be stopped and arrested. No, it’s not because most cops are racists. It’s because Blacks and Hispanics disproportionately inhabit the economically disadvantaged areas whose chronically elevated levels of violence draw increased police attention. (It’s not the first time we’ve pointed that out, nor criticized the *L.A. Times* for jumping to conclusions. See our 2019 two-parter, “Did the *Times* Scapegoat L.A.’s Finest? [I](#) [II](#)”).

That’s all well and good. But our exploration here has only touched on the extremes. LAPD has twenty-one field Divisions. What about the city as a whole?

### Homicide rates/100K, 21 LAPD Divisions, by pct. poverty

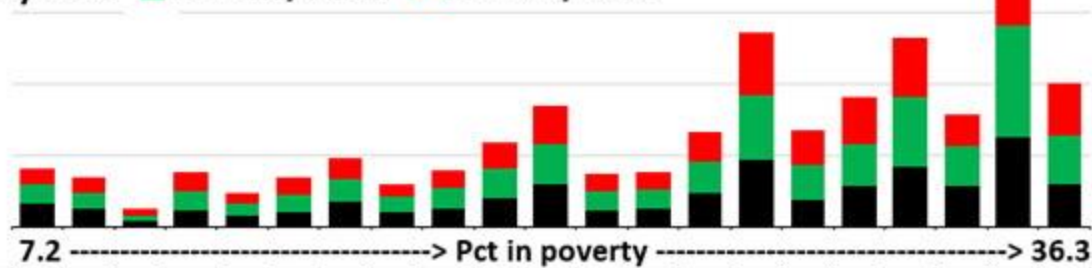
■ Jan-May 2021 ■ Jan-May 2022 ■ Jan-May 2023



Rates 2023	2	1	1	0	1	1	1	0	2	0	3	2	0	6	8	2	6	9	3	16	5
Rates 2022	4	3	0	2	1	2	4	1	2	2	2	1	2	5	15	2	5	13	2	11	11
Rates 2021	1	2	0	3	1	1	5	3	0	8	2	2	1	9	9	2	5	12	3	11	7

### Agg. Aslt. rates/100K, 21 LAPD Divisions, by pct. poverty

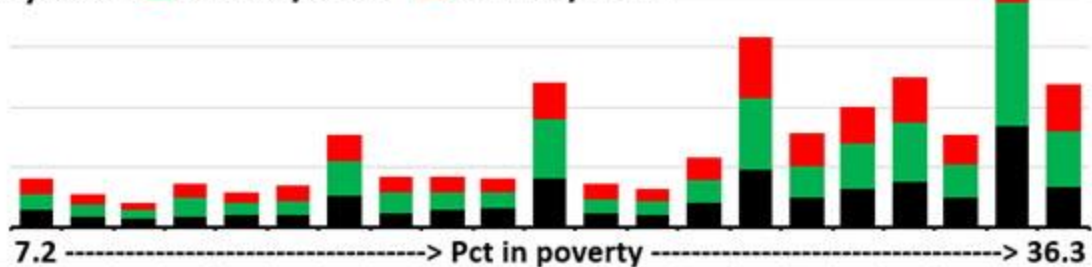
■ Jan-May 2021 ■ Jan-May 2022 ■ Jan-May 2023



Rates 2023	107	104	47	140	76	122	154	89	124	182	258	129	117	199	446	245	325	417	215	749	364
Rates 2022	135	116	46	134	89	128	158	105	147	206	290	131	129	220	450	245	296	478	278	772	340
Rates 2021	158	120	37	111	73	97	169	106	125	195	292	113	131	238	463	191	285	423	288	630	298

### Robbery rates/100K, 21 LAPD Divisions, by pct. poverty

■ Jan-May 2021 ■ Jan-May 2022 ■ Jan-May 2023



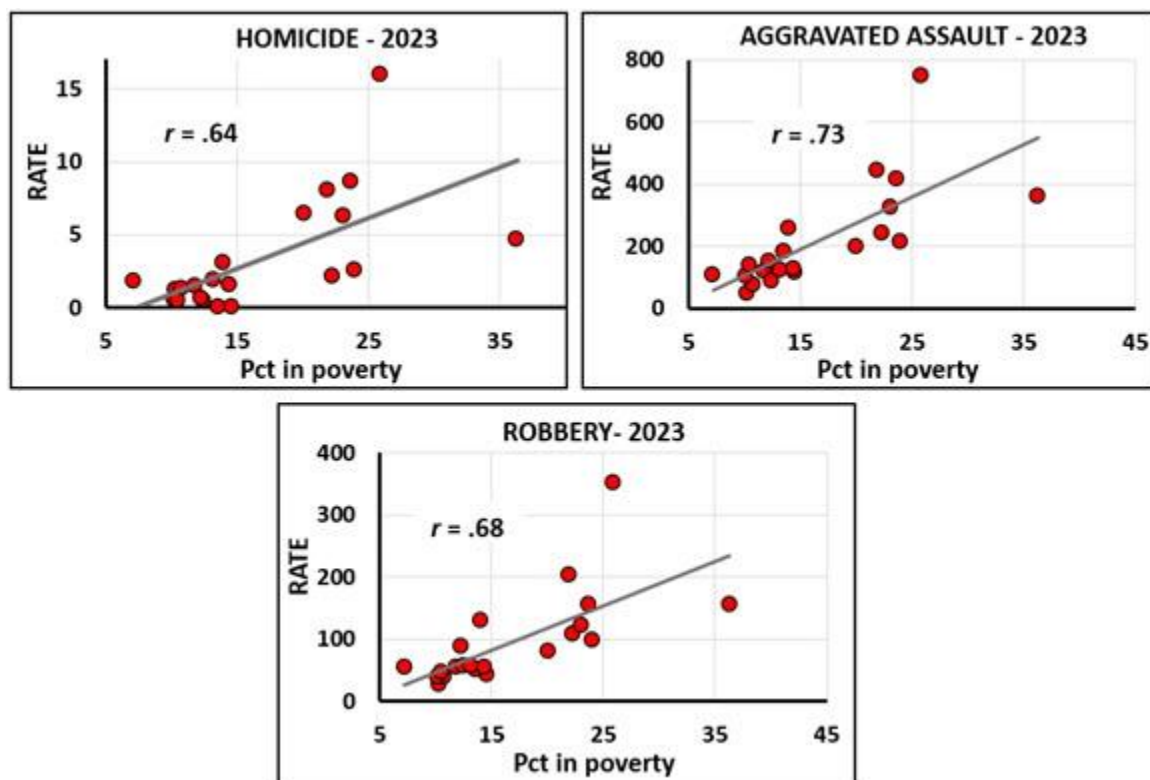
Rates 2023	52	38	25	46	36	53	86	54	55	49	128	53	41	79	201	106	119	153	97	351	155
Rates 2022	55	42	30	62	45	49	116	69	56	52	197	50	46	72	241	106	155	198	111	415	188
Rates 2021	55	32	27	35	36	37	104	44	57	60	160	43	37	81	191	99	124	149	99	335	132

These graphs arrange LAPD's twenty-one field Divisions by percent of residents in poverty, from lowest poverty precinct (7.2 percent) on the left, to highest poverty



precinct (36.3 percent) on the right. On first glance, crime rates appear to substantially worsen at the higher levels of deprivation. To more precisely assess the relationships between our “variables” – poverty and crime type – we computed “ $r$ ” scores (coefficient of correlation) from January-May 2023 crime data. [The “ $r$ ” statistic ranges from zero to plus or minus one. Zero means no relationship between variables: they move up and down independently. A substantial “plus” score – say, .50 or higher – suggests that the variables move up and down together. A substantial “minus” score also means that they change in sync, but move in opposite directions.]

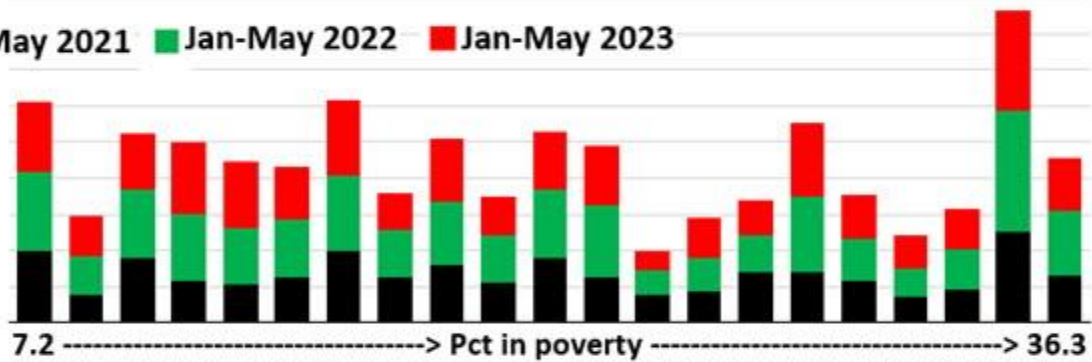
Our results show strong, positive  $r$ ’s between poverty and each violent crime type: .64 between poverty rate and homicide, .73 between poverty rate and aggravated assault, and .68 between poverty rate and robbery. Here are the “scattergrams” (each dot represents a Division):



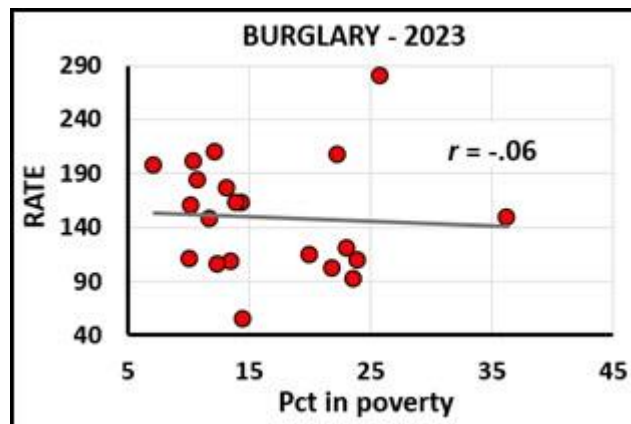
Fine, poverty and violence go together. But does that extend to serious property crime? Say, burglary? Here’s that comparo:

## Burglary rates/100K, 21 LAPD Divisions, by pct. poverty

■ Jan-May 2021 ■ Jan-May 2022 ■ Jan-May 2023



Rates 2023	196	110	160	200	183	147	209	105	176	107	162	162	54	114	101	206	120	91	108	279	148
Rates 2022	218	108	187	183	157	163	208	131	175	128	190	202	67	92	101	206	119	80	111	336	178
Rates 2021	197	77	180	115	104	123	200	123	159	112	179	125	75	85	139	141	114	71	93	250	130



As the near-zero  $r$  demonstrates, poorer areas of Los Angeles don't generally suffer from higher rates of burglary. And that's to be expected. Considering the places where material goods worthy of stealing can be found, serious property offenses should be far more evenly distributed across the economic spectrum than violent crime. (That's especially so in California, which in 2014 [reclassified as misdemeanors](#) most thefts whose value doesn't exceed \$950.)

So what's the uptake? As “[Place Matters](#)” pointed out, cities that are blessed with lots of prosperous neighborhoods (e.g., the Big Apple and L.A.) flaunt aggregate crime scores that don't reflect the violent realities that their less well-off residents face. But leave honest reporting aside. How is the violence that besets poor areas best approached? Let's self-plagiarize from “[Fix Those Neighborhoods!](#)”:

Yet no matter how well it's done, policing is clearly not the ultimate solution. Preventing violence is a task for society. As we've repeatedly pitched, a concerted

effort to provide poverty-stricken individuals and families with child care, tutoring, educational opportunities, language skills, job training, summer jobs, apprenticeships, health services and – yes – adequate housing could yield vast benefits.

Couldn't have said it better ourselves! Oh, wait...



Posted 9/27/22

## HARD TIMES IN “THE BIG EASY”

*In New Orleans, poverty and crime go together like, well...*



*For Police Issues by Julius (Jay) Wachtel.* Louisiana’s largest city occasionally draws our attention over the behavior of its cops (click [here](#) and [here](#)). As former mayor Mitch Landrieu [noted](#) when the Justice Department stepped in over a decade ago, “I have inherited a police force that has been described by many as one of the worst police departments in the country.” DOJ soon issued [a massive report](#) that upbraided officers for making unwarranted stops and arrests, using excessive force, and demonstrating bias against women and minorities. Managers weren’t ignored. They drew considerable scorn for a preoccupation with numbers, which “diverts attention and resources from quality arrests, community engagement, and more considered problem-solving.” In 2018 the city entered into an elaborate [consent decree](#) that required NOPD fundamentally change its way of doing business, both within *and* on the streets.

We’ve cautioned about the consequences of pushing numerical productivity. Indeed, *Police Issues* has a special section on “[Quantity and Quality](#).” So was *that* the cause of NOPD’s alleged dysfunction? Or is something more fundamental at work? DOJ’s slap-down offered an intriguing clue:

Some argue that, given the difficulty of police work, officers must at times police harshly and bend the rules when a community is confronted with seemingly intransigent high levels of crime. Policing is undeniably difficult; however, experience and study in the policing field have made it clear that bending the rules and ignoring the Constitution makes effective policing much more challenging.

As it turns out, those “intransigent” levels of crime have beset The Big Easy for a very long time. Unfortunately, our recent probe of Louisiana (“[But is it Really Satan?](#)”)

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altogether ignored the State's largest city. So imagine our despair when we recently came across the *Wall Street Journal's* splendid (and deeply sobering) piece, "[New Orleans Has America's No. 1 Murder Rate. 'We're in a Crisis.'](#)" Based on [data recently published](#) by the Major Chiefs Association, it reports that New Orleans' homicide rates aren't just in the pits – they're the worst in the land!

We decided to check for ourselves. MCCA published violent crime numbers for the first six months of 2021 and 2022 for seventy major U.S. cities and metro areas. Using 2021 population estimates from the Census (click [here](#) and [here](#)) we computed homicide rates (per 100,000 pop.) for every place surveyed by the Chiefs. And the results definitely bear out the Journal's despair. On the left are the most murder-ridden areas, rate-wise. On the right is a comparo between the nation's murder capital (New Orleans) and five major cities that frequently appear in our posts. Really, if being worst counts, The Big Easy "easily" earns the trophy.

Rank /70	City	Pop	Hom 2022	Rate 2022	Rank /70	City	Pop	Hom 2022	Rate 2022
1	New Orleans	376971	155	41.1	1	New Orleans	376971	155	41.1
2	Baltimore	576498	179	31.0	9	Philadelphia	1576251	257	16.3
3	St. Louis	299310	86	29.3	10	Washington DC	670050	104	15.5
4	Detroit	632464	133	21.0	18	Chicago	2696555	311	11.5
5	Memphis	628127	121	19.3	44	Los Angeles	3849297	186	4.8
6	Milwaukee	569330	109	19.1	56	New York City	8467513	207	2.4

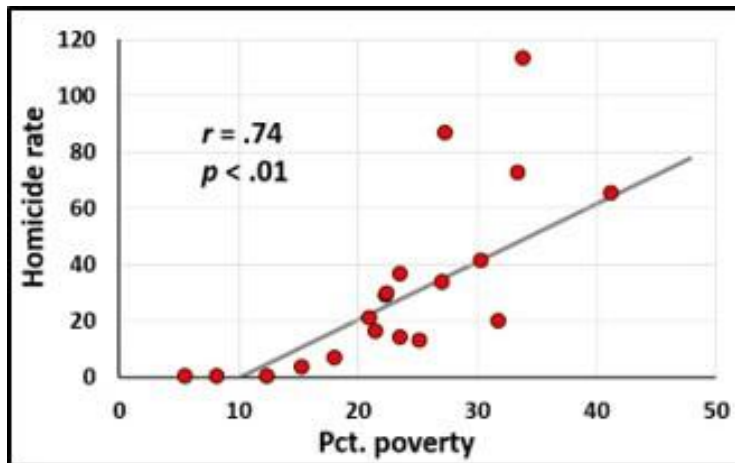
Full stop. For the past decade, essays in our [Neighborhoods](#) special topic have warned that results of such comparisons may not be as meaningful as one assumes. After all, cities *are* artificial constructs. New York City brags about its safety. According to the table, its homicide rate does seem benign. But as we pointed out in "[Fix Those Neighborhoods](#)", the Big Apple's peaceful character doesn't extend to its poorer districts. Say, Brownsville (pop. 86,000), which sports a deplorable murder rate of 29.1.

We don't look on economic conditions as the ultimate cause of violence. Poverty rates, though, seem to function as a surrogate for an unholy alliance of factors (e.g., unemployment, lack of child care, ill-behaved peers) that can collectively make life miserable. And get folks killed. So instead of simply wagging our finger at The Big Easy, let's look *within*. Our main source, New Orleans P.D.'s "[Electronic Police Report 2022](#)" provides basic information on "all Police Reports filed by NOPD officers". To align our results with the Major Chiefs data, we focused on the first six months of 2022, from

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January 1 through June 30, selecting every entry coded as “HOMICIDE” and where victim status was “FATAL.”

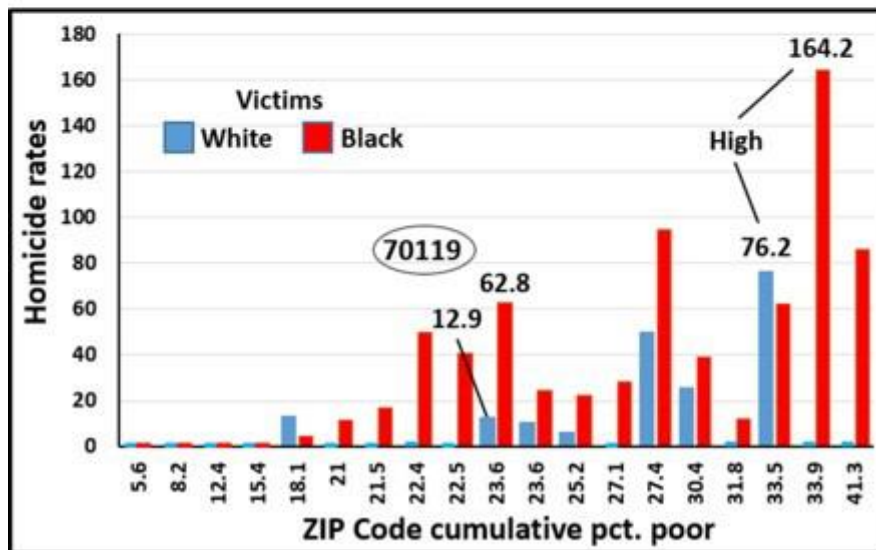
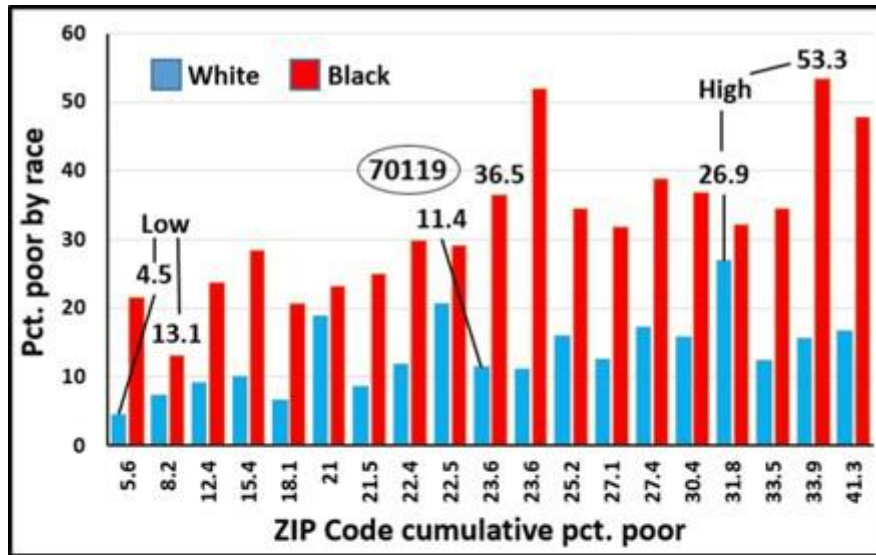
That process yielded 101 homicide victims. For step 2 – *where* in New Orleans? – we queried the incidents’ street locations in Google. That yielded sixteen ZIP codes (the city has nineteen principal ZIP’s, but three – 70121, 70123 and 70124 – had no homicides during our timeframe.) We then turned to the [Census](#) and gathered 2019 ACS estimates for each ZIP’s population and percent in poverty: cumulative, “White alone” and “Black or African American alone.” (And yes, we share. Click [here](#) for the data.)



Our first order of business was to look for a relationship between ZIP code poverty percentages and murder rates (per 100,000 pop.) As our graph indicates, their correlation was in the expected direction (more poverty, more murder) and *very* robust. In fact, the “*r*” statistic of .74 turned out to be virtually identical to the .73 “*r*” yielded by our 2021 comparison of poverty and

violence rates for New York City’s 59 Districts (“[Woke up, America!](#)”).

And just like in New York City (and everywhere else we’ve ever looked) the consequences fell hardest on the racial and ethnic groups that disproportionately inhabit the city’s poorer areas. [According to the Census](#), New Orleans’ population of 376,971 is 33.4 pct. White and 59.2 pct. Black. Overall poverty is 24.8 pct., with Black poverty (33.2 pct.) nearly three times that of Whites (12 pct.) Check out these graphs, which arrange New Orleans’ nineteen regular Zip codes by percent of residents in poverty, with the wealthiest Zip (5.6 pct. poor) on the left and the most economically deprived (41.3 pct. poor) on the right:



	Pop. White	Pop. Black	White Pov.	Black Pov.	White Vict.	Hom Rt White	Black Vict.	Hom Rt Black
70119	15535	15935	11.4	36.5	2	12.9	10	62.8

Black residents are doubly disadvantaged. As ZIP Code poverty rates worsen, their share of the population (top graph) and rate of homicide victimization (bottom graph) substantially increase. Consider, for example, Zip 70119, with a mid-ranked 23.6 pct. cumulative poverty score. Although it has about the same number of White and Black residents, the latter were *three times* more likely to be poor and *five times* more likely to be murdered.

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So are economics entirely to blame for New Orleans' travails? Maybe not. According to the *Wall Street Journal*, and to [a recent article](#) in *The Lens*, the consent decree, and the elaborate internal controls it produced, led many cops to leave. It's also reportedly hampered recruitment, which is in the dumps across the U.S. Specialized NOPD units were stripped to augment depleted patrol ranks, and 9-1-1 responses are interminably delayed. So much so, that many citizens and businesses have taken up arms. Or simply left. Meanwhile the Federal judge overseeing the consent decree announced that, contrary to her recent suggestion, [the end is not exactly in sight](#). According to U.S. District Judge Susie Morgan, problems with "crime reporting data, calls for service and response time" require an "innovative" response. Given [NOPD's severe staffing shortage](#), though, that definitely seems a stretch.

But maybe not. Perhaps that coach-person can pull out a solution from their top hat. So we'll see.

Posted 1/28/08

## HOLLYWOOD'S KILLING US

By Julius Wachtel, (c) 2010

Two-hundred thirty-six murders. That's six months' worth of killings in the not-so-angelic City of Los Angeles, three months' worth in Los Angeles County, and, according to an academic who spends his time keeping track of such things, one and one-half hours' worth in "Rambo." Rated R for "strong graphic bloody violence, sexual assaults, grisly images and language", Sylvester Stallone's newest vanity project depicts the sixty-one year old actor/writer/director with the sagging pecs as a heroic Vietnam vet who sets out to rescue kidnapped missionaries. Sly's newest project, reportedly the most violent general-distribution movie ever made, has received mixed reviews. Perhaps the most damning was the [Philadelphia Inquirer's](#), which called the film "action porn" and "an obscene gory game."

But in Hollywood, where any publicity is good publicity, the words were music to Lions Gate's ears. They didn't release the film to benefit society -- they did it for one reason, and one only: to make lots of money. Expecting to recover more than one-third the film's \$50 million production cost during its opening weekend, Steve Rothenberg, the studio's domestic distribution guru, proudly [remarked](#) that "Rambo" was targeted at the immensely profitable 17-to-24 year-old demographic: "Hopefully, what our advertising has done is introduce 'Rambo' to a whole new generation of younger males." Naturally, it won't be long before twelve-year olds will be watching "Rambo" DVD's and shelling out their parents' hard-earned bucks for the first-person shooter game that's certain to follow. Just listen to those cash registers jingle!

Sure, money's dandy. Just don't bother Sylvester, Steve and the other peddlers of pornographic violence with what some members of their target audience are doing with *real* guns and *real* bullets only blocks from Burbank's soundstages. In [2006](#) seventeen-to-twenty four year olds were responsible for forty-three percent of murders in the U.S.; those in the most prolific segment, twenty to twenty-four, committed more than one in every four. With violence in many areas on the upswing, one can't blame cities like Philadelphia from being dismayed by a plague of Hollywood shoot-'em-ups that appeal to impressionable youth, and for all the wrong reasons.



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Ah, but wait a minute, you say. Anyone who's taken freshman research methods knows that correlation does not necessarily mean causation. There was violence before television, movies and video games; ergo, TV, movies and video games cannot be the cause.

If it were only that simple. Images are persuasive; if not, there would be no ad industry, no TV, and those pesky multi-color inserts in Sunday papers would be history (hmm...now there's an idea!) Thanks to technology and the entertainment industry's damn-the-consequences pursuit of the buck, grotesque visions of murder and mayhem have taken over the small and big screens and immersed video gamers in hypercharged environments where brutally dispatching one's opponents isn't one thing, it's the only thing. Even well-regarded cinema critics have been inhaling. Consider the remarks of the *L.A. Times*' [Patrick Goldstein](#), who gushed that the "two leading best picture contenders -- "No Country" and "There Will Be Blood" -- are brutal, nihilistic pictures that will be studied by film students for years but aren't the kind of pictures you can recommend to your Aunt Gladys in Des Moines."

But there's a big difference between watching and doing, you say. Does exposure to violent images really lead to violence? A recently published paper (L. Rowell Huesmann, "The Impact of Electronic Media Violence: Scientific Theory and Research," [Journal of Adolescent Health](#), vol. 41, 2007) says yes, definitely. Analyzing studies dating back to the sixties, the author concluded that TV, video games and the Internet have become classrooms of violence, arousing, "priming" and desensitizing young, malleable minds, and creating a public health threat second in magnitude only to smoking and lung cancer.

There was a day when the entertainment industry helped elevate society, rather than coarsen it. When the First Amendment presented an opportunity, not a shield behind which to hide. And when the measure of a man or woman was not what they earned, but what they contributed. Sylvester, Steve, Patrick...it's not too late.

Repent!

Posted 11/30/08

## HOW MANY LAWYERS DOES IT TAKE...

By Julius Wachtel, (c) 2010

...to convict someone of a misdemeanor? That's what inquiring minds want to know. On November 26, after a five-day Federal court trial, a team of three prosecutors led by [Thomas P. O'Brien](#), United States Attorney for the Central District of California convicted [Lori Drew](#), 49 of three misdemeanor counts of accessing My Space computer servers without authorization.

Why did the Feds unleash three top guns on a middle-aged Missouri mom? Rewind to October 2006 when Megan Meier, a troubled 13-year old girl hung herself after receiving a My Space message from someone that she met online. That was the horrific outcome of a plot concocted by Drew to take revenge on Megan for spreading malicious online rumors about Drew's own 13-year old daughter. Drew enlisted [Ashley Grills](#), 18, to help. Grills created a My Space profile for a fictitious 16-year old boy and started sending Megan flirtatious messages. When Megan got infatuated and pressed to meet the boy Grills broke it off with a "the world would be a better place without you" message. That unexpectedly drove Megan, who was on anti-depressants, to commit suicide.

Unable to find a State or local law to fit the situation local authorities eventually declined to press charges, leaving the matter to be settled in the civil courts. That's when the intrepid O'Brien came to the rescue, breathlessly [announcing](#) that he was stepping in to protect potential victims everywhere: "If you are going to attempt to annoy or go after a little girl and you're going to use the Internet to do so, this office and others across the country will hold you responsible."

How could an L.A. prosecutor criminalize nasty doings in Missouri? It so happens that My Space computer servers are physically located in L.A. County, bringing Drew's use of the service within O'Brien's jurisdiction. For the precise offense he turned to [Title 18, Section 1030](#), a confusingly worded and complex statute that penalizes "fraud and related activity" in cyberspace.

Then things got curiously and curiously. Instead of letting his worker bees run with the ball, as is common practice in even the most serious crimes, the US Attorney personally injected himself into the case, going so far as to travel to

Missouri to conduct interviews. Grills, who admitted she set up the My Space account and composed most messages got a sweet deal: immunity in exchange for testimony. Assured of a compliant witness, O'Brien had Drew [indicted](#) on conspiracy, a felony even if the object is a misdemeanor, and three instances of intentional, unauthorized access to a computer, charged as felonies under Sec. 1030(c)(2)(ii) because their alleged purpose was to commit a "[tortious act](#)," meaning a harm under civil law.

Excoriated in the national media, in the bulls-eye of one of the most intensive Federal investigations in recent memory, with her husband out of work and her daughter in hiding, Lori Drew finally came to trial. And that's when the Government's house of cards began to crumble. After attentively listening to all the Government's men and all the Government's witnesses, jurors hung on the most serious charge, conspiracy. And while they did convict Drew on three counts of unauthorized access (under Federal law aiders and abettors are liable as principals) they chose the misdemeanor rather than felony variant.

There followed a groundswell of criticism, but not because the verdict was too lenient:

"What happened to Megan Meier was a tragedy, not a crime...This verdict is a loss for civil liberties and leaves all Internet users at risk of prosecution under federal law. It is a prime example of overcriminalization." ([Andrew Grossman](#), legal analyst, Heritage Foundation)

"This is troubling because it could have a chilling effect on free speech on the Internet. There is a long tradition of anonymous free speech in this country and the tech leaders on the Internet are trying to come up with some good way to balance anonymity with accountability." ([Sheldon Rampton](#), research director, Center for Media and Democracy)

"What they [Drew and Grills] did was cruel and incredible. A grown woman harassing a kid, for heaven's sake? But there's always been a problem, in my view, of holding Drew legally responsible for an unintended consequence...." ([Barb Shelly](#), *Kansas City Star* columnist.)

"As a result of the prosecutor's highly aggressive, if not unlawful, legal theory, it is now a crime to 'obtain information' from a Web site in violation of its terms of service. This cannot be what Congress meant when

it enacted the law, but now you have it.” ([Matthew L. Levine](#), former Federal prosecutor, now a defense lawyer.)

As one might expect, Drew’s lawyer, [H. Dean Steward](#), delivered his own tongue-lashing, going so far as to accuse US Attorney O’Brien of “grandstanding” to enhance his chances of being reappointed under the new Administration. Steward’s not done. Federal Judge George Wu will soon be ruling on his motion to quash the verdicts because what made the intrusion unauthorized -- Drew’s failure to heed My Space’s terms of service -- couldn’t have been “intentional” as the [statute](#) specifically requires since she didn’t set up the website and never read the guidelines.

Legal technicalities aside, this case highlights a fundamental concern about the proper role of the criminal law. Would Lori Drew’s admittedly abominable acts have been better handled through the civil courts? People are always doing nasty things to each other, occasionally with catastrophic consequences, yet we rarely expect the Government to step in, preferring in a democracy to keep the State’s reach from becoming overbroad. When officials such as an all-powerful US Attorney manage through clever lawyering to invoke a statute clearly intended for a different purpose, we must be doubly cautious so that the fine line between the *people’s* interest and a zealous prosecutor’s *self*-interest isn’t breached.

And there’s another problem. Miscarriages of justice are far more likely to occur when resources are, as in this case, terribly imbalanced. Few of us have the means to hold off a Federal steamroller, and ganging up on a person of such modest means as Lori Drew with three high-powered prosecutors and a pack of Federal agents smells much more like *persecution* than *prosecution*. Even if she “deserved it” you’ve got to wonder: who’s next?

Posted 9/12/19

## ***HUMAN RENEWAL***

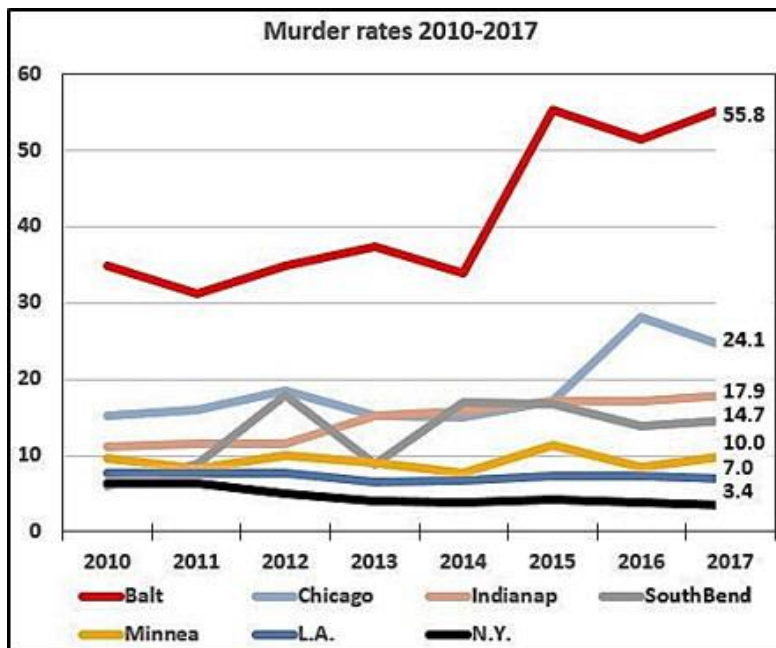
### ***Despite redevelopment, South Bend poverty and crime remain locked in an embrace***

Image shown online is 2015 shooting location, 141 S. Liberty St., from <https://data-southbend.opendata.arcgis.com/datasets/criminally-assaulted-shootings/data> and Google maps

*For Police Issues by Julius (Jay) Wachtel.* In 2013, one year into his first term, South Bend mayor Pete Buttigieg (yes, the Presidential candidate) released [a plan](#) to revitalize the city's neighborhoods by tearing down or refurbishing 1,000 vacant and abandoned homes in 1,000 days. In the end, about sixty percent of these bedraggled properties fell to the wrecking ball. To be sure, many residents were pleased to have these drug dens and hangouts for ruffians and the homeless gone. A [colorful brochure](#) promised that "reuse strategies" would quickly transform these now-empty spaces into parks and community gardens.

Years later, [vacant lots still abound](#). Still, Mayor Pete recently launched a program to help residents fund home remodels, and the city probably does look a bit prettier.

But our main concern is with crime. [According to the FBI](#), South Bend changed reporting practices for the "violent crime" category in 2016, making reliable comparisons to prior years impossible. So we turn to murders. In 2010 South Bend had [six homicides](#), yielding a not-so-bad rate of 5.8/100,000 pop., only one point worse than the [national average of 4.8](#). Things, though, quickly deteriorated. South Bend



closed out 2012, Mayor Pete's first full year in office, with a depressing [eighteen murders](#). That translated into a rate of 17.8, nearly four times [the nation's 4.7](#).

As the graph illustrates, South Bend's numbers have since fluctuated. But the trend doesn't seem particularly favorable. In 2017, the most recent year with reliable data,

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the city recorded sixteen murders. While a 14.7 rate seems somewhat of an improvement, it was still far higher than the U.S. rate, which had [ticked up to 5.7](#). Indeed, South Bend's performance was so bad that it earned the city unwelcome recognition as 2017's [twenty-ninth most murderous municipality](#).

Still, as we recently preached in "[Repeat After Us](#)", when it comes to crime there really is no "South Bend" any more than there is a "New York City," a "Baltimore," or a "Los Angeles." If we're interested in *causes*, [neighborhoods](#) are what really counts. South Bend has plenty of those. An impressive website, "[Neighborhood Resources Connection](#)" (NRC) identifies more than two dozen. Many are blessed with resident associations that seem to brim with activity and good will.

When it comes to building communities, though, poverty is a daunting obstacle. And South Bend's numbers are alarming. According to the [Census](#), 12.4 percent of individuals in the U.S. [fell below the poverty level](#) in 2000, and 14.6 percent in 2017. In South Bend the corresponding figures were [16.7%](#) in 2000 and [25.4%](#) - more than one in four - in 2017. For your area's numbers go to [American Fact Finder](#), enter city name or ZIP code and click on "poverty." (Your writer did that. His predominantly working-class city came in at 15.8 percent, and the middle-class ZIP code where he resides returned a far more reassuring 4.3 percent.)

If South Bend follows the [well-known pattern](#), prosperous neighborhoods will have less crime, particularly of the violent kind, than their less-fortunate peers. Unfortunately, South Bend doesn't break down crime by neighborhood. Fortunately, the city has been tracking and posting data about "[criminally assaulted shootings](#)" since 2015. According to a local official, each entry represents a purposeful, criminal shooting that wounded or killed someone other than the gunslinger. Gun crimes only: no suicides.

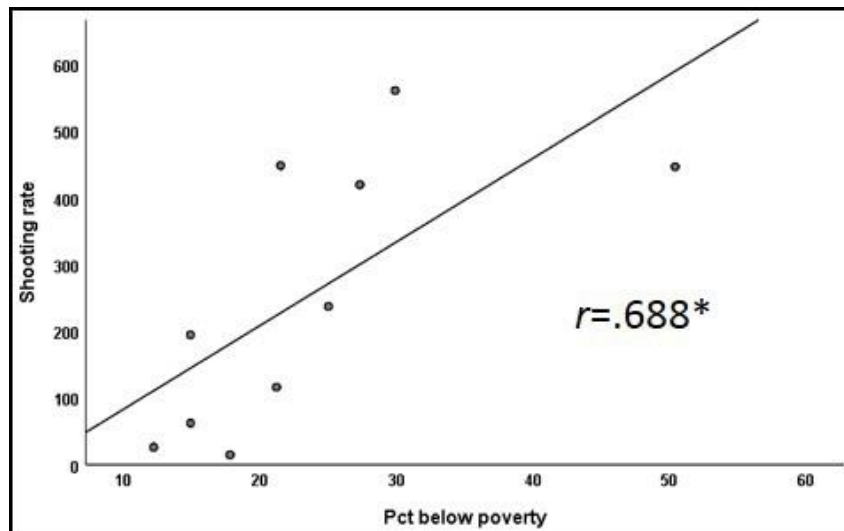
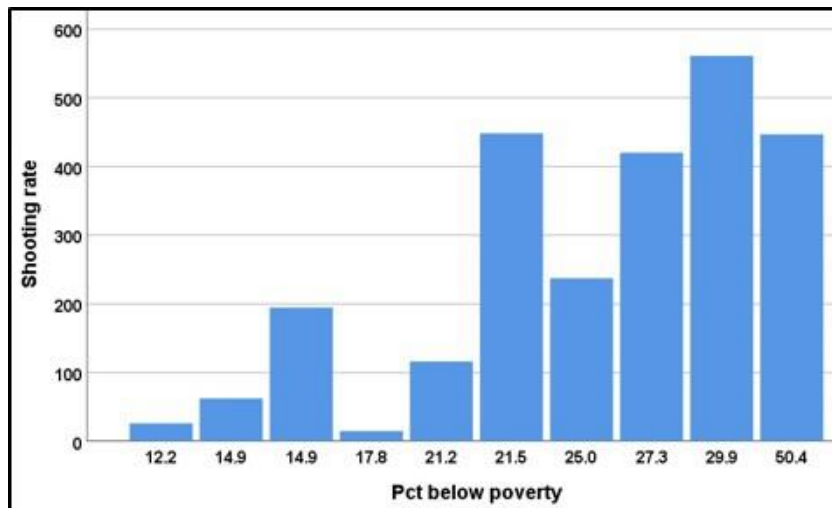
There were 346 such shootings between January 2015 and December 2018. Turning to ZIP code as a stand-in for "neighborhood," we were able to code all incidents but five with Google maps. We then used 2017 Census estimates to enter each ZIP code's population and percent below poverty. Dividing assaultive shootings by number of residents, then multiplying by 100,000, yielded a cumulative, four-year shooting rate for each ZIP. These rates were then compared to percentage of residents under the poverty line. As poverty increased, what happened to the shooting rate?

Here's the data, with ZIP codes arranged by percent of individuals below the poverty line. (ZIP code 46556, for the University of Notre Dame, was omitted for technical reasons. Also note that several ZIP codes include locations outside the city limits.)



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ZIP	Bel Pov	Pop	Shtg	Murd	ShtgRate	MurRate
46637	12.2	15257	4	1	26.2	6.6
46614	14.9	30504	19	4	62.3	13.1
46617	14.9	9246	18	3	194.7	32.4
46635	17.8	6728	1	0	14.9	0.0
46615	21.2	13760	16	5	116.3	36.3
46628	21.5	25202	113	15	448.4	59.5
46619	25	22332	53	7	237.3	31.3
46616	27.3	5714	24	6	420.0	105.0
46613	29.9	10874	61	7	561.0	64.4
46601	50.4	6491	29	3	446.8	46.2



Clearly, as percent of individuals below the poverty line goes up, so do the shooting rates. For the statistically-minded, the correlation was  $.688^*$  (statistically significant,

with less than five chances in one-hundred that the coefficient was produced by chance.) Controlling for population only reduced the association slightly, to .676. We also tested other plausible relationships, such as between population size and shooting rates. None of the coefficients approached significance.

No, the measures aren't in lock-step. After all, ZIP codes are imperfect surrogates for neighborhoods. Still, the results clearly support the notion that in South bend as elsewhere, poverty drives crime. Yet despite its evident problem, South Bend seems stuck in place. In a [May 2018 op-ed](#) about the city's crime problems Mayor Buttigieg made absolutely no mention of its even more woeful economy. One year later [the controversial police killing](#) of a black resident would force him to return home during the Presidential campaign. Perhaps Hizzoner just couldn't spare the attention. His [conventional redevelopment initiatives](#) are hardly the way to fight poverty. In fact, some fear they will lead to gentrification and adversely affect the city's low-income residents.

What to do? "[Mission Impossible?](#)" pointed out that even the best policing can't offer a lasting remedy for the crime and disorder that accompany poverty. So fix poverty! According to the [Urban Institute](#), that calls for a truly comprehensive approach that includes child care, transportation, job training, apprenticeships and summer jobs. One example, [Jobs-Plus](#), provides employment opportunities, job training and financial incentives to residents of public housing projects in thirteen States. (Alas, Indiana's not on the list.)

Fortunately, not everyone in South Bend has a tin ear. [Mr. Buttigieg is not running for re-election](#). In his campaign for the Democratic nomination, former mayoral candidate Jason Critchlow went well beyond traditional bricks-and-mortar redevelopment to promise that, as mayor, he would "lead an effort to create training and entrepreneurship programs in order to assist residents in creating economic opportunities within their own community." (Critchlow [earned the local newspaper's endorsement](#). But he failed to get the voters' nod.)

Again, look at those poverty numbers! We hope that whoever's elected will focus on the disturbing fact that a great many of their constituents are, plainly speaking, poor. City leaders must go well beyond their evident preoccupation with the city's physical decline and formulate a comprehensive plan for redeveloping South Bend's *human* potential. Implement *that* and the consequences of poverty – rampant homelessness, poor health, unchecked crime and disorder – *will* disappear.

Guaranteed.

Posted 6/8/08

## I DRINK, YOU LOSE

By Julius Wachtel, (c) 2010

When's the last time that someone in authority *encouraged* you to drink? For LiberalPig that happy occasion took place on June 4, 2008 at the Beckman Center of the National Academy of Sciences, when Dr. Francisco Ayala, Bren Professor of Biological Sciences at U.C. Irvine lectured on "[Elixir of Life: Wine and Health](#)." Enlivened by Power Point slides of ancient Egyptian wine jars, pretty grapes and the occasional statistical U-curve, Dr. Ayala's talk was, as the Center's website promised, all about the benefits of the fruity beverage: "Wine grapes are one of the major human food crops, and there is now *overwhelming* evidence that drinking wine in moderation is beneficial to human health" (emphasis added.)

Back home, LiberalPig (who teaches an introductory research methods course) used online tools to check out the current literature. He found considerable but not "overwhelming" agreement that alcohol might benefit the cardiovascular system. Although Dr. Ayala contended that wine held a distinct advantage, a recent article concluded that once researchers controlled for the fattier diets of beer guzzlers the foamy brew offered as much of an advantage as wine.

What Dr. Ayala didn't mention is that the [American Heart Association](#), the nation's go-to source on cardiovascular issues, "does not recommend drinking wine or any other form of alcohol to gain [cardiovascular] benefits." Unlike Dr. Ayala, who encouraged consuming as many as four or five glasses of (preferably red) wine a day, the AHA discourages nondrinkers from getting started and cautions those who do to limit their intake to no more than two servings. It also questions the science. Since there have been no "direct comparison trials" -- administering controlled doses of alcohol to a randomly selected group over time, then comparing their health to an equivalent group of nondrinkers -- the reported effects of booze could well be due to lifestyle or other factors.

Neither did Dr. Ayala reveal that drinking is frowned on by the American Medical Association. Why they're such spoilsports is obvious. According to an article published in the authoritative [AMA Journal](#), alcohol consumption was the third leading cause of death in the U.S. in 2000, following tobacco and poor diet/physical inactivity.

But let's not quibble. Probably the most notable thing about Dr. Ayala's address was what he left out. Extolling the virtues of drink for a full hour, he said virtually nothing

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about its downsides, and absolutely nothing about the effects of drinking on *others*. For example, it's well established that even small amounts of alcohol can impair [judgment](#) and [motor](#) skills, with deficiencies in [cognition](#) lingering even as BAC (blood alcohol concentration) decreases.

- It's not just "drunk" drivers who are the problem. According to the [California DMV](#), the chances of having an accident are *five times higher* after having only a *single drink*.
- A report by the [National Highway Traffic Safety Administration](#) (NHTSA) concluded that there is "strong evidence that impairment of some driving-related skills begins with *any departure from zero BAC*" (emphasis added).
- [NHTSA](#) data also revealed that in 2006 *more* persons died in alcohol-related crashes where a driver had been drinking but *wasn't* legally drunk (17,602 deaths with BAC between .01 and .08) than where a driver *was* legally drunk (15,121 deaths with BAC of .08 and above).

Alcohol also turns out to be a crucial factor in crime, especially assaultive offenses. According to the [Bureau of Justice Statistics](#), more than one-third of convicted offenders under supervision in 1996 were drinking when they committed their crimes.

Well, back to the lecture hall. After an hour's hard work it was time for...you guessed it, a drink! Above and beyond the usual post-lecture fare of fruit, cheese and sweets the Academy was serving complimentary glasses of wine. Imagine a couple hundred seniors, many of whom can't drive that well when sober, getting behind the wheel after a snort or two. Oh, did we mention it was in the evening? (Full disclosure: LiberalPig is himself pushing the big six-oh.)

Dr. Ayala informed his audience that he and his wife own a vineyard in Northern California and supply grapes to major wine producers. Perhaps that might explain why he at times seemed much more the cheerleader than the dispassionate scientist. As much as LiberalPig appreciated the disclosure, revealing a conflict of interest doesn't really resolve it.

Perhaps in the future the good doctor might leave it to someone else to extoll the benefits of imbibing. And to the Academy: please -- no more free samples!

Posted 3/20/11

## IGNORING THE OBVIOUS

### *Is incapacitation passé?*

By Julius (Jay) Wachtel. In “[Imprisonment and Crime: Can Both be Reduced?](#)”, the lead essay in the current issue of *Criminology & Public Policy*, economists Steven Durlaf and Daniel Nagin suggest that the answer to their provocative question is a resounding “yes!”. [We examined the thesis](#) that certainty of punishment can work wonders last month. This time let’s revisit the one crime-fighting tool that they purposely left out:

...we note that our analysis does not address incapacitation effects, which constitute a logically independent way of reducing crime from deterrence. We recognize that the possibility that incapacitation effects are large represents a potential challenge to our objective of reducing crime and imprisonment....

What impelled them to skip over what is perhaps the most obvious approach to crime prevention? Simply, that it doesn’t fit their stated objective of reducing both crime and punishment:

...incapacitation, if strong enough, can lead to policy changes that reduce crime at the cost of greater imprisonment and so work against the spirit of our argument.

Softball commentaries on Durlaf and Nagin’s paper comprise most of the issue. Nearly all avoid substantial discussion of incapacitation. Two that don’t reprise the spirited debate between criminologists Alfred Blumstein and James Q. Wilson in their [April 2008 Q & A for the Pew Trust](#).

Blumstein has long criticized what he calls America’s “incarceration binge.” In “Approaches to Reducing Both Imprisonment and Crime,” he disputes the notion that the crime drop of the past decades can be credited to the well-known increases in imprisonment and sentence severity (for a post on point click [here](#).) As grist for his mill he points out that crime and imprisonment were both on the upswing well before 1993, the year when crime trends abruptly reversed. (He doesn’t address the possibility that the effect of punishment may have been lagged.) Although he concedes that incapacitation helped bring down the incidence of robbery and homicide, he insists that it wasn’t the only force at work, as though that somehow reduces its salience.

Wilson disagreed in the Pew Q & A (he said that “tough-on-crime laws” were an important factor in reducing crime) and here. As evidence for his position he contrasts the experiences of the U.S. and Great Britain:

In the 1980s and 1990s [as the severity of punishment in the U.S. increased] English criminal law became softer: A new law discouraged judges from sending all but the most serious offenders to prison and encouraged them to ignore prior convictions, again unless the offense was very serious. As a result the American prison population rose and the English one declined. By 1996 the two countries had changed places with respect to property crime. Using national crime victimization surveys, the English robbery rate is one fourth higher, the auto theft rate one third higher, and the burglary rate twice as high as those in the United States.

Alas, that’s about as much support as punishment gets. In “Thoughts from Pennsylvania,” Mark Bergstrom mentions a study by his employer, the Pennsylvania Commission on Sentencing, which “found support for the use of incapacitation to address chronic and career criminals.” He nonetheless urges that long terms of imprisonment be sparingly imposed and carefully targeted. Actually, that’s not something that Durlaf and Nagin think possible: “To our knowledge, no proven ex-ante technology exists for the [pre-identification] of high-rate offenders with acceptable false-positive rates.” (What if anything might constitute an “acceptable” error rate they don’t say.)

Hostility to punishment infuses the essays. In “Challenges of Implementing Research-Based Policies,” Marc Mauer, a critic of mandatory sentencing, bemoans the difficulty of getting policy makers to listen to a “more nuanced” view of its costs and benefits, especially since locking up criminals offers the “intuitive appeal” (not to say, the factual certainty) of keeping them from victimizing innocent citizens. Elliott Currie’s “The Pitfalls of Spurious Prudence” goes so far as to chide Durlaf and Nagin for endorsing selective incapacitation in any form. Currie, you see, has found the matter settled:

But surely after decades of research and reams of findings, not to mention the damning evidence of 40 years worth of relentless prison growth, we no longer need to be so tentative about the relative ineffectiveness of mass incarceration as a strategy of crime control or about the potential attractiveness of alternatives.

Dr. Currie, meet Dr. Wilson.



Most everyone seems to accept Durlaf and Nagin's deterrence-through-certainty thesis. But their suggestion that the best way to get there is through enhanced policing draws lots of skepticism.

Eric Baumer articulates the objections in "Uncertainty About Reduced Severity." He points out that in an era of diminishing resources, with many cops already deployed in high-crime areas, further gains in deterrence would probably be marginal. Even if broad improvements were possible, cranking up enforcement is likely to provoke resentment. For an example one need look no further than NYPD, whose aggressive use of stop-and-frisk, one of the tactics that Durlaf and Nagin apparently favor, has exacerbated tensions between officers and minorities. (For a related post click [here](#).)

Actually, since Durlaf and Nagin want to reduce crime *and* punishment, aggressive enforcement may prove problematic. Their retort, that "police might deter without actually apprehending criminals because their presence projects a threat of apprehension if a crime were to be committed," is the breathtaking conceit that inspired "[Having Your Cake](#)." As NYPD's campaign demonstrates, in the real world the path to deterrence through policing will be littered lots of arrests, meaning more processing by the criminal justice system and, as Baumer points out, serious criminogenic consequences for those who get caught in the sweep.

Marie Gottschalk is another skeptic. In "Extraordinary Sentences and the Proposed Police Surge," she argues that Durlaf and Nagin tailored their recommendations to the political climate. A critic of severe sentencing, but a realist about the possibilities for change, she argues instead for a "revitalization" of the parole and commutation process "so that even people who have committed serious crimes get a chance to prove they are rehabilitated..."

Sans the crusader's baggage, her approach forms the core of "Laudable Goals: Practical Hurdles," Dick Thornburg's brief but exceptionally enlightening essay. Here's an excerpt from what the former Pennsylvania governor and U.S. Attorney General has to say:

I consistently have felt that one of the most fruitful areas for investment in the criminal justice system would be an upgraded and sophisticated probation and parole system. If the object is to maximize the chances for offenders to avoid becoming recidivists and to "graduate" into the role of "good citizens," they must be provided with proper tools, rehabilitation, meaningful education and vocational training capabilities "behind the walls," and similar services plus the

necessary support and monitoring of post-release activities to maximize the opportunities for success.

Wherever one stands on incapacitation, that sounds like a great idea. After all, parole was supposed to be an extension of confinement, not the “get out of jail free card” that it’s become thanks to unconscionable caseloads. In this economy, funding criminal justice is a zero-sum game, so Durlaf and Nagin’s recommended shift of resources to the police would inevitably make parole and probation even less meaningful. (They make passing reference to better post-release supervision, but it’s far from what Gottschalk, Thornburg or your blogger have in mind.)

Well, we’ve come to the end of this post. But don’t fret – there soon will be more! In forthcoming weeks we’ll be scouring recent reports on criminal justice policy for more nuggets of wisdom. So stay tuned – and thanks for reading!

Posted 6/20/24

## IS CRIME *REALLY* DOWN? IT DEPENDS...

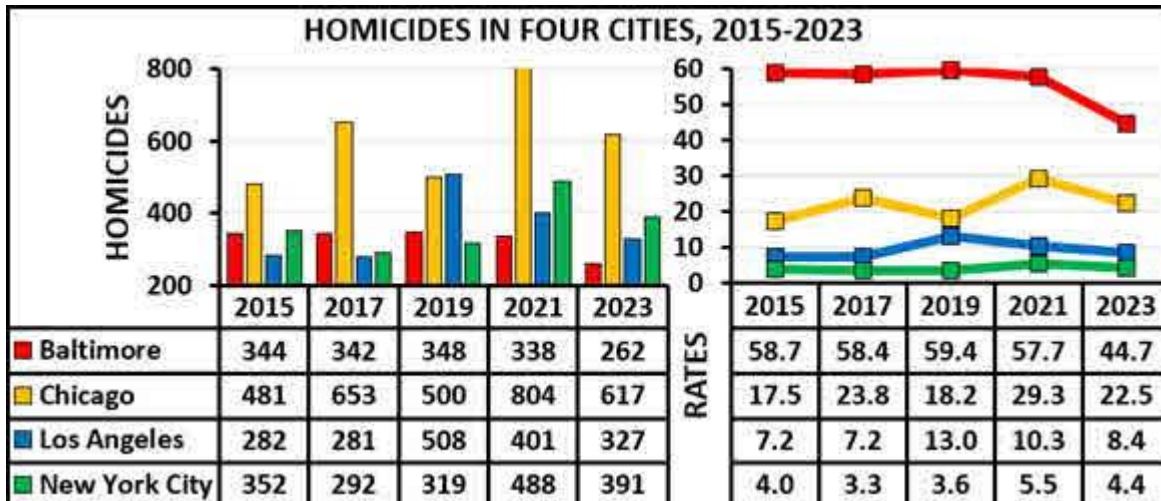
*Even when citywide numbers improve, place really, really matters*



*For Police Issues by Julius (Jay) Wachtel.* Finally, some good news. And from our Chief's inner circle, no less! According to the deputy head of the spanking-new [White House Office of Gun Violence Prevention](#), Baltimore's drop in killings is "[the greatest success story](#)" in the land. Indeed, its 2023 murder count of 262 is the "Charm City's" lowest toll since 1970. Baltimore's most recent quarterly numbers are also supposedly very promising. (For more trumpeting about the city's comeback check out "[With Baltimore homicides dropping below 300, who gets to take credit?](#)").

We've often mentioned Baltimore's struggle with crime and violence (see, for example, "[Police Slowdowns, Part I](#).") So the reported improvement was of great interest. Alas, the apparent turnaround came on the heels of some very bad news about our home burg. [During his recent interview](#) by the *Los Angeles Times*, LAPD interim Chief Dominic Choi observed that while his city's violent crime numbers are about the same as last year, murders did increase about eleven percent when compared to the first half of 2023.

Chief Choi's comments definitely got our attention. After all, if that spurt in killings continues, it could thrash L.A.'s reputation. But before bringing out the tinsel (for Baltimore) and the hankies (for L.A.) let's see how they compare with other major burg's. Say, Chicago and New York City. Cranking up our calculator (well, an Excel spreadsheet) we assembled 2015-2023 homicide counts for Baltimore, L.A., New York City and Chicago. Data came from the [UCR](#), the [Baltimore Sun](#), [Chicago P.D.](#), the [L.A. Almanac](#), and the [City of New York](#). And since the cities differ in size, rates were computed using population figures from the [Census](#). Here's the product:



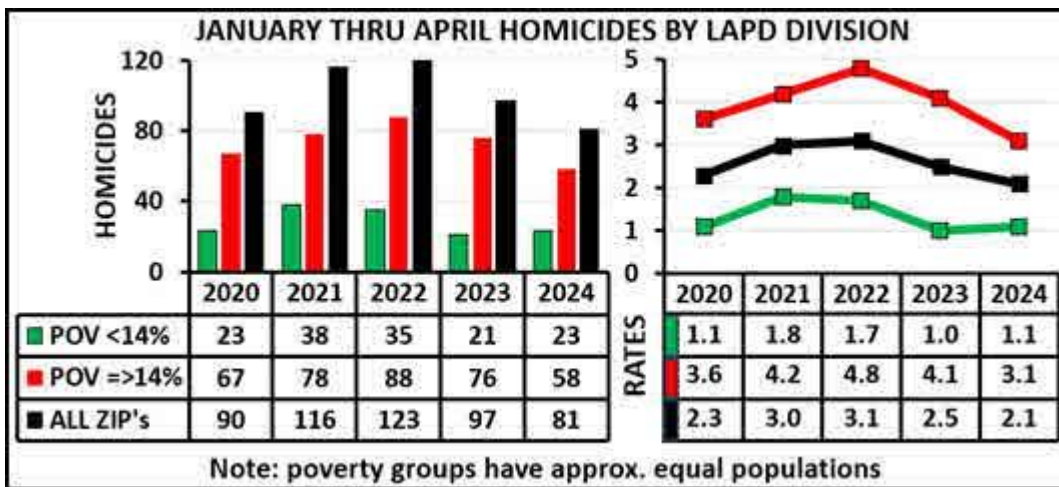
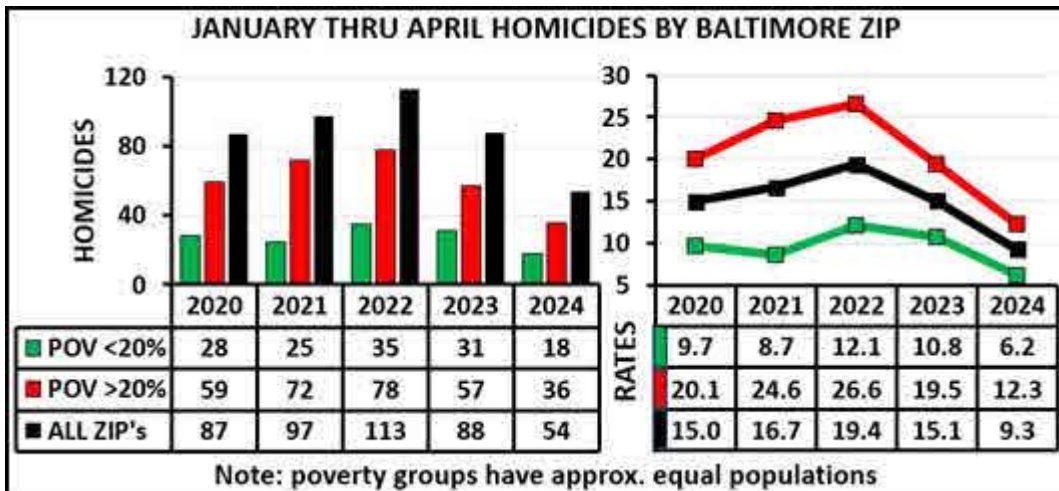
Each city *has* demonstrated substantial progress. Baltimore’s homicide numbers, for example, declined by 22.5 percent between 2021-2023. But disparities in population size can deceive. Switch to the graph on the right. Improvements notwithstanding, Baltimore wound up with a sky-high rate of 44.7 homicides per 100,000 residents. That’s twice that of bad-old Chicago. It’s also *more than five times* L.A.’s rate and *ten times* the Big Apple’s.

Yikes.

So is crime *really* on the mend? And if so, for *whom*? After a decade-and-a-half of poring through crime data, we’re convinced that (as our subtitle insists) place really, *really* matters. That, indeed, was the title of our 2020 post, “[Place Matters](#)”. To take in-depth looks within Baltimore and Los Angeles we compiled homicide counts for each city during the first four months of 2020, 2021, 2022, 2023 and 2024. Each city’s population was split into high-poverty (red) and a low-poverty (green) groups of approximately equal size, and four-month (i.e., partial year) homicide rates were computed for each.

- Baltimore crime data came from its [city website](#). We coded each homicide location’s ZIP code and obtained its poverty rate from the [Census](#). To correct for ZIP’s that cross city boundaries, their percentage of Baltimore’s population was obtained from [US Zip Codes](#). Baltimore residents were assigned to two groups of approximately equal size: those living within ZIP’s with poverty rates between 5.4% and 19.1%, and those residing in ZIP’s with poverty rates between 21.5% and 40.8%.
- Los Angeles crime data was also pulled from the [city website](#). Homicide locations were coded for a police Division, and rates were computed rates using LAPD

Division population and poverty figures from our 2023 post, [“Does Race Drive Policing?”](#). As in Baltimore, L.A. residents were split into two groups of about the same size: residents of LAPD Divisions with poverty rates between 7.2% and 13.6%, and residents of Divisions with poverty rates between 14% and 36.3%. Here are the products:



What's the uptake? Despite a small, recent increase in homicide rates in L.A.'s lower-poverty zone, January thru April murder rates have improved for both cities since 2022. Still, poverty matters. *A lot*. Residents of Baltimore's higher-poverty ZIP's have consistently suffered from homicide rates that are at least *twice* as high as those endured by their more fortunate peers. Meanwhile, in comparatively tony Los Angeles, the proportionate disadvantage between affluent and not-so-affluent Divisions is about *three-fold*.

And as far as comparing Baltimore and Los Angeles...fuhgeddaboudit!



Residents of economically-deprived areas are well aware of their vulnerability. Say, the residents of Baltimore's "Brooklyn Homes" neighborhood, where [more than one in four](#) live in poverty. That's where on July 2, 2023 as many as ten shooters [opened fire during a yearly celebration](#), killing two and wounding twenty-eight. [According to the AP](#), the carnage – reportedly Baltimore's worst-ever mass shooting – took place during the same week that the Feds bragged about reducing violence in the beset city. Their "success" was clearly lost on the war-weary sixty-six year old who bandaged the leg of a wounded teen. "They don't even know what life is, they don't," she lamented. "All they know is guns."



Her son and grandson were killed in prior shootings.

Violence and hooliganism don't just plague Baltimore. "The safety numbers that are reflected citywide don't necessarily reflect our reality."

Last year, after a shooting that wounded nine and killed two, that's how the executive director of L.A.'s Urban Peace Institute [described the gap](#) between the city's favorable overall numbers and life in violence-beset Watts. Burdened with a poverty rate of 21.9%, residents of LAPD's 77th Street area endure [one of the five highest homicide rates](#) out of 21 LAPD Divisions. Switch to another member of the murderous "bottom five", the adjoining Southeast area (poverty 23.7%). Click on the image to check out what happened [at a local auto parts store this June](#).

Of course, it's not just poor areas. [As we recently reported](#), violent crime has a way of intruding into assumedly "safe" places. Say, the upscale L.A. suburb of Tustin ([poverty, 10.1%](#)) where an off-duty member of the President's Secret Service detail [was accosted by an armed robber](#). (He's still on the lam). Or, say, L.A.'s affluent Venice neighborhood ([poverty 9.8%](#)), which features miles of canals lined with "multimillion dollar homes." That's where [a brutal attack](#) on two middle-aged residents by a homeless man left the "shaken community" struggling with how to respond to the unhoused in their midst.

Crime and violence have a way of intruding just about anywhere. But the profound advantages that prosperous areas enjoy – not only in Baltimore and L.A., but *everywhere* – offers an obvious path for improvement. Here's a closing shot from the closing shot in ["Fix Those Neighborhoods!"](#) (November, 2020):



...here's a hint for Mr. Biden, who absent a coup, will assume the throne in January. Your predecessor talked up a good idea. Alas, it was just that: "talk." America urgently needs to invest in its impoverished neighborhoods. A comprehensive "Marshall Plan" that would raise the educational and skill levels and improve the job prospects, lives and health of the inhabitants of these chronically distressed places seems the logical place to start.

If you come up with a better solution, be sure to let us know!

Posted 2/27/17

## IS CRIME UP OR DOWN? WELL, IT DEPENDS...

*It depends on where one sits, when we compare, and on who counts*

By Julius (Jay) Wachtel. While browsing [The Crime Report's](#) February 15 newsletter, its Top Story, "[New Crime Stats Run Counter to Trump's Dystopian View](#)," caught our attention. So we clicked on it. As promised, or perhaps over-promised, the brief, two-paragraph account pointed to falling crime rates in San Diego, Rocky Mount, N.C., Lowell, Mass. and Battle Creek, Michigan as proof positive that it's not crime but [President Trump's evident obsession](#) with it that's really out of control.

*The Crime Report* is not alone. Reassuring comments about crime pervade the media. San Diego police chief Shelley Zimmerman [boasted to the local paper](#) that the city's near five-percent drop in violent crime during 2015-2016 (actually, 4.5 percent) "isn't just a statistic or a random number" but "represents real people." Her boss, Mayor Kevin Faulconer, bragged that "our city is safe because of the incredible partnerships forged between our community and our San Diego Police Department." Natch, there's always a fly in the ointment. Later on the article mentioned that yes, some forms of violence did increase, with twelve more homicides, six more rapes and nine more robberies in 2016 (each victim was presumably a "real" person as well.) Here's the data from the [SFPD website](#):

**SAN DIEGO HISTORICAL CRIME ACTUALS**  
**1950 - 2016**

Year	Population	Murder	Rape	Robbery	Aggr. Assault	Violent Crime	Burglary	Larceny	Vehicle Theft	Property Crime
2016	1,391,676	49	572	1,387	3,323	5,331	4,743	18,042	5,839	28,624
2015	1,368,061	37	566	1,378	3,601	5,582	5,129	18,933	5,096	29,158

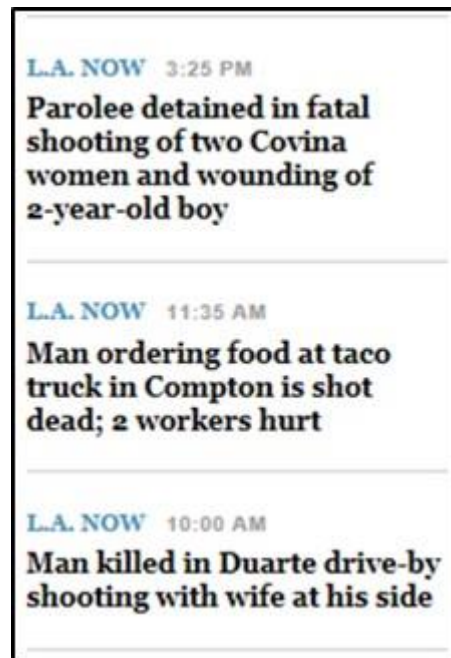
San Diego's decline in violence was driven by a 7.7 percent reduction in the number of aggravated assault reports – 278 fewer, to be exact. Without that, there would have been little to crow about. (We'll have more to say about counting issues later.)

So is crime up or down? Just below the "Dystopian" piece a "READ NEXT" prompt directs readers to "[More Big-City Murders: A Blip or an Ominous Trend?](#)". Although this brief article concedes that murder is going up in some places, it prominently features the reassuring comment of noted criminologist Alfred Blumstein, that "the national homicide rate is way below what it was in the 1970s, 1980s and 1990s." That view is reinforced with a link to "[Another Fact-Check of Crime Rates Find Trump is Wrong](#)", a

summary of [a Minneapolis Star-Tribune article](#) that soft-pedals recent jumps in Chicago and elsewhere with graphs that display a multi-decade national downtrend in violent crime.

So far so good. But the same page in *The Crime Report* also featured a link to “[Chicago Police Boss: ‘Enough is Enough’ After 3 Kids Killed](#),” a heart-rending piece that recapped [a Chicago Tribune account](#) about the shooting deaths of three Chicago children in four days. Indeed, even the most “liberal” media outlets are conceding that violent crime seems to be creeping up: “Though mostly far below their record levels in the 1980s and 1990s, homicides have jumped dramatically in some U.S. cities over the last two years, breaking from America’s decades-long decline in violent crime....” ([Los Angeles Times](#), 1/4/17). While that story focuses on the usual suspects – Chicago, Baltimore, Milwaukee, etc. – it eventually allows that things aren’t perfect even at home: “Homicides also rose in Los Angeles in 2016, but by a much smaller amount: 5%. The city is still far less deadly than it was even a decade ago.”

Fast-forward six weeks. Here’s a sidebar from the February 19 *Los Angeles Times* website, just as it appeared at 4:38 pm:

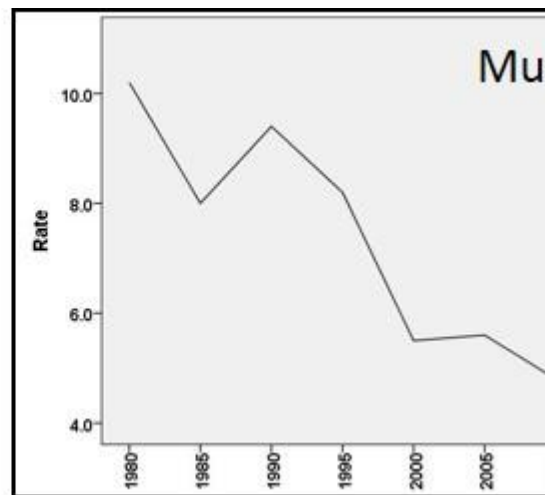
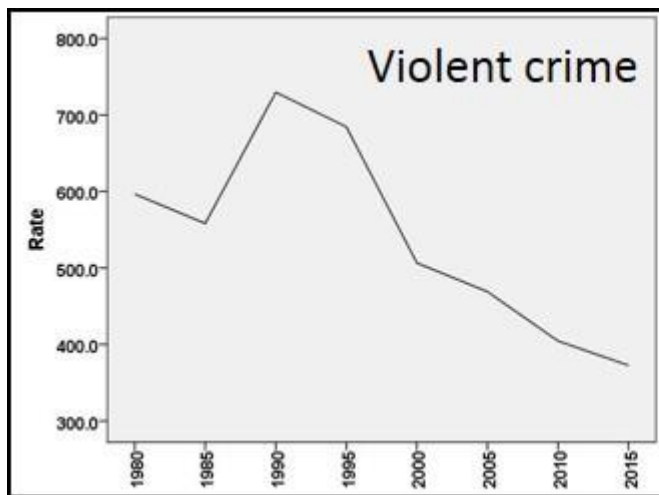


Here’s the following day’s lead story:

**One officer dead, another injured in shootout after report of traffic collision in Whittier**

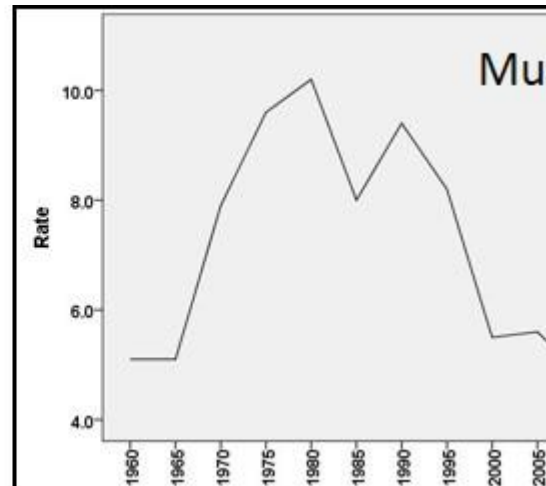
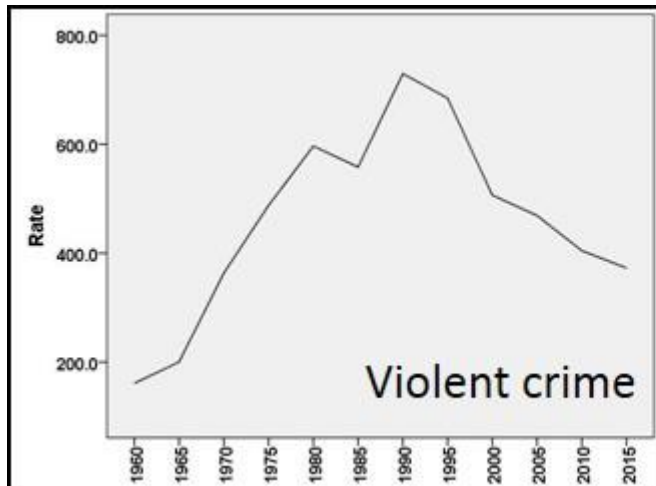
No “yes, but’s” there. After taking in the disturbing events of these successive and, believe it or not, randomly plucked days, would *Times* readers be more likely to agree that President Trump is “dystopian” or that the honorable Dr. Blumstein is a bit “Pollyannaish”?

Police report [four categories of violent crime](#) to the FBI: murder and non-negligent manslaughter, rape, robbery and aggravated assault. These comprise the “violent crime index,” or number of offenses per 100,000 population. Below are graphs depicting two trends since 1980, one for violent crime, and the other for its murder and non-negligent manslaughter component. Each was built using the FBI’s online tools (click [here](#) and [here](#)).



Both trends follow essentially the same pattern. If the data is correct, and excepting an uptick in the late 80’s and early 90’s that is often attributed to the crack cocaine epidemic, all forms of violence have been dropping since at least the eighties (1985 is often used as a start date since that’s as far back as the FBI reports crime trends for cities and counties).

If that’s as far back as we go – and most media accounts venture no earlier – the “Great Crime Drop” seems very real. But here’s the trend line going back to 1960:



At present, the U.S. murder rate is comparable to the sixties, while violent crime is substantially higher. Really, when compared with other supposedly modern societies, America's always been in dire straits. [England](#) and [Wales](#) (joint pop. about 58.2 million) [had a combined 695 homicides](#) during the 2015-2016 fiscal year. Their murder rate, 1.2, is *less than one-quarter* the 2015 U.S. rate ([15,696 murders and non-negligent manslaughters](#), pop. 321,418,820, rate 4.9.) Meanwhile, neighborly [Canada](#) had 604 homicides *country-wide* in 2015, yielding a murder rate of 1.7. [America's ten most murderous cities](#) in 2016 had murder rates ranging from Atlanta's merely deplorable 23.9 to St. Louis' jaw-dropping 59.3. As for sheer number of killings, England and Wales and Canada are easily outpaced by the City of Chicago alone, which closed out 2016 with a record [762 murders](#).

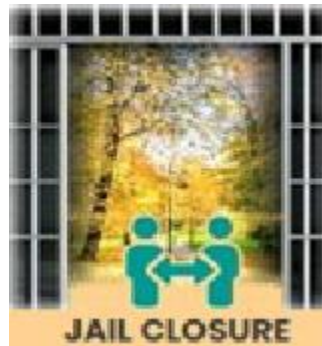
Let's recap. Current violence rates seem a lot better when compared against 1980 than against 1960. Clearly, *when* is crucial. *Where* one sits is also important (and we don't just mean which *country*.) A measly twenty miles separate the [Los Angeles-area communities](#) of Westwood (pop. 51,485, one murder in 2015) and Florence (pop. 49,001, 18 murders in 2015). Where would you rather live?

*Who* counts is also crucial. Prior posts - "[Cooking the Books](#)", "[The Numbers Game](#)," "[Liars Figure](#)" and "[Is the UCR Being Mugged?](#)" - described alleged schemes by police in Los Angeles, New York, Philadelphia, Detroit, Dallas, Miami, Baltimore, Nashville, New Orleans, St. Louis and elsewhere to exaggerate their effectiveness against crime by discouraging victims from filing reports and by furtively downgrading what went on the books. Aggravated assault, normally the most substantial contributor to the violent crime index, was a principal target, but not even homicides were spared. Suffice it to say that in these halcyon days of Compstat, there has indeed been "a whole lot of cheatin' going on." So when San Diego reports that aggravated assaults are down while other forms of violence, including murder, are up, we say..."really?".

Posted 5/30/23

## IS DIVERSION THE ANSWER?

***California authorized a new approach.  
Los Angeles ran with it. But, yes, there are limits.***



*For Police Issues by Julius (Jay) Wachtel.* If you’ve labored in the criminal justice workplace, closing a major city’s principal jail (even if only “eventually”) while “ensuring public health and safety” might seem a reach. But the goal of Los Angeles County’s [Justice, Care, and Opportunities Department](#) (JCOD), which was formed last year, didn’t arise from thin air. In January 2019 California enacted [Penal Code section 1001.36](#), which authorizes trial court judges to grant pretrial diversion for up to two years in all but the most serious crimes (murder, voluntary manslaughter and rape are among the disqualifying) to persons who are seriously mentally ill.

What’s needed? The burden of proof falls on the defense. It must submit an expert opinion that the accused suffers from a mental disorder recognized by the [DSM](#), including “bipolar disorder, schizophrenia, schizoaffective disorder, or post-traumatic stress disorder, but excluding antisocial personality disorder, borderline personality disorder, and pedophilia.” What’s more, the malady must have been “a significant factor in the commission of the charged offense” and is amenable to treatment. Prosecutors are free to object, and jurists get a broad escape clause:

(b)(1)(F) The court is satisfied that the defendant will not pose an unreasonable risk of danger to public safety, as defined in Section 1170.18, if treated in the community. The court may consider the opinions of the district attorney, the defense, or a qualified mental health expert, *and may consider the defendant's*

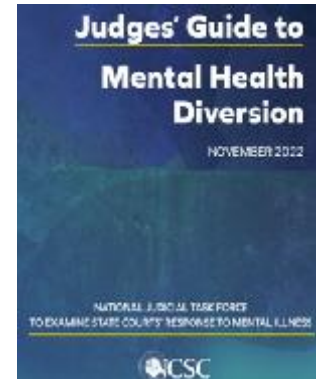


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*violence and criminal history, the current charged offense, and any other factors that the court deems appropriate (emphases ours).*

Prospective patients must agree to a comprehensive plan, which can include treatment in a residential facility, and their progress must be regularly reported. If they succeed, charges are dismissed; if they fail or commit another crime, their prosecution is revived.

With progressively-minded District Attorney George Gascon in charge, mental health diversion seems a particularly good fit for Los Angeles. (Check out [the video](#) on the DA's website). But mental health diversion isn't just something that progressively-inclined California dreamt up. In 2019 a Federal entity, the [State Justice Institute](#), awarded more than a million dollars to the [National Center for State Courts](#) (NCSC) "to develop resources, best practices and recommend standards" for dealing with mentally ill persons who commit crimes ([grant SJI-19-P-019](#)). NCSC's final report, "[Judge's Guide to Mental Health Diversion](#)," came out in November. Throughout, its tone is unfailingly favorable:



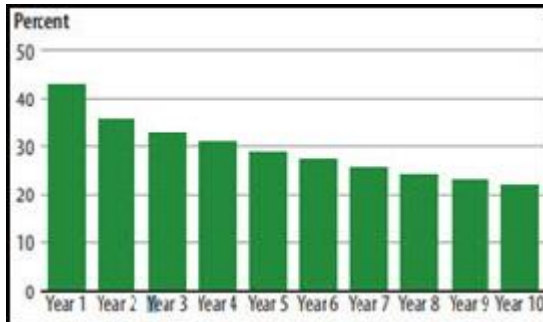
The incarceration of people with serious mental illness, often for minor crimes, is expensive and results in negative outcomes for the individuals, their families, and their communities. Even short stays in jail often make mental illness symptoms worse and increase the likelihood of recidivism. In response, courts and communities are increasingly looking to design and implement diversion strategies that identify those individuals who can and should be steered away from the criminal justice system, and toward appropriate treatment.

Indeed, the notion of diversion has taken hold in jurisdictions across the U.S. (For examples in Florida and Kansas, click [here](#) and [here](#).) But what do statistics show? Does diversion work? Does it reduce recidivism? Violent crime? Alas, L.A. County's [October 5, 2022 report](#) indicates that methods to statistically "evaluate which programs and interventions are operating as intended and which have a disparate impact" remain on the drawing board (p. 48). Bottom line: none of the gushing opinions are supported with numbers. And there's no relief in sight.

In fact, what figures there *are* suggest that the practice [faces immense challenges](#). On May 11, 2022 the Men's Central Jail held 12,977 inmates. Of these, seventy percent (9,150) had been charged with or convicted of a violent felony, and forty-six percent (6,025) awaited trial. Of the latter group, "most" were accused of a "serious or violent" felony. Based on these sobering facts, the county's jail closure team concluded that judges were unlikely to simply let folks go:

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While the Court is ultimately responsible for making release decisions, it is unlikely to release large numbers of individuals held on serious or violent felony charges — which includes the majority of people currently held in the County jail system — without significant investment and expansion of the infrastructure available to support a person if released (Attachment III, p. 2).



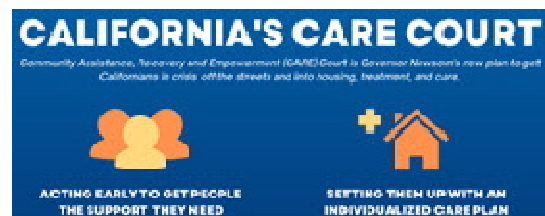
crimes were most likely to commit one again.

Problem is, as we recently reported in “[A Broken System](#)”, that “infrastructure” seems far from sturdy. A 2021 BJS report, “[Recidivism of Prisoners Released in 24 States in 2008](#)”, revealed that 81.9 percent of releasees were rearrested within ten years; 39.6 percent for a violent crime and 47.4 percent for a property crime (Table 11). Those charged with violent

[L.A. County’s program](#), which launched in 2019, [has reportedly served 1,500 clients](#) during its four-year run. Three-hundred-fifty “graduated”, and seventy percent of those who remain are supposedly “on track”. Of the graduates, only five percent have again faced charges (so far). For drop-outs, recidivism stands at ten percent.

Nick Stewart-Oaten, the lawyer who authored the diversion law, feels that these are promising numbers. But how could it be otherwise? Given the rules on who can apply, judges’ stringent selection practices, and the considerable oversight that’s exercised over active clients, one should expect minimal recidivism. (That it’s somewhat higher for drop-outs makes perfect sense.) As things stand, mental health diversions are relatively few. In the real world, it could hardly be otherwise. A key issue that none of the content-rich websites and reports deems worthy to address – the views and feelings of the victims of violence – is undoubtedly a key obstacle. Imagine the political repercussions should a wealthy or politically-influential victim of violence discover that their assailant was “let go.”

And that brings us to our final point. Set aside the propaganda: unless diversions increase a hundred-fold, they can’t substantially reduce the number of “[Fearful, Angry, Fuzzy-Headed and Armed](#)” persons who enter the criminal justice system. For that, prevention is key. Giving mentally-disturbed, violence-inclined persons the equivalent of “rapid diversion” *before* they strike is the purpose of California’s spanking-new [CARE Courts](#). To be



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launched this October [in seven counties](#), it will focus on adults who suffer from schizophrenia and other psychoses. Referrals can come from a variety of sources, including families, first responders and social service agencies. Clients get public defenders, and judges can impose treatment plans that last up to two years. Medication can be refused, but failure to succeed can set off the existing, old-fashioned involuntary commitment process.

As one might expect, CARE's compelled nature has drawn considerable blowback from civil libertarians. After all, de-institutionalization has been the watchword for decades. Yet, as we suggested in "[Are We Helpless to Prevent Massacres?](#)", a land awash in AR-15's and such might benefit from a bit of coercion. Sure enough, "[Red Flag](#)" laws sometimes get the gun. But underlying mental health issues often remain unaddressed.

Will CARE fill that gap? Ask us in a couple of years. Meanwhile, keep your head down!

Posted 5/20/13

## IS THE POT DEBATE COMING TO A HEAD?

***Two states have approved its recreational use. What will the Feds do?***

*By Julius (Jay) Wachtel.* Hang on to those joints! Last November voters in Washington and Colorado [legalized the recreational use of marijuana](#) for those over 21. And while Federal law continues to classify pot as a Schedule I drug (meaning no accepted therapeutic use), Attorney General Eric Holder, who long ago conceded the fight against medical marijuana, seems in no hurry to challenge states who cross what seems like the final line. During an April Congressional hearing he would only say that DOJ's decision, when made, would place the needs of children first: "When it comes to these marijuana initiatives, I think among the kinds of things we will have to consider is the impact on children," he said.

Holder's approach undoubtedly reflects the views of his boss. Shortly after Washington and Colorado made their move, [President Obama told Barbara Walters](#) that "it would not make sense for us to see a top priority as going after recreational users in states that have determined that it's legal." Even so, as a Harvard-trained lawyer, our reluctant leader had to concede that sooner or later the conflict between Federal and State laws would have to be resolved. "I head up the executive branch; we're supposed to be carrying out laws. And so what we're going to need to have is a conversation about, how do you reconcile a federal law that still says marijuana is a federal offense and state laws that say that it's legal?"

Of course, it's more than just the law. Common sense indicates that legalizing marijuana would increase its use, including by youth. If the Attorney General's decision will hinge on what's best for kids, the Federal Government's leading authority on the topic, the National Institute of Drug Abuse, [offers some sobering thoughts](#):

A recent study of marijuana users who began using in adolescence revealed a profound deficit in connections between brain areas responsible for learning and memory. And a large prospective study...showed that people who began smoking marijuana heavily in their teens lost as much as 8 points in IQ between age 13 and age 38; importantly, the lost cognitive abilities were not restored in those who quit smoking marijuana as adults.

Increases in marijuana use have led health authorities to raise a red flag. In [a recent review](#) of the health implications of legalization, researchers warned that brain scans of

persons who regularly smoked pot before age 16 have shown evidence of reduced function in an area associated with impulsiveness: “The frontal cortex is the last part of the brain to come online,” said Dr. Staci Gruber, “and the most important. Early exposure perhaps changes the trajectory of brain development, such that ability to perform complex executive function tasks is compromised.”

Marijuana use raises serious health and safety concerns. In 2011 *Harvard Health* reported that [pot use during adolescence](#) is associated with an increased risk of serious mental disorders in early adulthood. In a recent study that tracked 2,000 American teens, scientists found that those who regularly smoked marijuana were twice as likely to develop psychosis or schizophrenia. [Pot’s strength has also increased](#) over time. According to NIDA’s potency monitoring program, the mean content of THC, marijuana’s psychoactive ingredient, has gone up more than twofold, from 3.4% in 1993 to 8.8% in 2008. Many fear the consequences of unleashing this “new, improved” chemical on the public. Do we really need more learning-disabled teens? More addled drivers on the road? More smoking of *any* kind?

Until now legal and practical constraints have limited pot’s popularity. But with two states jumping on the legalization bandwagon, it seems only a matter of time before citizens everywhere start clamoring for the right to toké. Meanwhile a host of conflicting laws and policies leave State and Federal authorities unsure how to respond. Should DEA raid marijuana farms? Shut down retail outlets? Can local authorities help? *Should* they?

What the country needs most is leadership. If the President feels that smoking weed is no more consequential than having a drink, he needs to say so, and to submit legislation that would remove marijuana from Schedule I. If not, he needs to say that, too.

We’re waiting.

Posted 11/23/10

## IS THE UCR BEING MUGGED? AND IF SO, BY WHOM?

***A mayors' group blasts a publisher for ranking cities by their crime rates***

*By Julius (Jay) Wachtel.* “A premeditated statistical mugging of America’s cities.” That’s how a [press release](#) from the influential U.S. Conference of Mayors described the yearly [CQ Press](#) ranking of America’s largest cities by their crime rates.

It’s not [CQ’s methodology](#) to which the mayors object. CQ gets its numbers from [the UCR](#). It includes all [Part I crimes](#) excluding larceny-theft and arson (murder and non-negligent manslaughter, forcible rape, robbery, aggravated assault, burglary and motor vehicle theft) for metropolitan statistical areas and non-MSA cities with populations of 75,000 or more. CQ computes each locale’s difference from the national average for each type of crime, and then summarizes the results into a single score.

Well, that seems pretty straightforward. So what’s the problem? The mayors have three big gripes. One is that cities face unique circumstances so it’s unfair to rank them.

Cities differ in ways that have nothing to do with their crime risk, but that can greatly affect their ranking. Pure geographic happenstance – the location of the boundary line separating “city” and “suburb” – is one. Cities that are geographically small and that therefore do not include as many middle-class areas as larger cities get penalized, arbitrarily.

Cities *do* vary. Some are big, others are small; some are prosperous, others aren’t. And yes, many have low-crime suburbs. Los Angeles (243/400 on the list, with smaller being better) would probably look a lot better if its score included peaceful communities such as Simi Valley (16/400), where many cops choose to live. (Simi also happens to be the place where four LAPD officers accused of beating Rodney King were tried and acquitted, touching off major riots in, naturally, Los Angeles.)

Who’s “penalized” depends on whose ox is being gored. Whatever the reason for the L.A./Simi Valley demarcation line, families looking for a safe place to live in northern Los Angeles County might find CQ’s information very useful. Apparently so does Simi Valley police chief Mike Lewis, whose [website message](#) brags that his community “consistently ranks as one of the Safest Cities in America.”



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Another argument is that city rankings can't predict the risk of being victimized:

Knowing the city in which a person lives reveals next-to-nothing about his or her crime risk, especially when compared with genuine risk factors such as age, lifestyle, and the neighborhood within a given city where that person lives.

Leaving aside the obvious – that even residents of safe areas must travel outside their neighborhoods – it's true that the risk of becoming a victim depends on many factors. West Los Angeles, for example, has far less crime than South or East L.A. Still, the effects of crime are felt citywide, straining the municipal budget and impacting everything from libraries to street maintenance. Last July [former mayor Richard Riordan predicted](#) that without substantial additional reductions in expenditures (or without substantially increasing the property tax rate) the city could go broke in two years. While no aggregate statistic such as city crime rank can accurately predict whether a specific individual will get mugged, CQ's number is nonetheless a useful barometer of a city's overall health.

A third objection leaves behind the validity of the rankings to argue that the numbers used to create them are hopelessly unreliable:

Cities differ in the degree to which their citizens report crimes and in how crime is reported. How much of the difference between any two cities' crime ranks is real and how much reflects differences in measurement and reporting systems is not known.

Indeed, just during this past year anecdotal reports suggest that many police departments have undercounted crime and minimized its severity:

- [Baltimore](#): Rapes are up twenty percent, to 112 from 94 for the same period last year. Why? Because the local paper blew the whistle on a police practice of ignoring sexual assaults. Police have also been accused of [classifying shootings with multiple victims](#) as a single crime. They also reportedly jiggled the value of stolen property to keep thefts from reaching the felony threshold.
- [Dallas](#): Reporting guidelines that were overhauled in 2004, causing aggravated assaults to plunge, were justified by the police chief, who says he follows State, not FBI classification rules. Dallas [also stopped reporting](#) vehicle burglaries, supposedly to keep from counting phony reports. Meanwhile a newspaper investigation reveals that police are only reporting half the crimes called for by

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FBI rules.

- **Detroit:** In a strange twist, the police are claiming that recent threats to punish officers who “miscode” lesser crimes as burglaries are only intended to reduce over-reporting (who knew *that* was a problem?) It may or may not be related, but **former Detroit police chief James Barren** was fired in 2009 after his department and the medical examiner got caught classifying homicides as self-defense and suicide.
- **Memphis:** Police proudly report an 80 to 90-percent homicide clearance rate. But using FBI reporting standards it dips to 69.3 percent, only slightly better than the national average.
- **Miami:** A 2009 report by the Florida Department of Law Enforcement attributed chronic under-reporting by Miami police to “a self-imposed pressure that certain [officers] felt as a result of the implementation of Compstat.” One example was a carjacking that police downgraded to an “information report.”
- **Nashville:** Police are accused of clearing domestic violence crimes as unfounded to improve the department’s statistics and “[make] it look like crime has diminished.” **Officers also accuse** former chief Ronal Serpas (now at New Orleans) of using CompStat to “manipulate” statistics and make it appear that crime had declined.
- **New Orleans:** Police are reexamining 30 sexual assault reports from 2009 that may have been improperly downgraded to non-criminal incidents. 146 such write-downs were made in 2008, versus 97 recorded as criminal.
- **New York City:** Managers pressed by Compstat allegedly monkeyed with reports to keep theft losses under the FBI’s \$1,000 threshold. To hold down the aggravated assault rate they also reportedly encouraged victims of violence to minimize what took place. A whistleblower complaint recently led to **internal charges** against five officers including a Deputy Inspector for suppressing crime reports in order to make their precinct look good.
- **St. Louis:** Police admit that at least some of the steep drop-off in crime was due to a change in reporting practices. They have also begun to report more assaults.

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Fiddling with numbers may reflect a concern to not stand out during an era of falling crime rates. Undercounts may have other causes. [As we've mentioned before](#), victims who reside in high-crime areas may be too scared to report crime. In [Milwaukee](#), declines in patrol staffing that caused 911 response time to average *three hours* have so discouraged some residents and business owners that they simply stopped calling.

What does the FBI have to say about [using the UCR to rank cities](#)? In a word, “don’t”:

Since crime is a sociological phenomenon influenced by a variety of factors, the FBI discourages ranking the agencies and using the data as a measurement of law enforcement effectiveness.

A more elaborate statement to the same effect, “Caution Against Ranking,” pops up whenever users access the UCR. Yes, crime imposes unequal burdens. It’s probably unfair to use crime rankings to compare the performance of police departments. Keep in mind, though, that the UCR does more than pass on numbers. Its yearly reports, which are relied on for a wide range of purposes, aggregate and analyze crime statistics for the U.S. as a whole. That crime has dropped steadily for nearly two decades is accepted as gospel. Really, if we trust UCR data that much, why should its use to rank cities be any different? Because it embarrasses?

Of course, if we *don’t* trust the data – and there may be good reason not to – then we ought to be doing something more than just picking on the messenger.

Posted 12/17/16

## IS TRUMP RIGHT ABOUT THE INNER CITIES?

### *America's low-income communities desperately need a New Deal*

*By Julius (Jay) Wachtel.* On the evening before Thanksgiving, as residents of Southern California prepared to celebrate the forthcoming holiday with family and friends, [a 16-year old high school student](#) was on the way home from church, riding in the family car, her dog on her lap.

Danah Rojo-Rivas didn't survive the trip, and neither would the pooch. About 9:30 pm, as their vehicle drove through [Lynwood](#), a low-income, predominantly minority city with a substantial violent crime problem, gunfire erupted. A bullet fired by gang members riding in one vehicle at gangsters riding in another pierced the car, striking Danah and instantly killing her.

Her mother and brother, who were also in the vehicle, weren't hurt. Alas, the dog bolted and got run over.

Incredibly – or perhaps, not – this horrifying event received only modest attention. Other than an offer by the County Board of Supervisors of [a \\$20,000 reward](#) for information (later raised to \$30,000), the deplorable specter of an innocent girl being viciously gunned down was treated as just another murder in a murderous place. A GoFundMe memorial page was set up by the family to cover funeral costs, and so far there haven't been any arrests.

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“You're the only one that can get you out of this ghetto.” [That was the message](#) that Regina Bejarano, a 47-year old single mother of five, prayed would get through to her kids. [With sixty-five homicides](#) so far this year, violence-ridden San Bernardino, an eastern Los Angeles County community of 216,000, was decidedly chancy, and life in her gang-infested neighborhood particularly so. On the last day of August unknown hooligans walked up to their apartment and opened fire, wounding her 19-year-old son, a goddaughter and a family friend.

Fortunately, no one died. Neither was anyone arrested. Desperate to escape the treacherous city where she was raised, Ms. Bejarano began frantically searching for a safe, affordable place far from the mayhem. She was still looking on October 30 when Joseph, her 17-year old, left on a brief walk to visit his cousin. He never got there. Police

later arrested Miguel Cordova, 18, for shooting and killing Joseph in what authorities say was a gang-inspired murder.

Ms. Bejarano still intends for the family to relocate. And although it's only a couple blocks away, she always drives to the spot where Joseph died. It's far too dangerous to walk.

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Danah Rojo-Rivas and Joseph Bejarano died in gang shootings; one by accident, the other on purpose. Shamefully, while many of our nation's urban areas experience appalling levels of mayhem – St. Louis, Baltimore, Detroit, Newark, Cleveland, Oakland, Memphis and Chicago [are only a few examples](#) – President Obama has mostly kept mum.

Well, there is one exception. [Three years ago](#), when inner-city gang members shot and killed Hadiya Pendleton, a 15-year old high school student, Michelle Obama attended the young woman's funeral. Hadiya was special because she had performed, along with classmates, at the President's second inauguration, in Chicago, the city where he was raised. [President Obama later spoke](#) of the tragedy in a speech and in his [State of the Union address](#), both times while urging action on Federal gun laws. He's otherwise fastidiously avoided addressing – or dealing with – the disastrous cycle of poverty and violence that besets America's inner cities. That oversight has puzzled more than this observer. Here's a recent assessment of the President's legacy by someone whom your writer never thought he'd be quoting – [the redoubtable Louis Farrakhan](#):

...Mr. President, you're from Chicago, and so am I. I go out in the streets with the people. I visited the worst neighborhoods. I talked to the gangs. And while I was out there talking to them, they said "You know, Farrakhan, the president ain't never come. Could you get him to come and look after us?" There's your legacy, Mr. President. It's in the streets with your suffering people, Mr. President. And if you can't go and see about them, then don't worry about your legacy 'cause the white people that you served so well, they'll preserve your legacy...

Many progressives consider the term "inner city" a needlessly cruel way to denote lower-income urban neighborhoods. Yet whatever one wishes to call these places – for Mr. Farrakhan, it's "the streets" – that's where violence takes its most shocking toll. Click on "[Location, Location, Location](#)" and look up "Vermont Square" on the Murder Rate graph. This was the place called home by the senior citizen who convinced city fathers [to help destigmatize notorious South-Central Los Angeles](#) by dropping "Central" from its place name. Well, good luck with that. Crime in Southern California may have

receded from its crack-fueled peak in the early 90s, but gross inequities in personal risk persist. Note, for example, that Vermont Square's 2015 ghastly murder rate of 24.62 per 100,000 (44,662 residents, 11 homicides) is *thirteen times* that of Westwood, an upper-middle class area where the price of an ordinary home easily tops a million bucks (1 homicide/51,485 residents/rate 1.94).

It's not just un La-La land. Life in poor areas anywhere can prove dangerous. That includes the President's hometown. (For a new assessment of violence in inner-city Chicago, click [here](#).)

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What's being done to address the pressing needs of inner cities? Considering their lamentable state, far from enough. Government funding for housing assistance, job training, education, child care and drug and alcohol treatment is grossly inadequate, constraining both direct action and heroic efforts by citizen groups and non-profits. (For the sobering experiences of a major public-private effort click [here](#).) Meanwhile overtaxed, wary police and social workers provide what fleeting, temporary relief they can. And as we know, occasionally make things worse.

Really, for all the jawboning about "urban renewal" and such it seems that most of what gets renewed every four years is disinterest and neglect. So when then-candidate Donald Trump – a Republican – got on the soapbox about fighting urban blight and disorder, even a few Democrats found something to like. In an article published shortly before the election, award-winning *New York Times* reporter Nikole Hannah-Jones [concluded, to her evident surprise](#), that Trump "was speaking more directly about the particular struggles of working-class black Americans and describing how the government should help them more than any presidential candidate in years."

Was she exaggerating? Consider Trump's expansive view about his responsibility to the denizens of inner-city Milwaukee:

Our job is to make life more comfortable for the African-American parent who wants their kids to be able to safely walk the streets. Or the senior citizen waiting for a bus, or the young child walking home from school. For every one violent protester, there are a hundred moms and dads and kids on the same city block who just want to be able to sleep safely at night.

Still, other than, say, paying for more cops, what would Trump actually do? A hint of his approach came during a Charlotte speech [where he offered a "New Deal for Black America"](#) that used tax holidays and other incentives to spur investment in the inner



cities. His message resonated with the host of a local radio program, who complained that the black community had been ignored by the present Administration: “As an African-American, I haven’t seen anything that Obama has actually done.”

Well, one thing that the current President and his predecessors *have* done is build up America’s defense arsenal, creating lots of middle-class jobs and, not incidentally, helping make a gaggle of industrialists filthy rich. Consider, for example, [Lockheed’s F-35 Joint Strike Fighter program](#). So far, it has cost taxpayers \$100 *billion*, a stunning amount that’s raised a lot of eyebrows, from Senator John McCain (he called the situation a “scandal and a tragedy”) to the President-elect’s. Here’s his Tweet on point: “The F-35 program and cost is out of control. Billions of dollars can and will be saved on military (and other) purchases after January 20th.” He didn’t say, but there’s a special place where “billions” might do some good...

Alas, in his final end-of-year press conference on December 16, which your blogger listened to in its near-entirety (our local NPR station eventually cut away), President Obama was silent about urban America. Other than for briefly reassuring his flock that, yes, he worried every night about their economic well-being, it was all about the election and foreign policy. To be sure, the cities are in large part the responsibility of local and State officials, so it’s likely inevitable that the President would be preoccupied by matters that fall within his exclusive purview, such as the tragedy besetting the innocent citizens of Aleppo and Sudan. Yet one wonders whether our nation’s top elected official shouldn’t be equally determined to keep vulnerable residents of the U.S. from suffering a similar fate. The late Danah Rojo-Rivas, Joseph Bejarano and Hadiya Pendleton would have probably agreed.

Parsing campaign rhetoric is a fraught enterprise, and we’ll leave it for the reader to intuit the President-elect’s real intentions. His emphasis on the inner city, though, is refreshing. As long as it’s not all about bricks and mortar, his “New Deal” seems appealing. One-hundred *billion* bucks would be a good start.

Posted 2/4/08

## IT'S GOOD TO BE RICH

By Julius Wachtel, (c) 2010

“Jury acquits Wesley Snipes of tax fraud.” That was the headline splashed across U.S. dailies after a Federal jury [acquitted](#) the action-movie star of felony tax evasion, instead finding him guilty on three misdemeanor counts of failing to file tax returns. Since 1997 the star of “White Men Can’t Jump” has avoided paying millions of dollars in taxes by claiming that the IRS was not a legitimate government agency and lacked the authority to tax domestic earnings. An accountant and a well-known tax protestor who had been counseling Snipes and were tried alongside him were less lucky; both were convicted of felonies and face substantial prison terms.

On the same date that Wesley dodged the big bullet a Boston appeals court [affirmed](#) the conviction of Richard Hatch for felony tax evasion. Best remembered as the relentless “Survivor” contestant whom everyone loved to hate, Hatch will have to serve out the four-year, three-month prison term imposed after jurors rejected his claim that the TV production company had agreed to pay the taxes on his million-dollar prize.

There the comparison ends. Although they were charged with the same crime, Snipes’ alleged conduct was infinitely more serious, involving far greater losses of revenue and requiring much more investigation and court time. True, Hatch might have angered the judge by allegedly lying on the stand (Snipes didn’t testify), but he didn’t challenge the tax system with loony arguments. And when signing his return, he didn’t change “under penalties of perjury” to “under *no* penalties of perjury,” like Snipes did in 2001.

Still, Hatch got hammered, while Snipes essentially walked. Why? Although in criminal trials the burden of proof is on the State, considering the imbalance between the resources available to the Government and those available to most defendants, raising reasonable doubt is no cinch even for the truly innocent. Hatch, who got involved in other mischief and squandered his winnings, was in no position to hire a big-bucks defense team with multiple lawyers, experts and investigators. Snipes was, and did.

Tax fraud is one thing; murder, another. Consider the case of [Darryl Hunt](#). Arrested in a 1984 rape/murder, the youth had little money to mount a challenge against lying witnesses and a faulty identification. Once he was convicted the tables turned, and it

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was now up to him to find the real killer or rot in prison. Although activists and lawyers worked tirelessly on Hunt's behalf, it took nearly twenty years before DNA identified the right man, a parolee who had been jailed for attacking another woman not long before Hunt's arrest. That information could have been discovered before trial had there been funds to hire investigators. Hunt didn't have to do nineteen years for a crime he didn't commit, but he did.

Now consider some famous acquittals. Football legend O.J. Simpson, accused of slicing up his ex-wife and her friend outside her Westside apartment. Pop star Michael Jackson, tried for molesting a child at his Santa Barbara ranch. Actor Richard Blake, arrested for shooting his wife to death outside an Italian eatery. Consider also the case of music producer Phil Spector, whose 2007 trial for murdering a restaurant hostess ended in a hung jury. Other than fame, what do these defendants have in common? Money, and lots of it. Spending millions of dollars on teams of top-notch lawyers, experts and investigators, each managed to plant enough "reasonable doubt" in juror minds to overcome what many observers thought was overwhelming evidence of their guilt.

What's the moral to the story? If you're not rich, think twice before going to trial. And if you do go to trial, are unjustly convicted, manage after five years to get a new trial, and the D.A. offers you time served for pleading guilty -- take the deal! Don't stand on your high horse and go to trial again, just so you -- like Darryl Hunt -- can be wrongfully convicted *twice*!

A system that works to the advantage of the wealthy and promises for everyone else only as much justice as they can afford is nothing to admire. How to restore its balance is one of our democracy's most important to-do's for the twenty-first century.

Posted 4/4/22

## JUDICIAL DETACHMENT: MYTH OR REALITY?

**A Supreme Court candidate gets slammed for liberal bias**



	<u>Begin</u>		<u>2020</u>
	3.2	Thomas	3.0
	2.0	Alito	2.2
	1.1	Gorsuch	1.1
	1.0	Barrett	1.0
	0.6	Kavanaugh	0.5
	1.4	Roberts	0.5
	-1.4	Kagan	-1.5
	-1.4	Breyer	-1.9
	-1.7	Sotomayor	-4.0

*For Police Issues by Julius (Jay) Wachtel.* In his prior life as a Fed your writer frequently authored detailed affidavits while seeking arrest and search warrants for gun crimes. But the sworn declaration he just downloaded from the D.C. Federal court's [PACER website](#) is by far the most nauseating such document that he's ever read ([case no. 1:13-cr-00244-KBJ](#)).

In 2013 the Washington D.C. FBI Child Exploitation Task Force was tipped that someone had been uploading videos to the Internet showing naked "prepubescent boys" engaging in oral and anal sex. An undercover D.C. police detective subsequently exchanged emails with the suspect, Wesley Hawkins, 18. Hawkins wrote that "he likes children ages 11 to 17, and that he has videos to share." And he did, sending on two "of a prepubescent male masturbating."

Other tips led to the discovery of two-dozen-plus videos and still images uploaded by Hawkins that depicted male and female children and prepubescent boys flaunting their intimate parts and engaging in oral and anal sex. In June 2013 officers served a search warrant at his residence. They turned up a laptop replete with child pornography. It reportedly included:

"24:06 minute video depicting an approximately 12 year-old male masturbating before a web camera; 1:57 minute video depicting an approximately 8 year-old male masturbating before a web camera; 11:47 minute video depicting an approximately 11 year-old male masturbating and being anally penetrated by an adult male; 15:19 minute video depicting two approximately 11 year-old males

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masturbating and performing sexual acts on each other; 7:51 minute video depicting an approximately 12 year-old male masturbating....”

Note that at least one video featured an “adult male” participant (no, it wasn’t Hawkins). Hawkins initially denied everything. But he soon conceded that his laptop held some deeply incriminating goods.

He wasn’t accused of actually taking the videos. Still, by posting and sharing them he had participated in a process that can profoundly damage children. Hawkins soon pled guilty to one count of possessing child pornography [[18 USC 2252A\(a\)\(5\)\(B\)](#)]. Since some of the affected minors were less than twelve years of age, he could have hypothetically drawn as many as twenty years. Sentencing-wise, several potential enhancements *did* apply:

...the material involved prepubescent minors or minors under the age of 12 (+2); the offense involved distribution (+2); the material portrayed sadistic or masochistic conduct (+4); the offense involved the use of a computer (+2); the offense involved 600 or more images (+5)...

Given Hawkins’ lack of a prior criminal record, [Sentencing Commission guidelines](#) called for a [range of 97 to 121 months imprisonment](#). His youth and cooperation, though, led prosecutors to recommend a more lenient disposition: twenty-four months custody followed by 96 months of supervised release.

So what did Hawkins actually *get*? Well, some of our readers likely know. But don’t fret: we’ll return to Mr. Hawkins in a moment.

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On January 27, 2022 [U.S. Supreme Court Justice Stephen Breyer revealed](#) that after twenty-seven years on the nation’s high court, he was ready to retire. Less than a month later [President Joe Biden announced](#) that in line with his pledge to appoint a Black woman as the next Justice, he had selected D.C. Circuit Court of Appeals Justice Ketanji Brown Jackson to fill the vacancy. His official statement led off with the two core principles that everyone hopes underlie judicial decisionmaking:

Because of her diverse and broad public service, Judge Jackson has a unique appreciation of how critical it is for the justice system to be *fair and impartial* [emphasis ours]. With multiple law enforcement officials in her family, she also has a personal understanding of the stakes of the legal system. After serving in the U.S. Army and being deployed to Iraq and Egypt, Jackson’s brother

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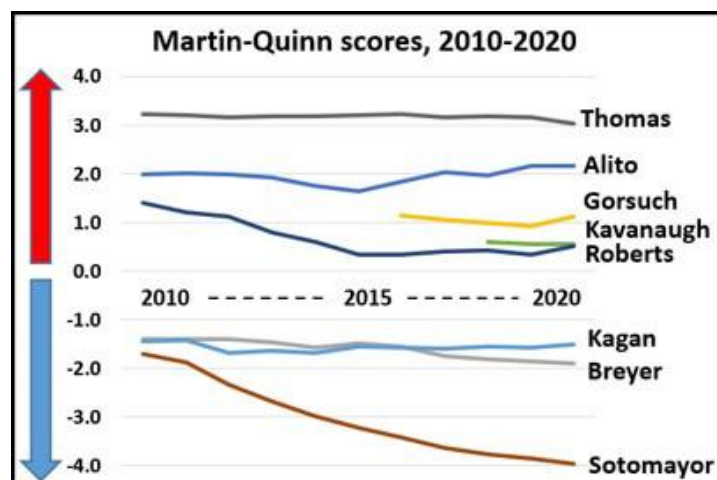
served as a police officer in Baltimore and two of her uncles were police officers in Miami.

As one would expect, Justice Jackson's qualifications are indeed awesome. Even so, President Biden knows that given the constituencies that some Senators must please, her confirmation could present a struggle even within the "Blues." And with the Senate evenly split, literally every vote "counts." That, in turn, may explain why the President's comments emphasized that Justice Jackson has family ties to, well, *the cops*.

Nominated by President Bill Clinton, Justice Breyer was considered a "Blue" sort. Ditto his anointed successor. Her selection reflects the Red/Blue, right/left, conservative/liberal ideological divide that Professor Richard Hasen claims ("[Polarization and the Judiciary](#)") has long guided the selection of State and Federal judges and justices, deeply affecting outcomes in fraught areas such as guns, abortion and affirmative action. As for the Supreme Court, professors Neal Devins and Lawrence Baum ("[Split Definitive: How Party Polarization Turned the Supreme Court into a Partisan Court](#)") conclude that its decisions have closely tracked Party lines for over a decade:

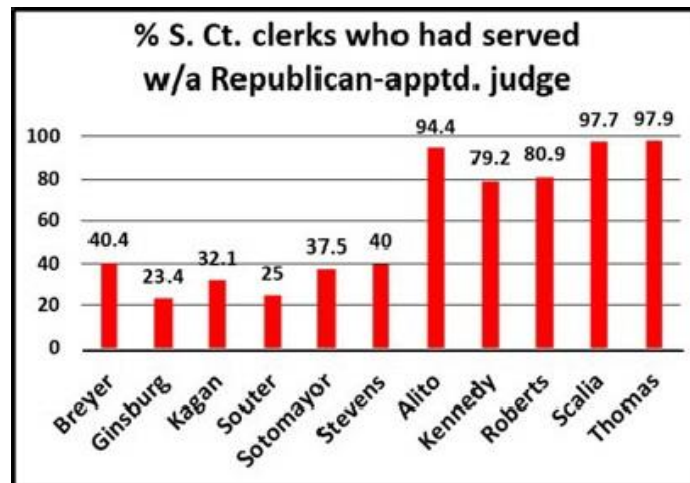
Since 2010, when Elena Kagan replaced John Paul Stevens, all of the Republican-nominated Justices on the Supreme Court have been to the right of all of its Democratic-nominated Justices. This pattern is widely recognized, but it is not well recognized that it is unique in the Court's history. Before 2010, the Court never had clear ideological blocs that coincided with party lines.

Professors Andrew Martin and Kevin Quinn devised [a widely accepted approach](#) that uses Supreme Court decisions to scale Justices' ideological preference, from the most liberal (-5.0) to the most conservative (+5.0). An M-Q score gets assigned to each Justice at the end of every term. Check out our lead graphic. Excepting Justices Gorsuch, Kavanaugh And Barrett, who began in 2016, 2018 and 2020 respectively, the left-side score represents the year 2010. Here's a companion visual that tracks M-Q's thru 2020:





With a couple of exceptions (note Roberts' moderation and Sotomayor's plunge from moderately liberal to off-the-charts) M-Q scores remain remarkably consistent, term-in and term-out. But put decisions aside. In "[Split Definitive](#)" Professors Devins and Baum highlight the salience of ideology by analyzing Justices' preferences when it comes to hiring clerks. This graphic depicts the proportion of clerks during the 2005-2016 terms who had served lower-court judges appointed by Republicans.



It's clear that the conservative Justices (the five on the right) were determined to hire clerks with "Red" backgrounds, while their liberal colleagues preferred those of the "Blue" persuasion.

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That Justices are ideologically split is old news. (For a list of relevant articles and news pieces click [here](#).) Indeed, it's assumed that each will come down on a certain side in every ideologically-charged decision. Here, for an example, is an extract from [a recent story in the Los Angeles Times](#) about a case before the Court. Apparently, the California business community (read: conservative-leaning) is challenging a State law, which has been backed by State court decisions, that lets workers sue employers even though they supposedly agreed when hired that all disputes would be arbitrated:

The court's conservative justices said little during Wednesday's argument in *Viking River Cruises vs. Moriana*, while the three liberals spoke in defense of the California law. "This is the state's decision to enforce its own labor laws in a particular kind of way," Justice Elena Kagan said.

California is reportedly the only State that does that. Its high court refused to hear an appeal, but the U.S. Supreme Court has taken on the case. Given its present conservative

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majority (and Justice Kavanaugh’s mention that “California is an outlier here”) a business-friendly ruling seems likely.

But what does judicial ideology have to do with our (hopefully, one-time) fan of child pornography? A lot. You see, Wesley Hawkins’ [three-month sentence](#), whose length was *one-eighth* of what the prosecutor recommended, was handed down by D.C. Court of Appeals Justice – now, Supreme Court nominee – [Ketanji Brown Jackson](#) while she served as a D.C. District Court judge. Justice Jackson, who began her Government career as a Federal Public Defender, [has been severely criticized by Republicans](#) for demonstrating “empathy” (i.e., leniency) when sentencing Hawkins and other child pornographers.

<a href="#">27</a>	Filed: 11/22/2013 Entered: 11/25/2013	Judgment
<a href="#">28</a>	Filed: 11/22/2013 Entered: 11/25/2013	Statement of Reasons

Query  
**This document is not available.**

We downloaded several documents from Mr. Hawkins’ criminal case. This graphic depicts two of the final entries on the index page: the judgment (click [here](#) for the document) and an accompanying “Statement of Reasons.” Ostensibly, the latter would have explained Judge Jackson’s pronounced “downward departure” from the two-year term recommended by prosecutors, which was itself substantially less than what Sentencing Commission guidelines prescribe. Alas, clicking on the link returned “not available.”

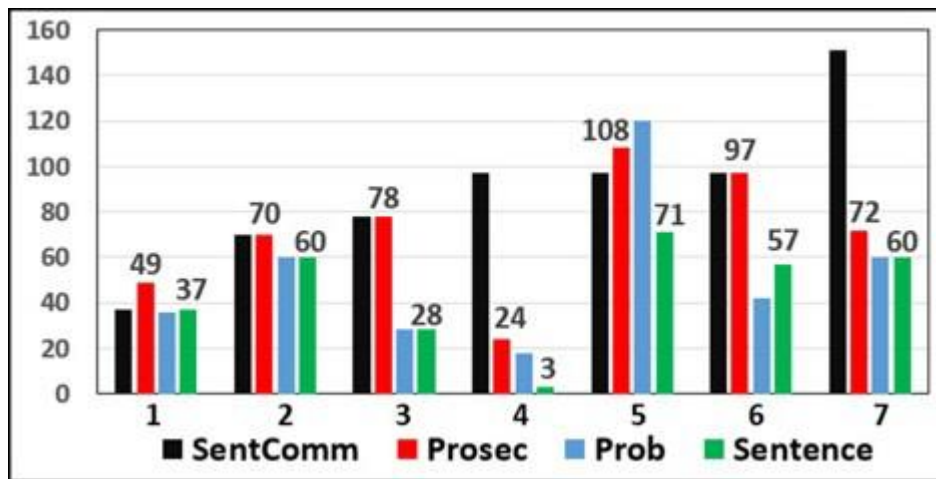
So we turned to [FactCheck.org](#). Their extensive coverage of the case includes Justice Jackson’s explanation of her sentencing decision during questioning by her most ardent antagonist, Senator Josh Hawley (R-Mo). Here’s a brief extract:

I remember in that case that defense counsel was arguing for probation, in part because he argued that here we had a very young man just graduated from high school. He presented all of his diplomas and certificates and the things that he had done and argued consistent with what I was seeing in the record that this particular defendant had gotten into this in a way that was, I thought, inconsistent with some of the other cases that I had seen.

*FactCheck* looked into seven child-pornography sentences that supposedly reflect Justice Jackson’s excessively forgiving nature. Our graph orders them according to the

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recommended sentence under the guidelines (black bar), from the least severe (left) to the most (right). Mr. Hawkins' case is the fourth.



In each, the actual sentence given by then-judge Jackson was less than what prosecutors had sought, and in four cases (#3, #4, #5 and #6) substantially so.

Justice Jackson has said [that her sentences were not overly lenient](#). “Nothing could be further from the truth,” she insists. Yet her obvious empathy for the accused [has become a “flashpoint.”](#) It’s not that she ignores victims. [While sentencing Mr. Hawkins she agonized](#) about “children who are being trapped and molested and raped for the viewing pleasure of people like yourself.” The case file included [a statement from one of the youths depicted in the images](#) which “describes how being a victim of child pornography has affected many areas of the victim’s life, including the victim’s inability to trust adults and struggle with anger issues.” Yet then-Judge Jackson held back. “You were only involved in this for a few months...Other than your engagement with the undercover officer, there isn’t an indication that you were in any online communities to advance your collecting behavior.”

Did Mr. Hawkins’ sentence convey a sufficiently stern warning? Perhaps not. According to [a Washington Post investigation](#) (it’s otherwise very favorable to the Justice) a probation document filed as Mr. Hawkins’ term of supervision neared its end reported that “despite being in treatment for more than five years [Mr. Hawkins] continues to seek out sexually arousing, non-pornographic material and images of males 13 to 16-years-old.” He had to serve his last six months of release in a halfway house.

Over the years we’ve repeatedly mentioned the “tendency to seek out information and interpret events in a way that affirms one’s predilections and beliefs.” That nasty interloper – its official title is “[confirmation bias](#)” – can affect most anyone, from out-

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and-out ideologues to supposedly objective, data-driven scientists. And, as our graphs seem to demonstrate, Supreme Court justices. But [Justice Jackson denied](#) that she purposely aligned with either the “Reds” or the “Blues”:

I decide cases from a neutral posture. I evaluate the facts, and I interpret and apply the law to the facts of the case before me, without fear or favor, consistent with my judicial oath.

Might she prove an exception to the rule?

Ask us in a couple years, once her M-Q scores are in.

Posted 5/3/21

## LET'S STOP PRETENDING

*Cops can't correct what most needs fixing*



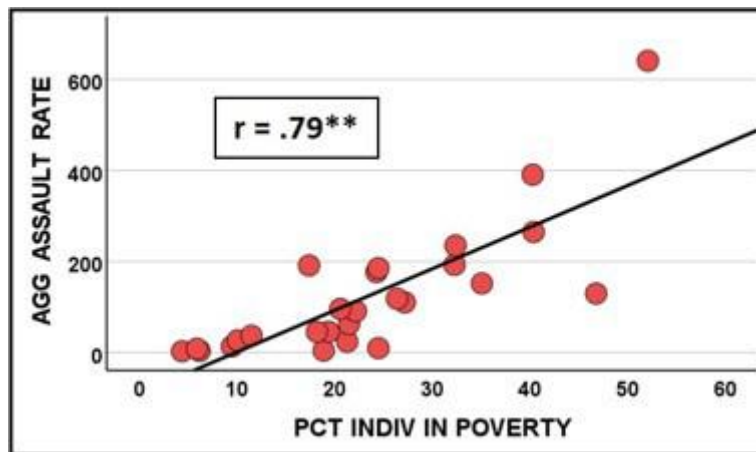
Ma'Khia Bryant   Adam Toledo   Daunte Wright

*For Police Issues by Julius (Jay) Wachtel.* It's a heartbreaking sight, and no less so because we know [how things turned out](#) for the sixteen-year old. Alas, little about Ma'Khia Bryant or her circumstances were likely known by the Columbus, Ohio officer who pulled up to the chaotic scene in response to a 9-1-1 call about someone aggressively wielding a knife. (For a video taken from across the street click [here](#). For a stop-motion bodycam video click [here](#).)

Clearly, the cop had only moments to act. But as one might expect, he was promptly condemned. No less a figure than [LeBron James quickly tweeted](#) a sarcastic "YOU'RE NEXT #ACCOUNTABILITY." Once body cam and bystander videos surfaced, though, their depiction of the speed at which events unfolded and the imminent threat to life somewhat muted the criticism. Taking the time to "de-escalate" could have been the same as doing nothing. Colleagues and citizens from across the racial spectrum have come to the star-crossed officer's defense. Yet regardless of their (admittedly belated) support, consider how killing a young person must feel.

However justifiable, the shooting reignited chronic discontent. Only six years after Columbus resolved [a DOJ patterns-and-practices inquiry](#) into alleged police misconduct, [its Mayor asked](#) (and activists demanded) that the Fed's launch another. We're well aware that the present tenor is to blame poor outcomes on the cops, and only the cops. And we agree that there's always something to gain by dispassionately analyzing their practices. We've done it ourselves. This time, though, let's focus on something that's beyond the power of even the most enlightened officers to change. We're talking, of course, about *place*.

We'll start with Columbus. It has [twenty-six regular ZIP codes](#). We collected their population and poverty rates from the [Census](#), and computed the number of aggravated assaults using the [LexisNexis community crime map](#), to which Columbus PD contributes. (2019 was chosen to avoid the influences of the pandemic.)



Check out the scattergram. Each ZIP code is represented by a dot. Note how poverty and aggravated assault (rate per 100,000 pop.) increase in nearly lock-step fashion. Their association, which yields a robust .79 “r” coefficient, reflects the powerful relationship between crime and economic conditions that we harp about in our [Neighborhoods](#) essays.

Five best (lowest) rates					Five worst (highest) rates				
ZIP	POP	PCT INDIV IN POVERTY	2019 AGG ASLTS	AGG ASLT RATE	ZIP	POP	PCT INDIV IN POVERTY	2019 AGG ASLTS	AGG ASLT RATE
43221	33360	4.4	1	3.0	43205	12455	32.3	24	192.7
43220	27265	6.2	1	3.7	43223	24222	32.4	57	235.3
43231	22122	18.9	1	4.5	43203	7924	40.4	21	265
43230	58540	5.9	5	8.5	43211	23030	40.3	90	390.8
43202	20491	24.5	2	9.8	43222	4056	52.1	26	641
Mean =		12.0	2	5.9	Mean =		39.5	43.6	345

To make the connection between poverty and violence even more evident we

ZIP	POP	PCT INDIV IN POVERTY	2019 AGG ASLTS	AGG ASLT RATE
43232	46879	20.6	45	96.0

compared the five ZIP’s with the lowest aggravated assault rates with the five ZIP’s at the other end. Look at the their rates. Their contrast



could hardly be greater. Ma'Khia Bryant lost her life in a different neighborhood, [ZIP 43232](#). Its poverty and aggravated assault rates, which seem sizeable from an outsider's perspective, fall about midway through the city's distribution. But Ms. Bryant wasn't raised there. Her mother lost custody of her four children long ago. About two years ago, after a stint with grandma didn't work out, social services assigned Ms. Bryant and a younger sister to be fostered by a White couple. That's where they were living when the tragedy happened.

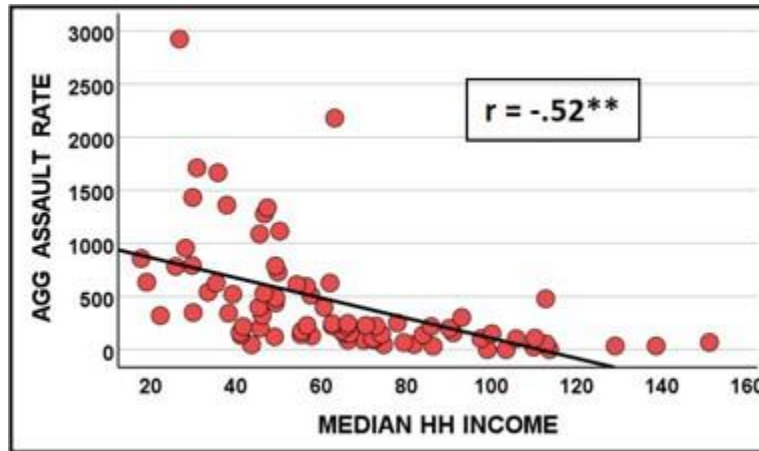
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Minneapolis is another place that's been long battered by poverty and episodes of policing gone wrong. [Derek Chauvin](#) isn't the only MPD cop who's been convicted of murder. Only two years ago then-MPD officer [Mohammed Noor](#) was found guilty of murdering a 9-1-1 caller whom he impulsively mistook as a threat. And there's been some recent local competition. On Friday, April 11, as Chauvin's trial closed its second week, a police officer employed by Brooklyn Center, an incorporated Minneapolis suburb of about 30,000, [accidentally drew the wrong weapon](#). Although Kim Potter yelled "Taser" three times, the trigger she squeezed was that of her pistol. Daunte Wright, a Black 20-year old man, fell dead.

Mr. Wright had been stopped for a license plate issue. But when officers tried to arrest him on a gun-related warrant, he bolted for his car. That's when the 26-year year police veteran committed that rare but [not unheard-of](#) blunder. Honest mistake or not, the tragedy led Minnesota Senator Amy Klobuchar to insist that her colleagues pass the "[George Floyd Justice in Policing Act](#)." (It seeks, among other things, to ban chokeholds and end qualified immunity for police.) Senator Klobuchar also offered some pointed remarks at Mr. Wright's funeral. "True justice is not done as long as having expired tags means losing your life during a traffic stop," she said.

Ms. Potter and her chief [both resigned](#). They were soon joined by the city manager. Instead of murder, though, the former cop was charged with 2nd. degree manslaughter. If convicted she faces "only" ten years.

Let's subject Minneapolis to the same looking-glass we used for Columbus. Minneapolis also contributes to the [LexisNexis crime map](#). However, in 2019 it identified crime locations by neighborhood instead of ZIP code. There are eighty regular neighborhoods in the city. For each we obtained population and median household income data from the [Statistical Atlas of the United States](#). We used the latter (/1000) instead of poverty rates. Here's the scattergram:



Once again, the association between economic conditions and violence is crystal clear. As income increases aggravated assault rates literally plunge. (Thus the correlation statistic is negative, meaning that the “variables” move in opposite directions.) We also compared the five Minneapolis neighborhoods at both extremes of the aggravated-assault scale. Here are the results, with place names abbreviated:

Five best (lowest) rates					Five worst (highest) rates				
NEIGH	POP	MEDIAN INCOME	2019 AGG ASLTS	AGG ASLT RATE	NEIGH	POP	MEDIAN INCOME	2019 AGG ASLTS	AGG ASLT RATE
FIELD	2366	99.1	0	0	WEBC	5097	30	73	1432.2
HALE	3176	113.7	0	0	FOLWL	5344	35.9	89	1665.4
KENNY	3559	103.5	0	0	NEARN	5962	31	102	1710.8
TANGLT	4351	110	1	23	DWW	5781	63.3	126	2179.6
KEEWY	3096	86.4	1	32.3	HAWT	4207	26.9	123	2923.7
Mean =		102.5	0.4	11.1	Mean =		37.4	102.6	1982.3

Again, the link between poverty and violence is readily apparent. As we harped about in “[Repeat After Us](#),” when it comes to assessing crime city names *are* meaningless. It’s really *places* that count.

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So what’s the takeaway? Given the vagaries of both officer and citizen temperament, counting on cops to de-escalate and do all the “right” things while working under the uncertain, often threatening conditions of the “real world” is a tall order. Think you can do better? Start off with inadequate resources and a lack of information. Add a heady portion of citizen non-compliance, substance abuse and personal issues. And by all means stir in some inappropriate behavior by colleagues and [superiors](#) who want to do

things “their” way (remember, um, Chauvin?) *Voila!* You’ve cooked up the toxic brew that even well-meaning cops (and these are in the vast majority) consume each day. Enjoy!

Law-abiding citizens who endure the everyday violence and gangsterism that accompanies poverty have been speaking out. In the aftermath of the [police killing of Adam Toledo](#), a thirteen-year old resident of Chicago’s impoverished “[Little Village](#)” neighborhood (household median income \$31.5K), a deeply-researched story [in the Tribune](#) featured the sentiments of residents who were fed up, and not just with the police:

- Seventy-four year old sidewalk vendor: “We are tired of gang violence; it’s sad what happened with the young boy, but he had a gun with him and his friend had been shooting, so the officer responded to the threat.”
- Thirty-eight year old man doing his laundry: “We can’t even go out safely because there are random shootings everywhere and you never know if a stray bullet might hit you.”
- Fifty-nine year old grandmother (she tries to keep away from gang members *and* cops): “The only reason people are talking about (killings) now is that it was a police officer who shot and killed the kid.”

To be sure, the craft of policing can always improve. But poverty and the things that come with poverty can make even “routine” policing exasperating. As we recently noted in “[Fix Those Neighborhoods!](#)” and “[Human Renewal](#),” making a *real* difference would require a concerted effort to provide needy areas with resources and services that might prevent the next Adam Toledo from running around with an armed gang-member at one in the morning. That calls for major investments in child care, tutoring, job training, apprenticeships, health care and housing. And yes, it would be expensive, and yes, residents of better-off areas might complain.

But look at those faces. Ma’Khia Bryant, Adam Toledo and Daunte Wright were clearly troubled souls. Each could have used some quality social, educational and health supports far earlier in life. But here we are, in the supposedly enlightened twenty-first century, and we still ignore the profound, life-shattering consequences of being raised in poverty. And when cops dealing with these intractable issues misstep, as they sooner or later will, it’s once again time to levy discipline, crank up the rules and turn out those massive studies and reports.

Sound familiar?

Posted 5/26/16

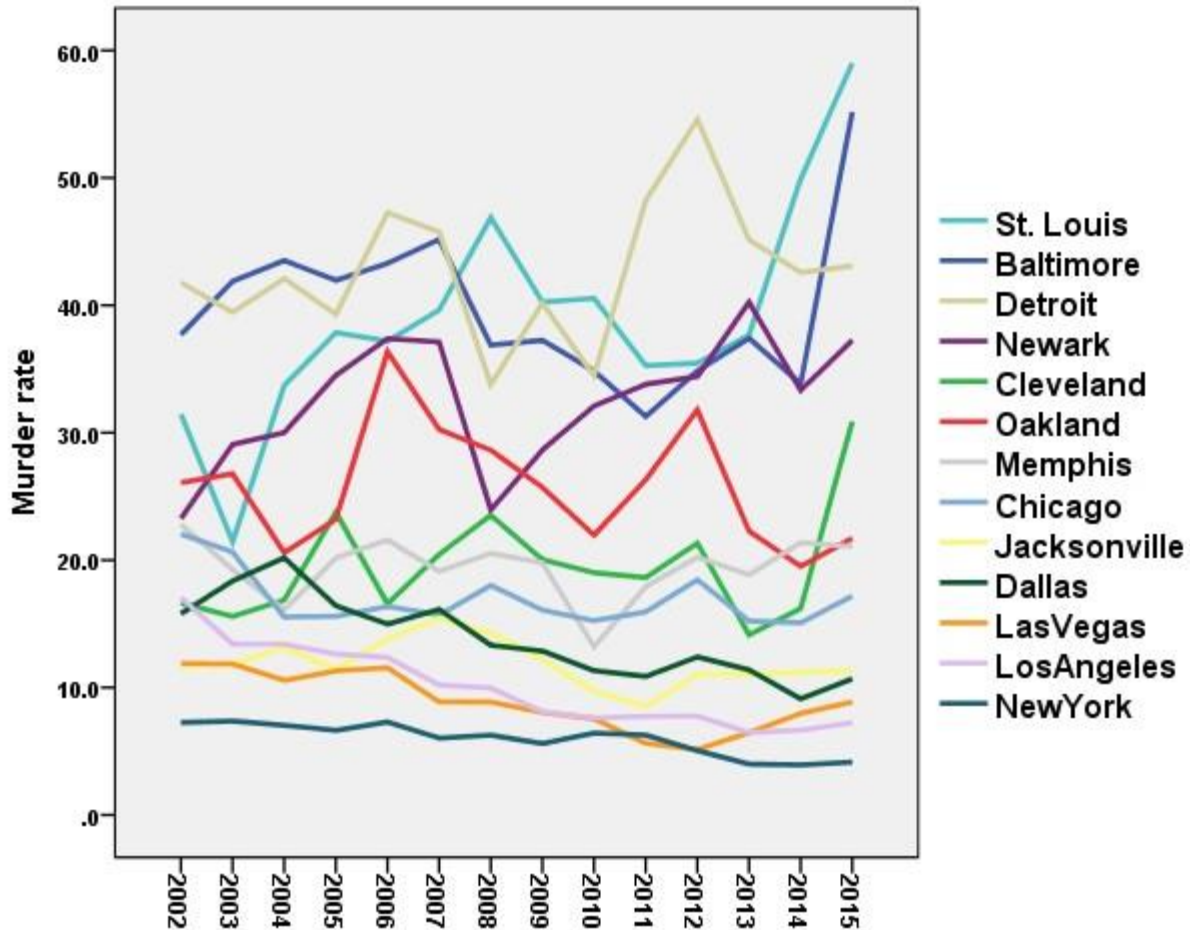
## LOCATION, LOCATION, LOCATION

***Crime happens. To find out why, look to where.***

*By Julius (Jay) Wachtel.* A few weeks ago [we blogged about Chicago's ongoing struggle](#) with violent crime. And it's not just the Windy City that's been having a lousy year. [Data gathered](#) from sixty-three police departments and sheriff's offices by the Major Chiefs Association reveals that half (31) experienced more homicides in the first quarter of 2016 than during the equivalent period in 2015. Some of the increases were substantial. Murders in Las Vegas went from 22 to 40, an 82 percent gain. Other winners (or, more properly, losers) include Dallas (26 to 45, +73 percent), Jacksonville (18 to 30, +67 percent), Newark (15 to 24, +60 percent), Memphis (31 to 48, +55 percent), Nashville (13 to 20, +54 percent), San Antonio (23 to 34, +48 percent), and Los Angeles (55 to 73, +33 percent).

Still, the trophy properly belongs to Chicago. Although its increase wasn't the greatest percentage-wise – the Windy City came in third, at +70 – it dwarfed its competitors in raw numbers, going from 83 homicides during 1Q 2015 to a stunning 141 for 1Q 2016. Overall, [more folks are meeting a violent demise](#) in the City of Broad Shoulders (509 in 2012; 422 in 2013; 427 in 2014; 465 in 2015) than anywhere else in the U.S. (We'll spare readers Chicago's other nicknames. Perhaps these sobering facts might suggest one that's more – um – *contemporary*.)

On the other hand, if we're interested in murder *rates* Chicago is a distant contender. This graph uses data from the [Brennan Center](#), [St. Louis police](#), [U.S. census](#) and the [UCR](#) to compare murders per 100,000 population for thirteen major cities since 2002. (Our focus is on murder because felonious assault data seems far less trustworthy. For more on this see "[Cooking the Books](#)" and "[Liars Figure](#)".)



And the winner (meaning, loser) is St. Louis! It earns the gold for 188 killings, which yielded a breath-taking rate of 59.6 murders per 100,000 population. Baltimore, at 55.2, got the silver and Detroit, at 43.8, the bronze. Chicago – its comparatively measly rate was 17.0 – only came in eighth.

Yet the news wasn't all bad. During 2002-2014 New York City's murder rate fell from 7.3 to 3.9. (It ticked up a bit in 2015, ending at 4.2.) Los Angeles wasn't too far behind. Although it started out far higher, at 17.1, by 2013 its rate had dropped to 6.5. Murder rates have rebounded in the last couple of years, but L.A.'s uptick was relatively marginal, to 6.7 in 2014 and 7.2 in 2015.

So, New York is very safe, and Los Angeles isn't far behind. Right?

Not so fast. Each release of the Uniform Crime Reports is accompanied by a prominent warning against using crime statistics to rank jurisdictions. [Here's](#) the most recent:

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Each year when Crime in the United States is published, many entities—news media, tourism agencies, and other groups with an interest in crime in our nation—use reported figures to compile rankings of cities and counties. These rankings, however, are merely a quick choice made by the data user; they provide no insight into the many variables that mold the crime in a particular town, city, county, state, region, or other jurisdiction. Consequently, these rankings lead to simplistic and/or incomplete analyses that often create misleading perceptions adversely affecting cities and counties, along with their residents.

“Simplistic” or not, once the stat’s come out there’s no holding back the media. In late 2015, only days after release of the UCR’s 2014 installment, the [Detroit News](#) prominently ranked the top ten murder cities, leaving any implications to the reader. Comparisons – essentially, rankings under another name – are commonplace. Two weeks ago, in an otherwise well-documented piece entitled “Homicide Rates Jump in Many Major U.S. Cities, New Data Shows,” the [New York Times](#) gloated that the Big Apple was nothing like Chicago:

Still, more than 50 people were shot in Chicago last weekend, making it among the most violent weekends in months. At the other end of the spectrum was New York City, where homicides fell in the first three months of the year to 68 from 85 in the same period last year.

Respectable police organizations also get in the game. True enough, [the above-mentioned report](#) published by the major cities police chiefs avoids direct comparisons by listing cities alphabetically and providing crime counts instead of rates. Except that the chiefs just couldn’t help themselves: jurisdictions where crime increased are highlighted in red.

What gets lost in the discord about ranking is that cities are political constructs. Crime, on the other hand, is a social phenomenon, with its roots in neighborhoods. Commenting on the recent upswing in murder, Professor Richard Berk [makes the point succinctly](#):

Those homicides are not randomly distributed...Crime, like politics, is local. This stuff all occurs in neighborhoods on much more local levels....It’s not about a city as a whole, it’s about neighborhoods.

Alas, the professor’s enlightened comments were buried in an article that – you guessed it – was replete with rankings. Still, his concerns about place were echoed by Eddie Johnson, Chicago’s weary police commissioner, who attributed the increased



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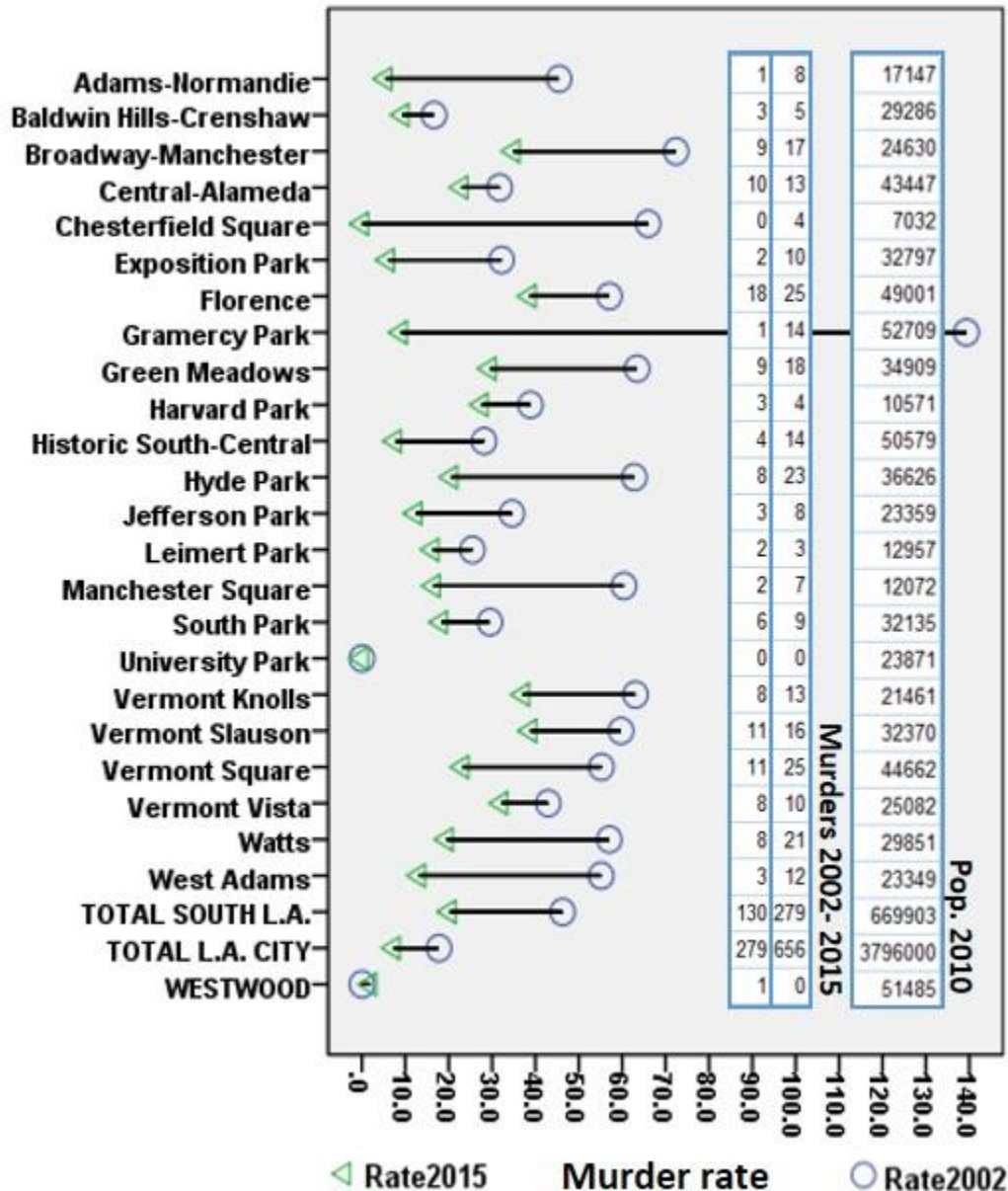
violence to a coterie of well-known criminals who were running amok in certain parts of the city.

That's what another top cop had to say about his burg a few days ago. Interviewed about Los Angeles's recent rebound in homicide, LAPD Chief Charlie Beck hastened to point out that only 427 Angelinos have been shot so far in 2016, while 1,400 were plugged during this period in...Chicago! [But his analysis of L.A.'s increase seems much the same](#):

We took some extreme steps to address the four most violent divisions earlier in the year, and those steps are starting to have some effect. Although it's not over 'til it's over, obviously.

Your blogger spent his teens in a middle-class neighborhood on Los Angeles' west side. His only experience with violence was what he heard on the radio or saw on T.V. Of course, he and his friends steered clear of notoriously violent areas such as South L.A. Two decades later, when your blogger returned to L.A. as an ATF supervisor, he got to experience South L.A.'s crime problems first-hand. He'll always remember that early morning when one of the fed-up local residents walked up and thanked him as agents led a notorious evil-doer away.

What can we learn from neighborhoods? The [Los Angeles Times](#) has been mapping murders in the L.A. metropolitan area since 2000. This graph compares rates for neighborhoods in the incorporated areas of South Los Angeles during 2002-2015:



During 2002-2015, the aggregate neighborhood murder rate (“Total South L.A.”) plunged 56 percent, from 46.2 to 20.2, while the rate for the City of Los Angeles fell 59 percent, from 17.8 to 7.3. L.A.’s starting rate was more than two points lower than South L.A.’s ending rate, and wound up being less than one-third South L.A.’s. Westwood, a trendy area where your blogger’s family occasionally shopped and dined, had zero murders in 2012 and one in 2015. Your blogger’s neighborhood, West Hollywood (2010 pop. 34,426), went from 2 murders in 2002 to one in 2015.

Many L.A. neighborhoods have always been safe, others not so much. Although homicide seems to be on the decline, places such as Broadway-Manchester, Central-

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Alameda, Florence, Vermont Knolls, Vermont Slauson, and Vermont Square are stubbornly resisting the trend. Each is likely to have counterparts elsewhere, and for the same reasons. Say, Chicago.

Cops and criminologists know that place matters. “[Hot-spots](#)” policing, the popular strategy that targets locations in need of special attention, is a computerized version of last century’s old-fashioned pin maps. Sociological interest in neighborhoods dates back to at least the “[Chicago School](#).” And inquiries into place continue. In a compelling new study, researchers sampled census blocks in ten cities to investigate the effects of voluntary organizations on neighborhood crime rates. [Their report](#) appears in the current issue of *Criminology*.

What’s important is to escape the trap of the usual suspect: poverty. Really, most poor people aren’t crooks. Geographically coding crimes and potentially enlightening variables – for example, the presence of violent cliques – might help explain why some disadvantaged neighborhoods fare worse than others. Unfortunately, that’s where movement lags. At present, thirty-three states participate in the [National Incident-Based Reporting System](#). A joint effort of the FBI and Bureau of Justice Statistics, it supplants the stodgy old UCR, which mostly aggregates numbers of offenses and arrests. Unfortunately, while the NIBRS captures information about place, crime locations [are only coded by type](#) (e.g., residence, bar, office building).

To help agencies take the next step, the [National Institute of Justice](#) offers a comprehensive set of mapping and analytical tools. Some departments have been geocoding incidents, publishing maps and even making data available online (click [here](#) for Philadelphia PD’s version.) Geocoded crime data is also offered by private firms and public organizations (the *L.A. Times* “Homicide Report” was used for this piece.) And while its coverage is somewhat dated, the [National Archive of Criminal Justice Data](#) offers data that can be drilled down to ZIP codes, census tracts and block groups.

Hopefully one day all crime will be geocoded. Until then, we should keep in mind that political subdivisions like Los Angeles and Chicago are mostly creatures of the imagination. Just like in real estate, it really *is* all about location.

Posted 12/24/07

## **LOCK ‘EM UP (AND SEND THE BILL TO VENEZUELA)**

By Julius Wachtel, (c) 2010

Governor Schwarzenegger's in a fix. A \$14.5 billion fix. Thanks to weak tax collections caused by a soft economy and crashing home values, that's how much the California budget is in the hole. State agencies have already been told to figure on a ten-percent hit.

Start digging!

Trouble is, some departments spend money like drunken sailors. While most "normal" States expend two or three times more on colleges than prisons, [California's \\$10 billion corrections budget](#) is just shy of the \$12 billion that higher education gets, and if trends hold will surpass it in a few years. The Golden State runs the nation's largest prison system, housing more than 170,000 inmates. [It also imprisons](#) a large share of its population, with a rate of 47.5 per 10,000 in contrast with New York's far more moderate 32.6. And while New York's prison population decreased 2.2 percent between 2000-2006, California's increased by .9 percent (but a much larger 2.8 percent between 2005 and 2006).

Locking up people is expensive -- *very* expensive. A recently approved \$7.4 billion prison bond issue will eventually cost California taxpayers more than \$300 million per year *in interest alone*. California is also under expensive Federal mandates to improve prison health and mental care. For example, this June the court-appointed receiver who controls the prison system's \$1.5 billion medical budget issued a [blistering critique](#) warning that it could take as many as *ten years* to bring things up to snuff. As a side note he also remarked that he would be spending an extra \$158 million this year for staff and capital improvements. And there's more.

- Only three months ago the Governor issued an [executive order](#) clearing the way to transfer as many as 5,000 prisoners to other States. Naturally, that's only a speck, but since tens of thousands are sleeping in gyms and dining halls any relief is welcome. What this will cost hasn't been revealed, but one can bet that it's going to be expensive.

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- Thanks to politicians in bed with the powerful guards' union, corrections pay scales are extremely generous, with experienced officers making \$70,000 or more plus full peace officer retirement benefits (90 percent of salary after 30 years).
- California's severe three-strikes law keeps prisoners in longer. And those who are let out soon return. [California's practice](#) of placing nearly all releasees on parole, then promptly revoking most for violations such as drug use and failure to report is phenomenally expensive. The figures are striking. In 2000 nearly seventy percent of new California inmates were parole violators. (In 1980 the proportion was just twenty percent.) Stunned researchers estimated that if California recommitted only a third of parolees instead of more than two-thirds it could save *\$500 million per year*.

Five-hundred million? That's big bucks even for the Guv. In a recent [proposal](#), Governor Schwarzenegger suggested releasing non-violent inmates with less than 20 months left on their terms, *then not actively supervising them*. Many others already on parole would also be shifted to non-supervised status, subject to search but not revocation for technical reasons. By slicing 22,000 from the inmate population (13 percent) and reducing 1,700 corrections positions, taxpayers could save a whopping \$350 million *per year*.

But wait a minute. How does freeing criminals make us safer? Won't these so-called "savings" be offset by increased victimization? Again, contrast New York and California. Although New York imprisons a substantially smaller proportion of its population, its 2006 violent crime rate of 434.9 per 100,000 was [nearly twenty percent lower](#) than California's 532.5. New York's rate also dropped 2.1% from 2005 (444.4), while California's increased 1.2% (526.0).

Well, maybe California's criminals are more violent and intractable than New York's. We've [already noted](#) that L.A. is more thinly policed than New York City -- perhaps bad guys here have more opportunities! But in 2000 [nearly six out of every ten](#) new California inmates weren't crazed gunmen -- *they were technical parole violators*. Our prisons are bursting at the seams because thousands of parolees are constantly cycling through, doing a few months here and there for lapses such as flunking drug tests and not cooperating with agents.

Draconian laws, misguided practices and an unholy alliance between the guard's union and legislators (and at least one former Governor) have transformed California's penal system into an ever-expanding perpetual motion

machine. That's undeniably good news for the corrections industry, but is it a sustainable policy for the State?



Posted 4/5/09

## LOOKING BEYOND THE GUN BARREL

*Trying to draw lessons from a wave of senseless shootings*

By Julius Wachtel, (c) 2010

Only yesterday Pittsburgh (Penn.) police officers responded to a 911 call of a domestic disturbance. [Richard Poplawski](#), 22, was lying in wait, armed with a rifle and handgun and wearing an armor vest. As soon as police entered he opened up with a barrage of fire, killing three officers and wounding a fourth. During the ensuing standoff Poplawski, a gun enthusiast, called a friend and told him that his rights were being infringed on by “the Obama gun ban that's on the way.” Hostage negotiators eventually talked Poplawski into surrendering. That’s when his frightened grandmother (she’s the one who called police) came out of the basement.

One day earlier, in the quiet enclave of Binghamton (NY), [Jiverly Wong](#), 41, donned his own set of body armor, grabbed two pistols and a rucksack stuffed with ammunition and drove to an immigrant service center. Blocking the rear exit with his car, he barged in, guns blazing. Within moments fourteen lay dead, including himself. Acquaintances said that the middle-aged Vietnamese man, who was taking English lessons at the center, was angry about losing his job and despaired of his language skills.

What causes such tragedies? What can be done to protect officers and citizens from armed madmen? Searching this website’s [news archive](#) for similar incidents we found eleven multiple-victim shootings since January 2008 that lacked a traditional criminal motive. We just mentioned two. Here are the rest:

- In March 2009 [Robert Stewart](#), 45, walked into the North Carolina nursing home where his estranged wife worked. Drawing two pistols, he killed seven elderly patients and a nurse and wounded three others, including a police officer. Stewart’s wife escaped injury. Stewart was shot by police and arrested.
- Two weeks earlier [Michael McLendon](#), 28, an unemployed Alabama man with a “life-long fascination with guns” armed himself with two assault rifles, a handgun and shotgun. Before the day was done he had killed his

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mother, seven relatives and two bystanders, wounded six others, including two officers, and committed suicide. Survivalist gear and armored vests were found in his residence. McLendon, who had quit a job for no apparent reason, was estranged from his family. He once wanted to be a cop but flunked out during his first day in the academy.

- In September 2008 [Isaac Zamora](#), a seriously mentally ill 28-year old Washington State parolee with an extensive criminal record went on an armed rampage. He killed six, including a deputy sheriff, before he was arrested. His motive? “I kill for God.” Zamorra’s been declared incompetent. Neighbors knew that he had rifles and pistols but apparently told no one.
- In July 2008 [Jim Adkisson](#), 58, walked into a Kingston Pike (Tenn.) church service and blasted away with a sawed-off shotgun, killing two parishioners and wounding six before he was wrestled to the floor. An unemployed mechanic, he had written a manifesto railing against the “liberalism that’s destroying America” and vowing to kill Democrats “til the cops kill me.”
- In June 2008, soon after an argument with his supervisor got him booted from a Kentucky plastics factory, [Wesley Higdon](#), 25, called his girlfriend and said he was going to kill himself. But first he returned to the plant with a .45 cal. pistol and shot and killed his boss and four coworkers. Then he committed suicide.
- In March 2008 Virginia Beach (VA) apartment dweller [William Smith](#), 52, opened fire with two assault rifles, killing a 32-year old woman and an elderly man and wounding three others, one critically. He then killed himself. Smith was upset that he was being evicted for acting weird and banging on the walls. One of the residents had thought to call police about Smith’s increasingly aberrant behavior but never did.
- Also in March a Palm Beach (Fla.) handyman opened fire in a Wendy’s restaurant with a 9mm. pistol, killing a paramedic and wounding four other patrons before turning the gun on himself. Detectives learned that the shooter, [Alburn Blake](#), 60, was ill and had been behaving oddly. Why the restaurant? It’s where he and his estranged wife used to dine and

argue.

- In February 2008 [Charles Thornton](#), 52, walked up to a police officer guarding a meeting of the Kirkwood (Mo.) city council, pulled a large-caliber revolver and shot him dead. Taking the officer's weapon, Thornton killed a second policeman, a councilwoman and two officials, and seriously wounded the Mayor and another person. Responding officers then shot him dead. Thornton, a local businessman, had been embroiled in disputes with local officials. He reportedly told his brother that he was "going to war."
- Also in February a veteran LAPD SWAT officer was killed and another was wounded by a mentally ill man armed with a handgun and shotgun. Officers entered the home after [Edwin Rivera](#), 20, called 911 to report, as it turns out correctly, that he had killed his father and two brothers. Rivera was shot dead by a police sniper.

Reducing these episodes to numbers, here's what we learned:

A total of sixty-six persons died of gunshot wounds, including five shooters who committed suicide and two who were shot by police. Fifty-nine innocents also lost their lives. Among them were seven police officers, eleven family members, five coworkers and 36 outsiders (persons unconnected with the shooter.) The number of dead per episode ranged from three (all police officers) to fourteen (thirteen outsiders plus the shooter.)

Five incidents started out or were influenced by family disputes. Five shooters professed political or social agendas.

There was a pronounced split in shooter age. Six were over 40, with four over 50. The other five were all in their twenties.

The shooters led uniformly bleak lives. As far as is known, none was living with a spouse. Seven, perhaps eight were unmarried; three were divorced or estranged. Not counting the one who came back to kill after being fired, only two were gainfully employed. Four had documented mental problems; two had mental problems plus serious criminal records (each wound up killing a police officer.)

Nine shooters were armed with handguns, four had rifles, three had shotguns, and three a combination. Three wore body armor. One, Jiverly Wong, whom a [criminologist](#) aptly described as a “pseudo-commando,” was responsible for the largest toll, killing thirteen. Another, McLendon, a gun enthusiast, was the second most prolific killer, killing ten and wounding six, including two officers. The third, Poplawski, also a gun enthusiast, murdered three officers.

Can such tragedies be prevented? It’s unlikely. Families and friends described the shooters as angry men, displeased with their personal circumstances and mad at a system that they thought had failed them. That generalization is probably applicable to many fans of talk radio. Given just how much nuttiness there is, to say nothing of the ready availability of firearms, keeping lunatics from acting out their deranged fantasies seems hopeless.

Well, there *is* something that might prove useful. We left out the [recent murder of four Oakland officers](#) from the list because that shooter had what he considered a “rational” reason: he didn’t want to go back to prison. Cornered in an apartment after shooting two officers at a traffic stop, he fired again when police stormed in. Two more officers fell dead. SWAT said they didn’t wait because they couldn’t readily evacuate the building where the shooter took refuge. It’s a decision that will surely be under the microscope for a long, long time.

After the [Columbine high-school massacre](#) police across the country resolved to move in quickly to keep citizens from being harmed. Academies now train patrol officers to form impromptu entry teams. Taking immediate action seems reasonable when facing expressive shooters like Wong, McLendon, Poplawski, whose commitment to redress real and imagined grievances poses a grave risk to anyone they might come across. But for criminals less concerned with making a statement the traditional “surround and call out” strategy may be more appropriate. It’s something to consider before the next time police face the unthinkable.

Posted 10/17/10

## (MERRILY) SLIPPIN' DOWN THE SLOPE

*First out the gate with medical marijuana,  
California considers legalizing its recreational use*

*By Julius (Jay) Wachtel.* Pitchfork in hand, [a robust, bearded man poses proudly amidst his crop](#). Close to his side, a statuesque blonde gazes into the distance. Her full lips, painted a bright cherry, frame a knowing smile.

No, they're not farmers, at least not in the conventional sense. Steve Soltis, an artist, has come to the rural Northern California paradise known as "Life is Art" to help founder Kirsha Kaechele bring in the harvest. Cannabis, that is. Marijuana. Pot. Grown for resale to medical collectives, its proceeds support several resident artists and help fund art programs in Ms. Kaechele's hometown of New Orleans.

First in the nation, California's [medical marijuana law](#), enacted in 1996, allows physicians to prescribe the drug for a wide range of illnesses, both real and, as many would argue, imagined. Here is how *Los Angeles Times* columnist Steve Lopez, who was seeking relief from back pain, [described his visit](#) to one of the Southland's numerous clinics:

Now I'm not saying it was strange for a doctor to have an office with no medical equipment in it, but I did take note of that fact. And when I described the pain, the doctor waved me off, saying he knew nothing about back problems. "I'm a gynecologist," he said, and then he wrote me a recommendation making it legal for me to buy medicinal marijuana. The fee for my visit was \$150.

Medical marijuana "clinics" started blanketing California within days of the law's passage. The state now hosts a freewheeling pot marketplace that includes a cadre of compassionate M.D.'s who happily issue marijuana cards to anyone who is twenty-one and willing to go through the motions of being "examined." Many cities are besieged by dispensaries. In 2007 Los Angeles imposed a moratorium and required that the nearly two-hundred then in existence register with authorities. That apparently didn't work so well, as [earlier this year](#) the city ordered 439 unregistered clinics to close.

To date [fourteen states and the District of Columbia](#) have legalized medical marijuana. Like measures are pending in eight states. Yet cannabis is a Schedule I controlled substance, thus illegal for any use under both [Federal law](#) and [international](#)

[treaty](#). That didn't keep Attorney General Eric Holder from issuing a [densely worded memo](#) in October 2009 that essentially prohibited DEA from interfering in medical marijuana operations that were in "unambiguous compliance" with state laws. Now that a critical mass of states are in the medical pot corner the window of opportunity to challenge medical marijuana under the [Supremacy Clause](#) has effectively passed.

Inevitably, the slope has continued to slip, and once again California is leading by a head (pun not originally intended.) Next month's ballot features an initiative, [Proposition 19](#), that legalizes the recreational use of pot. Anyone 21 and older could possess and cultivate marijuana for their own enjoyment. Commercial production and sale would be regulated and taxed, supposedly generating, according to the law's backers, "billions" in revenue. Support for the measure comes from the ubiquitous marijuana lobby, a handful of retired law enforcement executives, a former Surgeon General, and, surprisingly, the influential Service Employees International Union. Police organizations, D.A.'s, Mothers Against Drunk Driving and the Federal drug czar have lined up in opposition. (Click [here](#) for the official arguments pro and con.)

Oh, yes, [Attorney General Holder](#) is also against. In a letter directed to retired drug agents, he said that DOJ "strongly opposes" the measure, in part because it would "greatly complicate" federal drug enforcement. Given the manufacturing and distribution infrastructure that medical marijuana built while DOJ snoozed, he's already right. Meanwhile, Los Angeles County Sheriff Lee Baca has angrily vowed to ignore the proposition altogether, calling it unconstitutional and "null and void and dead on arrival." It's anticipated that the Feds will request an injunction citing the Supremacy Clause should the proposition pass.

Pot is supposedly illegal because of health concerns. For example, our [previous post](#) reported disturbing evidence about marijuana's effects on cognition. Yet as election day nears we've heard precious little from the medical community. Finally the liberally-minded *Los Angeles Times* stepped in. Two weeks after publishing a [surprising editorial](#) that harshly criticized Proposition 19 because it conflicts with Federal law and could make workplaces unsafe, it ran a piece [addressing marijuana's health hazards](#). One expert, a psychiatrist who chairs the California Society of Addiction Medicine (CASM), estimated that 17 percent of 14 and 15 year olds who take up pot will become dependent within two years. "Marijuana is not devastating in the same way that alcohol is. But to an adolescent, it can impact their life permanently. When you take a vacation from development in school for five years, you just don't get to the same endpoint that was available to you earlier in life."



But will legalization really draw more people to the drug? While advocates of marijuana say no – after all, it’s already widely available – some experts estimate that breaking down legal barriers will increase the number of users by 50 percent. Last year California tax collectors put forward their own, somewhat lower estimate of [40 percent](#). Whatever their actual numbers, most CASM members agree that many of these new users will be adolescents, the group with perhaps the most to lose.

So here’s a question for readers: what percentage of *parents* would want their kids to figure in the increase?

Posted 4/13/19

## MISSION IMPOSSIBLE?

***Inner-city violence calls for a lot more than cops.  
Is America up to the task?***

*For Police Issues by Julius (Jay) Wachtel.* On April 3 the *Chicago Sun-Times* [trumpeted some very good news](#) for residents of the city's embattled Tenth precinct. Officially known as the [Ogden District](#), the area comprises two neighborhoods, [North Lawndale](#) and [South Lawndale](#) (aka "Little Village"), which have suffered from far more than their share of violence. But things may be getting better in the dangerous Tenth. Compared to the [forty-three shootings and eight deaths](#) that its denizens endured during the first quarter of 2018, this year's toll of twenty-one shootings and three fatalities, an improvement of over fifty percent, is substantially steeper than [Chicago's citywide decline](#), from 461 shootings and 117 deaths in FQ 2018 to 391 shootings and 93 deaths this year.

What's behind the Tenth's improvement? Most of the comments in the *Sun-Times* news piece credit the cops. According to a police captain, the gains are a product of "partnerships between police and community leaders, predictive analytics, the operational strategy...and the execution of that plan by the district's officers." A local alderman happily concurred. "They [officers] are out here with outdoor roll calls in the summer. They're at block clubs. They're doing the things that the community wants to see and the reason that the numbers are down is because of them."

Time to celebrate? Maybe not, cautioned the [Los Angeles Times](#). On the one hand, violence in Chicago has abated somewhat, with murders falling from 770 in 2016 to 660 in 2017 and 561 in 2018 (FBI counts are 765 in [2016](#) and 653 in [2017](#)). More cops, a sharp increase in gun seizures, and the use of gunshot-detection sensors and data-driven analytics that predict where crime is likely to occur may have contributed to the drop. Chicago's inner-city neighborhoods, though, experienced proportionately few benefits. In 2017, even as violence was down citywide, [the Tenth](#) nonetheless posted an appalling 44 homicides. Its murder rate of 28.3/100,000 pop. (see note below) was considerably higher than [Chicago's](#) (653 murders, pop. 2,706,171, rate 24.1), which was (and remains) in far worse shape than the relatively peaceful burg's of Los Angeles (281 murders, pop. 4,007,147, rate 7.0) and New York City (292 murders, pop. 8,616,333, rate 3.4).

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And the Tenth wasn't the worst example. Consider Chicago's notorious [Seventh police district](#), aka "[Englewood](#)." In 2017 its homicide rate (48 murders, pop. 42,969, rate 111.7) was *four times* the Tenth's. (In 2016, at the peak of the violence, the Seventh's 86 homicides yielded a truly astronomical rate of 200.1.) At present the Seventh [is again heading in the wrong direction](#), with ten killings during the first quarter of 2019 in comparison with eight last year.

Of course, not all of Chicago is in dire straits. Consider, for example, its wealthy [North Center](#) area, pop. 30,493, [with zero homicides](#) in 2016 and 2017. (For the ten best neighborhoods in Chicago, click [here](#)).

In "[Location, Location, Location](#)" we argued that it really *is* all about neighborhoods. Thanks to a surfeit of the poor, high-violence kind, the Windy City regularly produces more killings than Los Angeles and New York City combined. That's not to say that Hollywoodland and Gotham should be popping corks. While their overall crime rates are consistently lower than Chicago's, each has its own intractably violent areas as well. (For more about that click [here](#) and [here](#).)

So where does one go from here? First, we must abandon the notion that fine-tuning the police response or "cranking things up" can solve the problems created by crime and violence. Even the most sophisticated law enforcement strategies can only go so far. LAPD's "[Chronic Offender](#)" program massaged data to identify supposedly dangerous characters, then placed officers on their tail. Unfortunately, the real world intruded, and seventy percent of the time the allegedly active evil-doers were nowhere to be found (p. 18). And there was another problem. As our posts (most recently, "[Driven to Fail](#)") have warned, the interplay between poverty, race and ethnicity means that aggressive strategies such as stop-and-frisk inevitably produce buckets-full of "false positives" in minority-rich areas. That, as LAPD learned, can lead to a lot of anger and discord. It's why the program [recently collapsed](#).

Well, how does one truly "fix" places like the Tenth, the Seventh, South L.A. and the Bronx? That's what the renowned [Urban Institute](#) addressed in a landmark study, "[Tackling Persistent Poverty in Distressed Urban Neighborhoods](#)." Its authors issued recommendations in five areas:

- Education and child care: quality education, quality child care, enrichment opportunities, summertime activities
- Crime and violence: less of both!

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- Personal and environmental health: physical and mental health services, affordable, quality food, safe play areas and public spaces
- Neighborhood efficacy: supportive neighborhood environment, including caring for each other's children, collective ability to lobby and secure external resources
- Expanded economic opportunities: job training, apprenticeships, adult education, summer jobs, transportation to opportunities elsewhere

Let's focus on our favorite: economic opportunities. What would it take to improve the poor's access to legitimate sources of income? In brief, an awful lot. [Jobs-Plus](#) is perhaps the best known national example. A partnership between the Feds and major private foundations, the program provides employment opportunities, job training and financial incentives to residents of public housing projects in thirteen States. Its goal: to create "a culture of work." Its cost: since 2015, [\\$63 million from HUD](#). (Jobs-Plus initiatives are funded by multiple public and private sources. Click [here](#) for a current list.)



We could go on, but the point's been made. Truly reforming Chicago's Tenth, or the Seventh, or South Los Angeles or the Bronx would require massive infusions of time, labor and capital. Such as our President "trump-eted" during his campaign (remember his promise of a "[New Deal for black America?](#)"). That nothing happened is no surprise. In addition to their cost and complexity, programs that seek to substantially improve the quality of life in our afflicted inner cities carry a lot of ideological baggage. Where, for example, should one draw the line between "help" and "handout"? It's no surprise that despite well-meaning efforts such as LBJ's "[Great Society](#)" the promises of urban renewal have always far outweighed their reality.

As our [Strategy and Tactics](#) posts demonstrate, *Police Issues* is definitely not of the mind that law enforcement can't (or shouldn't be) improved. Really, when compared to initiatives such as Jobs-Plus, fine-tuning the police seems like a cakewalk. That may explain why we habitually dump society's problems on the cops. And why our grandkids' grandkids will still be dealing with the poverty and violence of our inner cities.

Unless, of course, climate change gets us first. Oops, sorry. Wrong pulpit!

Posted 11/10/15

## MORE CRIMINALS (ON THE STREET), LESS CRIME?

### *Debating the virtues of a less punitive agenda*

*By Julius (Jay) Wachtel.* During the early 1970s New York’s “Rockefeller laws” sought to quell rampant drug dealing and drug-related violence by imposing mandatory prison sentences on persons caught selling or possessing modest quantities of heroin, cocaine and other illegal drugs. In 2009 the state changed course. Many so-called “low-level” drug offenders – meaning possessors and dealers whose involvement was modest and who lacked a prior conviction for a violent crime – could escape incarceration by completing a course of treatment. Six years later the [Vera Institute announced](#) the outcome of a study that compared matched samples of offenders processed under both schemes. The results seemed encouraging. Fifty-four percent of those sentenced under the old, punitive Rockefeller laws were rearrested within two years of release or discharge, six percent for a violent offense. For those diverted to treatment under the new laws, the outcomes were thirty-six percent and three percent, respectively.

New York isn’t alone. Last year [we blogged](#) about California’s Proposition 47, which reduced penalties from felonies to misdemeanors for grand theft, shoplifting, receiving stolen property, writing bad checks, and check forgery when losses were under \$950. Possessing drugs also became a misdemeanor. A similar approach was adopted by the Feds. In 2014 the [U.S. Sentencing Commission](#) relaxed Federal drug sentencing guidelines, [enabling as many as 6,000 inmates](#) to seek immediate release, and up to 40,000 more in the not-so-distant future.

Financial pressures and prison crowding prompted states and the Federal government to ease up on punishment. Approaches include releasing prisoners, amending penal codes to reduce sentence length and downgrade some felonies to misdemeanors, and instituting or expanding the use of diversion and treatment.

That doesn’t mean that offending is being completely forgiven. Misdemeanors are still crimes. But shifting away from imprisonment increased the burden on parole and probation offices and local lockups. These, in turn, [accommodated the influx](#) by freeing jail inmates and limiting the length and intensity of post-release supervision. Unlike penal revisions, though, tweaks pulled off at lower levels aren’t necessarily enshrined in codebooks. There is no obvious cost, until there is. In a notorious 2013 example,

California authorities repeatedly reinstated a habitual parole violator until the man, a convicted sex offender, murdered a 76-year old woman and chopped up her body.

While the outcomes of going easy aren't always so stark, the consequences of the new normal may in time prove profound. "Now, you can get away with it" bragged a chronic offender, who [admitted he began stealing bicycles](#) when California raised the felony theft threshold to \$750. Even better, he could still use drugs because nothing happens when he fails to show up for drug rehab. L.A. County Sheriff Jim McDonnell said that's to be expected. "We've removed the disincentive, but we haven't created a meaningful incentive."

To help make their approach more palatable, advocates of leniency point to the crime drop that we've enjoyed since the madness of the eighties and early nineties. If crime is falling, why not experiment? However, as we mentioned in prior posts (click [here](#) and [here](#)), one likely reason for the "great crime drop" was that increased punishment deterred those who could be deterred while incapacitating the rest.

There are now disquieting signs that violence is again on the rise. As of August 2015, the murder rate in New York City was [nine percent higher](#) than at the same point in 2014. Dallas, Kansas City, Chicago and New Orleans have reported moderate upticks ranging from 17 to 22 percent, and substantial increases were recorded in Washington, D.C. (44 percent), Baltimore (56 percent), St. Louis (60 percent), and Milwaukee (76 percent). Property crime has also gone up in many areas; most recently, with "[double-digit](#)" increases in Los Angeles.

Some argue that the threat is overblown, as only drug possessors and other nonviolent offenders are in line for a break. First, as we pointed out in "[Rewarding the Naughty](#)," that's not necessarily true. As long as a California inmate's most recent offense didn't involve the use of significant force, those with past convictions short of murder are just as eligible for relief under the new laws as anyone else. What's more, the oft-repeated screed that a majority of inmates are there for drug possession doesn't hold up. According to the [Bureau of Justice Statistics](#), only 3.6 percent of state prisoners in 2013 were locked up for drug possession. Fifty-three percent were serving time for a violent crime and 10.5 percent for burglary. In 2014, 96.6 percent of [Federal drug convictions](#) were for drug trafficking, and only 0.9 percent for simple possession.

Secondly, and perhaps more importantly, citizens are far more concerned about the quantity of crime than the characteristics of its perpetrators. To claim that some offenders are somewhat less likely to be recidivists is little comfort when crime is on the rise. Still, this is not a call to "lock 'em up and throw away the key". Excessive



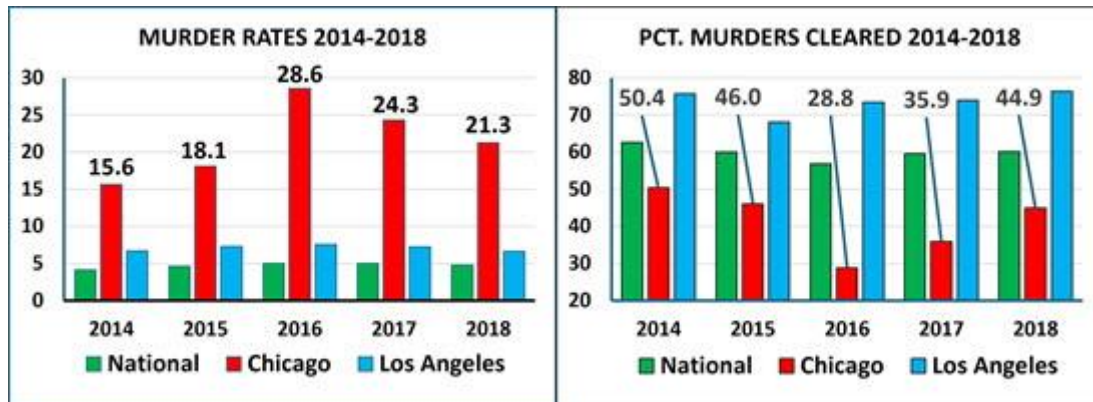
punishment drains resources while consigning human beings – for that’s what convicted criminals are – to needlessly prolonged misery. Your writer would be delighted to arbitrarily halve or even quarter prison terms if adequate resources were provided to help former convicts successfully integrate into conventional society. Naturally, there would have to be vast improvements in the delivery of education, counseling, housing and job training services. To help former inmates become self-sufficient, it would probably be necessary to provide financial incentives to potential employers. But as we know from the [failed deinstitutionalization movement](#), which promised great savings and more humane outcomes by shifting the mentally ill from state sanatoria to community treatment, successful remedies are expensive. Instead of making the necessary investments, we transformed street cops into orderlies and city jails into mental wards.

Unless we dig deep into our pockets, these are precisely the results that we will get by deinstitutionalizing criminal offenders. Count on it!

Posted 6/22/25

## MORE POVERTY, LESS TRUST

*Citizens who most need the cops trust them the least*



For *Police Issues* by Julius (Jay) Wachtel. Our lead graphic uses UCR and NIBRS data published by the [Murder Accountability Project](#) to illustrate Chicago's long-standing problem with crime, and particularly of the violent kind. In 2018, the "windy city's" chronically high murder rate and abysmally low solution drove its leaders to ask the [Police Executive Research Forum](#) to probe things and offer advice. Was there anything that could realistically be done?

Funded in part by a Federal grant, a team of specialists spent a year reviewing Chicago PD's investigative practices, analyzing its material and personnel resources, examining examples of past casework, and interviewing detectives and staff members. A detailed assessment offering eighty-nine specific recommendations was delivered in 2019. Best we can tell, that tome wasn't publicly released. But on April 24, 2025 CPD posted an [87-page report](#) that "highlights instrumental changes the Department has made to align with recommendations in key areas of staffing, organizational structure, oversight, training, policies and procedures, and equipment and technology." Readers get a step-by-step tour of just what the beset agency's done to implement PERF's recommendations.

Has it helped? Check out our updated version of the graphics:



In 2023, four years into the re-do, the city’s murder rates were nearly one-quarter (23.9 percent) worse than in 2019. And the percent of homicides cleared correspondingly plunged. While 2024 clearance rates aren’t yet in, [Chicago PD reported](#) 573 murders in 2024, yielding a per/100,000 homicide rate of 21.1. That’s a bit “improved” from 2023 but still *way* beyond the pale.

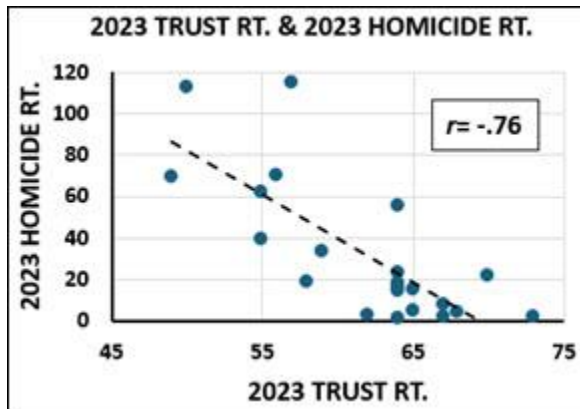
Chicago PD’s report doesn’t get into the “numbers.” But it does offer abundant praise for PERF’s team, without whom “the Department and Bureau of Detectives could not have advanced as rapidly and successfully in implementing these reforms to homicide investigations.”

Job done, right? Well, not so fast. “I get that they’re understaffed. But at the same time, where’s my justice?” That lament was recently conveyed to the [Chicago Sun-Times](#) by a rideshare driver who was shot and seriously wounded during a 2021 robbery. That “understaffing” (and its consequences) also catches heat from the cops. Here’s what a retired detective had to say. “In some districts, in the summer, you might be getting five or seven shooting cases a week. Even if you wanted to run down every case like [it was] a murder, there’s just no time to do it...”

According to the *Sun-Times*, compared to L.A., only half as many of Chicago’s cops are detectives. That shortage of investigators supposedly contributes to poor solution rates and high levels of crime. Indeed, increasing the number of detectives was a key element of PERF’s plan. Chief Ursitti told reporters earlier this year that a team of detectives had recently been formed to specialize in shooting investigations, and that the unit’s size would expand.

To be sure, more detectives can prove useful. Detailed sweeps of crime scenes and the execution of search warrants and such can yield valuable evidence. But there’s no substitute for having citizens promptly alert police when things go astray. Witness testimony is always crucial, and picking out evildoers from a lineup can’t be done by a

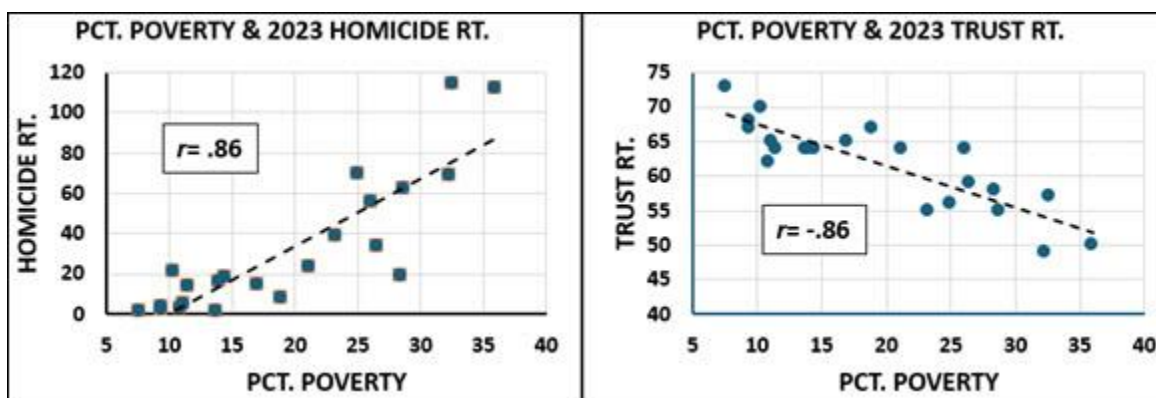
machine. Of course, Chicago well knows that citizen cooperation is key. In fact, during 2018-2023 [the city paid a private firm to survey citizens](#) about their feelings of safety and, just as importantly, of their trust in the police.



Might how citizens feel about cops affect their peace-keepers' end product? We used the  $r$  correlation statistic to assess the relationship between the trust that residents expressed in the police, district by district, and [homicide rates per 100,000 pop.](#) (trust data is from 2023, the most recent year available.) The  $r$  scale ranges from zero, meaning no relationship between measures ("variables") to one, meaning that they move

in lockstep. Here the outcome,  $r = -.76$ , suggests that trust and homicide are strongly linked. It's negative: as scores for one increase, scores for the other decrease. Grab a look. Each district is a "dot." Those on the low end of the trust scale (left side) have mostly high homicide rates, while those at the high end of the trust scale (right side) mostly enjoy low homicide rates.

Point made? Well, not so fast. Problem is, that seemingly strong statistical relationship between trust and homicide, which is consistent with the former's role as a "cause" of the latter, may have actually been produced by a third factor with which both measures are strongly associated. Indeed, whenever the "effect" is violent crime, we've always turned to poverty as the likely suspect.



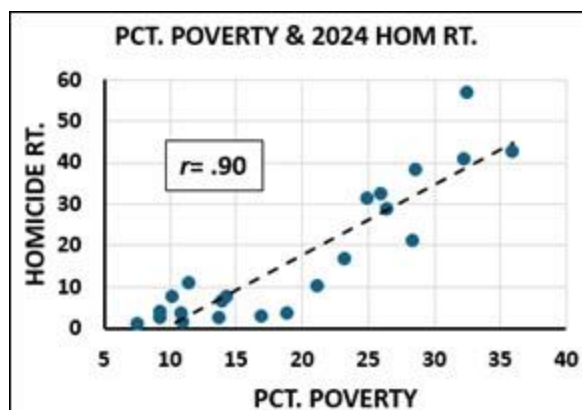
Check the scattergram on the left. Poverty's relationship with homicide yields a pronounced  $r$  of .86: as poverty goes up, so do murders, and nearly in lockstep. What's more, the relationship between poverty and trust (right graphic) is also very strong.

At  $r = -.86$  it's (coincidentally) of the same magnitude but negative, meaning that as poverty increases, trust systematically declines.

Poverty is strongly associated with both homicide and trust. Might that exaggerate the magnitude of trust's seeming relationship with homicide? To find out we turned to "partial correlation," a technique that strips away the influence of a third variable from a two-way relationship. Here's the result:

ORIGINAL CORRELATIONS				PARTIAL CORRELATIONS			
	TRUST	HOM	POV		TRUST	HOM	POV
TRUST		-0.76	-0.86	TRUST		-0.08	-0.62
HOM	-0.76		0.86	HOM	-0.08		0.62
POV	-0.86	0.86		POV	-0.62	0.62	

- Trust and homicide: Trust and homicide (left table) have a strong  $r$  of  $-.76$ . But when the influence of *poverty* is removed (right table), their relationship plunges to a measly  $-.08$ . It literally disappears.
- Poverty and homicide: When the influence of *trust* is removed, the relationship between poverty and homicide drops from a weighty  $.86$  (left table) to a lesser but still substantial  $.62$  (right table.)
- Poverty and trust: When the influence of *homicide* is removed, the relationship between poverty and trust drops from  $-.86$  (left table) to a still-substantial  $-.62$  (right table).



Lack of trust in the police might well be another of poverty's unholy effects. But put trust aside for the moment. Homicide-wise, poverty clearly has the leading role. And in Chicago, its effects may have become even more pronounced last year. This scattergram compares percent in poverty and 2024 district homicide rates. Look at those dots! (again, each is a district.) This time the relationship between poverty and homicide

produces an  $r$  of  $.90$ , only inches away from a "perfect"  $1.0$ . (Note: According to a [CPD news release](#), homicides fell from 620 in 2023 to 573 in 2024. Our district-by-district count using the city's "[crime dashboard](#)" produced 586 homicides for 2024. So that's the number we used. Thankfully, it's only a small difference. Alas, there were no trust scores for 2024. But that's for another day!)

Back to trust. According to the [Sun-Times](#), “Chicago police have a low level of trust among the public, particularly in communities where most shootings happen.” Its probe discovered that “about 1,500 nonfatal shootings since 2018 were dropped because the victims of those shootings didn’t want to help with the investigation.” Bottom line: poverty and homicide really *are* that proverbial “horse and carriage.” And trust is clearly along for the ride. Problem is, residents of stricken areas know full well that calling in the “Mounties” could easily place them – and their families – at grave personal risk. So *of course* they’d think twice before helping the cops.

Is that frustrating? Ask the rideshare driver.

What can be done? Tweaking police deployment and such might help. But don’t expect miracles. As we’ve often argued, what’s really needed is a socio-economic transformation of poverty-stricken neighborhoods. Here’s an outtake from “[Let’s Stop Pretending](#)”:

To be sure, the craft of policing can always improve. But poverty and the things that come with poverty can make even “routine” policing exasperating. As we recently noted in “[Fix Those Neighborhoods!](#)” and “[Human Renewal](#),” making a *real* difference would require a concerted effort to provide needy areas with resources and services that might prevent the next Adam Toledo from running around with an armed gang-member at one in the morning. That calls for major investments in child care, tutoring, job training, apprenticeships, health care and housing. And yes, it would be expensive, and yes, residents of better-off areas might complain.

What can *you* do? Pass it on!



Posted 2/9/20

## ***MUST THE DOOR REVOLVE?***

***Bail and sentencing reform come. Then stuff happens.***



*For Police Issues by Julius (Jay) Wachtel. Must the door that feeds jails and prisons forever revolve? Can we unplug the thing without causing even more pain? Let's start with three recent horror stories:*

- Last November, Charles Goforth, a 56-year old Chicago-area man, [shot and wounded his girlfriend](#). He was soon arrested in Missouri. But a magistrate released him on an \$8,000 cash bond and Goforth went home to his wife. On January 30 he revisited his victim, who was recuperating at home, and shot her dead.
- “I can’t believe they let me out” said Gerof Woodberry, 42. [New York City cops arrested him](#) on January 10 for “stealing or attempting to steal” from four (count ‘em, four!) banks. Thanks to a [new state law](#) that abolishes bail for non-violent crimes, he was released two days later. Woodberry, who had served prison sentences in South Carolina for five strong-arm robberies, promptly robbed two banks in four days. He’s now in Federal custody, where the rules are different.

- On October 13 two small children found their mother's lifeless body on the bedroom floor of their New York City apartment. [She had been beaten to death](#). It took two months for police to arrest her alleged murderer, Asun Thomas, 46. He had been living in a halfway house since being paroled in 2016 after doing sixteen years of a 20-year term for manslaughter.

We realize that Goforth, Woodberry and Thomas can't be used to represent the universe of persons who are released pending trial or after serving a term of incarceration. They're an "accidental" sample compiled from stories that caught your blogger's eye while perusing *The New York Times*, *The Washington Post*, the *Los Angeles Times* and the *Chicago Tribune*, something he does most mornings. (And yes, he's got subscriptions. You should, too!)

Recidivism is a weighty subject. [DOJ's Bureau of Justice Statistics](#) has been studying it for some time. In 2018 it published data about recidivism for a sample of 401,288 convicted felons who were released in 2005 after serving prison terms in thirty States. During their first nine years of freedom the former inmates compiled an average of five arrests each. Nearly half (44 percent) were arrested during the first year, and sixty-eight percent during the first three years. By the end of the ninth year a full eighty-three percent had been arrested at least once. As for *type* of crime, Table 7 of the [report](#) indicates that regardless of the crime for which they were originally confined – violent, property, public order or drug-related – about four in ten were arrested at least once, post-release, for a crime of violence.

[Research on Federal prisoners](#) also paints a gloomy picture. [A study](#) of 25,431 Federal convicts released in 2005 indicates that within eight years half (49.3 percent) were arrested on new charges. Nearly one-third of the sample (31.7 percent) suffered another conviction, and nearly one-quarter (24.6 percent) were re-incarcerated. Since these were former Federal inmates, a majority of the original convictions were for drug trafficking. But about one-quarter (23.3 percent) of the post-release arrests were for assault.

Are there ways to help former inmates avoid reoffending? NIJ's "[Corrections & Reentry](#)" webpage features reviews of 136 "programs" (approaches tailored to specific places) and thirty "practices" (methods used at multiple sites.) Each was rated as either "no effect," "promising" or "effective."

A "program" in Massachusetts' capital city, the "[Boston Reentry Initiative](#)," actually begins while offenders are still locked up. Meant for gang members and others at high risk of committing a violent crime, the voluntary effort – inmates must ask to join –

offers everything from assistance in getting a driver's license to help with substance abuse, housing and job training. After release there's a day center; each former offender also gets a "case manager" who provides one-on-one help for up to eighteen months. BRI's "promising" rating is based on an [academic study](#) that concluded participants were significantly less likely than non-participants to be arrested post-release. During their first three years back on the street, arrests for any crime befell 77.8 percent of the BRI cohort and 87.7 percent of a non-BRI control group. Arrests for violent crimes followed the same pattern (27.8 and 39.2 percent, respectively.)

Several efforts in NIJ's "practices" category also seemed pertinent:

- "[Pretrial Interventions for Ensuring Appearance in Court](#)" evaluated three approaches for combatting failure-to-appear and re-arrest: court notifications (reminders), cash and appearance bonds, and pretrial supervision, ranging from electronic monitoring to placement in a halfway house. Of these, only pretrial supervision demonstrated a statistically significant reduction on failures to appear (this effect, which led to a "promising" rating, was nonetheless considered "small.") None of the methods, however, reduced rearrests.
- "[Day Reporting Centers](#)" (aka "community resource centers" or "attendance centers") offer non-residential services to parolees and probationers, including supervision, drug abuse treatment and job training and placement. A 2019 meta-evaluation of nine such efforts found that none was more effective in preventing recidivism than conventional probation and parole.
- "[Noncustodial Employment Programs for Ex-Offenders](#)" offer job training, career counseling and educational services in settings such as halfway houses and group homes. Assistance is hands-on and can include resume preparation and coaching for job interviews. Alas, a review of ten programs concluded that their participants were just as likely to be re-arrested or convicted or commit a release violation as probationers and parolees who didn't take part.

Glancing at the scorecards, we noticed that only a measly eight percent of practices and five percent of programs got NIJ's "effective" nod. Even then, there seems to be pitifully little to brag about. Consider the well-regarded Boston program. While the difference between clients' 77.8 percent re-arrest rate and the comparison group's 87.7 percent rate may be statistically significant, its real-world implications are less than compelling. Even so, the program's academic evaluators seemed highly impressed. Here

are their journal article's ("[Controlling Violent Offenders Released to the Community: An Evaluation of the Boston Reentry Initiative](#)") final words:

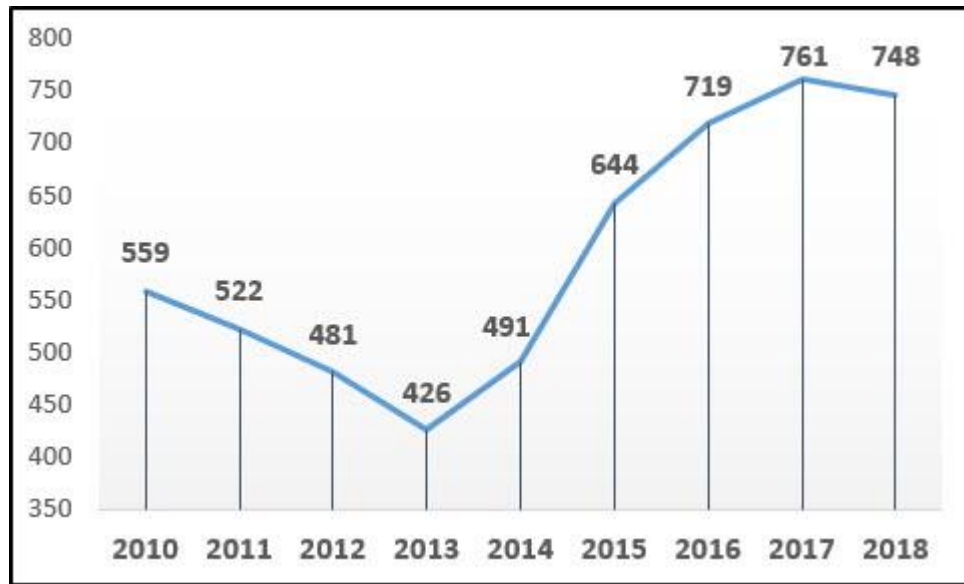
...these findings suggest that individualized treatment plans, facilitated by mentors and supported by a network of criminal justice, social service, and community-based organizations, can positively affect gang-involved offenders returning to high-risk communities. Effective gang violence prevention policy should focus on developing programs that facilitate prosocial transitions for gang-involved inmates after release from incarceration.

As bad old "police science and administration" (your blogger's undergrad major) gave way to the modern disciplines of criminal justice and criminology, university programs began looking on policing – indeed, all forms of social control – far more skeptically. Consider, for example, [a recent lead story](#) in John Jay college's *The Crime Report*, "Why Re-Arrest Doesn't Mean You're a Failure." Its source, [an extensive essay](#) by Professor Cecelia M. Klingele in the *Journal of Criminal Law and Criminology*, argues that re-arrest is a poor proxy of recidivism, as it fails to consider positive "life changes" and unspecified "nuances" that would yield a more accurate assessment of desistance from crime. (And, one might assume, a far more upbeat one as well.)

While fine-tuning our measurement tools might yield some benefits, all this newfangled sophistication threatens to distract us from the reason we bothered in the first place. Whether recidivism stands at 77.8 or 87.7 percent, it's flesh-and-blood people who pay the price. Powerful real-world examples of the human costs of crime, such as those that kicked off this essay, feed the fire of advocacy groups positioned well to the right of *The Crime Report*. Say, [The Manhattan Institute](#). Its recent missive, "[Issues 2020: Mass Decarceration Will Increase Violent Crime](#)," uses arrest, sentencing and reoffending data to argue that "given the extremely high rates of recidivism," backing off on imprisonment can only lead to more suffering.

Consider the story of [Shomari Legghette](#). Thanks to his early release from prison, the four-time loser with convictions for armed robbery, guns, drugs and assault was running loose on Chicago's streets. On February 13, 2019 he was approached by officers who wanted to question him about some recent gunplay. Legghette ran off, and when confronted by police commander Paul Bauer, who happened to be nearby, the forty-four year old chronic offender pulled a gun and repeatedly fired, inflicting fatal wounds. (For an account of Leggett's troubled life – in his own words, no less – click [here](#).)

Full stop. Let's look at some numbers. This graph uses [LAPD's UCR data](#) to depict the city's violent crime trend from 2010 thru 2018, the latest full year available:



“[The Blame Game](#)” mentions three key easings during this period: a 2011 act ([AB 109](#), the “Public Safety Realignment Act”) that shifted confinement and supervision of “non-serious, non-violent” felons from state prisons and parole agents to county jails and probation officers; Proposition 47, a 2014 measure that reduced many felonies to misdemeanors; and, two years later, Proposition 57, which reduced sentences and facilitated early parole.

What caused the sharp, post-2013 uptick? [Cops](#), [prosecutors](#) and the [state peace officer’s association](#) would say: “all three.” Their angst isn’t purely based on numbers. Consider, for example, Michael Mejia. After doing three years for robbery, the 26-year old Southern California resident was arrested for grand theft auto and served another two years. After his release he committed a string of violations. In the old days Mejia would have been returned to prison, but thanks to A.B. 109 he merely landed in county jail, and for brief periods, at that. On February 20, 2017 [Mejia gunned down his cousin](#) and stole a car. He then shot and killed veteran Whittier, Calif. police officer Keith Boyer and seriously wounded his partner.

Whittier’s grieving chief and the L.A. County Sheriff [laid blame on California’s legal retrenchments](#). Sheriff Jim McDonnell complained that his jails had become a “default state prison” and that thanks to the letup, “we’re putting people back on the street that aren’t ready to be back on the street.”

Not everyone sees it that way. According to the liberally-inclined [Public Policy Institute of California](#), the uptick in violence [was already in progress](#) when Proposition

47, which it supports, came to be. That view [was supported by researchers](#) at UCI's School of Social Ecology, who found no difference when comparing 2015 crime rates between California and "synthetic" equivalent states with like demographics but no changes in the laws. (Yes, that's 2015 only.) Punching back, a conservative Oakland-based group, the [Independent Institute](#), pointed out that property crimes such as car burglaries [also surged](#) after Prop. 47 took effect. In June 2018, the Public Policy Institute [partly conceded](#). Yes, early releases may have somewhat increased offending, but only of the "property" kind. As for the spike in violence, that's an artifact of changes in crime defining and reporting. And don't fret, they added: recidivism is on the way down.

We'll wait while the blues and the reds duke it out. And keep an ear to what's happening in New York. On January 1st. [a bail reform law went into effect](#), eliminating cash bail for misdemeanors and "non-violent" felonies, including some robberies and burglaries. That's led to the release of many arrestees pending trial and, as the *New York Times* [recently reported](#), is putting authorities "on edge":

A few liberal prosecutors, including the Brooklyn district attorney, Eric Gonzalez, have embraced the changes, pointing to states that saw lower crime rates after they eliminated cash bail. But many prosecutors and police officials worry that some defendants released under the new rules will continue to commit crimes....

Really.



Posted 5/8/11

## PHYSICIAN, HEAL THYSELF

***Pharmaceuticals are America's new scourge.  
So who's been writing the prescriptions?***

*By Julius (Jay) Wachtel.* Did Michael Jackson commit suicide? Improbable as it might seem, [that's essentially the theory being advanced](#) by the legal team representing Dr. Conrad Murray, the physician who awaits trial for allegedly causing the pop star's untimely demise. Jackson, they suggest, was so distraught about money problems that he guzzled a lethal dose of [propofol](#) from the beaker while his doctor wasn't looking.

A surgical anesthetic, propofol quickly induces sleep and, once consciousness returns, an euphoric state. Its effects are presumably why Michael Jackson repeatedly prevailed on Dr. Murray to inject him with the powerful sedative. The final instance was on June 25, 2009, when the physician, who said that Jackson suffered from chronic insomnia, administered a dose intended to help the entertainer rest up for a busy rehearsal schedule.

Except that this time Jackson didn't wake up. At Dr. Murray's preliminary hearing earlier this year [a Los Angeles County coroner's investigator testified](#) that she found a dozen full bottles of propofol in Jackson's closet, and an empty bottle along with seven vials of prescription sedatives by his bed. Autopsy results confirmed that Jackson's death was caused by a combination of propofol and other drugs. Prosecutors charge that Dr. Murray had recklessly prescribed and administered them to his patient.

Last month the California Medical Board rebuked Dr. Murray, but not in connection with Michael Jackson's death. [He was instead censured](#) for not disclosing on medical license renewal applications that he was behind on child support. Other than being barred from administering heavy sedatives, Dr. Murray's California, Texas and Nevada medical licenses remain valid. A Los Angeles judge (but not the medical board) did order him to stop practicing medicine in California until the trial is done. It's now scheduled for this fall.

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"This is a completely profit-driven operation that has no medical regard for anyone. These clinics have nothing to do with the welfare of the community." [DEA Special Agent in Charge Mark R. Trouville](#) was referring to the six South Florida "pain management

clinics” that the Feds raided in February for allegedly dispensing powerful prescription painkillers to anyone who had the cash.

What the clinics were doing was hardly a secret. Addicts routinely camped out awaiting opening time. Over the course of a year Trouville’s agents paid more than two-hundred visits, going through the motions of being “examined,” getting prescriptions and having them filled. One of the most popular pharmaceutical dispensed at the clinics was oxycodone, the most frequently abused synthetic opiate in the U.S.

When the hammer fell the Feds arrested five doctors and seventeen other employees for illegally prescribing and dispensing controlled substances and covering their tracks with bogus and misinterpreted medical tests. This was the opening strike in “[Pill Nation](#),” an ongoing inquiry into forty-plus Florida “pill mills” that had been dispensing restricted drugs on a cash-only basis, no checks or insurance cards, please. More than sixty doctors are suspected of improprieties. So far [fifty-plus have reportedly surrendered their licenses](#).

Business was generated through word of mouth and the Internet. And the money was good. Agents seized \$2.2 million in cash, several homes and dozens of luxury vehicles including Lamborghinis and a Rolls-Royce from Vinnie Colangelo, the owner of the clinics.

With an estimated 850 pain clinics, the Sunshine State attracts prescription drug addicts from much of the U.S. Florida has become such a big draw that clients of a Jacksonville clinic were being transported from Ohio in *tour buses*. Florida physicians are gaining nationwide notoriety. A Florida doctor will soon go on trial in Kentucky for illegally dispensing pills to as many as 500 residents of that state.

Clinics aren’t the only problem. A week ago [Palm Beach officers arrested a physician](#) for furnishing women Oxycodone, Valium and other prescription drugs in exchange for sex. He had once worked at one of the raided clinics and was planning to open his own.

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When we think drug abuse, cocaine and heroin normally come to mind. Think again. By 2007 drug overdoses – mostly involving prescription drugs – were killing more people in Ohio than car crashes. In hard-struck Scioto County nearly ten percent of babies born in 2010 tested positive for drugs. [Portsmouth, the county seat](#), has experienced everything from teenagers smuggling painkillers into school to a grisly double murder committed by an addict desperate for his next pill. According to a public

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health nurse, “around here, everyone has a kid who’s addicted. It doesn’t matter if you’re a police chief, a judge or a Baptist preacher. It’s kind of like a rite of passage.”

Law enforcement is struggling to keep up. State agents recently raided a Portsmouth medical practice suspected of illegally dispensing drugs. Meanwhile a Portsmouth physician is on trial on those charges in Cleveland. While the city has enacted a moratorium on new pain clinics, Police Chief Charles Horner says he lacks the resources to wage a meaningful fight. “We’re raising third and fourth generations of prescription drug abusers now. We should all be outraged. It should be a number one priority.”

It’s not just crooked doctors. In the last three years [more than 3,000 pharmacies](#) from Maine to California have been hit by robbers seeking painkillers and sedatives for personal use, and with increasing frequency, for resale. Oxycodone (OxyContin), hydrocodone (Vicodin) and alprazolam (Xanax) are the most popular. Frightened pharmacists have responded by turning their businesses into virtual fortresses, elevating counters and installing bulletproof glass. Things got so bad in Maine that the U.S. Attorney agreed to prosecute pharmacy heists under Federal laws that carry especially stiff sentences. Meanwhile a bill in Washington State seeks to raise the minimum incarceration time for robbery when no weapon is shown from three months to three years.

Law enforcement, of course, is just a band-aid. For a more lasting solution one could ask drug manufacturers to reduce their output. Just like gun makers, they crank out far larger quantities of product than could ever be legitimately used. Well, good luck with that. Another tack might be to prevail on doctors to pay more attention to their Hippocratic oaths and less to their colleagues’ Ferraris. Considering the many physicians [who churn out medical marijuana prescriptions](#) for a host of ailments real and imagined, good luck with that, too. Think that’s too gloomy a portrait? Here’s how *Los Angeles Times* [columnist Steve Lopez described his “exam”](#):

Now I’m not saying it was strange for a doctor to have an office with no medical equipment in it, but I did take note of that fact. And when I described the pain, the doctor waved me off, saying he knew nothing about back problems. “I’m a gynecologist,” he said, and then he wrote me a recommendation making it legal for me to buy medicinal marijuana. The fee for my visit was \$150.

Perhaps the key is to attract the right kinds of people into medicine. Recently the medical profession took a (very) tentative step in this direction by recommending that the [medical school application process](#) (AMCAS) require that candidates supply information which can be used to evaluate their “integrity and service orientation.”

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That's nice. Until that's fully implemented, though, keep passing the band-aids.

Posted 2/29/20

## PLACE MATTERS

### ***Desperate to avoid controversy, politicians avoid the obvious***

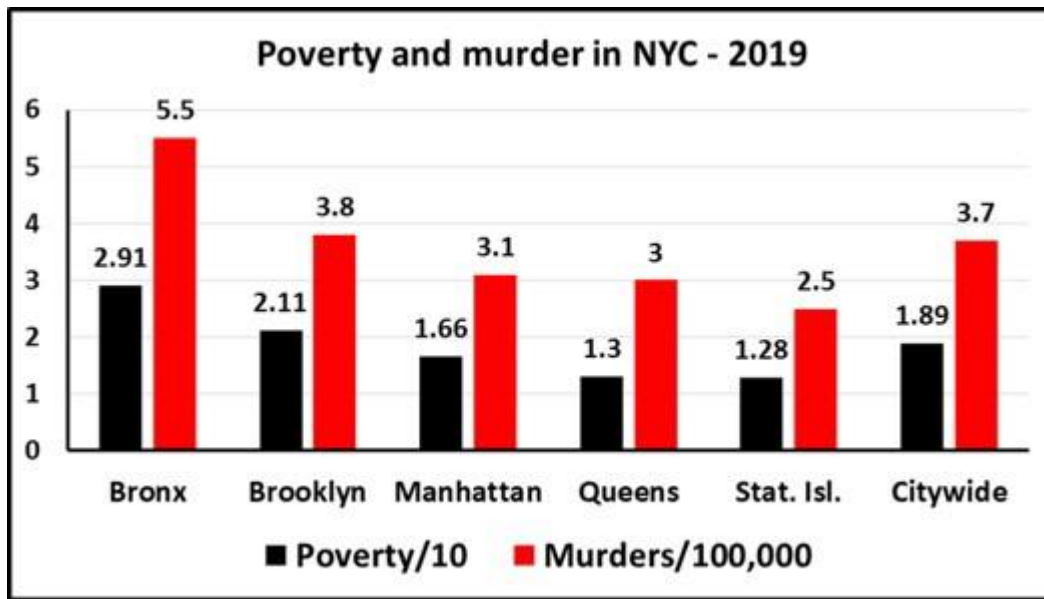
*For Police Issues by Julius (Jay) Wachtel.* Let's begin with a memorable quote:

Ninety-five percent of your murders – murderers and murder victims – fit one M.O. You can just take the description, Xerox it and pass it out to all the cops. They are male; minorities 16 to 25. That's true in New York, that's true in virtually every city....

Mind you, that's not *Police Issues'* point of view. It is (*was?*) Michael Bloomberg's. [A video](#) of his speech at the [Aspen Institute's](#) 2015 annual get-together for the well-to-do and connected depicts the former Wall Street magnate, three-term NYC Mayor (2002-2013) and self-funded Presidential wannabe saying lots of things he would one day regret.

Well, that's politics! Still, are “ninety-five percent” of the Big Apple's murders – and *murderers* – *really* cut from the same cloth? We've looked into crime in Gotham in some detail. “[Be Careful What You Brag About](#)” (Part II) compared ten low-poverty and ten high-poverty NYPD precincts. As one might expect, their murder and robbery rates were very much different, and in the anticipated direction. New York City's high-crime areas, we concluded, “aren't in the Big Apple” – they're part of that other, disadvantaged America where our nation's minorities disproportionately reside.

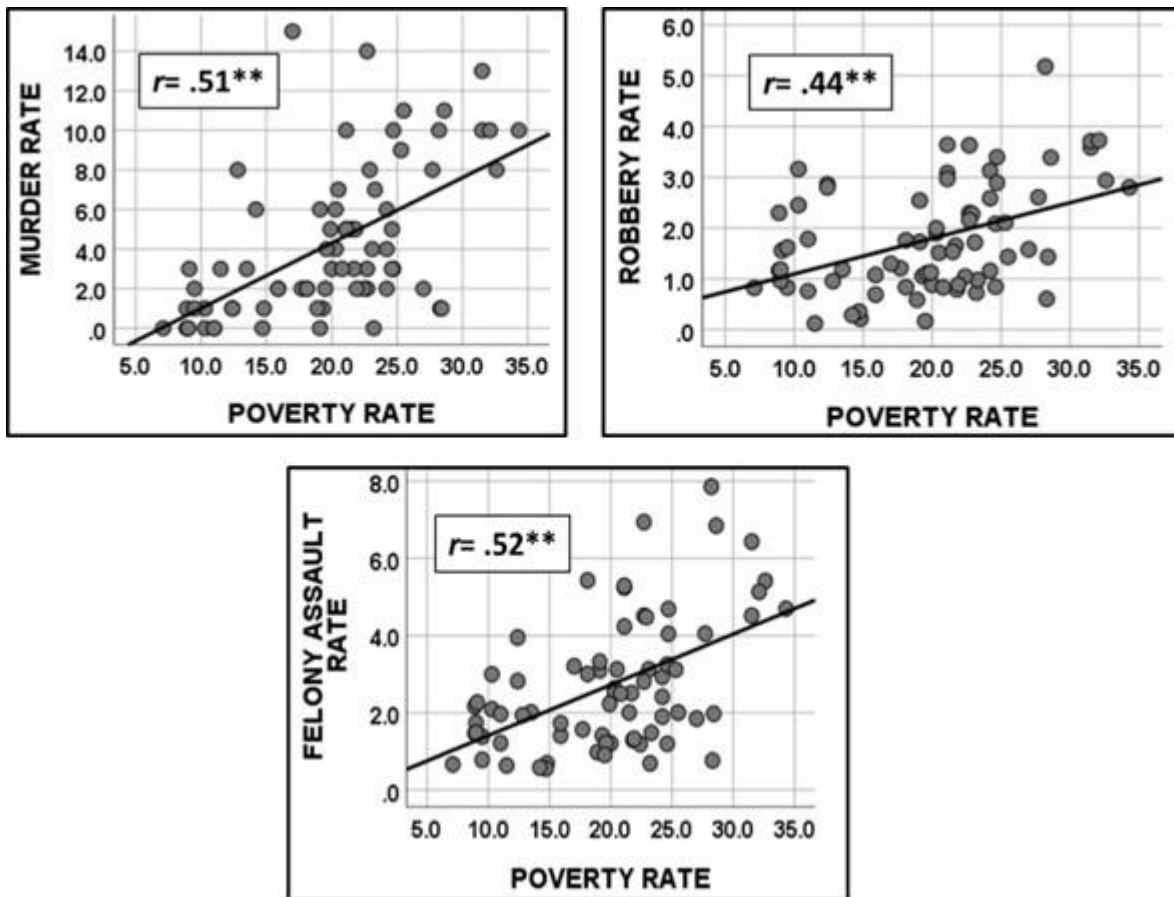
Nothing's come up since then to change our minds. According to the most recent [Census estimate](#), New York City's poverty rate is 18.9%. But there are huge differences within. *Twenty-nine percent* of the residents of the Bronx, the least prosperous of the city's five boroughs, are poor. Might that affect murder?



New York City [reported 310 murders](#) for 2019. Seventy-nine – about one in four – took place in the Bronx. With a population slightly over 1.4 million, the city’s most poverty-stricken area also posted its worst murder rate, 5.49 per 100,000. Every other borough – Brooklyn (pop. 2.6 million, 100 murders), Manhattan (pop. 1.6 million, 50 murders), Queens (pop. 2.3 million, 69 murders), and Staten Island (pop. 470,000, 12 murders) – followed in lock-step fashion. As poverty receded, so did homicide.

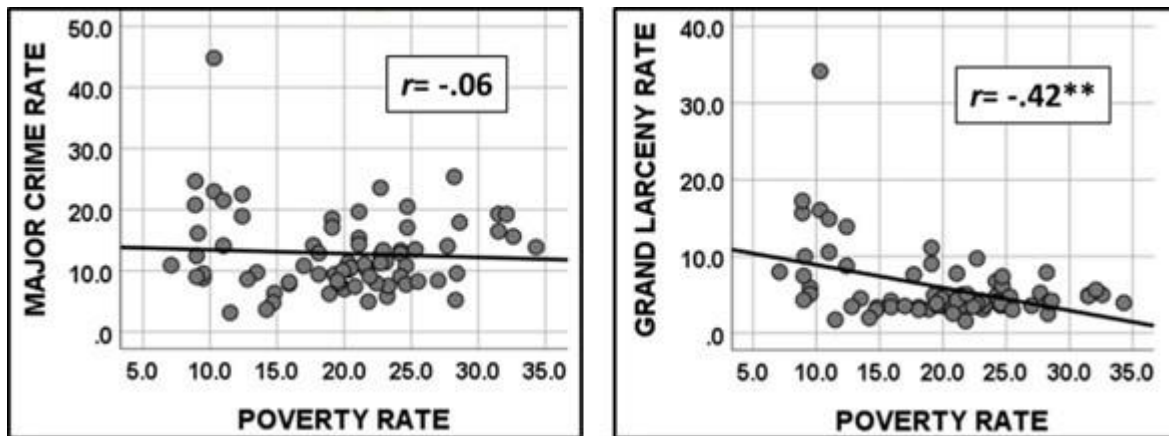
Poverty influences crimes other than murder. Using [precinct populations](#) and NYPD’s [recently posted 2019 data](#) for seven major crimes (murder, manslaughter, rape, robbery, felony assault, burglary, grand larceny, and grand larceny of a motor vehicle) we computed murder, robbery and felony assault rates for 73 of the city’s 77 police districts (precincts 14, 22, 41 and 121 were omitted for methodological reasons.) Correlation analysis (the “*r*” statistic) was then applied to assess the relationship between each of these crimes and poverty.





Each dot represents a precinct. As one might expect, murder, robbery and felony assault had positive, statistically significant (i.e., meaningful) relationships with poverty. By “positive” we mean that the rates – say, poverty and murder – went up and down together. By “significant” we mean that the statistical procedure generated two asterisks, indicating a probability of less than one in one-hundred that a coefficient, such as .51, was produced by chance. As for the magnitude of the coefficients,  $r$ ’s can range from zero (no relationship) to one (strongest relationship.) In practice, those produced are indeed substantial.

What about the other index offenses? Check out these graphs:



Perhaps surprisingly, there's virtually no relationship between poverty and the aggregate measure, the major crime rate. Here's why. Grand Larceny was by far the category's most frequent offense. Its relationship with poverty was also strongly negative, meaning that as poverty went up, grand larceny went down. That makes sense. "Grand" larcenies require [a loss of \\$1,000 or more](#), making them far more commonplace in economically better-off places. New York City's profusion of grand larcenies countered the effects of violent crime, making its rate a misleading indicator of the relationship between crime and place.

So what did we learn? Citywide scores can seriously mislead. New York City, whose leaders habitually brag about low crime, posted [a 2018 murder rate](#) of 3.5/100,000 pop., handily beating the nation's 5.0 and, by substantial margins, [virtually every other city](#) of size. Indeed, when one considers Detroit's jaw-popping murder rate of 38.9, or Chicago's merely miserable 20.7, even the Bronx looks good. "[Location, Location, Location](#)" offered Los Angeles as another example of self-proclaimed success in the war against crime. After all, its 2015 murder rate was "only" 7.3 (N=279). Yet there were some startling exceptions within. Such as the bedraggled Florence neighborhood (Zip 90003, poverty rate 33.1%). With a population of 49,001, its eighteen homicides that year produced a murder rate of 36.7, *five times* the citywide figure. Still, neither Florence nor the Bronx managed to spoil their parents' triumph. Los Angeles and New York simply have so many prosperous residents that their aggregate poverty rates remain fetchingly low.

Of course, protective factors likely matter. With nearly eight and one-half million residents and an astounding [28,069 persons per square mile](#), the "Big Apple" is by far the largest and most densely populated of the nation's fifty major cities. Los Angeles, the runner-up in population, has half as many residents. Its density of 8,360, while on the high end nationally, is but a fraction of [Manhattan's](#) astonishing 69,467 inhabitants per

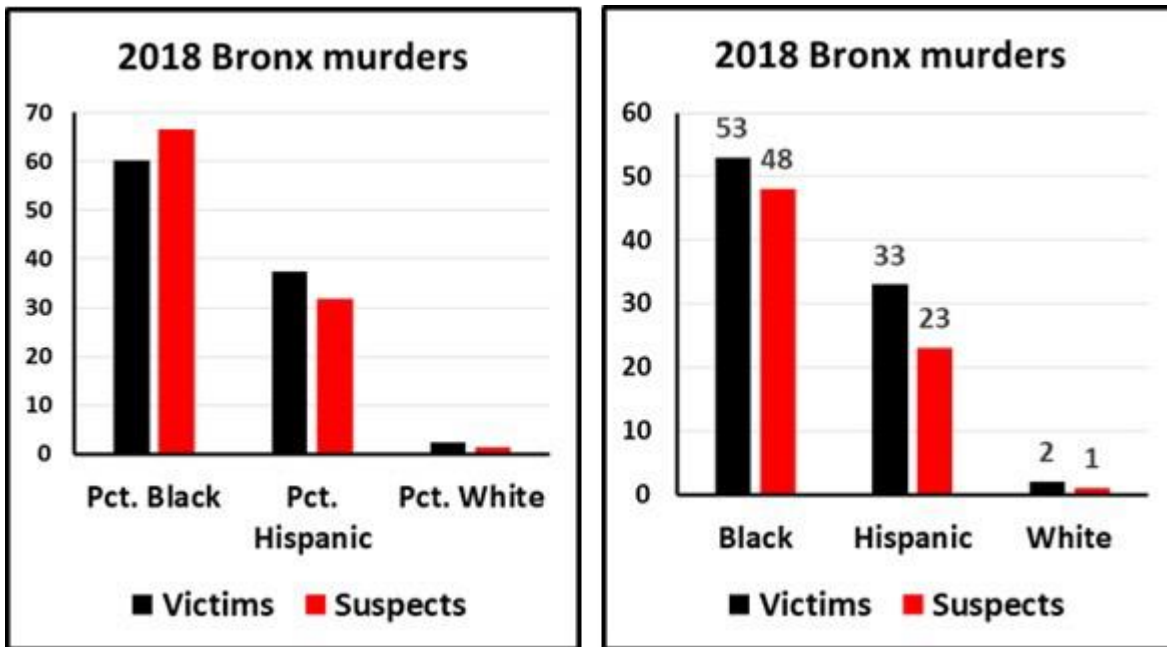
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square mile. How did the prosperous burg get there? By ensconcing its well-to-do residents in pricey, access-controlled high-rises. Bingo! Instant security, and likely one of the reasons why the borough's crime rates are low.

When it comes to crime, place isn't just critical for New York and Los Angeles. In "[Human Renewal](#)" we wrote about the far smaller community of South Bend, Indiana (pop. 103,869). Coincidentally, its former mayor, Pete Buttigieg, is also a Presidential candidate. South Bend police [posted data](#) for 346 "criminally assaulted shootings" between 2015-2018. (If the link isn't working we'll happily share our copy.) Using Census population and poverty figures, we computed a shooting rate for each of South Bend's ten Zip codes, then ran correlation analysis. Sure enough, the relationship between poverty and shootings was strong and positive ( $r=.68^*$ ). More poverty, more violence.

No matter. None of the Presidential candidates – nor, with a single exception (see below) any other politician of note – is talking about neighborhoods. Our favorite remedy, a "Marshall Plan" for America's downtrodden places, isn't on the radar. (We've been pushing for it since, um, 2008. Click [here](#).) Perhaps they worry that focusing on place would bring in potentially controversial issues like race and ethnicity.

But we're not running for office. Let's return to the loser in New York City's poverty/murder sweepstakes: the Bronx. According to the [most recent Census estimate](#), blacks comprise thirty-six percent of its residents. Lamentably, more than one in four (26.7%) blacks who reside in the downtrodden borough live in poverty. And the consequences seem all too predictable.



According to NYPD's "[Supplementary Homicide Report](#)" for 1998, ninety-one of that year's 295 murders took place in the Bronx. Race and ethnicity were known for 88 victims and 72 assailants. These graphs (frequencies on the left, percentages on the right) depict the grim racial and ethnic distribution. Citywide, about one-third of New York City's residents are white. Yet according to the 2018 report, whites figured as either victim or suspect in *less than one in ten* homicides.

Place, and the money it takes to live in a nice place, really, *really* matter.

For a breath of fresh air, let's consider the views of a political figure who tells it like it *really* is. We're talking about the [Hon. Randall Woodfin](#), Mayor of Birmingham, Alabama. Conveying the view that a community "is only as strong as its lowest quality-of-life neighborhood," his recent "[State of the City](#)" speech described Birmingham's obstacles in a memorable (and remarkably candid) fashion:

In a city of 99 neighborhoods, 88 of them are majority black and 11 are majority white. Those 11 neighborhoods are the safest. Those 11 neighborhoods have the highest income, highest home property value. And in those other 88 neighborhoods that make up the fourth-blackest city in America, there's a 29% poverty rate. You dig deeper into that for single families, it's 43%. They don't have vehicles. The property value hasn't increased, unemployment is higher, and there's too much crime.

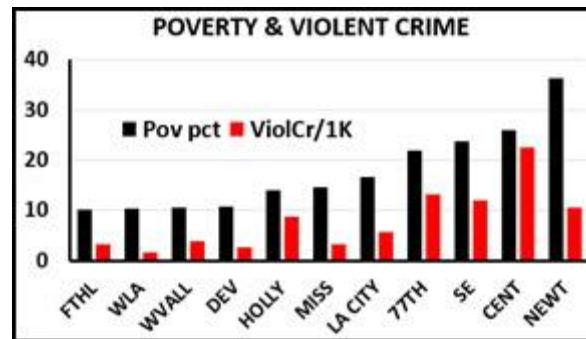
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Mayor Woodfin's solution, a multifaceted "neighborhood revitalization program," seems highly promising. Grab a ballot. We're writing him in!

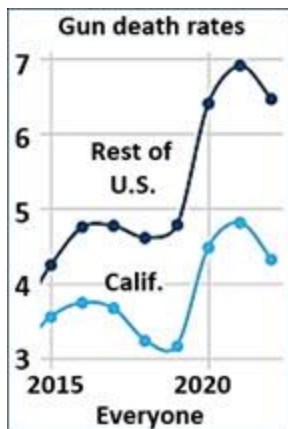
Posted 10/18/23

## POLICING CAN'T FIX WHAT *REALLY* AILS

*California's posturing overlooks a chronic issue*

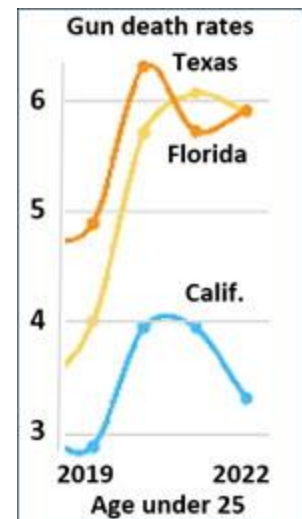


For *Police Issues* by Julius (Jay) Wachtel. two months ago Cal DOJ's Office of Gun Violent Prevention (OGVP) released "[The Impact of Gun Violence in California.](#)" A data-rich thirty-seven page report, it sings the praises of the Golden State's achievements in reducing gun violence since the bad-old days of the nineteen-nineties. As those of us who then labored in the trenches well remember, that's when the crack epidemic beset our nation's inner cities and transformed south Los Angeles and its equivalents elsewhere into virtual combat zones.



But OGVP's bragging doesn't end there. California's more recent gun violence statistics draw prominent, highly favorable) mention. Pointing to [CDC Wonder's](#) firearms-related death data for 2013-2022, the report boasts that "if the firearm mortality rate in the rest of the U.S. matched California's over this same period, there would have been nearly 140,000 fewer firearm-related deaths across the nation in that decade alone, and potentially *hundreds*

*of thousands* fewer gunshot injuries" (p. 13, emphasis ours). Those views are bolstered by graphs based on per/100,000 gun death rates; one (see left) contrasts California with the U.S. overall (p. 10); another (see right) with the two other most populous states, Texas and Florida, for persons under 25 (p. 12).





What's behind California's comparatively benign gun-violence score? According to OGVP, aggressive enforcement, "affirmative litigation" and lawmaking play key roles. Authorities have taken firm measures to combat the proliferation of ghost guns, those unserialized instruments of death that can readily fall into the hands of unsavory characters and the underaged. "[Red Flag Laws](#)" enable family members, caregivers and police to seize guns from risky persons, including family members, before they strike. And prohibitions on lethal implements such as assault weapons and large-capacity magazines, which are often used to commit mass murder, have supposedly made the state "a leader in efforts to help intervene and prevent shootings before they occur."

And so on and so forth. It's not until page 32 of the 37-page report that attention shifts to the possible *causes* of gun violence. The focus is on race and gangs:

...in 2020-2021, the modal patient hospitalized for nonfatal gun assault injuries in California was a Hispanic or Black male in his 20's, admitted to the hospital on a weekend, hospitalized for over one week, and publicly insured through Medi-Cal...(p. 33)

...Researchers with the National Network for Safe Communities examined data from nearly two dozen cities across the U.S. and found that on average, at least half of homicides and 55% of nonfatal shootings in those cities were perpetrated by and/or against people known by law enforcement to be affiliated with gangs, "street groups," or social networks engaged in violence...(p.36)

We've often written about the well-known, thoroughly documented relationship between poverty and violence (see, most recently, "[Good News/Bad News](#)"). But OGVP's report doesn't use the words "poor" or "poverty" – not even once. "Income" comes up twice. Once at the beginning, where it's mentioned in passing that U.S. residents "are 25 times more likely to be killed in a gun homicide than those living in other *high-income* countries" (p. 2, emphasis ours). And once near the end, where the authors note that "interpersonal gun violence disproportionately impacts people who have *lower income* and economic security" (p. 33, emphasis ours).

OGVP's report seems focused on praising California's response. Perhaps that's why it essentially ignores the socioeconomic factors that might actually "cause" firearms violence. We've emphasized poverty (POV), but other villains are likely involved. [Giffords](#), for example, ranks states according to gun law strength (GLS). [RAND](#) has collected data on rates of household firearms ownership (HFR), by state. Another possible influencer, law enforcement employee staffing (LEE), was one of the management measures gathered by the [UCR](#) (it's now transitioned to the [NIBRS](#)).

So we decided to run our own statewide analysis. Percent of persons in poverty by state (POV) is drawn from the [Census](#). Gifford's GLS is on a scale of 1-50 (strongest to weakest). For simplicity, we inverted it so that higher numbers mean stronger state gun laws. RAND's HFR [uses a scale](#) of zero (0) to one (1.0) to represent the proportion of adults in each state who reside in a household with at least one firearm. And LEE represents the ratio of law enforcement employees (sworn and non-sworn) per 1,000 population, by state, as reported by the UCR and NIBRS. (Note: Because the UCR-NIBRS transition remains a work in progress, our data for POV, GLS and LEE is for 2019, the UCR's last year. HFR gun ownership data represents 2016, when it was apparently last collected.

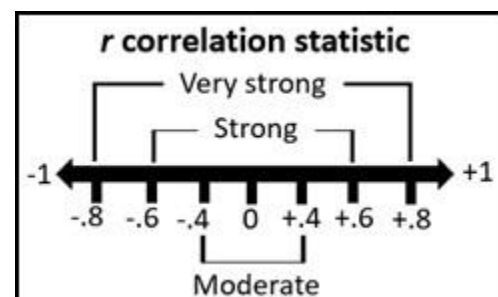
One possible influencer was left out. Unlike our other factors, which are on scales, "stand your ground" (SYG) laws are either in effect, or not. Their assessment is also complicated by the fact that they've come into play over time. But fear not – we recently addressed them in depth. For more on their possible role check out our recent piece, ["Fearful, Angry, Fuzzy-Headed. And Armed"](#).

	<i>r</i>	POV	GLS	HFR	LEE
Causes	POV		-0.39	0.31	0.14
	GLS	-0.39		<b>-0.84</b>	0.23
	HFR	0.31	<b>-0.84</b>		-0.34
	LEE	0.14	0.23	-0.34	
Effects	VIOL	<b>0.46</b>	-0.21	0.14	0.05
	HOM	<b>0.68</b>	-0.25	0.18	0.26
	ROB	0.22	0.35	<b>-0.45</b>	0.28
	AASLT	<b>0.50</b>	-0.30	0.24	0.04
	FADEATH	<b>0.63</b>	<b>-0.73</b>	<b>0.75</b>	-0.12
	FASUIC	0.30	<b>-0.75</b>	<b>0.84</b>	-0.38

This matrix displays data for all fifty states. Hypothesized "causes" are in the top box. There are four: POV (poverty), GLS (gun law strength), HFR (household firearms ownership) and LEE (law enforcement staffing). Six "effects" occupy the bottom box. Four are from the [2019 UCR](#): VIOL (violence rates), HOM (criminal homicide rates), ROB (robbery rates) and AASLT (aggravated assault rates). Each is a state rate per/100,000 pop.

and includes both gun and non-gun crimes. Two additional "effect" measures, FADEATH (gun deaths) and FASUIC (gun suicides) also denote state rates per/100,000 pop. Both are from [CDC Wonder](#).

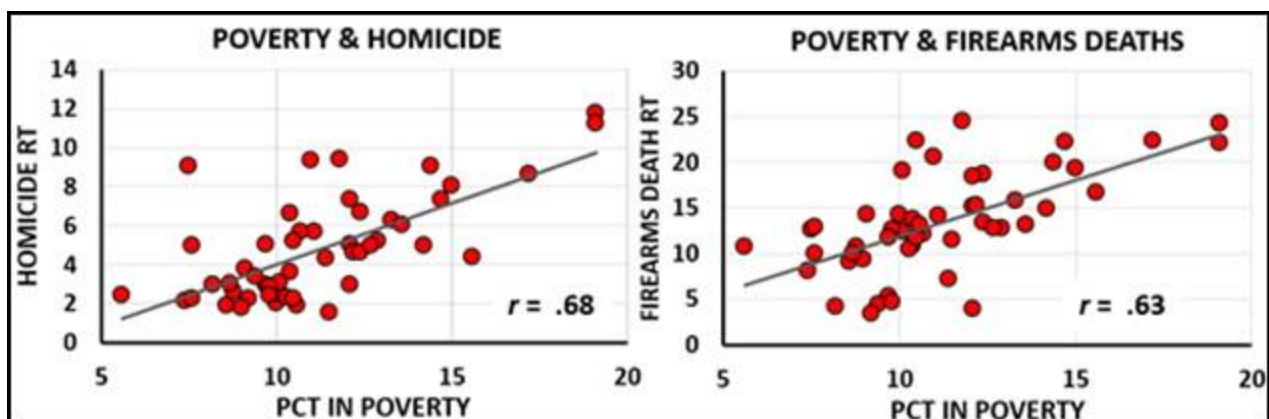
We use the "*r*" statistic to denote the relationships among the four causal variables, and between each causal variable and each effects variable. It's on a scale of -1 to +1. Positive *r*'s indicate that variable scores increase and decrease together; negative *r*'s, that they move in opposite directions. An *r* of zero (there are none) denotes



absolutely no relationship, while a “perfect”  $r$  of -1 or +1 (there are none) indicates a relationship in perfect lockstep. Relationships that are moderate ( $r = 0.4-0.59$ ), strong ( $r = 0.6-0.79$ ) and *very* strong ( $r = 0.8$  & above) are in boldface. For example, go to the POV column. POV’s relationship with VIOL is a moderate 0.46, and its  $r$  with HOM is a strong 0.68. Shift to the HFR column. Grab a look at its very strong, 0.84 relationship with FASUIC. As one variable’s score increases or decreases so does the other’s, and in very close sync.

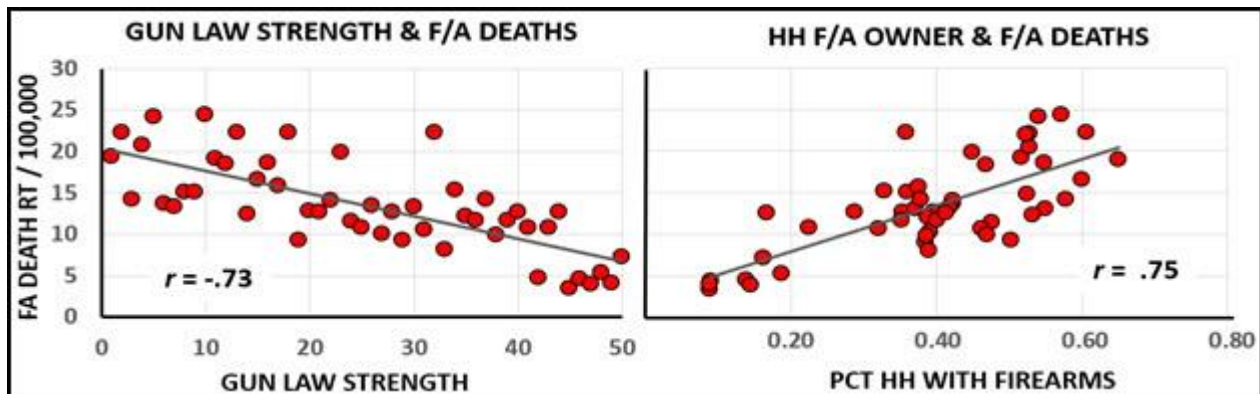
Let’s begin. We’ll take it one “effect” at a time.

- State violent crime rates (VIOL): Poverty has the only effect of note, an  $r$  of 0.46. Its sign is positive and the relationship is moderate, meaning that as percent of residents in poverty increases, violence rates also tend to get worse. Only “glitch” is that “violent crimes”, as defined by the UCR, include non-gun incidents. But the implication is clear: more poverty = more violence.
- State aggravated assault rates (AASLT): Poverty is the only causal variable with at least a moderate relationship. Again, it’s positive, meaning that aggravated assaults - which also include non-gun incidents - are more likely in poorer areas.
- State criminal homicide rates (HOM): Poverty is again the only causal variable of note. Its influence is evident in the left graph. The correlation, a strong  $r$  of 0.68, is “positive”, meaning that as the proportion of a state’s poor residents goes up, so do its homicide rates. Since guns are the most common way to accomplish murder, their role in the relationship seems assured.



- Firearm death rates (FADEATH): This effect variable, which specifically addresses gun deaths, has a strong relationship with poverty ( $r = 0.63$ , above right) and two other “causes”: state gun law strength and state household firearms ownership (see below). Note that the direction of the relationship

between GLS and FADEATH is “negative”: as gun laws get *stronger*, gun death rates *decrease*.



There is a little “glitch”. Our introductory matrix revealed that GLS and HFR are strongly correlated (-0.84). So we recomputed their individual relationships with FADEATH while “controlling” (removing) their partner’s possibly additive effects (below left). Sure enough, check out the  $r$ ’s circled in red. Once the counterpart’s influence is removed, those strong relationships that GLS (-0.73) and HFR (0.75) enjoyed with FADEATH now fall below the .40 threshold of moderate strength. On the other hand, poverty’s strong  $r$  of 0.63 with FADEATH is unaffected when HFR is removed from the picture, and remains a considerable 0.55 when the influence of GLS is taken out. Bottom line: poverty wields a big stick on its own, while GLS and HFR seem far more influential as a team.

RELATIONSHIPS WITH FADEATH				
	ORIG $r$	CONTROLLING FOR:		
		POV	GLS	HFR
POV	0.63		0.55	0.63
GLS	-0.73	-0.68		-0.28
HFR	0.75	0.75	0.37	

RELATIONSHIPS WITH FASUIC				
	ORIG $r$	CONTROLLING FOR:		
		POV	GLS	HFR
POV	0.30		0.01	0.08
GLS	-0.75	-0.72		-0.15
HFR	0.84	0.82	0.59	

- Firearm suicide rates (FASUIC):** Firearms suicide rates can’t be attributed to poverty. Their correlation literally drops to zero when either GLS or HFR are taken into account. Nor, as our “controlling for” exercise demonstrates, are firearm suicides substantially driven by gun law strength (above right). Check out those red circles. Note how the  $r$  between GLS and FASUIC (-0.75) plunges to a measly -0.015 once HFR, with which GLS is closely linked (-0.84), comes into the picture. Reversing that, HFR retains a heady relationship with FASUIC ( $r=0.59$ ) even after we remove GLS’s contribution. In the end, the real driver of firearms suicide seems to be gun availability. And that makes perfect sense.

We came to near-identical conclusions two-and-a half years ago when a string of massacres befell our tortured land (“[Four Weeks, Six Massacres](#)”). And despite [Giffords’](#) and OGVP’s bountiful praise of California’s supposedly stern approach to regulating firearms, nothing’s really changed. Its assault weapons “ban”, for example, continues to be mostly an effort in pretending to regulate. Here’s some self-plagiarism from “[An American Tragedy](#)”:

But don’t California’s “strong” gun laws prohibit “assault weapons”? Technically yes, but the devil is in the details. For example, if a gun has a removable magazine, it can’t sport features such as a protruding pistol grip. Wily manufacturers have adapted with a host of legal variants.



Our essay depicted the “California-legal” rifles used in the 2015 San Bernardino

massacre. So have things changed? Grab a look at the [AP photo](#) of a gun display in a Los Angeles-area gun store. According to the accompanying *L.A. Times* piece (it’s niftily entitled “A troubling California trend: More violent crimes with guns even as restrictions tighten”) *gun violence has* changed. It’s gotten *worse*.

Reacting to the crisis, [California Governor Kevin Newsom just signed](#) a cluster of bills, from [SB 2](#), which “strengthens California’s restrictions regarding public carry laws by enhancing the existing licensing system”, to [AB 732](#), which “strengthens the process for removing firearms from people who are prohibited from owning them due to a criminal conviction.” However well-intentioned, these laws fail to address the socioeconomic problems that, as our “[Neighborhoods](#)” posts regularly point out, underlie violent crime (see, for example, “[What’s Up. Violence. Where? Where Else?](#)”). As the below table demonstrates, this consequence is readily apparent at the level of police precincts.

Our recent essay about violence in Los Angeles, “[Good News/Bad News](#)” compared LAPD Divisions at each end of the homicide, aggravated assault and robbery spectrum during the first five months of 2021, 2022 and 2023. This time we used [LAPD data](#) to compare violent crime rates and shooting victim rates per/100,000 pop. during the January 1-September 30 periods in 2021 and 2023 for the five LAPD Divisions at each extreme of the violent crime spectrum:



				1/1/2023 - 9/30/2023				1/1/2021 - 9/30/2021			
LEAST VIOL	DIVISION	POP	POV PCT	VIOL CRIMES	VIOL CR RT	SHTG VICTS	SHTG VICT RT	VIOL CRIMES	VIOL CR RT	SHTG VICTS	SHTG VICT RT
	West L.A	242928	10.3	402	165.5	12	4.9	397	163.4	8	3.3
	Devonshire	230518	10.8	635	275.5	24	10.4	570	247.3	16	6.9
	Foothill	196318	10.2	643	327.5	13	6.6	652	332.1	26	13.2
	Mission	249755	14.6	818	327.5	29	11.6	884	353.9	32	12.8
	West Valley	201893	10.5	798	395.3	21	10.4	684	338.8	18	8.9
	AVG.		11.3		298.3		8.8		287.1		9.0
	MOST VIOL	Hollywood	131236	14	1140	868.7	28	21.3	1344	1024.1	24
Southeast		150720	23.7	1820	1207.5	138	91.6	1812	1202.2	184	122.1
Newton		149495	36.3	1580	1056.9	103	68.9	1487	994.7	124	82.9
77th St.		187292	21.9	2476	1322.0	137	73.1	2597	1386.6	228	121.7
Central		81747	25.9	1838	2248.4	51	62.4	1709	2090.6	38	46.5
AVG.			24.4		1340.7		63.5		1339.6		78.3
CITYWIDE		3908705	16.6	22533	576.5	906	23.2	22823	583.9	1100	28.1

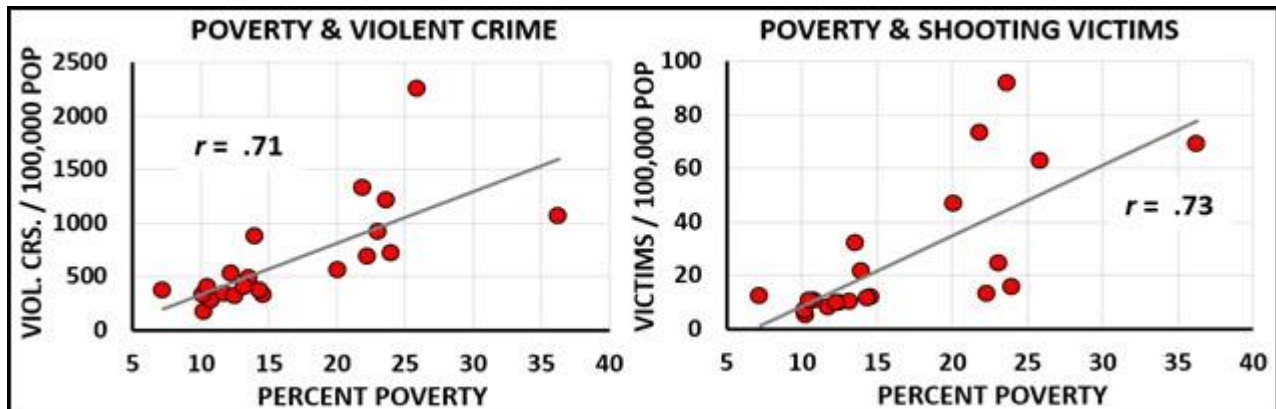
- Violent crime. Citywide, LAPD reported a January 1-September 30 drop from 22,823 in 2021 to 22,533 in 2023. That's only one-point-three percent. And as one would expect, the benefits weren't equally dispersed. Two Divisions in the "least violent" group (West Valley and Devonshire) experienced substantial upticks. As for the "most violent" group, ups and downs among its members produced virtually the same average rates for both periods.
- Shooting victims. Similar ups and downs led to virtually no change in the average number of shooting victims of the five "least violent" Divisions. However, the mean score of the "most violent" group materially improved. That was due to substantial drops in the number of victims in Southeast, Newton and, especially, 77th. St. Division. But rates in Hollywood and, particularly, Central Division worsened.

We don't discount that whatever improvements took place – again, note the substantial decline in shooting victims in 77th. St. Division – may have been produced by more attention to local needs. Or, say, more vigorous policing. But differences between Divisions remained pronounced. In 2023 LAPD's five most violent Divisions had a violent crime rate *four and one-half times* worse, and its citizens were being shot *more than seven times more frequently*, than residents of the five least violent Divisions.

What underlies these dramatic between-group differences? Grab a look at our introductory bar graph. Then glance at the above table's "POV PCT" column. High-violence divisions had *more than twice* the percentage of residents living in poverty (see



“[Good News/Bad News](#)” for how Division poverty rates were calculated.) And that unholy alliance between poverty and violence extends far beyond our ten-Division sample. These scattergrams, which represent all 21 LAPD Field Divisions (each is a “dot”) demonstrate the strong association between poverty and 2023 violent crime, and between poverty and 2023 shooting victims, throughout the “City of Angels”:



That’s why “feel good” pieces such as a recent [L.A. Times article](#) that boasts of a substantial drop in “overall” violence leave us a bit cold. What to do? Vigorously address the underlying issue. As our [Neighborhoods](#) posts frequently point out, crime, and particularly *violent* crime, reflects the consequences of living in deprivation. And that’s not something that even the best policing can hope to correct.

Posted 4/17/11

## REFORM AND BLOWBACK

*A bad economy spurs more lenient sentencing.  
And warnings about its consequences.*

By *Julius (Jay) Wachtel*. As governments reel from sharp declines in revenue they have increasingly turned to progressively-minded prescriptions that promise to maintain and even enhance public safety for a lot less dough. Last month [we described recommendations](#) by two economists that aggressive law-enforcement practices such as hot-spots policing can scare criminals straight without incurring the expenses of incarceration or, in many cases, the need to make an arrest.

Of course, there are always those who refuse to be deterred. Three reports released this year – one from the [National Summit on Justice Reinvestment and Public Safety](#), the others from the [Smart on Crime Coalition](#) and the [Pew Center](#) – suggest how we can deal with pesky evildoers in a way that won't break the bank. Smart on Crime's remarks pretty well summarize the reformist agenda:

There is no doubt that our enormous prison populations are driven in large measure by our sentencing policies, which favor incarceration over community-based alternatives or rehabilitation. We spend enormous amounts of money keeping people in prison; money that in many cases would be better spent treating addiction or funding community-based programs to reduce recidivism.

Indeed, there's no doubt that sentencing has grown harsher during the past decades. Between 1990 and 2006 the [imprisonment rate](#) climbed from 447 to 503 per 100,000. During this period [the time actually served behind bars](#) also increased, 29 percent for property crime and 39 percent for violent crime. [Meanwhile crime plunged](#), by about one-third.

Whether more punishment "caused" the crime drop is a matter of endless contention (for our earlier discussions click [here](#) and [here](#).) On one side are traditionalists, including prosecutors, police and many economists, who say that imprisonment deserves much of the credit. On the other side are reformers who insist that the relationship between punishment and crime is mostly spurious. Even the few who concede the value of incarceration point out that imprisonment has been cranked up as far as it can go, and that budgetary constraints make current levels impossible to maintain over the long term.

Sustainability looms large in the National Summit report. But it's not all about saving money:

Despite the dramatic increase in corrections spending over the past two decades, reincarceration rates for people released from prison remain unchanged. By some measures, they have worsened. National data show that about 40 percent of released individuals are re-incarcerated within three years. And in some states, recidivism levels have actually increased during the past decade.

Experts argue that our present system fails badly at preventing recidivism. To get there, and do so affordably, the National Summit recommends several approaches. One, "risk assessment," seeks to identify the subset of criminals most likely to reoffend, thus making it economically feasible to provide them the supervision, counseling and other services they need. Another, "justice reinvestment," proposes to shift spending from prisons to communities. A frequently-given example is Texas, which slashed the costs of imprisonment by reducing sentence length. To enhance oversight parole caseloads were also capped, supposedly leading revocations to plunge a steep 29 percent. Perhaps Texas' way of watching over parolees is a smashing success. Or perhaps the steep decline is due to other, less measurable factors, such as internal pressures to avoid revoking parolees in the first place.

Like other reform organizations, Pew seizes on the lever of economics to press its agenda. On the one hand it concedes that imprisonment might work. (It cites William Spellman, the reluctant punisher who estimated that prison expansion [cut violence by 27 percent](#).) On the other it argues that there are cheaper ways to get to the same place:

Finally, if prisons helped cut crime by at most one-third, then other factors and efforts must account for the remaining two-thirds of the reduction. And because prisons are the most expensive option available, there are more cost-effective policies and programs. For example, it costs an average of \$78.95 per day to keep an inmate locked up, more than 20 times the cost of a day on probation.

First, considering just how much crime there is – 1,318,398 violent offenses [were reported to the FBI in 2009](#) – preventing up to one-third of offending (659,199 violent crimes, calculated from a projected 1,977,597) sure seems like a worthy accomplishment. Pew may also be comparing apples and oranges. Prisons are expensive and popular precisely because they offer the ultimate form of deterrence – incapacitation. One cannot compare its cost-effectiveness vis-à-vis say, probation without including that certainty in the calculation.

It's in measures of effectiveness where much of the difficulty in the reformist agenda lies. “[Evidence-based](#)” strategies, that new pot of gold at the end of the criminological rainbow, virtually demand that researchers measure the immeasurable. For example, the National Summit report buttresses its conclusions by citing a [meta-analysis](#) of adult and juvenile justice programs in the state of Washington. Their cost-effectiveness (programs ran the gamut from prison-based education to post-release family counseling) was calculated by reducing injuries and deaths to dollar amounts. Whether doing so was appropriate was quickly glossed over:

Some victims lose their lives; others suffer direct, out-of-pocket personal or property losses. Psychological consequences also occur to crime victims, including feeling less secure in society. The magnitude of victim costs is very difficult – and in some cases impossible – to quantify. National studies, however, have taken significant steps in estimating crime victim costs...In [one] study [its measures were adopted by this article] the quality of life victim costs were computed from jury awards for pain, suffering, and lost quality of life; for murders, the victim quality of life value was estimated from the amount people spend to reduce risks of death.

Keeping people locked up is expensive. But as these recent examples demonstrate, predicting who deserves lenient treatment is fraught with risk:

- California: [A registered sex offender](#) who was kept on parole despite a host of “technical” violations went on to rape and murder a teen. Her killing has led to harsher sentencing measures.
- Illinois: [The State corrections chief](#) resigned after an early-release program saved money but saw many prisoners quickly return to crime.
- Massachusetts: [A paroled murderer](#), 60, killed a convenience store clerk, just like he did the first time around. Another, released after serving three “life” terms, [shot and killed a police officer](#) while fleeing from a department store robbery (see above video clip.) That led to the firing of all members of the parole board.
- New Jersey: [The arrest of two released inmates for murder](#) led the governor to move to repeal a recently enacted law that offered “worthy” inmates a six-month early out.
- Washington: [A three-time loser](#) doing time for a drug conviction was released early thanks to good time credits. Two years later he murdered a State trooper.

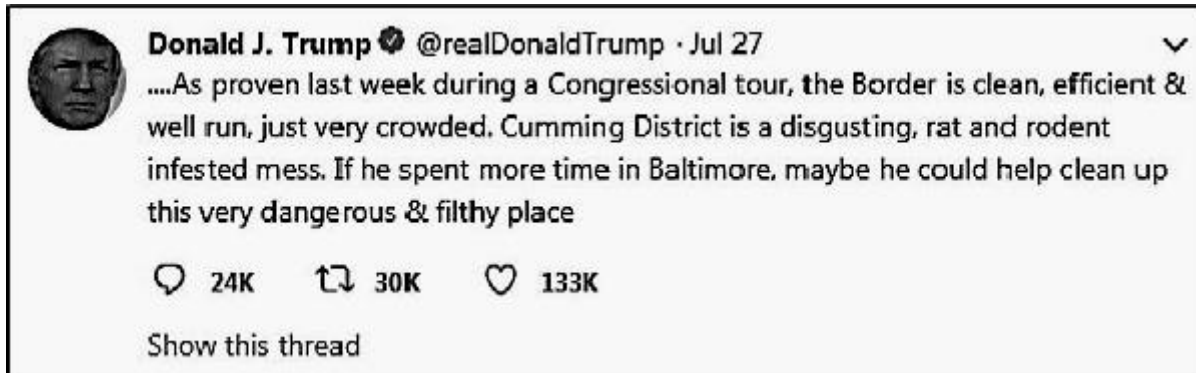
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One could go on and on. What reformers miss is that their calculus of costs and benefits may be fundamentally flawed, if not methodologically, then from a public policy perspective. Failure to identify a dangerous person, what would in science be called a Type 2 error, carries far more weighty political implications than its reciprocal, the Type 1 error of overestimation. Bottom line – politicians, police and the public can tolerate a lot of surplus incarceration for the sake of saving one innocent life. And that's a reality that's sure to continue.

Posted 8/2/19

## REPEAT AFTER US: “CITY” IS MEANINGLESS

*When it comes to crime, it's neighborhoods that count*



*For Police Issues by Julius (Jay) Wachtel.* There we were, wondering what to spout off about when our sleep-deprived Prez came to the rescue with yet another [tweetstorm](#).

What set him on the warpath? Ten days earlier, [Rep. Elijah Cummings \(D – Md.\)](#), chair of the House Committee on Oversight and Reform, had [berated DHS Acting Chief Kevin McAleenan](#) about the unconscionable treatment of illegal immigrants. After repeatedly interrupting McAleenan, the good Rep. blasted him with this:

I'm talking about human beings. I'm not talking about people that come from, as the president said, shitholes. These are human beings. Human beings. Just trying to live a better life.

Natch, the President noticed. Displayed above is his second rapid-fire tweet. Here's the first:

Rep. Elijah Cummings has been a brutal bully, shouting and screaming at the great men & women of Border Patrol about conditions at the Southern Border, when actually his Baltimore district is FAR WORSE and more dangerous. His district is considered the Worst in the USA.

Here's the third, (temporarily) ending the salvo:

Why is so much money sent to the Elijah Cummings district when it is considered the worst run and most dangerous anywhere in the United States. No human



being would want to live there. Where is all this money going? How much is stolen? Investigate this corrupt mess immediately!

Rep. Cummings, who's based in Baltimore, promptly swiped back. And as one might expect, the "fake media" took his side. [In a news piece](#) defiantly entitled "Baltimore to Trump: Knocking Our City Is Our Job, Not Yours" the liberally-inclined *New York Times* proclaimed that despite the city's reputation for violence, "it so happens that many human beings do want to live in Baltimore." That lukewarm endorsement was the story's exact title in the paper's July 29th. National edition, which lands somewhere on our driveway each morning.

We'll let the antagonists fight it out. Their squabble proved useful, though, as it illustrates one of our pet peeves: mindlessly comparing crime rates. "[Location, Location, Location](#)" tracked murders for thirteen major cities during 2002-2015. St. Louis, the indisputable champ, closed things out with a mind-boggling 59.6 killings per 100,000 pop. Nipping on its heels, Baltimore posted a deplorable 55.2. At the other, far safer end, our burg. of Los Angeles (7.2) and the Trumpster's New York City (4.2) returned the lowest scores.

We've since used the [latest full UCR release](#) to assess murder rates in 2017. St. Louis (66.1) and Baltimore (55.8) managed to get worse. Los Angeles (7.0) held steady, while New York City (3.4) improved. Baltimore's homicide rate turned out *sixteen times worse* than the Big Apple's. The raw numbers are stunning. New York City had 292 murders; Baltimore, whose population is *one fourteenth* the size, suffered 342. Even the *Times* had to concede that Rep. Cummings' constituents aren't in a happy place, crime-wise:

Few denied that Baltimore is struggling, especially with violent crime — the city has recorded 32 more murders this year than New York, despite being about one-fourteenth the size.

[Mayor Bill de Blasio's boast](#) that New York City is "the safest big city in America" seems right on the money. Meanwhile, Baltimore is still in the doghouse. Trump's no paragon of accuracy, but this time he nailed it.

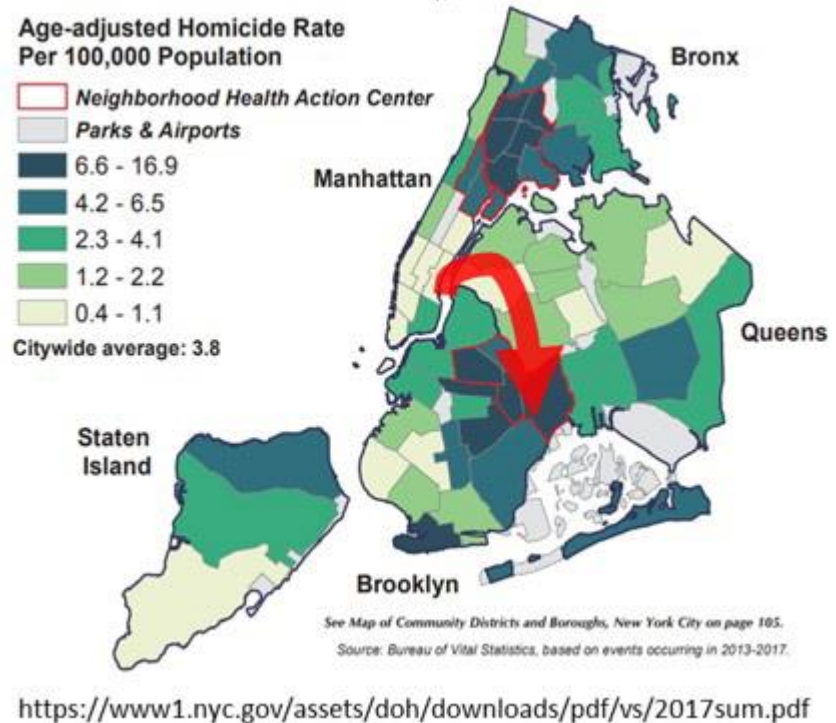
Right?

Well, not exactly. Our President's most recent domicile in the Big Apple was an ultra-lux apartment in Manhattan's fashionable [Upper East Side](#) (pop. 226,000, poverty ratio 7%, lowest in the city.) But there's a lot more to New York than Fifth Avenue. It's a really, *really* big place, with [more than one-hundred distinct communities](#). Mayor de

Blasio aside, the city's own data reveals that these neighborhoods are by no means uniformly prosperous.

Some are phenomenally (absurdly?) wealthy' others are [chronically poor](#).

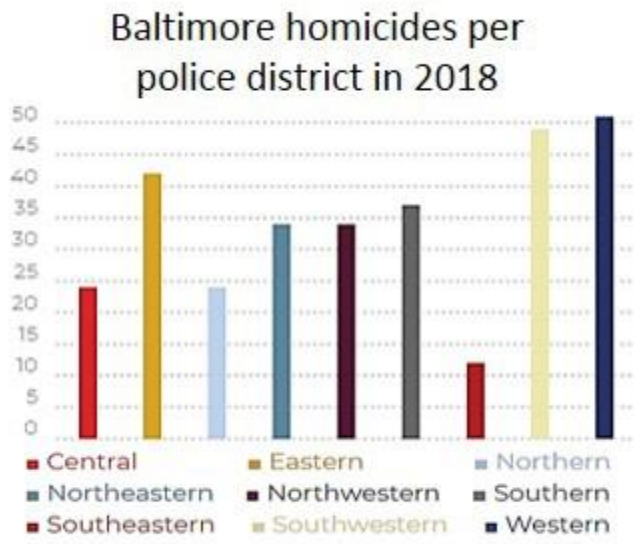
Just follow the arrow. Jump across the East river. Venture deep into Brooklyn and you'll find the [Brownsville](#) area (pop. 86,000, poverty ratio 28%, one of the worst in the city.) That's where a few days ago, on July 27th, [a gang member opened fire](#) as folks gathered for an annual celebration. Twelve were shot, one fatally.



While such extreme events are rare, Brownsville is indeed a very tough place:

- Its police precinct, the 73rd., [recorded thirteen murders](#) during 2018. (Far larger [Manhattan](#) had but one.)
- Brownsville's [2013-2017 homicide rate](#), 16.9, was worst in the city. To compare, the Upper East Side was tied for best at 0.4. Yes, that's *zero point four*. (For a detailed view of major crimes by precinct, click [here](#).)

What's our point? Neighborhoods in [Los Angeles](#) and New York (above and in "[Be Careful What You Brag About](#)") vary considerably as to violence. Where economic indicators are favorable, violent crime is low. Where they're not: fasten seat belts! Both cities, though, are blessed with a lot of affluence, keeping their overall homicide numbers at bay. If we wish to *meaningfully* compare murder across geographic space, we must go beyond abstract political boundaries. To that end, there really is no "Los Angeles" or "New York." What there is, is *neighborhoods*. Crime is about the conditions



<https://homicides.news.baltimoresun.com/>

under which people live. Control for factors such as poverty, unemployment rates and educational attainment and you're all set!

In our measly opinion, that caveat applies everywhere. Still, as [data compiled by the Baltimore Sun](#) demonstrates (see table), nearly every area in the struggling city is bedeviled by violence, some more than others. Rep. Cummings clearly has his work cut out.

But if our Prez wants to rattle cages, we suggest he pick on New

York City's de Blasio. Here's a recommended broadside: "How does it make you feel, your honor, that your city's Brownsville neighborhood is saddled with a murder rate more than *forty times* worse than the Upper East Side? And how do you intend to improve things?"

Um, we're waiting!

Posted 10/25/14

## REWARDING THE NAUGHTY

### ***A California ballot measure would reduce many felonies to misdemeanors***

*By Julius (Jay) Wachtel.* According to its proponents, California Proposition 47, enticingly entitled “The Safe Neighborhoods and Schools Act,” will *increase* public safety by *reducing* punishment. This extract from arguments in favor of the measure explains how its seemingly counterintuitive approach will work:

- **Prioritizes Serious and Violent Crime:** Stops wasting prison space on petty crimes and focuses law enforcement resources on violent and serious crime by changing low-level nonviolent crimes such as simple drug possession and petty theft from felonies to misdemeanors.
- **Keeps Dangerous Criminals Locked Up:** Authorizes felonies for registered sex offenders and anyone with a prior conviction for rape, murder or child molestation.
- **Saves Hundreds of Millions of Dollars:** Stops wasting money on warehousing people in prisons for nonviolent petty crimes, saving hundreds of millions of taxpayer funds every year.
- **Funds Schools and Crime Prevention:** Dedicates the massive savings to crime prevention strategies in K–12 schools, assistance for victims of crime, and mental health treatment and drug treatment to stop the cycle of crime.

Proposition 47 reduces penalties from felonies to misdemeanors for six “non-serious, nonviolent” crimes which, depending on severity and the offender’s prior record, can presently be charged as felonies. Five – grand theft, shoplifting, receiving stolen property, writing bad checks, and check forgery – would only be chargeable as misdemeanors as long as the loss is \$950 or less. Possession of illegal drugs would also be a mandatory misdemeanor (the change would not affect marijuana possession, already a petty offense.) Persons already serving felony sentences for such convictions would be eligible for resentencing and early release from custody or supervision. To provide reassurance, the measure explicitly forbids giving breaks to persons who have been convicted of murder, rape and child molestation.

There are influential voices on both sides. The measure’s sponsors include the current San Francisco D.A. and the former police chief of San Diego. Opponents include the presidents of the California Police Chiefs Association and the California District Attorneys Association. One of the big quarrels is over the consequences of releasing as

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many as 10,000 prisoners should the initiative pass. Opponents claim it could cause a public safety disaster. Proponents say not to worry, as the text of the proposed law forbids resentencing prisoners whose criminal record suggests they present an “unreasonable risk of danger to public safety.”

Exactly what does “unreasonable risk” mean? Section 14 of the measure defines it as a prior conviction for an offense enumerated in Penal Code section 667(e)(2)(c)(iv). Here is the subsection in full:

(I) A "sexually violent offense" as defined in subdivision (b) of Section 6600 of the Welfare and Institutions Code.

(II) Oral copulation with a child who is under 14 years of age, and who is more than 10 years younger than he or she as defined by Section 288a, sodomy with another person who is under 14 years of age and more than 10 years younger than he or she as defined by Section 286, or sexual penetration with another person who is under 14 years of age, and who is more than 10 years younger than he or she, as defined by Section 289.

(III) A lewd or lascivious act involving a child under 14 years of age, in violation of Section 288.

(IV) Any homicide offense, including any attempted homicide offense, defined in Sections 187 to 191.5, inclusive.

(V) Solicitation to commit murder as defined in Section 653f.

(VI) Assault with a machine gun on a peace officer or firefighter, as defined in paragraph (3) of subdivision (d) of Section 245.

(VII) Possession of a weapon of mass destruction, as defined in paragraph (1) of subdivision (a) of Section 11418.

(VIII) Any serious and/or violent felony offense punishable in California by life imprisonment or death.

Senator Diane Feinstein, an avowed liberal who opposes the measure, pointed out that serious crimes such as burglary, armed robbery and aggravated assault are not on the list. Accordingly, should Proposition 47 pass, persons with prior convictions for such crimes would indeed be eligible for early release.

Proposition 47 may also reward the wrong people. According to the nonpartisan Legislative Analyst, nearly all offenders who stand to gain from the proposition received prison terms not because of what they actually did, but due to their prior record:

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A relatively small portion—about one-tenth—of offenders of the above crimes are currently sent to state prison (generally, because they had a prior serious or violent conviction). Under this measure, none of these offenders would be sent to state prison. Instead, they would serve lesser sentences at the county level.

Another concern relates to negotiated pleas, which account for at least ninety percent of adjudications. For example, burglars frequently plead to grand theft, and dope dealers to drug possession. If Proposition 47 passes many defendants stand to benefit twice: first from a plea deal, then from mandatory misdemeanor sentencing. (Our system's dependence on plea deals makes withholding them highly unlikely.)

Recalibrating punishment may be a good idea. But if the measure's objective is to improve public safety, offender criminal histories must not be glossed over or, even worse, ignored. Neither should the proposition become an invitation to keep committing "minor" crimes. Under Proposition 47 stealing an object valued at \$950 or less – say, an iPad, or an iPhone – is a misdemeanor, period. That's true even if the thief is a repeat offender or has a prior conviction for, say, burglary, armed robbery or grand theft. Indeed, Proposition 47 seems almost an invitation for pickpockets, shoplifters and common thieves to go "pro."

Imprisonment is a crude tool, but it works, if only by incapacitating offenders so they cannot strike while locked up. We might hate to admit it, but incarceration undoubtedly helped break the crime wave of the 80s and early 90s. Now that society seems eager to ease up, it must be done transparently, based on relevant and clearly articulated criteria. Efforts such as Proposition 47, which tinker with a ridiculously complex system (read the initiative, and be sure to have aspirin on hand) are likely to be ineffective, with consequences that we will all regret.



Posted 3/9/08

## **SAFE AT HOME -- NOT!**

By Julius Wachtel, (c) 2010

On February 5, 2008 a 20-year old San Fernando Valley man with mental problems and a history of violence [shot and killed](#) his father and two brothers at the home they shared, called 911 to let the police know, then killed a SWAT officer and seriously wounded his partner when officers, thinking there were victims to rescue, rushed in. The assailant, who was armed with a shotgun and a handgun, was shot dead.

Less than three weeks later, in a prosperous Orange County community about forty miles away, a 41-year old man [shotgunned his family](#), killing his wife, their two girls, ages 8 and 9, their 5-year old boy, and finally himself. A sixth victim, a 14-year old son, was also wounded but is recovering. Police were alerted by neighbors who heard gunfire. The couple had separated in the past and were apparently having financial problems.

Two days later, in a working class L.A. suburb about sixteen miles away, a 28-year old man with mental problems used a handgun to [shoot and kill](#) his mother. He then broke into the house next door, killed a woman and her child and wounded two other children, one critically. He was arrested by police while standing on the street with the gun in his hands.

It's not just California. Consider Tennessee. On February 27, in a rural town that prominently bills itself "a good place to live," a romantically distraught 26-year old man armed with a .45 pistol visited his ex-girlfriend's apartment under a pretext. He [shot and killed](#) the young woman's mother, a current boyfriend and two other adults, then fled and committed suicide as police closed in.

Eleven days later, officers responding to a call by a concerned relative discovered six persons -- two men, two women and two children under five -- [shot dead](#) in a Memphis home. Two other children and an infant were found in extremely critical condition. The shootings, which police said occurred hours earlier, were overheard by neighbors but ignored as gunfire was not uncommon. On March 8 police arrested one of the occupant's brothers, who had just been released from prison after serving a term for murder. Authorities said that the slayings were motivated by an argument.

What's to be done? Online gun retailer Eric Thompson, who sold ammo magazines to N.I.U. shooter Steven Kazmierczak and a pistol to Virginia Tech killer Seung-Hui Cho, has a [ready solution](#): guns for everyone! But would the N.R.A.'s main prescription for domestic tranquility really help? Shootings in public places, such as on school grounds, usually take place quickly and with no forewarning. If a madman suddenly strikes, would armed citizens have the opportunity let alone the skill and presence of mind to engage the shooter effectively, and without placing innocents at risk? Preventing massacres in private residences seems well-nigh impossible. Must mom, dad, the kids, everyone down to the family dog pack a gun while watching T.V.? ("Honey," she says, a thin smile crossing her lips, "*please* don't change the channel!")

In December 1791, when the Second Amendment went into effect, a "handgun" wasn't a .40 caliber Glock with a fifteen-round magazine. It was a bulky, muzzle-loading single-shot flintlock that could take nearly a minute to prepare for a second round. Such weapons, even those newly manufactured, aren't considered to be firearms under [Federal law](#) (18 USC 921[a][3] and [16]). No matter the N.R.A.'s glib assertions, the combination of gun lethality and human fallibility make the idea of a ubiquitously armed citizenry intolerable. Exactly how many incidents of road rage with a gun -- or *any* rage with a gun -- are we willing to accept?

[Academic studies](#) have demonstrated that exposure to violence can lead to aggressive behavior. Is it too far a stretch to suggest that guns might do the same? That they're not merely instruments of violence, but can actually *instigate it*? Anyone who's spent time on the streets knows that firearms create their own atmosphere. It's another kind of climate change we'd be smart to avoid.

Posted 8/23/17

## **SANCTUARY CITIES, SANCTUARY STATES (PART I)**

### ***What happens when communities turn their backs on immigration enforcement?***

*By Julius (Jay) Wachtel.* By now the term “sanctuary city” has become such a familiar part of the lexicon that defining it might seem superfluous. But for the record let’s recap what it means to the Feds. According to a [May 2016 memorandum](#) from the Department of Justice the label applies to jurisdictions that, due to law, regulation or policy, either refuse to accept detainers from ICE or don’t promptly inform ICE of aliens they arrest or intend to release.

Memoranda do not carry the force of law. A 1996 Federal law, [8 USC 1373](#), stipulates that “a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual.” In plain language, neither Hizzoner the Mayor nor any other official can legally order police to keep quiet about the arrest (or simply the whereabouts) of an illegal immigrant.

Of course, that doesn’t require that ICE be tipped off. Yet until recently such notifications were routine. Indeed, many police and sheriff’s departments used to have ICE train and deputize their officers under [section 287-g](#) of the Immigration and Nationality Act so they could enforce Federal immigration laws on the street. At one point the number of participating agencies [exceeded seventy](#).

In time, a growing political divide and instances of excessive anti-immigrant zeal (see, for example, [the saga of former Sheriff Joe Arpaio](#)) led many communities to abandon the program. In 2016 ICE dropped the street enforcement aspect and now restricts cross-designated officers to making immigration checks only of persons [detained for other crimes](#) in local jails. After a recent drive ICE [proudly reported](#) that the number of jurisdictions participating in this modified program stands at sixty. However, nearly all are Sheriff’s offices in the South, with a large chunk in Texas.

At present neither Los Angeles, nor New York, Chicago or virtually any other city of size except Las Vegas participates in the 287-g program. In Blue America objections to immigration enforcement run so deep that many communities have taken affirmative steps to frustrate the Feds. Some don’t let ICE officers review jail records to gather information about arrestees (what jurisdictions participating in the 287-g program do

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with their own cops.) Others don't inform ICE, or only do so selectively, when [national criminal warrants checks](#) reveal that an arrestee was previously deported or has an active criminal or civil warrant for an immigration offense. And many either ignore [detainers](#) (written requests that specific, named arrestees be held for up to 48 hours beyond their release time) or fail to provide timely notice about the impending release of persons wanted by ICE.

Why the resistance? Here's how Montgomery County, Maryland police chief [Tom Manger](#), president of the Major Cities Chiefs Association, [explained it to Congress in 2015](#):

To do our job we must have the trust and respect of the communities we serve. We fail if the public fears their police and will not come forward when we need them. Whether we seek to stop child predators, drug dealers, rapists or robbers – we need the full cooperation of victims and witness. Cooperation is not forthcoming from persons who see their police as immigration agents. When immigrants come to view their local police and sheriffs with distrust because they fear deportation, it creates conditions that encourage criminals to prey upon victims and witnesses alike.

Although Chief Manger's agency does not participate in 287-g, it routinely informs ICE of all arrests so that the Feds can, if they wish, follow up. But Chief Manger refuses to accept so-called "civil" detainers, such as those issued when illegal immigrants fail to appear at an ICE hearing, because they are not based on probable cause that a crime was committed. (In contrast, re-entry after formal deportation is a Federal crime, and in Montgomery County such detainers are honored when accompanied by an arrest warrant.) Chief Manger's position has been adopted as the [official policy](#) of his influential group.

[Maps](#) compiled by the [Center for Immigration Studies](#) and ICE Weekly Declined Detainer Reports (WDDR's) indicate that most law enforcement agencies outside the South and Northwest ignore civil detainers. Section III of the WDDR's identifies the agencies by name. (ICE [recently pulled WDDR's from the Internet](#). The three most recent are archived [here](#), [here](#) and [here](#).) For example, during the [January 28-February 3](#) reporting period, Chief Manger's Montgomery County domain released a person charged with assault because the detainer was only supported by a civil warrant.

According to ICE, many localities impose much stiffer conditions. Baltimore, whose 2015 violence rate was [eight times worse](#) than Montgomery County's, supposedly refuses to honor *all* detainers ([WDDR p. 8](#)). (In defense, [its chief insists](#) they comply

with “criminal arrest” warrants, however Baltimore might define them.) As crime-ridden metropolitan areas go, Baltimore’s approach is hardly unique:

- Newark ([p. 31](#)) and New York City ([p. 32](#)) reportedly refuse all detainees
- Boston ([p. 25](#)) and Los Angeles County ([p. 13](#)) only honor those accompanied by criminal arrest warrants
- Chicago ([p. 32](#)) requires either a criminal arrest warrant, identification as a “known gang member,” a felony conviction, or active felony charges
- Philadelphia PD ([p. 23](#)) refuses to honor detainees or notify ICE of impending releases unless “the alien has a prior conviction for a first or second degree felony offense involving violence and the detainee is accompanied by a judicial arrest warrant”
- Washington, D.C. ([p. 32](#)) requires a “written agreement from ICE reimbursing costs in honoring detainee” *and* that an immigrant was either released from prison within the past five years or convicted within the past ten years, in both cases of homicide or another “dangerous” or violent crime.

What were the criminal backgrounds of those named in ICE detainees? A hand tally of [206 detainees](#) declined between January 28 and February 3, 2017 reveals that twenty-six of the named immigrants had been convicted of domestic violence. Twenty-three others had convictions for DUI, fourteen for assault, eight for burglary, robbery or arson, seven for a drug offense, six for a sex crime, four for resisting or weapons offenses, and four for forgery or fraud. Dozens more had been charged with but not convicted of crimes, including twenty for assault, seventeen for burglary and robbery, sixteen for sex crimes, eleven for domestic violence, and one each for kidnapping and murder.

ICE can, of course, track down subjects itself. However, serving civil and criminal process in the field carries risks for both officers and immigrants. But why should the Feds even bother? After all, as we reported in “[Ideology Trumps Reason](#),” research demonstrates that, overall, immigrants are substantially more law-abiding than ordinary folks.

But there’s a catch. Unlike ethnicity, immigration *status* isn’t systematically captured by criminal history repositories. So whether *illegal* immigrants are more likely to commit crimes than those legally in the U.S. is unknown. (One might think so after

reviewing the above list, but these examples may not fairly represent illegal immigrants in general.) Still, the list of troubling anecdotes keeps growing. In December 2016 [Denver ignored a detainer](#) and let go a known gang member who had been jailed for multiple offenses, including weapons, auto theft and eluding police. Within two months Ever Valles, 19 was back in jail after he and an associate allegedly committed a brutal robbery-murder. Criminal misconduct by illegal immigrants [has even caught the attention](#) of the liberally-inclined *New York Times*. (For a running compendium in an anti-illegal immigration website click [here](#).)

There's another important "if." As our table in "[Ideology Trumps Reason](#)" suggests, legal status aside, the advantage of being foreign-born doesn't necessarily carry over to subsequent generations. Imprisonment data reveals that third-generation Hispanic males are more than twice as likely to be incarcerated as non-Hispanic whites. Why is that? Many illegal immigrants are unskilled, poorly educated and reside in poverty-stricken, crime-ridden areas. This might expose their descendants to role models and behaviors that the grandchildren of legal migrants can't begin to imagine.

It's clear that competing ideologies and selectively interpreted "facts" have complicated the relationship between police and the Feds. During his career as an ATF agent your blogger worked closely with local police and detectives, and he suspects that most ICE officers and street cops still get along. Even so, policies have consequences. While it seems petty and self-defeating to kick out law-abiding, hard-working persons, refusing to honor detainers can obviously imperil the law-abiding.

On the other hand, concerns that police involvement in immigration matters can erode trust with the Hispanic community are not easily dismissed. A somewhat dated study provides ammunition for both sides of the debate. In 2008 Prince William County, Maryland mandated that police "investigate the citizenship or immigration status of all persons who are arrested for a violation of a state law or county ordinance." Two years later university scholars and the Police Executive Research Forum produced a [detailed report](#) assessing the policy's effects. As one might expect, illegal immigration decreased. So did aggravated assault, hit-and-run accidents and some forms of public disorder. However, "a palpable chill" fell over relations between Hispanics and police. Fortunately, in time the wound mostly healed, and within two years goodwill was largely (but not completely) restored.

So was the policy a good idea? Here is what the study's authors think: "Despite our mixed findings, the current version of the policy, which mandates immigration checks only for arrestees, appears to be a reasonable way of targeting illegal immigrants who



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commit criminal violations. There is fairly broad agreement on this as a goal for law enforcement.”

Whatever the “facts,” both sides remain dug in. LAPD Chief Charlie Beck, whose agency typically refuses to honor detainers, [concedes that illegal immigrants](#) who have been convicted of violent felonies should be deported once they’ve done their time. But he’s in favor of granting illegal immigrants driver licenses and insists that helping ICE deport them “is not our job, nor will I make it our job.” Angrily rejecting such views, [Attorney General Jeff Sessions recently announced](#) that DOJ will withhold “Byrne” grants unless jurisdictions “comply with federal law, allow federal immigration access to detention facilities, and provide 48 hours notice before they release an illegal alien wanted by federal authorities.”

Take that, L.A., New York, Chicago...

Well, that’s enough for now. In Part II we’ll discuss the possible consequences of the Federal-state split in marijuana enforcement. And as always, stay tuned!

Posted 9/5/17

## **SANCTUARY CITIES, SANCTUARY STATES (II)**

### ***Should states legalize recreational pot?***

*By Julius (Jay) Wachtel.* In Part I we explored what happens when local jurisdictions resist or impede the enforcement of Federal immigration laws. Here we'll discuss the intensifying struggle between the Feds and the states over marijuana's legal status, and particularly its recreational use.

Before we begin please note that we've argued against pot's full legalization on three separate occasions, most recently four years ago (see links below). But with California taking that fateful step it seems appropriate to revisit the issue. What of consequence has been learned since our last put-down of the "evil weed"? Should the Feds be more flexible? Is the recreational use of marijuana really as harmless as its boosters claim?

Let's start with chemistry. Marijuana's active ingredient, THC (tetrahydrocannabinol) alters the senses and creates a pleasurable "high" [by overstimulating chemical receptors](#) that help the brain function and develop. And yes, there are consequences. NIDA's latest Drug Facts (August 2017 revision) warns that, among other things, THC interferes with thinking and problem solving and that high doses can bring on hallucinations and trigger psychotic reactions. Perhaps the most important concern is over pot's consequences for the developing mind:

When people begin using marijuana as teenagers, the drug may impair thinking, memory, and learning functions and affect how the brain builds connections between the areas necessary for these functions.

Could such effects prove permanent? Apparently the jury's still out. But there is some unsettling research. According to a 2012 paper ([footnote 5](#) in NIDA's posting) heavy pot use by teens costs a staggering eight IQ points by middle age, and discontinuing doesn't fully right the ship.

To marijuana enthusiasts NIDA's warnings might ring a bit hollow. After all, it's the National Institute of Drug Abuse, right? Well, if more "facts" are useful, the knowledge community has come to the rescue! In January 2017 the most authoritative scientific source in the U.S., the [National Academy of Sciences](#) released [a massive report](#) that summarizes and evaluates decades of marijuana research. Ten chapters are devoted to its reportedly problematic effects:

- Cancer
- Cardiac risk
- Respiratory diseases
- Impairment of the immune system
- Role in workplace and vehicle accidents
- Risks to infants and the unborn
- Psychosocial effects, including cognition and academic achievement
- Severe mental health problems, including schizophrenia, depression and suicide
- Problem marijuana use
- Links between marijuana and other substance abuse

Overall findings in each area are rated as to their certainty: conclusive, substantial, moderate, limited, none or insufficient. We'll focus on pot's role in vehicle accidents, its consequences on cognition and academic achievement, and its effects on mental health.

Vehicle accidents: A previous meta-analysis of 21 studies in thirteen countries found that vehicle crashes were twenty to thirty percent more likely for drivers who either self-reported marijuana use or had THC in their bodily fluids (p. 228). Driving simulators have also revealed that driving skills decrease as cannabis dosage increases (p. 230) NAS concludes that "there is substantial evidence of a statistical association between cannabis use and increased risk of motor vehicle crashes" (p. 230).

Cognition: Prior studies found that marijuana use "acutely" interferes with memory, learning and attention. Whether such effects endure after pot use ends is uncertain (pp. 274-5). NAS concludes that "there is moderate evidence of a statistical association between acute cannabis use and impairment in the cognitive domains of learning, memory, and attention" but only "limited evidence" that impairment continues after a "sustained abstinence."

Academic achievement: A prior "systematic review" of sixteen "high-quality" studies concluded that marijuana use "was consistently related to negative educational outcomes" (p. 276). Another study suggested that dosage was important. However, marijuana use is associated with a host of factors, including intelligence, use of other substances, parental education, socioeconomic status, and so on, each of which may also influence academic achievement. Absent a major study that "controls" for each important variable, parceling out marijuana's unique contribution remains out of reach. NAS concludes that there is "limited evidence of a statistical association between cannabis use and impaired academic achievement and education outcomes" (p. 279).

Mental health: A review of ten studies found a strong link between marijuana use, psychoses and schizophrenia; a "pooled analysis" of thirty-two studies found an

increased likelihood of psychosis, with risk increasing along with frequency of use (pp. 291-3). Research involving psychiatric patients paints an equally gloomy picture. A study that compared first psychotic episode patients with non-patients revealed that the former “were more likely to have lifetime cannabis use, more likely to use cannabis every day, and to mostly use high-potency cannabis as compared to the controls” (p. 294). Reviewers concluded that there was “substantial evidence” that marijuana use could cause schizophrenia and lead to other psychoses, “with the highest risk among the most frequent users” (p. 295).

Marijuana does have some medical benefits. NAS found “substantial evidence” that pot is effective for chronic pain (p. 90) and “conclusive evidence” that it can reduce or eliminate nausea and vomiting caused by chemotherapy (p. 94). [NORML](#), the nation’s leading pro-marijuana organization, prominently touts pot’s beneficial aspects. In “[Marijuana: A Primer](#)” Paul Armentano, the organization’s deputy director, glows about THC’s safety, “particularly when compared to other therapeutically active substances.” Yet his discussion also cautions that “cannabis should not necessarily be viewed as a ‘harmless’ substance”:

Consuming cannabis will alter mood, influence emotions, and temporarily alter perception, so consumers are best advised to pay particular attention to their set (emotional state) and setting (environment) prior to using it. It should not be consumed immediately prior to driving or prior to engaging in tasks that require certain learning skills, such as the retention of new information. Further, there may be some populations that are susceptible to increased risks from the use of cannabis, such as adolescents, pregnant or nursing mothers, and patients with or who have a family history of mental illness.

Other than for Mr. Armentano’s paragraph, which is buried in a longer piece, NORML’s consistent position is that marijuana is harmless, even for youths. For example, [a post on its website](#) approvingly reports that, according to a new study, the substantial IQ decline noted for teen-age marijuana users is caused by “family background factors” (one of the confounding variables cited in the NAS report) rather than by pot. NORML also consistently rejects the notion that legalizing marijuana might increase its use by youths (for one such post click [here](#)).

Federal law ([Title 21, United States Code, Section 812](#)) places marijuana in Schedule I, reserved for substances that have a “high potential for abuse”, “no currently accepted medical use” and are deemed unsafe to use even under medical supervision. Manufacturing and possessing Schedule I drugs is illegal except when authorized for research purposes. In 1996, when California authorized medical marijuana, [it became](#)

[the first state](#) to ignore the Feds and chart its own course. Other states have since joined in, and at present medical pot is legal in twenty-nine states plus D.C. and the territories (a handful of additional states allow the use of marijuana oil but not THC.)

According to the NAS, marijuana has some medical use. So why is it stuck in Schedule I? Officially, it's because there supposedly [hasn't been enough research](#) to demonstrate that pot's benefits outweigh its risks. Unofficially, we suspect that the Feds fear any endorsement could open the floodgates to diversion and ultimately lead to full legalization.

Are such concerns valid? To be sure, medical marijuana has probably encouraged the timid to partake, for both good reasons and bad. But showing ID, signing forms and forking over a lot of dough for a small dose has little appeal for the recreationally-minded, who can readily source cheap pot (admittedly, of varying quality) on the street. On the other hand, that feared "slippery slope" to full legalization has been partly realized. [Recreational pot laws](#) are now on the books in eight states – Alaska, California, Colorado, Maine, Massachusetts, Nevada, Oregon and Washington – and have passed (but remain Congressionally unauthorized) in the District of Columbia. With capitalists scrambling to get in the mix, competitively-priced, certified "safe" marijuana may soon become as available and affordable as a bottle of beer.

Pot's freshly scrubbed image has set off worries about an explosion of use, particularly by youths. While marijuana boosters are nonplussed – as we cited earlier, NORML claims that marijuana use by teens has declined – a recent report suggests abundant reason for alarm. "[Association of State Recreational Marijuana Laws With Adolescent Marijuana Use](#)" (*JAMA Pediatrics*, 2017) reports the findings of national surveys administered to high school students between 2010-2015 about their use of marijuana and perceptions of its risk. Researchers discovered that after Washington legalized recreational pot its teens became significantly more likely than peers in other states (whose self-reported use slightly declined) to use pot and downplay its harmfulness. No such differences were reported for youths in Colorado after that state legalized recreational pot. (However, [there is evidence](#) that pot use by Colorado teens had already increased, in 2009, when that state enacted highly permissive medical marijuana laws.)

Colorado's Department of Public Health [issues yearly reports](#) about marijuana's impact on health. While its [2016 version](#) strives to reassure (e.g., marijuana use hasn't changed since legalization; it's also used less than alcohol) there are bombshells everywhere (e.g., "one in four adults age 18-25 reported past month marijuana use, and

one in eight use daily or near-daily”). Its assessment of marijuana’s health consequences for “adolescents and young adults” seems particularly damning:

The committee reviewed the relationships between adolescent and young adult marijuana use and cognitive abilities, academic performance, mental health and future substance use. Weekly marijuana use by adolescents is associated with impaired learning, memory, math and reading, even 28 days after last use. Weekly use is also associated with failure to graduate from high school. Adolescents and young adults who use marijuana are more likely to experience psychotic symptoms as adults, such as hallucinations, paranoia, delusional beliefs and feeling emotionally unresponsive....

In fact, the report (from a pot-friendly state, no less) [contains so much negative stuff](#) that a *Mother Jones* contributor who admits he enjoys the occasional tokes [was openly dismayed](#).

Marijuana legalization is proving problematic for relations between the states and the new Administration. Since 2014 Congressional spending bills [have prohibited the Feds](#) from spending money to fight medical marijuana in states where it’s legal (for the 2017 bill click [here](#) and scroll to p. 231). Even so, in February Attorney General Jeff Sessions [testily announced his firm opposition](#) to pot’s broad use:

...I don’t think America is going to be a better place when more people of all ages and particularly young people start smoking pot. I believe it’s an unhealthy practice and current levels of THC in marijuana are very high compared to what they were a few years ago...States they can pass the laws they choose. I would just say it does remain a violation of federal law to distribute marijuana throughout any place in the United States, whether a state legalizes it or not.

Sessions’ comments signal a dramatic shift from [the permissive tone his agency adopted in 2013](#), when it announced that it would defer to state recreational use laws based on “assurances that those states will impose an appropriately strict regulatory system.” [A detailed policy pronouncement](#) limits Federal enforcers to tasks such as keeping pot away from minors and preventing its distribution to states where marijuana is completely illegal. To back up the A.G., [then-Press Secretary Sean Spicer made clear](#) that the President saw “a big difference” between medical marijuana and its recreational use. In Blue California, where smoking pot for fun becomes legal in January 2018, that “difference” has been characterized [as a potential “flashpoint”](#) in state-Federal relations. Meanwhile Lt. Gov. Gavin Newsom, who vigorously (and successfully) backed recreational pot, urged the Feds to get over their pique and help the Golden State (no pun intended) “wipe out the black market in pot.”



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As if.

*Police Issues* isn't overly fond of analogies, but here we can't resist. Americans can thank their ready access to a cornucopia of highly lethal guns, and the inevitable consequences, to the profit-driven firearms industry, a huge cadre of gun enthusiasts, and the efforts of gun-friendly politicians, many of the ideologically "Red" persuasion. For the coming young-stoner culture, and its inevitable consequences, we'll one day thank the profit-driven marijuana industry, its ever-expanding cadre of tokers, and the efforts of pot-friendly politicians, many of the ideologically "Blue" persuasion.

A distinction? Maybe. A difference? You be the judge.

Posted 11/14/23

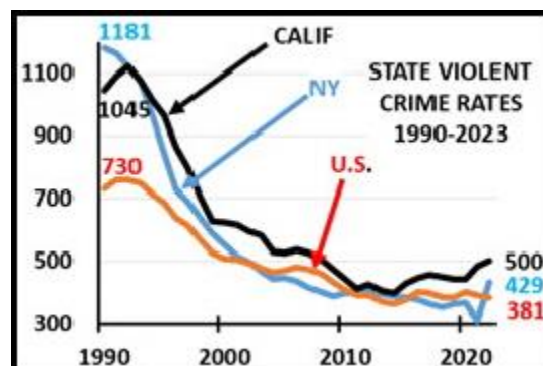
## SEE NO EVIL – HEAR NO EVIL – SPEAK NO EVIL

*Is the violent crime “problem” really all in our heads?*



*For Police Issues by Julius (Jay) Wachtel.* Cheekily entitled “This is Your Brain on Crime,” [a recent op-ed essay](#) by Nobel-prize winning economist and famous *New York Times* opinionizer Paul Krugman blasts self-serving politicians of the Red persuasion for promoting the fear that criminal violence is going up. Packed with charts and numbers, Dr. Krugman’s piece, which elaborates on his 2016 “[Inequality and the City](#)” essay, argues that except for a temporary, pandemic-related uptick, criminal violence has receded to historically low levels. Even better, his place of abode, New York City, “happens to have remarkably low crime, with a murder rate around half that of Republican-run cities like Miami and Fort Worth.”

On its face, Dr. Krugman’s contention that the trend in violent crime (homicide, rape, aggravated assault and robbery) is highly favorable seems well supported by data. This graph, and its accompanying table, are based on the latest numbers from the FBI’s [Crime Data Explorer](#).



	VIOLENT CRIME RATES								
	1990	1995	2000	2005	2010	2015	2020	2021	2022
CALIF	1045.2	966	621.6	526	439.6	428	442	481.2	499.5
N.Y.	1180.9	841.9	553.9	444.4	394.4	380.4	363.8	308.3	429.3
U.S.	729.6	684.5	506.5	469	404.5	373.7	398.5	387	380.7

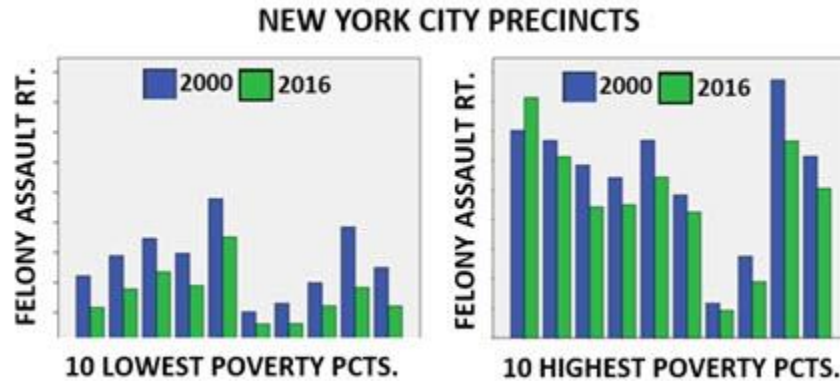
On the opposite coast, veteran *L.A. Times* staff writer Libor Jany, who covers the police beat, mostly agrees. His [recent article](#), “Crime is down, but fear is up: Why is L.A. still perceived as dangerous?” grouses that T.V. news remains fixated on “grisly murders and wild police chases” even though violent crime has substantially declined. But unlike his east-coast counterpart, Mr. Jany points out that the benefits haven’t been equally dispersed:

Places that have historically had the highest rates of violent crime, including South L.A., Watts and the northeast San Fernando Valley, remain hot spots. Black residents in the city’s poorest neighborhoods suffer the majority of the bloodshed, with Black children and adolescents in Los Angeles County killed by firearms at triple the rate of their proportion of the population, according to data from the Department of Public Health’s Office of Violence Prevention.

1/1/2023 – 9/30/2023		
	POV	VIOL
DIVISION	PCT	CR RT
West L.A.	10.3	165.5
Devonshire	10.8	275.5
Foothill	10.2	327.5
Mission	14.6	327.5
West Valley	10.5	395.3
AVG.	11.3	298.3
Hollywood	14	868.7
Southeast	23.7	1207.5
Newton	36.3	1056.9
77th St.	21.9	1322.0
Central	25.9	2248.4
AVG.	24.4	1340.7
CITYWIDE	16.6	576.5

“[Good News/Bad News](#)” and “[Policing Can’t Fix What Really Ails](#)” recently addressed the burdens of economic deprivation in great detail. Check out the table on the left. According to present-year data (1/1 thru 9/30/23) LAPD’s five most violent divisions have violent crime rates nearly *four and one-half times* greater than their counterparts on the least violent end of the spectrum. What’s more, the violent divisions’ poverty rates are also more than twice as large. Compare their numbers to the preceding table. During the first nine months of 2023, four of the five high-violence divisions had violent crime rates that exceeded, several by substantial margins, the *full-year rates* that California, New York and the U.S. endured during the crack wars of the nineties.

So what *about* New York City? Our past analyses – “[Woke Up, America!](#)”, “[Place Matters](#)”, and “[Be Careful What You Brag About \(II\)](#)” – reported that poverty and violence had a powerful connection in Gotham as well. Compare these graphs from “[Be Careful](#)”:



Their “Y” (vertical) axes range from zero to 900 felony assaults per 100,000 pop. Clearly, the burden of poverty seems indisputable.

Now comes Dr. Krugman. His essay inspired us to update New York City’s crime numbers, and in a way that leaves (we hope) no doubt as to whether his “one-city” vision really holds up. Using data from [NYPD](#), the [UCR](#), the [FBI](#), the [Census](#), and [the City of New York](#), we collected violent crime numbers for 74 of New York City’s [77 police precincts](#) for the years 2000, 2010, 2015, 2020, 2021 and 2022. We skipped over the 14th. precinct (now “Midtown South”) because of its unique demographics (it’s home to office buildings, Times Square, Grand Central Terminal, Penn Station, Madison Square Garden and the Manhattan Mall). We also left out the “DOC” (Dept. of Corrections) precinct and the 121st. precinct, for which data was incomplete.

After calculating seventy-four precincts’ yearly violent crime rate (murders, felony assaults, rapes and robberies per 100,000 pop.), we identified the five precincts with the highest rates and the five precincts with the lowest rates each year. As it turns out, our “low” and “high” tables each wound up with eight precincts, but only the five “low” and five “high” yearly scores are displayed:

PRECINCTS WITH FIVE LOWEST VIOLENCE RATES														
VIOLENT CRIMES			2000		2010		2015		2020		2021		2022	
PCT	POP	POV	#	RT	#	RT	#	RT	#	RT	#	RT	#	RT
123	100738	6.4	107	106.2	74	73.5	85	84.4	77	76.4	45	44.7	80	79.4
111	122211	9.0	246	201.3	139	113.7	119	97.4	106	86.7	115	94.1	189	154.7
122	144552	7.3	305	211.0					167	115.5	177	122.4	200	138.4
20	114575	8.4	310	270.6	158	137.9	132	115.2	148	129.2				
19	220261	7.1	607	275.6	257	116.7	241	109.4						
17	89367	7.7			118	132.0								
112	119739	10.6					109	91.0	114	95.2	136	113.6	190	158.7
68	136071	15.7									153	112.4	171	125.7
AVERAGE			9.0	212.9		114.8		99.5		100.6		97.4		131.4

**PRECINCTS WITH FIVE HIGHEST VIOLENCE RATES**

VIOLENT CRIMES			2000		2010		2015		2020		2021		2022	
PCT	POP	POV	#	RT	#	RT	#	RT	#	RT	#	RT	#	RT
28	49200	28.4	658	1337.4	460	935.0								
25	50996	32.8	696	1364.8	492	964.8	606	1188.3	557	1092.2	652	1278.5	697	1366.8
73	98506	31.4	1480	1502.4	1134	1151.2	1015	1030.4						
41	54454	38.5	1042	1913.5	707	1298.3	598	1098.2	500	918.2	558	1024.7	765	1404.9
81	68921	30	913	1324.7	721	1046.1								
48	89216	28.4					965	1081.6	805	902.3	880	986.4	1133	1270.0
40	100929	37.1					1139	1128.5	1205	1193.9	1185	1174.1	1455	1441.6
42	93755	38.5							923	984.5	1028	1096.5	1160	1237.3
AVERAGE	33.1			1488.6		1079.1		1105.4		1018.2		1112.0		1344.1

To clarify, # represents the actual number of violent crimes, and RT is the corresponding rate per 100,000 population. Mean rates (“AVERAGE”) were computed for two measures:

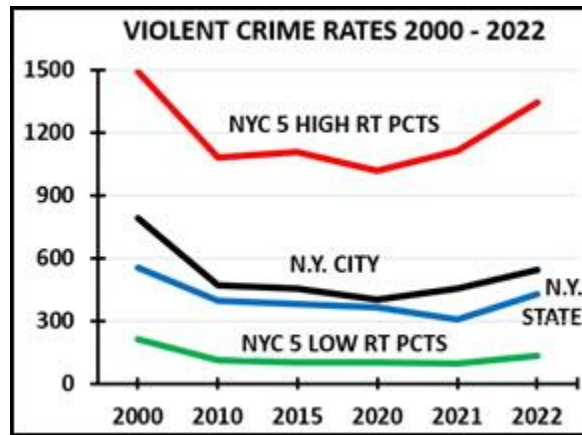
- Percent of residents in poverty across the eight districts in each table (2009-2013 est., with precinct boundaries based on comparisons between precinct and [council district maps](#))
- Mean of the five lowest and five highest precinct violence rates each year

More than six-hundred thousand persons (605,977) reside in the eight precincts that made it into our high-violence table. Their mean yearly violent crime rates were *seven to more than eleven times* worse than the corresponding yearly means of their low-violence counterparts. And the overall percentage of residents living in poverty was *3.7 times greater* in the high-violence precincts . Once again, the poverty/violent crime connection seems indisputable.

How does that fit historical trends? Here are New York City and New York state rates since 1990:

	VIOLENT CRIME RATES								
	1990	1995	2000	2005	2010	2015	2020	2021	2022
NY City	2045.6	1573.2	790.4	673.1	469.1	456.0	404.0	456.4	546.2
N.Y.	1180.9	841.9	553.9	444.4	394.4	380.4	363.8	308.3	429.3





We couldn't find reliable New York City precinct stat's that precede 2000. But since then, the yearly violent crime rates of high-violence precincts have consistently exceeded – usually, by a substantial margin – the corresponding rates of both New York City and New York state. In 2000, as the U.S. was recovering from the crack epidemic of the nineties, our high-rate precincts' mean violent crime rate (1488.6) was *nearly twice* the city's 790.4 and *2.7 times worse* than the state's 553.9. (In fact, the 41st. precinct's sky-high 2000 rate of 1913.5 was far worse than the state's 1990 rate and nearly equaled the city's). By 2022, our high-violence precincts' mean rates were *2.5 times worse* than the city's and *3.1 times worse* than the state's.

Bottom line: citywide rates seriously understate the impact of violent crime on less prosperous areas. Our [Neighborhood](#) posts consistently demonstrate a profound connection between local economic conditions and violent crime. That's not just in La-La land and the Big Apple. Check out New Orleans ("[Hard Times in the Big Easy](#)"). And San Antonio ("[San Antonio Blues](#)"). And South Bend, Indiana ("[Human Renewal](#)"). And Portland and Minneapolis ("[Don't Divest – Invest!](#)").

Most of our readers are well aware that poverty and violence are closely linked. So why would a top economist make sweeping conclusions about crime without addressing within-city differences? Perhaps he wished to avoid implying that poor people are evil. Yet poverty undoubtedly plays a major role in setting the stage for the violence that besets the good, law-abiding residents of lower-income areas. After recent shootings in South Los Angeles' violence-beset Watts neighborhood (it's in Southeast Division), [the leader of a local peace coalition observed](#) that citywide declines in shootings and murders "don't necessarily reflect our reality." According to an L.A.-area gang interventionist, this "reality" can make normal life in poor areas impossible. "It's time for our children to be able to play outside, be able to walk to and from school safely...Because we want to make sure that our kids grow up to be doctors and lawyers and police officers and firefighters...This isn't a color thing."

What to do? While cops *do* matter, the answer lies *way* beyond policing. Once again, let's self-plagiarize from "[Fix Those Neighborhoods!](#)":

Yet no matter how well it's done, policing is clearly not the ultimate solution. Preventing violence is a task for society. As we've repeatedly pitched, a concerted effort to provide poverty-stricken individuals and families with child care, tutoring, educational opportunities, language skills, job training, summer jobs, apprenticeships, health services and – yes – adequate housing could yield vast benefits.

Set aside all that ideological gibberish. For this Administration, and the one after that, fixing neighborhoods is Job #1. We're (still) waiting!



Posted 1/22/08

## **SOMETIMES YOU HAVE TO THROW AWAY THE KEY**

“...it is perverse to condemn a minor to prison for life [without the possibility of parole] for committing a crime that he or she might find unthinkable on reaching adulthood.”

So said the [Los Angeles Times](#) in an editorial calling on the California Legislature to exempt 16 and 17-year olds from being sentenced to mandatory life without parole should they be convicted of murder with [special circumstances](#) (e.g., killing witnesses and law enforcement officers, murders for financial gain or during the commission of a violent felony, using an explosive, being especially cruel, lying in wait, in furtherance of gang activity, etc.)

There are two threads to the Times’ argument. First, the comparative. Sentencing kids to life without parole isn’t done in any other country, so it’s by definition outrageous. Secondly, the empirical. According to science the brain region that controls impulsive behavior isn’t fully developed until one’s early twenties, so throwing away the keys needlessly “discards” correctible lives.

And it’s not just the *Times*. Two days later the [Miami Herald](#) reported on Florida’s practice of remanding kids who kill to adult court, where they face possible life sentences. Among those currently at risk are a 12-year old who beat his infant cousin to death with a baseball bat, and a 14-year old who stabbed his best friend. According to a criminologist, prosecutors are catering to a public that demands they “deep-six” children who kill: “...no matter how much they can be rehabilitated -- people want 10 or 15 years out of the kid's life, maybe more.”

Why is that? Perhaps the answer lies in what the *Herald’s* article *didn’t* say. In 1999 [Lionel Tate](#), a 12-year old Florida boy, viciously stomped a 6-year old girl to death. After his police officer mother refused a plea bargain Lionel was convicted of murder and received life without parole. Although the judge described the killing as incredibly brutal, the sentence drew widespread condemnation and Lionel was eventually placed on probation. Well, he apparently didn’t learn his lesson. Lionel’s problems with the law continued, and in 2006 the now nineteen-year old got ten years for the armed robbery of a pizza deliveryman.

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What's the difference between armed robbery and murder? Five pounds of trigger pull, maybe less with a semi-auto.

Most Americans favor putting murderers to death -- nearly seven out of ten according to the latest [Gallup poll](#). Half, though, would settle for life “*absolutely without*” parole, a wording made necessary due to skepticism that “without” really means that. In any event, prison is now the only option for younger offenders, as in 2005 the Supreme Court ([Roper v. Simmons](#), no. 03-633), barred the execution of those under 18. Interestingly, the Court's reasons -- that evolving standards make executing young people a cruel and unusual practice, and particularly so given their immaturity -- were the same as the Times' more recent objections for imposing life sentences.

Watch your step! The slope's getting slick!

LiberalPig is personally against the death penalty. So he is naturally concerned when well-intentioned folks like the *Times*' editors threaten the only alternative that the American public seems willing to accept: life without parole. Europeans may feel differently, but given the easy availability of guns and our absurdly high levels of violence it is perfectly reasonable to demand the certainty and reassurance that only permanent incapacitation can provide. There really is no other satisfactory solution. Consider the dilemma faced by Presidential contender [Mike Huckabee](#), who finagled the 1999 parole of a violent rapist only to have the man rape and murder at least one and possibly two women a few months later.

But young people are by definition immature. Should they really get no “second chance”? On January 17 two youths, one 17, the other 19, [were arrested](#) in the shooting deaths of a 16-year old Southland resident and her 18-year old boyfriend. Police think that the killings were done strictly for thrill as there was no evidence of a robbery and one suspect had blogged about the joys of “killing at random”. Although the *Times*' proposed guidelines would not help these two, as both are just over the magical threshold of 18, one can assume that neither boy's conscience was completely formed. If they're not to be executed, when should they be released?

Murder is not a phenomenon of the very young. [In 2006](#) more than three in four persons arrested for murder were over 22, with about half older than 24. Apparently fully developed brains are not enough to keep people from killing each other. Fortunately, the rates decline markedly by the time that men (that's

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the gender to worry about) are in their forties, so fifty seems like a good bet for release.

OK, we're on board. Release all violent offenders when they're fifty, and send me the clippings of those who kill again. That should make for some interesting posts.

## The Pistol That Killed Officer Heim

The tragic costs of coddling the gun industry

A true story by Julius (Jay) Wachtel

(Basis for author's fictionalized screenplay entitled "Three-Eighty")

On January 13, 1992 a middle-aged woman walked into an Orange County gun store and displayed a document identifying her as a Federally-licensed gun dealer. Within minutes she left with twenty brand-new Davis .380 caliber pistols, valued at ninety dollars each. She returned ten days later for another batch of forty-seven. By midFebruary her purchases totaled eighty-nine.

For those who hold a Federal firearms license purchasing guns is quick and simple: there is no waiting period, no records check, virtually no paperwork at all. That the woman's gun business was located at her home, that she was buying from another dealer rather than a distributor, thus paying an unnecessary markup, and that she was acquiring lots of cheap pistols of the kind favored by juveniles and gang members didn't raise so much as an eyebrow. With Feds handing out gun dealer credentials as though they are candy at the time there were about 100,000 licensed firearms dealers in the U.S. so competition among retailers is stiff. Landing another dealer as a customer is a gift horse: had the salesperson rebuffed her he would have likely been fired.

But pistols are *not* candy. Within days police collared two youths who were carrying a pair of these guns on the street. Another three-eighty quickly turned up in an armed robbery, yet another in an attempted murder. And it was only the beginning.

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LAPD was confiscating about 10,000 firearms each year, nearly twenty percent from violent crimes. A small team of criminal investigators employed by the Bureau of Alcohol, Tobacco and Firearms (I was their supervisor) was tasked with discovering where these guns came from and, whenever possible, with stemming the flow. Most of the time we felt like the little Dutch boy, frantically plugging the dike with our fingers. My squad had recently trailed a load of thirty pistols as they wound their way from a distributor through a licensed dealer and a gaggle of intermediaries; fourteen hours of surveillance later, weary agents detained an illegal alien as he tried to sneak the five guns that remained into a residence in a gang-infested neighborhood. As usual, it proved to be a good news/bad news story: although we probably kept a few weapons from falling into the wrong hands, the dealer, who turned out to be as crooked as a Chicago alderman, had already spirited *fourteen-hundred* nine-millimeters and three-eighties out the back door, with no paperwork or record checks.

One might think that only the most feckless entrepreneur would thumb his nose at the Feds. But one would be wrong. Demand for "clean" handguns — meaning those lacking a written trail — is so high that tacking on as little as fifty bucks per illegal transaction can yield enormous rewards. And the risk is small. More than thirty years ago complaints from the gun lobby generated so much political heat that ATF, the Federal agency charged with regulating the gun trade, chewed off its stronger arm, shifting oversight of firearms dealers from nit-picking, badge-carrying special agents to civilian inspectors. Knowing nothing about the gun marketplace (their main task was, and is, to collect alcohol and tobacco excise taxes) and under strict instructions to avoid

irritating gun dealers, inspectors shrugged off their new responsibilities, seldom visiting licensees and conducting only the most cursory checks. To keep its ornery, independentminded agents from stirring the pot, ATF imposed rules requiring they seek Headquarters approval before investigating licensees. Half-heartedly rescinded years later, the restriction sent a clear message whose echoes resound to the present day.

Foreclosed from ready access to industry records, agents turned to police gun recoveries to develop trafficking leads. Since diverted firearms usually wind up in highcrime areas, my squad entered information about weapons seized by LAPD South Bureau officers ó then about three-thousand per year ó into a computer that parsed the data for interesting patterns, such as handguns recovered soon after manufacture (after retiring from the Bureau I updated the program, which is still in use). Naturally, this after-thefact process suffers from an unavoidable pitfall: by the time one zeroes in on an illicit gun source buckets of guns will have already hit the streets.

In our business eighty-nine pistols was small potatoes and nearly three years passed before my squad looked into the woman dealer's purchases. Actually, we were first alerted by a tragedy: one of her pistols had killed a cop.

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White Dude whiled away his final hours in typical fashion, kicking it back with a lady friend, waiting for customers to knock on the door. Improbably fair-skinned for a barrio gangster and at the ripe old age of twenty-six unusually long-lived, White Fence gang member Manuel Vargas Perez chased the American dream in a way that his *pachuco* forbearers could not have anticipated.

Decades earlier, social strife and the war in Vietnam had ripped open the fabric of

American life, propelling an epidemic of drugs and violence that would persist into the new Millennium. From the leaf that built Bogotá's skyline came crack, cocaine hydrochloride mixed with baking soda and water, then heated to produce a precipitate that, once dry, could be apportioned into single servings resembling tiny rocks.

Methamphetamine, a fiercely addictive drug commonly known as speed, did not even require a crop or only a certain kind of cold medicine, some easily obtained chemicals, a makeshift lab and a steady hand to avoid blowing oneself up while stirring the brew.

Protecting one's turf was once a matter for fists, clubs and the occasional shiv; guarding an immensely profitable business called for something more. As gunplay turned inner cities into killing fields, driving frightened residents to the suburbs and forcing police to hastily form SWAT teams, firearm manufacturers responded in the way they knew best, ramping up production and churning out ever-more-lethal hardware. The old fashioned .38 revolver, a bulky weapon that could fire no more than six shots before a clumsy, time-consuming reload, was supplanted by a semi-automatic pistol of like caliber: the three-eighty. Cheap, easy to conceal and, once emptied, easily replenished by slapping a new ten-round magazine into the handgrip, the newfangled handguns proved an instant hit.

In the two decades preceding White Dude's big day more than two and one-half million three-eighties flooded the streets. By then it was already playing second fiddle to its far more lethal cousin, the nine-millimeter: boasting a cartridge with twice the muzzle energy, the new schoolyard bully reigned champ until 1999, when pistols in even larger calibers grabbed the top spot.

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On October 21, 1994 Los Angeles Police Department officers Charles (Chuck) Heim, an eleven-year veteran, and his partner Felix Peña, with seven years on the job, were in a patrol car working the swing shift in Hollywood Division. After wrapping up a routine call they were looking for something interesting to do when an older Buick with two shifty-looking occupants barreled by.

Ten years later, as we sat in the comfortable living room of his family's suburban split-level, Peña, now a Sergeant, described what took place.

“It was driving at a good rate of speed, probably forty, forty-five miles an hour in a residential zone. So we sped up and got behind the car.” A license check revealed that the plate belonged to another vehicle. Before the officers could react the car abruptly pulled to the curb, discharged its passenger and sped away.

They let the car go and stopped the pedestrian, a gang member on parole for robbery. “We wanted to squeeze him for crime information,” said Peña. “He told us there was possibly some dude selling dope out of a motel on Sunset. He didn't know who it was. He just said it was an individual who was possibly selling drugs and he might have a gun.”

It was already dark when Heim and Peña approached the room. “We walked up and listened. Soon as Chuck knocked on the door somebody inside the room pulled the curtains to one side. I saw it was a female. She said ‘oh, shit, it's the police’”

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Eighteen years earlier the Newhall-Saugus Chamber of Commerce presented a plaque to a high school senior, recognizing his daring, single-handed capture of a burglar who broke into a local store. A photograph depicts Chuck Heim, then seventeen, spiffed

out in a natty western outfit, towering over the Chamber's president as he receives the award.

After a stint in the Army Chuck joined the LAPD. An expert horseman and competitive bull rider, the wise-cracking cowboy eventually landed in the Metropolitan Division's mounted detail where he earned a reputation for calming high-strung thoroughbreds, including one so jittery that only he could control it. But after five years Chuck longed to get back into the thick of things. He started working patrol shifts in Hollywood Division even before his transfer was finalized.

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Officer Heim took a position to the right, Peña to the left. Chuck knocked again.

In the measured tones of someone who took a trip from which he never quite returned, Peña described what took place. "As the door opened the female stood to one side. Chuck stepped into the threshold and made contact with the people inside: a female, and a male lying on the bed."

White Dude was covered by a sheet. Heim, the senior officer, was now fully exposed.

"Chuck said 'let me see your hands', 'let me see your hands.' Before he could say 'let me see your hands' a third time the suspect came up shooting. He shot Chuck three times, once in the arms, once in the torso and the third hit him in the forehead, between his eyes."

Mortally wounded, Chuck crumpled to the floor. Peña drew his weapon and returned fire. Highlighted by the motel's lighting, he found himself in a dangerous

position: instantly, a bullet struck his right hand; a second shot then hit him square in the chest and knocked him back into the railing. Miraculously, Peña regained his footing.

He pointed his pistol, squeezed the trigger and ó nothing.

His gun had jammed.

õI went to my knees and looked at my gun. I could see that one of the rounds had not extracted properly.ö Fortunately, Peña was a lefty; he hastily cleared the pistol with his bleeding right hand and returned fire. Bullets continued to fly as help arrived. Officer Armen Sevdalian dragged Chuck to safety. Peña was escorted to an ambulance where paramedics tended to his hand and ripped off his uniform. Thankfully, his torso was intact: the ballistic vest had absorbed the blow.

In the confusion, White Dude crawled out a bathroom window, jumped to the ground and escaped.

Chuck Heim passed away at Cedars-Sinai hospital early the next morning, October 22. Thirty-three years old, he was survived by his parents, Paula and James Heim, his wife Beth, an LAPD officer pregnant with their first child, and a twelve-year old son from a prior marriage.

One day later SWAT officers cornered White Dude at a nearby motel. Reached by telephone, he vowed to kill again. After an exchange of gunfire a police sniper shot the gangster through the throat. White Dude crawled away, and then turned his gun on himself. Ballistics confirmed that the Davis Industries .380 pistol found next to his body was the weapon that killed Chuck and wounded Peña. Manufactured in the õRing of Fireö, a region of Southern California known for its profusion of firearms manufacturers,

the ubiquitous handgun ó then the second most frequently traced gun in the United States ó cost a mere \$15 to produce.

In 1996 LAPD awarded Peña and Sevdalian its highest decoration: the Medal of Valor.

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Chuck Heim was the second LAPD officer gunned down in eight months. In February 1994 officer Christy Hamilton, 45, was fatally shot by a youth who had just murdered his father. Wife of a firefighter, daughter of an LAPD detective and mother of two grown children, Christy had only seven months on the job.

It fell on Chuck to lead the riderless horse at her funeral procession.

Seventy-eight American law enforcement officers were slain by gunfire in 1994, a lamentable record that still stands. Public outrage about gun violence prompted Congress to pass the Brady Act, which imposed a national records check for persons buying handguns from licensed dealers (the law, which now covers rifles and shotguns, does not apply to transactions between unlicensed persons.) Named after Jim Brady, the White House press secretary who was crippled during an attempt on President Reagan's life, the rule had no practical effect in California, where background checks had long been required for gun buyers and exchanges between private persons were illegal.

In California, approved handgun transfers are perpetually recorded in a statewide database. We typed in the serial number of the pistol used to kill officer Heim; curiously, there was no match.

Each component of the gun industry ó manufacturers, distributors and dealers ó must keep track of firearms that pass through their businesses. Davis Industries reported

that they had sold the pistol years earlier to a gun store in Orange County. Then we learned the rest of the story.

It seemed like déjà vu all over again. Six months earlier my squad raided an apartment in a gang-ridden section of Inglewood. Our efforts proved a bit late, as a teenage resident had already sold nearly one-hundred guns to gang members. His mother, a woman gun dealer, shrugged it all off as a misunderstanding.

On retiring from ATF in 1998 I received a letter commending me for bringing the problems of dealer misconduct in Southern California to the Bureau's attention. It seemed a curious gesture: my squad was disbanded one year earlier and its agents scattered, ostensibly to reinforce general-duty groups that suffered from staffing shortfalls. My last months, spent traveling as a lecturer and consultant on gun trafficking for the Bureau's National Tracing Center, what some might call a dream assignment, reinforced a long-held view: licensee misconduct was a chronic affliction that touched all levels of the gun industry, but which for political reasons ATF felt compelled to downplay or ignore. If Los Angeles seemed a particularly fertile ground for these deadly shenanigans it was only because agents had bothered to look.

We ran the woman dealer's purchases on a statewide database. Thirty-one threeseventies had already surfaced in a variety of incidents, including robbery, kidnapping and attempted murder. And as we knew, the killing of officer Heim.

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On February 16, 1929 Hugh Plunkett, secretary to Beverly Hills oil baron Edward L. Doheny Jr., inexplicably shot his boss to death, then turned the gun on himself. The killer's lack of a clear motive and rumors of a tangled relationship between him, his

employer and the employer's wife made the crime scene of Doheny's grandiose Greystone Mansion, the largest private residence in Beverly Hills of a drawing card for crime buffs, mystics and conspiracy aficionados. Now a City park, the mansion and its spacious grounds became a favored backdrop for films with dark themes, including "Ghostbusters II" and "The Witches of Eastwick".

On the morning of February 21, 1992 police were called to the mansion to remove an abandoned BMW that blocked a film shoot. In the trunk startled officers found the lifeless body of a 17-year old high school senior. The youth had been shot and stuffed into the car, a gift from his parents.

Less than a month later detectives arrested two San Fernando Valley men for the murder; one tried to flee and was caught with a Davis .380. Although this was not the murder weapon, within a week police had the gun that was: a Calico M-950 ninemillimeter pistol. Technically classified as a handgun because it lacks a stock, the fearsome-looking firearm features a top-mounted, cylindrical magazine with a stunning capacity of up to *one-hundred* rounds.

Tracing revealed that both firearms had been recently acquired by a woman dealer: the Calico directly from the factory, and the Davis as part of a sequence of purchases from an Orange County retailer (years later another of these guns would be used to kill officer Heim). And there was a tantalizing clue: the buyer was the mother of one of the defendants.

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The Gun Control Act of 1968 authorizes any legal resident who is 21, free of a felony conviction and willing to collect a handful of permits to apply for a license to deal

in firearms. Home gun businesses are allowed unless barred by State law; in California, which leaves the decision to local authorities, they are prohibited in a handful of cities, including Los Angeles and Beverly Hills.

Federal law allows States and political subdivisions to regulate gun sales; most avoid the unpopular chore and leave everything to the Feds. Although notorious episodes of firearms violence such as the Columbine school shootings occasionally stir things up (the Act was precipitated by the assassinations of Dr. Martin Luther King, Jr. and Senator Robert Kennedy), fierce opposition to gun control has managed to dilute the few curbs on licensee conduct that the Act imposed. Collaboration between the N.R.A., the gun industry and legislators from both parties led to passage of the 1986 ðFirearms Owners Protection Actð; the first major revision of Federal gun laws in twenty years, this deceptively entitled paean to the firearms lobby granted manufacturers, distributors and dealers extraordinary protections, downgrading offenses such as keeping false books to misdemeanors and capping unannounced inspections at one per year.

Even if ATF could muster the will to go after the industryðs bad apples its resources are spread ridiculously thin. Its tiny regulatory workforce ó in 2002 there were 420 inspectors for 104,000 gun businesses ó inevitably leads to a feeble inspection rate (4.5 percent of licensees per year) and superficial reviews. A study of firearms dealers whose guns frequently turned up in crimes revealed that ATF inspected only two of six ðhigh traceð California dealers after granting them a license. (One that avoided routine oversight, an obscure outlet in a Southland industrial park, was investigated after onehundred of its guns were recovered in LAPDðs South Bureau in a single year. Agents discovered that this ðbusinessð, which was actually operated from an apartment, had sold



more than 1,000 handguns out the back door.) By 2004 under-regulation of the industry had led to so much embarrassment that the U.S. Justice Department's Inspector General in an administration well known for its hostility to gun control issued a report (naturally, soon buried) that criticized ATF's "limited and inconsistent" oversight of firearms dealers.

Her son was nineteen, two years short of the legal age to buy even one handgun. When the woman told detectives that she gave him the Calico *and* the three-eighties, her statement might have sounded like a confession. But she insisted that everything was aboveboard. Showing investigators a copy of a license for the dealer who supposedly employed her son, she described the handoffs as legitimate dealer-to-dealer transfers, no different in kind than her own purchases. Although the document turned out to be a forgery there was no "other dealer" of detectives and ATF agents from a suburban squad took the mother at her word, that she had believed her boy. Within months she would repeat this account, and her son would confirm it, at his murder trial.

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The defendants' prospects looked bleak from the start. One of the State's first witnesses, a friend of the pair, testified that they killed the youth because "he fucked up a deal." Another witness, who appeared under a grant of immunity, said that he was present when the defendants did the deed and accompanied them when they disposed of the body. Unable to wriggle out of the killing, the defense claimed that the victim drew his gun first; that excuse lost momentum when it turned out that the youth was shot twice, one inside a residence, then a second time after he fled into the backyard. Vilifying the victim by painting him as a street gun peddler (police suspected that he supplied guns to

L.A. gang members) didn't work much better, as it unexpectedly dovetailed with the prosecution's theory of the crime: that the youth was killed so the defendants could keep a load of guns that he paid for in advance.

Jurors accepted the State's version. On June 8, 1993 they found the defendants guilty of first-degree murder with special circumstances, including financial gain and lying in wait. Both were sentenced to life without parole.

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In October, 2002 John Muhammad, 42 and Lee Malvo, 17 terrified the nation's capital with a series of sniper attacks along the Washington Beltway. Thirteen persons were shot; only three survived. Muhammad and Malvo were arrested and convicted: Muhammad got the death penalty, Malvo life without parole.

ATF traced their gun to a Bushmaster .223 rifle to Bull's Eye, a Tacoma gun store and shooting range. When authorities arrived, the owner checked his records and said the rifle was still supposed to be in inventory.

But golly it wasn't. So the shopkeeper reported it stolen.

An election loomed. Eager for support from firearms enthusiasts but afraid to scare off voters with a blatant pro-gun message, Republicans urged a crackdown on armed criminals. President George W. Bush delivered on the promise early in his first term. Warning offenders that "if you use a gun illegally, you will do hard time" he launched "Project Safe Neighborhoods", allocating tens of millions of dollars to gun violence reduction projects. Federal attorneys promptly dusted off a spottily applied Federal law that prohibits felons from possessing firearms and encouraged ATF to scour local jails for likely candidates. It was a dramatic turnabout. During the Clinton years we

could rarely get “one-man, one gun” cases prosecuted; in fact, my squad had come about as direct result of a meeting between ATF and top managers of the U.S. Attorney’s office, who were insisting that we shift emphasis to weightier matters such as firearms trafficking.

Soon a profusion of ex-con-with-a-gun cases cluttered Federal dockets, irritating judges but allowing the Justice Department and ATF to claim that they were cracking down on armed felons (what wasn’t made clear was that virtually all had been arrested by local police.) Within ATF other concerns were pushed to the back-back-burner. In a 2004 report, Americans for Gun Safety lamented the misdirected emphasis: “The Justice Department has promised to crack down on illegal gun trafficking and cut the supply of firearms to criminals. Instead, it has focused on prosecuting criminals only after they get their hands on guns, and in many cases only after they have used a gun to commit another serious crime. This approach has left an enormous enforcement gap that makes it too easy for criminals to arm themselves.”

It wasn’t just the mean old G.O.P. Vice-President Al Gore’s National Reinvention initiative, which called for a kinder and gentler approach to private enterprise — he called it the Government’s “customer” — helped transform regulatory agencies into industry lapdogs. Federal disengagement from gun control accelerated when the NRA’s darling, John Ashcroft, was anointed Attorney General. An open skeptic of firearms laws, his view that the Second Amendment conferred a personal right to bear arms became Justice Department policy. Lacking direct authority over ATF, then a branch of the Treasury Department, Ashcroft nonetheless nipped away at the agency’s

heels, in one instance turning away a proposal to make gun trafficking eligible for prosecution under racketeering statutes.

In 2003 Ashcroft scored a major victory: ATF was transferred to the Justice Department. He moved swiftly. Tired of waiting for the Feds to do their job, crime victims and local governments had been using gun trace data to bolster lawsuits that charged firearms manufacturers, distributors and dealers with reckless marketing practices. With the agency now under his thumb, the Attorney General declared the information off-limits to the general public, a decision that was later upheld in the courts and enshrined in the text of the Bureau's yearly appropriations bill. For good measure Ashcroft also put an end to ATF's irritating habit of publishing a yearly list of "top-ten" crime guns.

He wasn't quite done. The 1994 Federal assault weapons act outlawed certain military-style weapons and high-capacity magazines. With the statute set to expire, the International Association of Chiefs of Police, the country's leading group of law enforcement executives, urged its extension. Although Ashcroft had favored the ban during his confirmation hearings, he now voiced doubts about the law's efficacy. All he would promise is that the Justice Department would "continue to study" the measure.

They're still studying. In the meantime, Congress got the hint and allowed the ban to lapse on schedule.

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Federal prosecutors serve at the President's pleasure. When the Party controlling the White House shifts, United States Attorneys and their immediate deputies normally

leave their posts and are replaced with lawyers who can be counted on to support the new Administration's priorities.

During twenty-three years as an ATF agent and supervisor in Arizona, Montana and California, I found it more difficult to bring licensed crooks to account when the G.O.P. was in power. Elections usually brought a shift in emphasis: when Republicans were in, agents were encouraged to go after illegal possessors; when Democrats took over there was more freedom to go after suppliers. Still, even when political conditions seemed most favorable, bringing crooked dealers to task was never an easy sell. ATF's neglectful stewardship of the firearms industry rarely produced referrals of corrupt licensees, leaving Assistant U.S. Attorneys so ignorant of the gun marketplace that many subscribed to the conventional (but wildly inaccurate) notion that most guns used in crime are stolen; when informed that a licensee had sold hundreds if not thousands of weapons without keeping records, prosecutors frequently refused to believe that the conduct was anything beyond an oversight. Sad to say, cluelessness about licensee avarice also infected our own employees. During the Government re-invention craze of the mid-nineties an obscure Headquarters manager once penned a memo suggesting that corrupt dealers be referred to as "conflicted clients". Thinking the message hilarious, I posted it in the squad hallway. Agents didn't know whether to howl or flinch.

Reluctance to take on the industry certainly wasn't because of our track record: of the more than two-dozen investigations where charges were filed, not once did we lose in court. But the path to success was often uncertain. During a three-year period, a major retailer in Cypress and another in Lake Forest (both since out of business) jointly diverted as many as 10,000 handguns to unlicensed peddlers, falsely noting in their books that the

weapons had been transferred to other licensees. With routine inspections virtually nonexistent, agents had no idea anything was amiss until they learned that dozens of these dealers' weapons had turned up in Japan and Australia, including ten seized by Australian customs on a date that *antedeceded* the sale date noted on the dealers' records. For reasons that remain unclear (there were rumors of political pressure) prosecution of the main defendant in this colossal and exhaustively documented case was held up for nearly two years while the file bounced between attorneys. Eventually the suspect pled guilty and was sentenced to a brief prison term. If somebody was hoping that we would give up and move on, they didn't appreciate just how hard agent heads could be.

During the five years that my squad pursued gun traffickers, keeping investigators from succumbing to despair was my most challenging task.

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Dealer misconduct means more than just sneaking weapons out the back door. Repetitively selling cheap handguns to the same person or selling a pistol to a woman while her boyfriend nervously stands around virtually guarantees that a gang member or criminal will soon have a shiny new gun.

Two years after officer Heim's murder another LAPD officer was shot dead with a trafficked pistol. On December 22, 1996 a 17-year old gang member bolted from a Fairfax Avenue convenience store with two six-packs of beer. LAPD officers Ralph Mendoza and Mario Navidad, academy classmates with less than two years on the job, confronted the suspect. The youth pulled out a cheap Bryco .380 pistol and started shooting; in the exchange of gunfire both he and officer Navidad were mortally wounded.

The killer's gun was purchased at a gun store four years earlier by an adult who acquired five inexpensive handguns during a twenty-month period. Three were from the Ring of Fire.

In a recent study, UCLA researchers called gun stores pretending they wished to buy a handgun for someone else. Some dealers agreed to the transaction even when told that the intended possessor could not legally own a firearm:

“As long as you have no record, you can come down here and pick one up and put it in your name.”

“You can do whatever you want after you walk out the door.”

“What you do with it is your business. Legally you'd be responsible for it, you're more than welcome to buy one. You can't transfer it to him or I assume he's been turned down.”

“She can't come in, pick one out and you buy it. That's against the law.” Caller: “I'd come, just me.” Clerk: “I'd have no problem with that.”

Buford Furrow got his Glock at a Spokane gun show. Its vendor, an unlicensed gun peddler, originally acquired the pistol from a dealer. That's where gun trails often lead. Retailers are a far better source of supply than thieves and burglars, as only licensees can readily obtain new handguns of whatever kind one's heart desires, in quantity and on short notice. So-called “weak-law” states such as Arizona, Nevada, Texas and Washington make a gun trafficker's job easy. With no limit to the number of handguns that can be acquired, no waiting period or record check for long-gun purchases, and no waiting period for handguns beyond the breezy Federal Insta-Check (just a few minutes against California's ten days), in-State residents can waltz into a gun store one



minute and leave with a shopping bag full of pistols the next. Well aware of such loopholes, Los Angeles street dealers often hire Arizona residents to buy firearms at Phoenix-area gun dealers. Intermediaries are not even required at gun shows in Arizona and Nevada, where self-styled "collectors" can sell handguns *they* purchased to all comers, without records checks or paperwork.

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Abandoned for the most part to their own devices, States and local governments tried to fill the vacuum left by the Feds. In 1999 California enacted a law capping handgun purchases at one per month (the writer testified in the bill's favor.) Legislators also plugged a loophole in the State assault weapons act that allowed manufacturers to continue marketing banned guns by simply changing their name, as Colt did with the AR15 (christening it the "Sporter") and Calico with the M-950 (it became the "Liberty III"). Two years later California tightened its "gun safety" laws by requiring that handguns have positive safety mechanisms, survive a drop test and "perhaps a dubious improvement" to fire repeatedly without malfunctioning.

There was also movement on the civil side. In 2001 a coalition of California cities, including San Francisco, Los Angeles and San Diego, sued gun makers, distributors and retailers for engaging in marketing practices that helped weapons fall into the hands of criminals (the author consulted for the plaintiffs). A court later found the plaintiffs' arguments unconvincing and dismissed most of the defendants; five that remained settled by agreeing to tighten things up, for example, by not selling at gun shows and by taking steps to guard against "straw buyers", those who purchase guns for others.

Legal harassment and financial setbacks ultimately emptied the Ring of Fire of nearly all its gun makers. Bryco Industries suffered a particularly stiff blow when an Alameda County jury awarded a crippled teen \$24 million for injuries caused by a .380 pistol that accidentally discharged. But "down" does not necessarily mean "out". After buying the firm's assets at an August 2004 bankruptcy sale, the former plant manager, Paul Jimenez, resumed manufacturing essentially the same line of pistols under the "Jimenez Arms" brand. Its products, which do not meet California safety standards, are marketed in other States by Shining Star Investments, a Texas distributor. The most expensive, a 9mm. pistol, retails for \$189.

Calico relocated to Nevada where it produces high-capacity magazines and Liberty III pistols. Their products "not all legal in California" can be ordered through licensed firearms dealers.

Now called the "CA 380", the pistol formerly known as the Davis .380 reappeared in another gun-friendly state, Utah, where it is manufactured by Cobra Enterprises. It, too, fails California's safety standards but can be sold elsewhere.

In September 2004 insurers for Bushmaster Firearms and Bull's Eye agreed to pay \$2.5 million to settle a lawsuit brought by victims and families of the D.C. snipers. Bull's Eye's owner, Brian Borgelt, whose gun license ATF finally yanked (he is contesting its revocation) sold the business but continues operating its shooting range. On August 10, 1999 Buford Furrow, a mentally disturbed neo-Nazi, raked a Granada Hills Jewish center with an Uzi, severely wounding five persons including three small children, then used a Glock pistol to kill a Filipino-American mail carrier. A former home-based gun dealer, Furrow lost his license after being convicted for threatening psychiatric nurses with a

knife. Surviving family members sued the makers, distributors and retailers of Furrow's guns. Initially dismissed by a trial court, the lawsuit was reinstated in November 2003 by the Ninth Circuit, which found it reasonable to expect that the gun industry take "basic steps to prevent these guns from reaching illegal purchasers and possessors."

But the gun lobby had an ace up its sleeve. In October 2005 President Bush signed S. 397, the "Protection of Lawful Commerce in Arms Act," an extraordinary piece of legislation that prohibits lawsuits against gun makers and sellers should their products be misused. (To demonstrate its fairness and balance, S. 397 also banned armor-piercing ammunition and required that trigger locks be supplied with every gun.) Hoping to freeze anti-gunners dead in their tracks, lawyers for the firearms industry quickly filed motions to dismiss all pending civil actions, including the suit filed by Furrow's victims.

Plaintiffs' attorneys fired back with challenges contesting the statute's Constitutionality (it forecloses all civil remedies) and applicability to individual cases. According to the beleaguered chief counsel of a major gun control organization, the battle has proven a costly distraction: no matter who ultimately prevails, it's a win-win for the industry.

Emboldened by their success, pro-gunners are working overtime to consolidate their gains. In March 2006 Rep. Lamar Smith (R-Texas) introduced H.R. 5005, a bill that would prohibit the release of gun trace data to all, including State and local governments, and make records required to be kept by licensed dealers off-limits in any civil or administrative proceedings excepting those initiated by the Justice Department. New York City Mayor Michael Bloomberg, a bitter foe of the gun industry (and the measure's ostensible target) called the proposal "unconscionable" and said it would handcuff municipalities' bid to reign in rogue licensees.

ATF's laid-back attitude towards the industry doesn't mean it ignores gun trafficking altogether. Over the years agents have expended considerable effort to interdict unlicensed peddlers who supply the urban centers of the Eastern seaboard with guns acquired in the weak-law States of Florida and Virginia. But they may have proven too effective. During a February 2006 House inquiry into ATF investigative practices, Annette Gelles, owner of Showmasters Gun Shows, complained that overzealous enforcement was driving exhibitors and customers away from Virginia gun shows. Crime, Terrorism and Homeland Security Subcommittee chairman Rep. Howard Coble (R-N.C) agreed that the Bureau's tactics seemed unnecessarily "heavy-handed" and warned the agency that sanctions could follow.

No matter how hard it tries, ATF just can't keep out of the woodshed.

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On a gritty block of old Hollywood, south of Sunset and west of Cahuenga, seven large stars adorn the entrance to a large, utilitarian building. Most visitors are probably too preoccupied to associate the inscriptions that pass under their feet with the seven portraits that hang inside the starkly-lit lobby. Austerely framed, dimming with age, they depict officers who made the ultimate sacrifice while serving at LAPD's Hollywood Division.

Two, Clay Hunt and Joe Rios, succumbed to injuries sustained in traffic accidents.

Each of the others was shot to death.

Clyde Pritchett, gunned down at a family disturbance on February 17, 1936.

Ian James Campbell, kidnapped with his partner, then executed by armed robbers on March 10, 1963 in the horrific incident known memorialized in Joseph Wambaugh's *The Onion Field*.

Robert J. Cote, shot by an armed robber on July 31, 1969.

Russell L. Kuster, murdered by a deranged gunman on October 9, 1990.

And the Division's most recently slain officer, Chuck Heim, wearing a smile so fetching that one simply has to smile back.

On October 22, 2004, ten years to the date after Chuck's death, officers gathered by the stars to honor their fallen comrades. Among them were Chuck's wife, Sergeant Beth Heim, and Sergeant Felix Peña, who endured repeat surgeries to his right hand and returned to duty one year following his partner's murder.

As I strolled by weeks later the stars gleamed from a recent downpour. Skillfully crafted from terrazzo and brass, they seemed in most respects identical to those that embellish the sidewalks of Hollywood Boulevard.

Of course, there *is* a difference. Earning a spot on *this* Walk of Fame is no act.

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Posted 9/4/18

## THE BAIL CONUNDRUM

### ***Bail obviously disadvantages the poor. What are the alternatives?***

*By Julius (Jay) Wachtel.* On September 19, 2017 Mickey Rivera walked out of jail, a free man. [Well, relatively free](#). Unable to post \$35,000 bail, he had been locked up for more than two years awaiting trial for his role in the [2015 gang-related killing](#) of a Boston man. In August 2017, though, the Massachusetts Supreme Court ruled in [Brangan v. Commonwealth](#), an unrelated case, that absent specifically documented reasons, cash bail must not outstrip a defendant's ability to pay. After all, bail isn't intended as punishment but "to provide the necessary security for [a defendant's] appearance at trial." Given that decision, Rivera's lawyers appealed. Despite his substantial criminal record, Rivera's bail was reduced to \$1,000. He paid up, was outfitted with a tracking device and let go. That, a legal expert told the Boston Globe, was perfectly appropriate:

Nancy Gertner, a retired federal judge and a senior lecturer at Harvard Law School, defended McGuire's decision to reduce bail, saying he was following a state court decision that is part of a national bail reform effort to prevent people from being jailed before trial simply because they are poor. "What the judge did is exactly right," Gertner said.

Real life tends to muddy things, and this case is no exception. In June 2018, nine months after being set loose, Rivera was arrested for drunk driving. Although he was still awaiting a criminal trial, Rivera was released without bail (his driver license was suspended.) One month later, on July 28, Massachusetts cops observed him [speeding and driving erratically](#). Rivera took off, with cops in pursuit. The chase ended when Rivera slammed head-on into another vehicle, killing a man who had just visited his wife and newborn daughter in the hospital. Rivera was also killed, and a passenger in his vehicle died the following day.

As one might expect, Rivera's case led to considerable recrimination and finger-pointing. Lots of criticism was directed at the judges who reduced Rivera's bail in the killing to a token amount and, much later, let him walk on the DUI. Both were blamed for not making the effort to articulate the need to set a substantial bail amount, even beyond Rivera's ability to pay, as state law and the court decision allow. Of course, the judges had a built-in excuse: despite his many run-ins with the police, Rivera had always shown up.

## POLICEISSUES.ORG

Showing up? Is that what bail is all about? Apparently, the answer is yes. Bail's only mention in the Constitution is in the [Eight Amendment](#), which stipulates that "excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." While these few words don't address bail's purpose, [Stack v. Boyle](#) (342 U.S. 1, 1951), the leading Supreme Court case on point, prohibits setting bail "at a figure higher than an amount reasonably calculated to fulfill the purpose of assuring the presence of the defendant...." Here is how Justice Robert H. Jackson suggested that be determined:

Each accused is entitled to any benefits due to his good record, and misdeeds or a bad record should prejudice only those who are guilty of them. The question when application for bail is made relates to each one's trustworthiness to appear for trial and what security will supply reasonable assurance of his appearance...This is not to say that every defendant is entitled to such bail as he can provide, but he is entitled to an opportunity to make it in a reasonable amount.

Wait a minute. Doesn't a suspect's dangerousness also matter? Unfortunately, the underlying offense in Doyle was nonviolent so that concern didn't come up. For a clue we return to Brangan, the Massachusetts case. There the crime was armed robbery, so the justices had no option but to address dangerousness. And their answer, as far as bail is concerned, was "no":

...a judge may not consider a defendant's alleged dangerousness in setting the amount of bail, although a defendant's dangerousness may be considered as a factor in setting other conditions of release. Using unattainable bail to detain a defendant because he is dangerous is improper....(emphasis ours)

That doesn't mean that the nature of a crime is irrelevant. After all, serious crimes carry serious punishment, and that might make an accused more likely to flee. In fact, Brangan and its precedents require that factors such as the nature of an offense, community ties, mental condition, criminal record and failures to appear (FTA) be considered when setting bail, but only to evaluate the risk of flight. And there are limits. After all, bail inherently discriminates against the poor. Here's another extract from *Brangan*:

A bail that is set without any regard to whether a defendant is a pauper or a plutocrat runs the risk of being excessive and unfair. A \$250 cash bail will have little impact on the well-to-do, for whom it is less than the cost of a night's stay in a downtown Boston hotel, but it will probably result in detention for a homeless person whose entire earthly belongings can be carried in a cart.



That argument parallels the views of justice activists who have called for the elimination of bail altogether. Here, for example, is an extract from the [ACLU “Smart Justice” website](#):

...bail was supposed to make sure people return to court to face charges against them. But instead, the money bail system has morphed into widespread wealth-based incarceration. Poorer Americans and people of color often can’t afford to come up with money for bail, leaving them stuck in jail awaiting trial, sometimes for months or years. Meanwhile, wealthy people accused of the same crime can buy their freedom and return home.

By design, offense severity and prior record strongly influence bail setting and pretrial detention. Research has also revealed that in comparison to white arrestees, blacks and Hispanics are less able to afford bail and less likely to be released without posting bail, thus more likely to remain in pretrial custody. For example, see “[Sentenced to Pretrial Detention: A Study of Bail Decisions and Outcomes](#)” (a review of recent New Jersey data) and “[Recommended for release on recognizance: Factors affecting pretrial release recommendations](#)” (an earlier review in Toledo.)

Concerns about extralegal disparities led New Jersey to implement a [statewide “risk assessment” system](#) in 2017. Pre-trial investigators collect information to help courts determine whether releasing defendants through “non-monetary means” would unduly risk their flight or imperil public safety. Cash bail remains an option but its use is heavily discouraged. As one might expect, [the bail industry balked](#). So far, though, the statute [has survived legal challenges](#).

Determined not to be left out, liberal-minded California recently enacted an [even more sweeping measure](#) that, as of October 2019, does away with bail altogether. Other than under exceptional circumstances, persons arrested for misdemeanors will be summarily released. Like in New Jersey, arrestees charged with more serious crimes would be evaluated by pretrial services, which could release those who pose a low-to-moderate risk to public safety or of nonappearance. Other defendants could thereafter be released by the courts, which could impose only non-monetary conditions. Characters who seems so likely to flee, or pose such an extreme threat to public safety that releasing them under any conditions seems unwise, would be subject to [preventive detention](#). As one would expect, this involves substantial due-process safeguards, including a hearing. Other states (e.g., [New Jersey](#), [Massachusetts](#)) have similar provisions.

One might think that minimizing the use of bail or, as in California, eliminating it altogether would satisfy activists. But according to [a recent article in Politico](#) one would

be wrong: “Social justice advocates that had once championed the initiative to abolish cash bail mobilized against the final iteration of the [California] bill, which they saw as having morphed from righteous to dangerous.” What’s so “dangerous” about risk assessment and, as a last resort, preventive detention? Given the presumption of innocence, apparently everything: “In critics’ eyes, that means California will continue to give local judges the sweeping authority to keep people incarcerated before they’re convicted of anything.” Similar concerns have arisen [in New Jersey](#) and elsewhere.

Law enforcement officers must deal with the consequences of poor release decisions, so they usually favor a short leash. Four months after New Jersey’s provisions took effect, Jules Black, an ex-con, was arrested for having a gun. Assessed as low-risk, [he was released without bail](#). Within hours Black allegedly cornered one of his enemies and shot him dead. According to a local jailer (he’s also president of the police union) career criminals are taking advantage of the reforms: “I’m seeing the same exact people every week. I’m just seeing them come in with new charges. It’s more work for officers. It’s a lot more work for them.” Concerns that the new procedures were proving too lax were seconded in an [NorthJersey.com editorial](#):

In particular, officers say the new law’s risk assessment, or Public Safety Assessment, leaves too much to chance and is allowing, in some instances, violent-prone individuals to be back out on the street shortly after their court appearances. This, they say, is also bringing more pressure and stress to officers on patrol.

Is assessment a solution? Newfangled protocols supposedly let authorities assign applicants for release to the appropriate risk pool. To be sure, paying specialists to make distinctions will produce...distinctions. But whether these yield groups with markedly different, real-world propensities to engage in misconduct is something else altogether.

Neither is bail a guarantor of good outcomes. “Googling” instantly turned up a recent, troubling anecdote. On May 13, a Wisconsin man with an extensive criminal record that includes “bail jumping” was out on \$7,500 cash bond for a string of crimes when an officer [tried to pull him over for a traffic violation](#). After a pursuit (a cop wound up getting dragged a short distance by the suspect’s car) the man was arrested on multiple charges.

This time he was detained without bail, right? Wrong. Cash bond was set at \$1,000.

Pre-trial release, on bail and otherwise, is ubiquitous and surprisingly permissive. [A recent study](#) of eleven major California counties tracked more than one and one-half million bookings (1,563,837) between October 2011 and October 2015. Forty-one

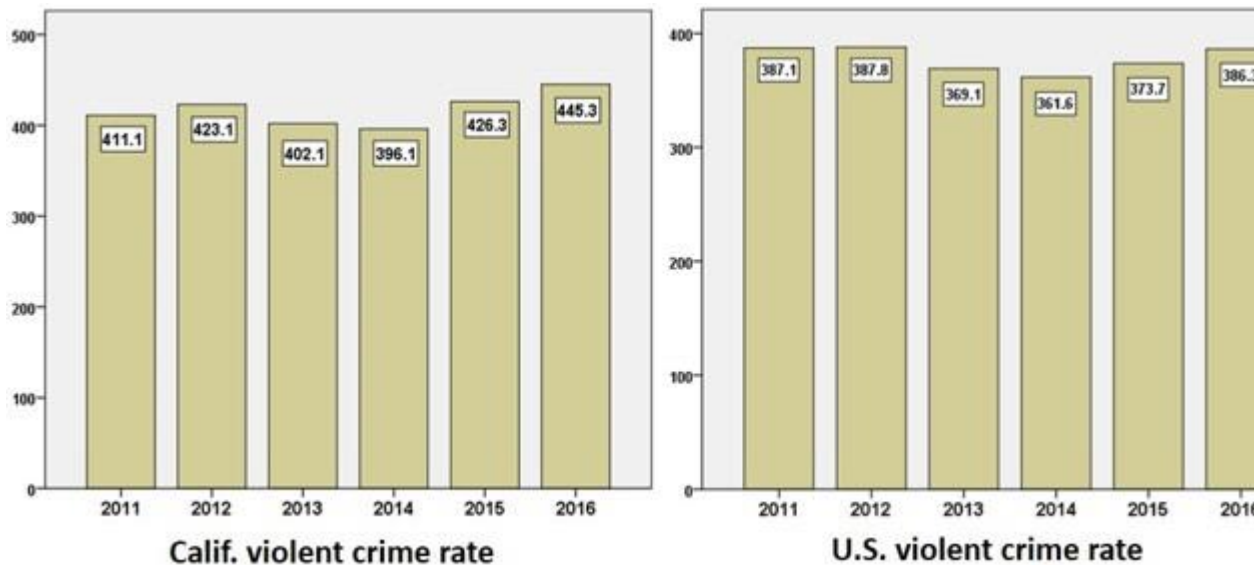
percent of the arrestees were released before trial, split about 60/40 percent between misdemeanors and felonies. Of these, a bit more than a quarter (27.8 percent) had to post bail, most often for a felony offense. About seven percent of the bookings (112,445) were for FTA on a prior charge. Thirty-eight percent of these defendants (43,029) were again let go. [A previous study](#), of persons released from Dallas County jail in 2008, suggested that failure to appear is frequent. Including misdemeanors and felonies, [the rate ranged](#) from 23 percent of those released on bail to 39 percent of those who were simply cleared by pretrial services (N=29,416). Another, [“An Experiment in the Law: Studying a Technique to Reduce Failure to Appear in Court,”](#) about individuals released on misdemeanor charges in Nebraska during 2009-10, yielded a control group FTA rate of 12.6 percent (N=7,865).

FTA isn't the only issue. Released persons must often comply with other conditions; for example, wear an ankle monitor, keep away from certain persons and places, and so on. But public safety agencies have limited resources, and their practitioners can only do so much. Whether it's old-fashioned cash bail or a newfangled assessment, the sheer magnitude of pre-trial release, the uncertainties of evaluating applicants, and the frailties of human nature inevitably create error, and along with it a substantial threat to the public and police. At a certain point – and from the flub-ups, we've probably reached it – trying to fine-tune outcomes becomes an exercise in wishful thinking. Release more, and there will be more news headlines and more cause for essays like this. That's the one certainty we'll never escape.

Posted 5/21/18

## THE BLAME GAME

***Inmates are “realigned” from state to county supervision.  
Then a cop gets killed.***



*By Julius (Jay) Wachtel.* Cops would worry less if their workplace was more forgiving. But it's not. Legal rules and enforcement practices often seem out of sync with the “real world.” There are never enough resources to consistently do a good job. Accurate information is frequently lacking, and there is often little chance to seek it out. Citizens and suspects are unpredictable and dangerous. That's why cops want evildoers behind bars. *Big bars.* Throw away the key: problem solved.

What officers want isn't necessarily what they get. California's cops got their first taste of the “new normal” in 2011. Two years after Federal judges [imposed a cap](#) on the state's overflowing prisons, legislators passed AB 109, the “[Public Safety Realignment Act](#),” shifting confinement and post-release supervision of “non-serious, non-violent [and] non-sex” offenders from state prisons to county jails and probation departments. Three years later [Proposition 47](#) reduced many felony drug crimes and all theft and stolen property cases with losses under \$950 to misdemeanors. And two years after that, [Proposition 57](#), the “Public Safety and Rehabilitation Act of 2016,” made it easier for inmates to earn release credits and for “nonviolent” offenders sentenced on multiple charges to win early parole.

Prosecutors and police opposed “realigning” prisoner populations and facilitating early release. They lost. After all, weren't crime rates way down from their peaks? With

reformers howling and politicians reluctant to pay for more prisons, all three measures remain on the books.

No, the sky hasn't fallen. But change always carries consequences. During the first year of realignment, as the state prison population [dropped by twenty-six thousand](#), jail populations surged by over 8,500. County lockups were quickly swamped, [forcing authorities to release arrestees](#) whom police wanted to keep in custody. Sentences were waived or cut short, and parolees whose supervision was shifted to the counties remained on the streets despite repeated violations. One, Sidney DeAvila, a sex offender, used his freedom to rape and murder his grandmother and cut her into pieces. A Democratic legislator bemoaned things. "It's justice by Nerf ball. We designed a system that doesn't work."

The above graph is from [FBI data](#). While the nation's violent crime rate remained fairly steady between 2011-2016 (it fell two-tenths of one percent, from 387.1 to 386.3), California's violent crime rate climbed 7.7 percent, from 411.1 to 445.3

In late 2016, with violent crime in California up for a third consecutive year, [a columnist for the Sacramento Bee](#), the newspaper serving the state capital, wondered "whether releasing tens of thousands of criminals who otherwise would have been behind bars is having a negative effect." His concern paralleled those of the public safety community, which was convinced that re-alignment was at fault for the increase.

Not everyone was so pessimistic. A [September 2016 report](#) by the [Center on Criminal and Juvenile Justice](#) (its mission is "to reduce society's reliance on incarceration as a solution to social problems") examined whether realignment contributed to the uptick in crime during 2014-15. Conceding that there was a lot of variation in the data, and that some counties did go the other way, investigators concluded that reducing the number of persons in jail did not cause the overall increase in crime.

In the same month, the influential [Public Policy Institute of California](#) used two-year old (2014) crime data [to conclude that realignment was a success](#). (However, it did note that preliminary 2015 statistics were somewhat troubling.) One year later the institute [conceded that](#) realignment "had modest [adverse] effects on recidivism"; particularly, that parolees whose sentences were cut short and had their supervision turned over to county probation officers were more likely to reoffend.

That's what happened with [Michael Mejia](#). After serving a three-year prison term for a 2010 robbery, the heavily tattooed Los Angeles gang member [stole a car and got two years for auto theft](#). Thanks to [AB 109](#), he was released early, in April 2016, into the supervision of a local P.O. [Mejia promptly amassed a string of violations](#) and served

brief stretches in jail. On February 20, 2017, nine days after his last release, he went off the deep end. [Mejia murdered a cousin](#), stole a car, and when confronted chose to shoot it out, killing Whittier, Calif. officer Keith Boyer and seriously wounding his partner.

Mejia's foul deed energized anti-realignment forces. [A coalition](#) of police organizations, prosecutors and victims' rights groups is presently seeking to place the "[Reducing Crime and Keeping California Safe Act of 2018](#)," an initiative that substantially rolls back the provisions of AB 109 and Propositions 47 and 57, on the November ballot.

Meanwhile, pro-realignment forces have pulled out all the stops. [The Marshall Project](#), a "nonpartisan, nonprofit news organization that seeks to create and sustain a sense of national urgency about the U.S. criminal justice system" and the *Los Angeles Times* recently released an analysis that blames officer Boyer's death on judges and probation staff who mistakenly let Mejia into the program, then gave him too many breaks. (Click [here](#) and [here](#).)

We won't parse the arguments pro and con in detail. What strikes us, though, is just how much is expected from those who must implement realignment's provisions in the "real world." The Marshall Project and *Times* insist (of course, with the benefit of hindsight) that Mejia's poor conduct while under supervision [required that his probation be revoked](#). But had they reviewed the innumerable examples of probation supervision that *don't* end with the killing of a police officer, they would have discovered that Mejia's behavior, which lacked "red flags" such as weapons or violence, was really quite ordinary.

In brief, he was your typical no-goodnik – until he wasn't.

That's not to say that Mejia *should* have been on the street. Still, if all who behaved similarly were reincarcerated, the correctional system would collapse. With confinement out of favor, prisons at capacity and local resources hard-pressed, thanks in part to realignment, prosecutors, P.O.'s and judges are under immense pressure to keep no-goodniks on the street. While that's not what cops would prefer, they're not calling the shots. At least, not until November.

Posted 5/23/11

## THE CHURCH, ABSOLVED

### ***Victims of sexual abuse by Catholic clergy scream “whitewash” over John Jay’s report***

“Predictably and conveniently, the bishops have funded a report that tells them precisely what they want to hear: it was all unforeseeable, long ago, wasn’t that bad and wasn’t their fault.”

*By Julius (Jay) Wachtel.* Sexual abuse victims [have voiced dismay](#) at a suggestion by researchers at the John Jay College of Criminal Justice that the scandal in the Catholic church wasn’t so much its fault as a product of [the social upheaval of the 1960s](#). (For the video go to [https://www.youtube.com/watch?v=4\\_oen8BKnb](https://www.youtube.com/watch?v=4_oen8BKnb).) Reactions in the media have ranged from disbelief to mockery. Here’s what two major newspapers had to say about the so-called “Woodstock defense”:

- *New York Times*: “...a new study of the abuse problem...cites the sexual and social turmoil of the 1960s as a possible factor in priests’ crimes. This is a rather bizarre stab at sociological rationalization and, in any case, beside the point that church officials went into denial and protected abusers.”
- *Los Angeles Times*: “A study commissioned by Roman Catholic bishops ties abuse by Roman Catholic priests in the U.S. to the sexual revolution, not celibacy or homosexuality, and says it’s been largely resolved.”

To be fair, John Jay’s scholars don’t articulate their conclusions quite so neatly. Yet from the very start [the report](#) conveys the unmistakable impression that the Church was also a victim, caught up in forces beyond its control:

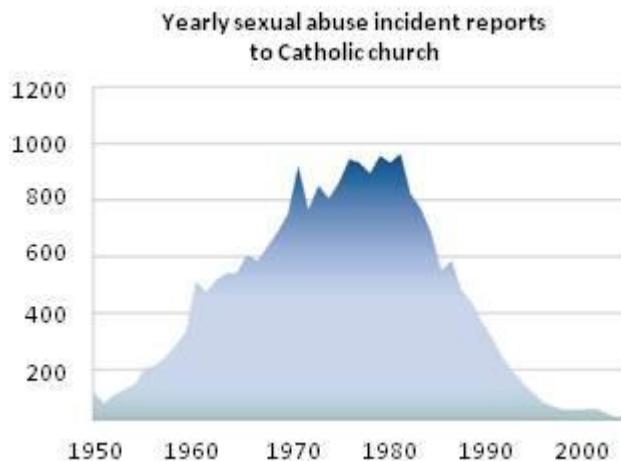
- “Social movements, such as the sexual revolution and development of understanding about sexual victimization and harm, necessarily had an influence on those within organizations just as they did on those in the general society” (p. 7)
- “The representation of sexuality was contested in print, film, and photographic media, and increased openness about the depiction of sexuality emerged as sexual acts became more loosely associated with reproduction. These changes were termed ‘sexual liberation,’ and sexual behavior among young people became



more open and diverse” (p. 36)

- “The documented rise in cases of abuse in the 1960s and 1970s is similar to the rise in other types of “deviant” behavior in society, and coincides with social change during this time period” (p. 46)

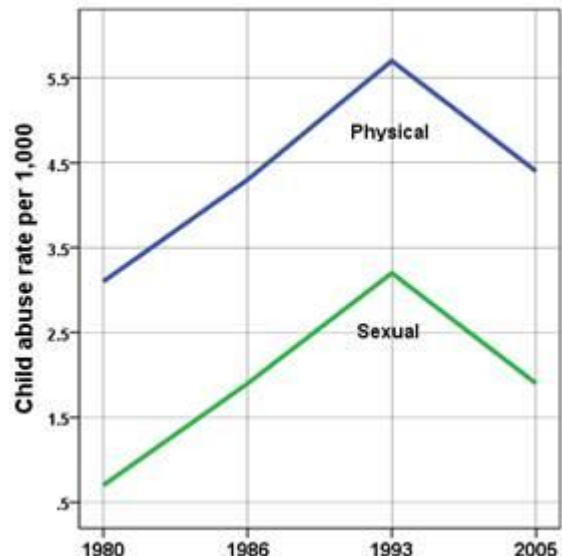
To illustrate the connection John Jay’s authors graphed sexual misconduct



complaints received by the Church between 1950-2002. Their data reveals a steady increase during the 1950’s and 60’s, peaking at between 800 and 1,000 per year between 1978 and 1981. The trend then reversed; by the mid-eighties complaints plunged fifty percent. By the mid-nineties less than one-hundred were being filed each year.

To demonstrate that the decline was part of a larger trend the authors cite data from the [National Incidence of Child Abuse and Neglect](#). This survey measured child abuse in the U.S. in four waves: NIS-1 (1979-80), NIS-2 (1986), NIS-3 (1993) and NIS-4 (2005-06). Applying the rigorous “Harm” standard, which requires “that an act or omission result in demonstrable harm,” the physical abuse of children decreased 15 percent from NIS-3 to NIS-4, while sexual abuse fell 38 percent. (No significant change was evident under the looser “Endangerment” standard.)

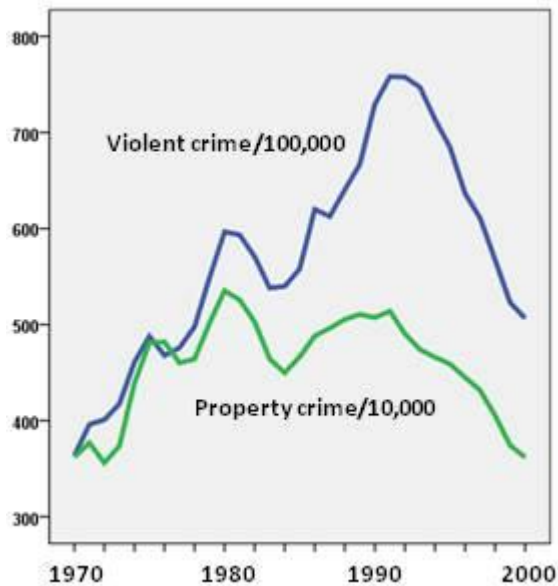
However, once we move away from the extreme right tail of the distribution of complaints to the Church, the concordance with national child abuse statistics evaporates. Between 1980 (NIS-1) and 1993 (NIS-3), a period when complaints of abusive priests were already plunging, [the national rate of physical abuse of children](#) doubled. Sexual abuse jumped four-fold. (See chart on the right. Rates for NIS-1, 2 and 3 are from the [NSPCC](#);



rates for NIS-4 were calculated by the author. All are based on the “Harm” standard.)

Child abuse is a secretive crime. Reporting depends on intervention by teachers, caseworkers and police. One explanation for its sharp rise in past years is that society may have started taking better notice of the problem. NIS-3 surmises that **better recognition did lead to more reporting**. But it was thought unlikely that child abuse rates would have climbed as steeply unless the actual incidence of abuse had also increased. As a contributing factor NIS-3’s authors suggest the catastrophic effect of the

drug epidemic of the 1980’s, particularly as drug abuse was frequently cited in the study’s data collection forms.



While the NIS report didn’t mention crime rates, they are assumedly linked with problems of social disorganization. Clearly, the trends are similar. Crime increased in tandem with child abuse. And when the well-known “great crime drop” of the 90s got underway, child abuse in the U.S. also plunged.

Could crime and drug use help explain why priests sexually abuse children? First, there is no known theoretical connection.

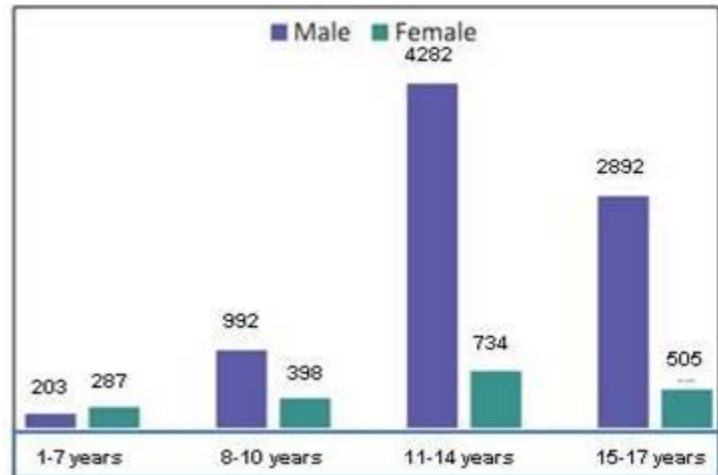
Why would they be more likely to abuse children when crime is on the increase, or less likely when it’s falling? What’s more, the downturn in complaints against priests preceded the great crime drop, like it preceded the drop in the national incidence of child abuse, by a full decade.

If it’s not drugs and crime what about the Woodstock defense? Alas, that seems equally far-fetched. Your blogger, who was a teen in the sixties, doesn’t remember that it was ever OK to sexually experiment on children. Why would priests think otherwise? If there is data to support that odd notion we’d sure like to see it.

On the other hand, pedophiles don’t need to be told that abusing children is OK. Was the Catholic Church admitting large numbers of sexual predators into its ranks ? Was it ignoring signs of abuse? If so, the problem wouldn’t lie with society but with the selection, training and supervision of priests. John Jay’s authors, though, take pains to demonstrate that clergy are no more likely to be afflicted with pedophilia than the general population: “Less than 5 percent of the priests with allegations of abuse

exhibited behavior consistent with a diagnosis of pedophilia (a psychiatric disorder that is characterized by recurrent fantasies, urges, and behaviors about prepubescent children)” (p. 3).

John Jay’s report includes a table that depicts the distribution of child victims of priest sexual abuse by age and gender. “Prepubescent,” defined by the authors as age 10 and under, constitutes 18 percent (1,880) of the 10,293 victims in the sample. (The authors also cite a 22 percent figure, but we’ll stick with the numbers in the chart.) Either way, if only about one in five victims are prepubescent, the notion that abusive priests are predominantly pedophiles seems misplaced.



And here’s where we come to a real head-scratcher. What John Jay’s authors don’t reveal is that the [controlling description of pedophilia](#), as set out in the APA’s DSM-IV, a source they repeatedly cite, defines prepubescence differently:

The paraphilic focus of Pedophilia involves sexual activity with a prepubescent child (generally age 13 years or younger). The individual with Pedophilia must be age 16 years or older and at least 5 years older than the child...Those attracted to females usually prefer 8- to 10-year-olds, whereas those attracted to males usually prefer slightly older children.

DSM’s definition of prepubescent as 13-and under would land a majority (probably, most) of John Jay’s abusive priests in the pedophile camp. Naturally, that seriously undermines the Church’s position that it wasn’t aware that pedophilia was a problem. With so many afflicted priests, how could it *not* know?

The startling age-range discrepancy, which has been noted by the [New York Times](#) and other sources, brings the scholarship of John Jay’s report into question. When an academic study is financed nearly exclusively by those with a stake in its outcome (indeed, the Catholic conference holds the report’s copyright), any hints of bias can easily destroy its credibility.

What steps should John Jay's authors take? First, they must reexamine their assertion that changing social mores were somehow responsible. It seems far more likely that sexual abuse by Catholic clergy has always been a serious issue, and that reporting went up because of heightened awareness, brought on in part by episodes such as [Boston](#). Really, if the authors are sincerely convinced that pedophilia among priests is rare they ought to prove it fair and square. Instead of massaging (some might say, twisting) data beyond recognition, they might interview former priests. [Here's what one had to say](#):

Pedophilia is a major problem that is sweeping the church. They've been trying to muzzle any information about its happening but it's causing the priesthood to be destroyed.

If they're feeling a bit adventurous they might also review [examples of abuse by Catholic clergy in Europe, Asia and elsewhere](#). These are an excellent basis for comparison as they were unlikely to have been influenced by Woodstock. As for the rest of us, a good starting point is the Oscar-nominated documentary "[Deliver Us From Evil](#)." Thanks to its producers' generosity, all that's required is to click on the image at the top of this post. But be sure to do it on an empty stomach.

Posted 1/31/10

## THE GREAT DEBATE (PART I)

### *Who should go to prison? For how long?*

On December 6, 2009 police in Culver City, a Los Angeles suburb, confronted [Boneetio Washington](#), a transient on felony probation, on a complaint that he tried to break into a home. Officers didn't feel there was enough evidence and let him go. His freedom didn't last long. Two days later [LAPD officers arrested Washington](#) moments after he allegedly forced his way into an apartment and raped and murdered its occupant, a woman pregnant with twins.

Washington's prior conviction had also been for breaking into a woman's apartment. Confined to jail and a mental hospital for a year awaiting trial, he pled guilty and was sentenced to time served and three years probation. By then the 22-year old had amassed a record of similar crimes, including arrests and at least one conviction for breaking and entering, larceny and assault in his native Rhode Island and, as recently as 2006, in North Carolina.

Considering Washington's criminal history why had California authorities dealt with him so leniently? [Unnamed sources](#) told the *Los Angeles Times* that there was "nothing in his past that appeared to show a predisposition to the kind of violence he is now accused of committing."

Here's another L.A. story. In 2006 [Charles Samuel](#) snuck into the residence of the man who was dating Samuel's estranged wife. He confronted and beat up the man and stole some small things. Already a two-time loser (he had served six years for a 1986 incident in which he kidnapped an elderly man to get him to withdraw cash from an ATM, resulting in convictions for residential burglary and robbery) Samuel was nonetheless allowed to plead guilty to felony theft. Although that lapse was attributed to a "clerical error," Samuel had told a probation officer that the bargain avoided his being charged with a third strike, which in California generally calls for a mandatory 25-to-life ([P.C. 667e](#)).

Samuel was paroled to a drug rehab facility after two years. On July 24, 2009 [he got permission to go to the downtown DMV office](#). A 17-year old high school senior, Lily Burk, was also downtown, running an errand for her lawyer mother. Her mutilated body was later found in the family Volvo. In a horrific incident that parallels his earlier crime,

[Samuel has been charged](#) with kidnapping Burk to get her to withdraw money from an ATM, then in a rage slashing her to death with a broken bottle.

Forty years ago prison sentences were indeterminate, with the actual number of years to be served set by parole boards and commissions after the fact. While penalties looked stiff on paper, [felony offenders sentenced to prison](#) wound up serving, on average, only 38 percent of the top end of the range imposed by a judge (for violent offenders, it was 46 percent; for property offenders, 34 percent.)

During the 1970's and 80's inner-city violence, much of it related to a booming crack trade, led to calls for "getting tough on crime." Spurred by Federal grants, State legislatures responded with "[truth in sentencing](#)" laws that constricted sentencing ranges and cut back on good-time and other credits, narrowing the gap between what judges imposed and what was actually served. By the early nineties a majority of States and the District of Columbia required that prisoners serve at least 85 percent of their terms before release.

In 1994 violent felons served, on average, less than one half their terms; [by 2004 it was two thirds](#). More defendants were also being convicted and incarcerated. There were 893,630 felony convictions in State courts in 1990. By 2006 the figure was 1,132,290; adjusted for population growth, [it represented a net increase of 13 percent](#). Yet the toughening wasn't as severe as it might seem. While the number of convictions *was* up, and the disparity between sentencing and actual time served *was* reduced, penalties under the new determinate sentencing model were also lower, meaning that [inmates wound up serving about the same amount of time as before](#).

How much time *do* offenders serve? Keeping in mind differences between States, [in 2006](#), the most recent year with full data, slightly more than half (54 percent) of violent offenders went to prison. Not including life terms, their sentences averaged 96 months. Minus fifteen-percent good-time credit that comes to 81.6 months, or nearly seven years. Terms for aggravated assault were substantially lower, for robbery and sex crimes somewhat higher, and for murder much higher.

But citizens aren't "averages." They're victimized one at a time.

On October 1, 1993, Petaluma (Calif.) resident [Polly Klaas](#), 12, was kidnapped and brutally murdered. A parolee, Richard Allen Davis, was quickly arrested for the crime. He admitted killing the girl and police collected abundant evidence of his guilt. Davis was tried, convicted and sentenced to death. He's still on death row.

Polly's murder shocked the nation. Citizens were particularly roiled by the killer's record, which included a 1974 conviction for multiple burglaries (he got six months to 15 years and served two years), a 1976 conviction for kidnapping and assault (he got one to 25 years and did six), and a 1985 conviction for robbery and extortion (he got 16 years and did eight.)

How could someone like that have been released at all, let alone after only serving half his term?

The anger was quickly transformed into legislation. Enacted in 1994 by popular vote, [Proposition 184](#), the "Three Strikes and You're Out" initiative provides enhanced penalties for persons convicted of any felony, including property and drug crimes, if they have been previously convicted of a violent or "serious" felony (examples of the latter include burglary of an occupied dwelling and robbery). Those with a single such past conviction get their new term doubled ([PC 667\[e\] \[1\]](#)), while those with two or more qualifying convictions get a minimum of 25 to life ([PC 667\[e\] \[2\] \[A\]](#)). There is one exception: prosecutors can, "in the interests of justice," choose to ignore prior "strikes" when accepting pleas to new crimes.

Polly Klaas was murdered before three-strikes. But what about the two killers mentioned at the top of this post? Boneetio Washington had only one "strike" before he murdered the pregnant woman, so three-strikes would not have kept him off the street. Samuel, on the other hand, had at least one and possibly two strikes when he pled guilty to felony theft, yet prosecutors for some reason chose not to charge the priors, so he was freed well before Lily Burk ran her fateful errand.

Next week we'll examine three-strikes in greater detail. Stay tuned!



Posted 2/6/10

## THE GREAT DEBATE (PART II)

*Violence is the problem. Is harsh sentencing the solution?*



*“The three-strikes law sponsor is the correctional officers’ union and that is sick!”*

Who said that? Here are three possibilities: (1) the ACLU president, (2) the ACLU executive director, or (3) [Supreme Court Associate Justice Anthony M. Kennedy](#), addressing a gathering of lawyers on February 3, 2009 at Pepperdine University’s Odell McConnell Law Center, perched high on a spectacular bluff overlooking the shores of the Pacific.

Hmm...let’s see...

For someone who’s supposed to keep an open mind Justice Kennedy’s words may seem intemperate. Yet those familiar with his concerns aren’t a bit surprised. A staunch supporter of the police, the third-most senior member of the Court (he joined in 1988) is also a long-standing prison reformist. Justice Kennedy has frequently spoken out against overcrowding and excessively long sentences, which he likes to point out are on the average eight times longer than the European norm.

Justice Kennedy’s ire was directed at California’s three-strikes law, widely considered to be the toughest in the nation. [Last week](#) we described its two most salient features. First, it’s both a two-strikes *and* three-strikes law. Persons who are convicted of a new felony after being convicted for a violent or serious felony get their terms doubled, while

two such priors draw a mandatory 25 years to life. Note that the triggering offense – the new charge, or “strike” – can be *any* felony, including drugs and theft.

It's no secret that sentencing has become substantially harsher. According to the [Bureau of Justice Statistics](#), 447 per 100,000 adults (18+) were sentenced for felonies in State court in 1990. In 2006 the rate was 503 per 100,000, an increase of 13 percent. More importantly, [those sentenced to State prison](#) were serving considerably lengthier terms. Between 1993-2005 the average time served in State prison (all offenses) went up from 21 months to 29, an increase of 38 percent. For violent crimes the increase was from 36 months to 50 (39 percent); for property crimes it was from 17 months to 22 (29 percent).

Harsh sentencing goes back several decades. According to the [Statistical Abstract of the U.S.](#) the U.S. imprisonment rate (persons in State or Federal custody and sentenced to one year or more, per 100,000 population) was 96 in 1970. It took off four years later and never looked back. By 1980 it had reached 139; in 1990 it was 296 and still climbing. The historical high, a mind-boggling 756 per 100,000 population came in 2007. In that year 2,298,041 persons – nearly one out of every one-hundred Americans – were locked up doing a year or more. (In 2008 the rate dropped ever so slightly, to 754.)

As the good justice implied, when it comes to imprisoning its citizens the U.S. is on top (or the bottom, depending on one's point of view.) According to the authoritative [World Prison Population List](#), our 2007 incarceration rate of 756 was by far the highest on the planet, five times greater than the world rate of 145 per 100,000 and eight times that of Southern and Western Europe's measly 95. Way behind in second place was Russia, with a barely respectable 629. Other pleasant places like Cuba (531) and Belarus (468) weren't even in contention.

Our chart depicts [historical](#) and contemporary [violent crime](#) and [imprisonment](#) rates per 100,000 population from 1970 to 2008. Comparing the trend lines we see that the well-known surge in violent crime that began in the mid-1970's substantially outpaced the imprisonment rate until the late 1980's. It's generally agreed that by then a punitive mindset had formed, which persisted even as violent crime tumbled. In 1991, as the mayhem reached its zenith, there were 1,911,767 violent crimes, yielding a rate of 758.2 per 100,000. By 2000 the violent crime rate (based on 1,425,486 offenses) was a full one-third lower, at 506.5. A moderate downtrend still persists; 2008's rate, 454.5, amounts to an additional reduction of ten percent.

So here's the million dollar question: was it punishment that turned things around? While it's common sense that incapacitating offenders prevents crime, just how much additional value was produced by imprisoning more persons for longer terms? In his conservatively entitled "[The Limited Importance of Prison Expansion](#)," statistician extraordinaire William Spellman estimates that increased imprisonment cut violence twenty-seven percent, a seemingly modest figure until one remembers that there were nearly two million violent crimes at the height of the madness. His endorsement of stiffer sanctions, though, seems half-hearted.

One may conclude, with considerable conviction, that the prison buildup was an important contributing factor to the violent-crime drop of the past few years. America would be a much more violent place had billions of dollars not been invested in prison beds; violent crime would not have dropped as far and as fast as it has. Nevertheless, violent crime would have dropped a lot anyway. Most of the responsibility for the crime drop rests with improvements in the economy, changes in the age structure, or other social factors. Whether the key to further reductions lies in further prison expansions, or (more likely) in further improvements in these other factors remains an open question.

What could *really* harsh stuff like three-strikes accomplish? Methodological issues make it difficult to figure out its unique effects. Three recent studies arrive at varying conclusions. In a survey of U.S. three-strikes laws [Chen](#) reported slight but statistically significant associations between three-strikes and declines in crime. Notably, California's law, the harshest of the lot, didn't fare better than the others. On the other hand, [Kovandzic, Sloan and Vieraities](#) found that three-strikes had no impact. (One possibility they cite is that in cases where three-strikes applies, its added sanctions aren't of sufficient magnitude to stand out.) Finally, [Helland and Tabarrok](#) estimate that California's three-strikes law reduced felony arrests for those with two existing strikes by 17-20 percent. They nonetheless suggested that the money spent on three-strikes is better used elsewhere.

Money is a central issue. Thanks to liberalizations brought on by the economic downturn, imprisonment rates in a majority of States stood still or went down [between 2007-2008](#), with reductions of as much as thirty-one prisoners per 100,000 population in Texas and Massachusetts. Still, harsh treatment is unlikely to disappear, and for the most practical of reasons: as [we said](#) last week citizens aren't "averages" – they're victimized one at a time. If, as Dr. Spellman conceded, stiff sentencing cuts violence by one-fourth, hundreds of thousands could be saved from becoming victims each year.

## POLICEISSUES.ORG

Indeed, a push-back is already underway. In [California](#) a jail inmate let go under a new early-release policy then promptly re-arrested for sexual assault became the new poster-child for victim-right groups, while in [Oregon](#) the release of a violent inmate who went on to reoffend spurred reassessment of a law expanding good-time credits. Speakers at a recent [national conference](#) cautioned against letting financial considerations dictate sentencing. A public-policy expert opposed releasing prisoners just to “return to policies that don’t make sense,” while a State senator called a recent triple murder by a parolee a sharp reminder that he and others hadn’t been taking the threat of violence “as seriously as we should have been.”

There’s nothing new about horrible crimes being committed by persons released on bail, or by probationers and parolees. Sure, it’s always possible to tune up the release system, but in the end predicting individual dangerousness is well-nigh impossible. So what about changing people? Well, we can’t force anyone to age out of crime any faster, and as far as making humans kinder and gentler – forget it!

But we *can* throw away the key.

Posted 10/18/09

## THE NEW NORMAL

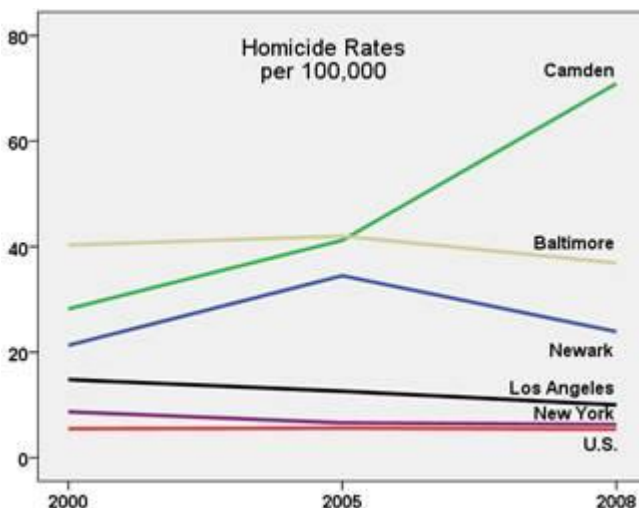
### *In the industrial belt, poverty and violence are no joke*

“The Mayor of Newark, New Jersey wants to set up a citywide program to improve residents’ health. The health care program would consist of a bus ticket out of Newark.”

NBC Tonight Show host Conan O’Brien’s little joke brought on a You-Tube scolding by Newark Mayor Cory Booker, who [banned the talk show host](#) from the Newark airport. His move precipitated a series of back-and-forths that culminated in the mayor’s October 16 appearance on O’Brien’s show. More on that later.

Booker, then 37, was elected in 2006 over an obscure rival after the boss of the local Democratic machine, mayor Sharpe James announced his departure from politics. (One year later James stood convicted of corruption.) Their earlier match-up in 2002, which Booker lost by a hair, was depicted in “[Street Fight](#)”, an acclaimed documentary about the youngish Stanford grad’s passionate though unsuccessful campaign.

Quickly moving to improve city services, Booker brought in a new police director to rejuvenate what many considered a moribund department. A renewed [emphasis on fighting crime](#) and reducing the city’s appalling murder rate have earned plaudits from residents and business owners.

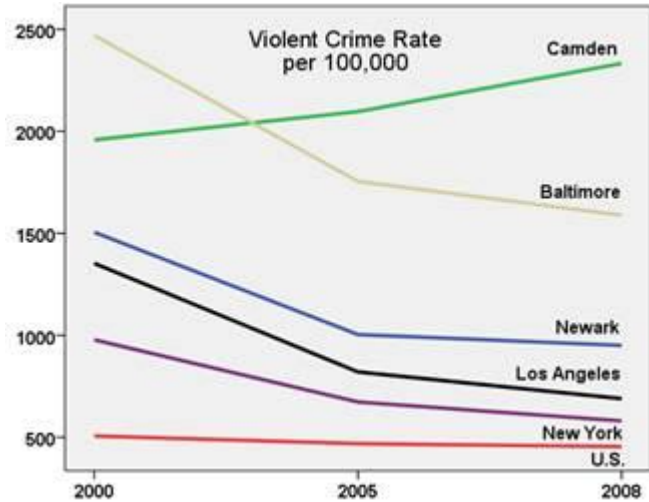


Yet not everything is well. Historical [declines in manufacturing](#) and now, the recession have devastated the old cities of the Northeast, with unemployment reaching 14.7 percent in [Newark](#), an eye-popping 18 percent in [Camden](#) and 11.1 percent in [Baltimore](#).

Does unemployment breed violent crime? Judging by these communities one might think so. According to the [Uniform Crime Reports](#) Newark, pop. 279,788, had 67 homicides in 2008, yielding a rate of 23.9, nearly *four times* New York City’s

(pop. 8,345,075, 523 homicides, rate 6.3). Camden, pop. 76,182, had a startling 54 homicides. Its rate, 70.9, was *three times* Newark's and *more than eleven times* New York City's. Baltimore's homicide rate, 36.9, was one and one-half times Newark's and an appalling *six times* New York City's.

Differences in how localities count aggravated assault, robbery and rape make those figures less comparable. Keeping that limitation in mind, in 2008 Newark's violent rate of 950.7 (an amalgam of homicide plus the other three) was *sixty-four percent greater* than New York City's 580.3, while Camden's 2332.6 was *four times* its size. Baltimore fell in the middle of the pack; at 1588.5 its rate was *two and three-quarters* larger than the Big Apple's.



Back to Newark. As Mayor Booker likes to claim, crime *has* dropped during his tenure. Now it's merely terrible. And there are disturbing signs that violence may be on the upswing. According to statistics just posted on the [Newark PD](#) website three of four violent crime categories are up from 2008: robbery, by thirteen percent; homicide, eleven percent; and rape, two percent. Aggravated assaults are down five percent.



Newark (and Camden, and Baltimore) have suffered for a long time. But no matter how bad their problems are, we -- meaning those of us who don't live there -- accept them with hardly a shrug. Conditions that should sicken and move us to act become "the new normal," to be set aside

until they're dragged out as comedic fodder, to be laughed about and forgotten about all over again..

Left, the Jokester's \$10.5 million Brentwood Paradise. Right, Newark public housing.





Your blogger originally intended to write some really nasty things about rich white guys with no social conscience. Then the redoubtable Bob Herbert came to the rescue. In an excellent [column](#) he set out all the right reasons why we should care about places like Newark. He even held out hope that by bringing the situation to everyone's attention Conan the Joker's nasty little quip might actually prove beneficial.

That's not quite the end of the story. As we mentioned earlier [Mayor Booker appeared as a guest](#) on the Tonight Show. By all accounts O'Brien behaved well. He even set himself up to take one on the chin:

"Many jokes are made about Newark by comedians. You honed in on me like a cruise missile. Why me, Mayor Booker?"

"When there's a herd going after you, you have to sort of look at the weakest gazelle."

O'Brien then did what comes natural to a rich guy caught with his jammies down: he paid his way out, in this case by pledging \$100,000 to a Newark charity. Hmm, let's see. One-hundred G's is about seven-tenths of one percent of O'Brien's yearly [\\$14 million](#) hosting salary. Actually, if Conan itemizes his deductions, as one assumes he must, he's out chump change: \$65,000, or *one-half of one percent* of his annual take for smirking on TV. By way of comparison, it's also twice [Newark's median 2007 household income](#) of \$34,452, and four times its per capita income of \$16,782.

That, if you didn't realize, was the punch line.

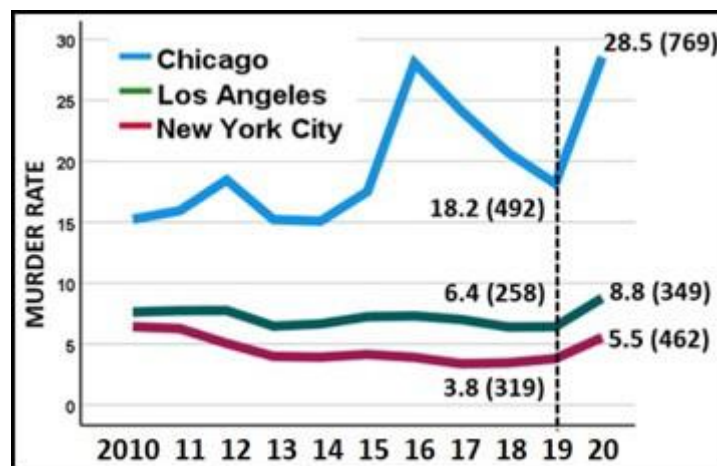


## THE USUAL VICTIMS

***Violent crime is reportedly way up. But do we all suffer equally?***



*For Police Issues by Julius (Jay) Wachtel.* According to the the *Los Angeles Times*, 2020 was “a year like no other.” Murder, it breathlessly reported, hit “a decade high after years of sustained reductions,” and shootings soared nearly forty percent. But L.A.’s hardly alone. According to the *Chicago Tribune*, the toll in perennially lethal Cook County [hit a historic high](#), with “more gun-related homicides in 2020 than any other year, surpassing the previous record set in 1994.” Even New York City, which habitually boasts about its low crime numbers, feels cause for alarm. A recent *New York Times* opinion piece, “The Homicide Spike is Real,” calls killings and shootings “[the city’s second-biggest challenge](#)” next to the pandemic. But when it comes to gunplay “the way forward is less clear, and the prospects for a better 2021 are much dimmer.”



Check out the graph. Homicide in Chicago increased *fifty-six percent* in 2020, soaring from an already deplorable 492 killings to an eye-popping 769 (the per/100,000

rate jumped from 18.2 to 28.5). While perhaps less mind-bending, increases in Los Angeles (38 percent) and New York City (45 percent) were also pronounced. Indeed, violence surged in large cities and small.

So our first question is...*why*?

Two major reasons have been offered: the pandemic, and police killings. These dreadful events have led to economic chaos and social unrest, impairing the functioning of the state and fracturing its connection with the citizens it ostensibly serves. Not only has the pandemic taken cops off the street, but their deployment's been deeply affected as well. As the *Washington Post* noted, [this "thinning" of ranks](#) can have serious consequences:

In many departments, police ranks were thinned significantly by the combined effect of officers being out sick and being assigned to manage unrest on the streets. And given the concerns about spreading the coronavirus, officers were going to fewer places and interacting with fewer people, allowing more opportunities for people to settle disputes themselves.

Chicago's new police superintendent, David Brown, [was brought in by Mayor Lori Lightfoot](#) to deal with the chaos. [He attributes](#) much of the increase in violence, to "extended periods of heightened civil unrest and looting" that were sparked by [George Floyd's death](#) at the hands of Minneapolis police. It's not just about Mr. Floyd. [Noted criminologist Richard Rosenfeld](#) believes that our legacy of lethal police-citizen encounters has actually damaged the state's moral authority:

During a period of widespread intense protest against police violence, it's fair to suppose that police legitimacy deteriorates, especially in those communities that have always had a fraught relationship with police. That simply widens the space for so-called street justice to take hold, and my own view is that is a part of what we are seeing.

Considering just their reaction to COVID-19 constraints, it's clear that some citizens have become less willing to comply. Eager to avoid conflict, and with fewer officers to spare, many agencies have severely pared back on enforcement. [Aggressive, focused approaches](#) such as "hot spots policing" and "stop-and-frisk" seem threatened with extinction. LAPD Captain Paul Vernon, who runs his agency's Compstat unit, feels that this purposeful pulling back has reduced gang members' fear of being caught and [led to more shootings and killings](#). What's more, some cops may be reacting to the "new normal" by purposely slowing down. According to the *New York Times*, [that's exactly what happened](#) in the Big Apple. If so, it's not a new phenomenon. Three years ago in

“[Police Slowdowns](#)” we wrote about the protracted slowdown that followed the arrest and prosecution of a handful of Baltimore’s finest after the 2015 death of Freddie Gray. (Ditto, Chicago and Minneapolis.)

Whatever its causes, the decline in proactivity has serious implications. In his recent paper, “[Explaining the Recent Homicide Spikes in U.S. Cities](#),” Professor Paul G. Cassell proposed the “Minneapolis Effect”:

Specifically, law enforcement agencies have been forced to divert resources from normal policing to patrolling demonstrations. And even as the anti-police protests have abated, police officers have scaled back on proactive or officer-initiated law enforcement, such as street stops and other forms of policing designed to prevent firearms crimes.

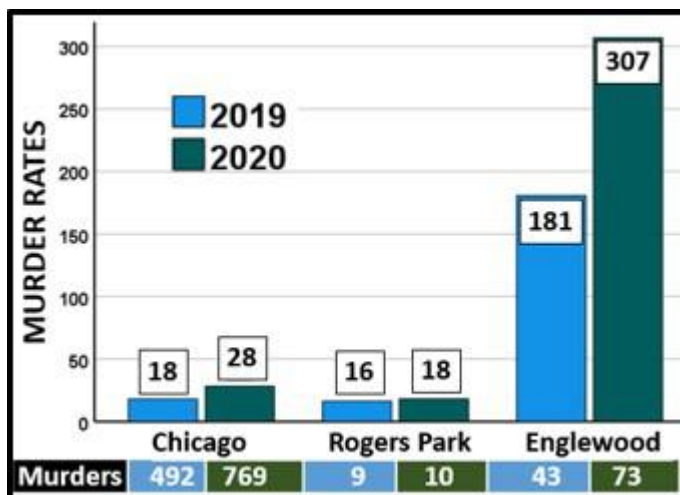
Of course, it’s not just about policing. Folks have suffered from the closing of schools, parks and libraries. Chicago P.D. Sgt. Jermain Harris, who works with youths, [offers his take on what happens](#) when community supports disappear:

You take away the businesses, all the pieces of society that generally have eyes out, and you are left with young people, and a lot of young people, who don’t have resources or that level of support if they are left on their own.

Well, it all seems plausible enough. Yet your blogger, and probably most who skim through our essays, lives in a middle-class area that seems just as peaceful as before the madness began. Other than the officer who lives a few houses down, cops are hardly ever around, and their absence is thought unremarkable. So that brings us to the second question: *who* suffers most?

LAPD Chief Michel Moore knows. He recently pointed out that in L.A., the increase of violence has mostly affected areas [long beset by gangs and gunplay](#):

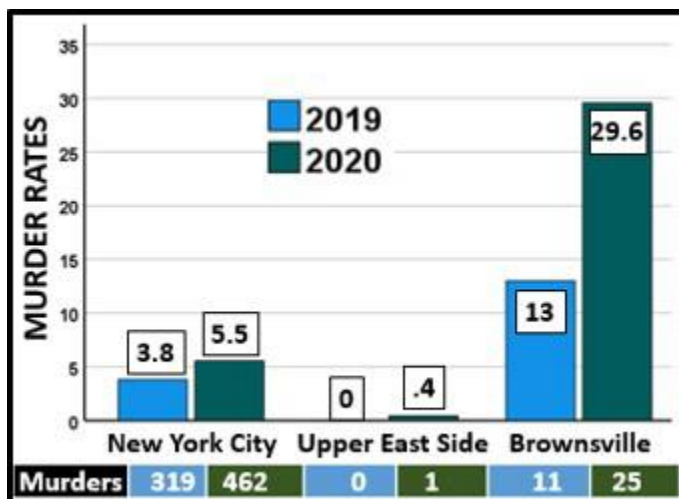
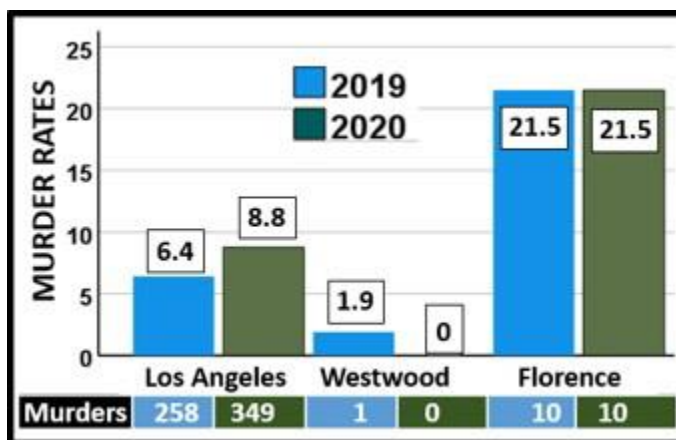
Nearly all of the loss of life and shooting victims are centered in the Black and brown communities. The lack of jobs and supportive services, a sense of hopelessness, easy access to firearms and ineffective parts of the criminal justice system have created a perfect storm to undermine public safety gains built over the last decade.



Chief Moore is referring to the same poor neighborhoods whose chronic problems with crime and violence are the stock-in-trade of our [Neighborhoods special section](#). Bottom line: it's not about *cities* but about the [places within cities](#) where people live. This graph proves that (as we suggested in "[Mission Impossible?](#)") there are even some relatively safe spots in...Chicago! For instance, Rogers Park, Chicago PD District 24. [Its 2020 murder rate](#) (thru 12/27) was more than a third lower than

the Windy City's overall. Yet [in downtrodden Englewood](#), Chicago's P.D.'s 7th. District, the already sky-high 2019 rate soared *seventy percent*.

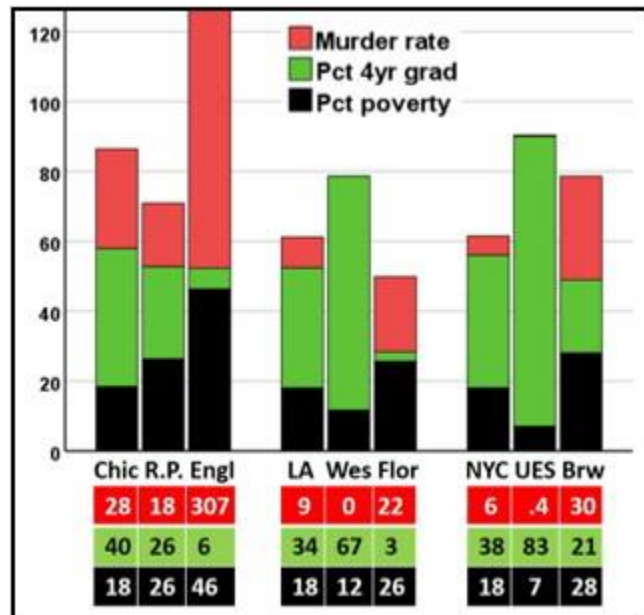
In "[Location, Location, Location](#)" we mentioned that Los Angeles has a number of relatively safe spaces. Say, Westwood. Populated by about fifty thousand of the (mostly) well-to-do, the prosperous community suffered one murder in [2019](#) and none in [2020](#). Alas, most L.A. residents aren't nearly as fortunate. Consider the chronically troubled Florence area (pop. 46,610) of South L.A. With ten killings in [2019](#) and ten in [2020](#), its murder rate wound up more than twice that of the city as a whole.



Conditions in New York city also "depend." Contrast, for example, the affluent Upper East Side's (pop. 225,914) zero murders in [2019](#) and one in [2020](#) with bedraggled Brownsville's (pop. 84, 525) eleven killings in [2019](#) and twenty-five in [2020](#). To be sure, Brownsville seems a less threatening place than L.A.'s Florence district or Chicago's

Englewood. Yet its contrast to the rest of the city within which its borders lie seems equally pronounced. It's as though there are two cities: one comprises Rogers Park, Westwood and the Upper East Side, and the other is made up of Englewood, Florence and Brownsville.

This graph brings it all together using 2020 data. (To save space, Englewood's sky-high murder rate runs off the top.) It's no news to our readers that economic conditions and their correlates – here we use number of residents with four-year degrees – are deeply related to crime and violence. So what can be done? Prior posts in our [“Neighborhoods”](#) section have rooted for comprehensive approaches that offer residents of low-income communities job training, tutoring, child care and other critical services.



Grab a quick look at [“Place Matters.”](#) Whether it comes from “neighborhood revitalization” programs such as promoted by Birmingham Mayor Randall Woodfin, or from that “Marshall Plan” we ceaselessly harp about, there’s no question – none – that a concerted effort to give needy neighborhoods a boost would greatly improve their socioeconomic health and reap fabulous human benefits. And, not-so-incidentally, keep inhabitants from becoming the “usual victims” whose demise our posts persistently quantify.

Violence is not an equal-opportunity threat. But of course we all knew that.

## THEY DID THEIR JOBS

### *Jurors freed Michael Jackson for a reason*

*For Police Issues by Julius (Jay) Wachtel.* When is a jury always wrong? When they find a celebrity innocent. After attentively sitting through four months of sordid, contradictory and often mind-numbing testimony, twelve citizens upended the wishes of innumerable pundits, media personalities and columnists, who made it clear throughout the whole ordeal that nothing short of a conviction would do.

Now that Michael Jackson has been set free the conundrum continues, most recently with a suggestion in the [editorial pages of the Los Angeles Times](#) that jurors should have avoided applying their “personal feelings” and concentrated on the “facts”. But how is it possible to decide between competing versions of events without injecting “feelings”? That is why standard California juror instructions expressly direct panelists to use their common sense:

- Consider carefully, and with an open mind, all the evidence presented during the trial. It will be up to you to decide how much or little you will believe and rely upon the testimony of any witness. You may believe some, none or all of it.
- Use the same common sense that you use every day in deciding whether people know what they are talking about and whether they are telling the truth.
- Did the witness seem honest? Is there any reason why the witness would not be telling the truth?

Jurors must hesitate to accept even the most plausible circumstances as fact. In October 2001 Efren Cruz, 27, was freed after serving four years for a murder he did not commit. Three years earlier, in a secretly recorded conversation, a gang member admitted he was the triggerman and absolved Cruz. But Santa Barbara County D.A. Tom Sneddon – the same prosecutor who hammered Jackson – tried to block judicial review of the conviction. Earlier this year Santa Barbara County settled a multi-million dollar lawsuit alleging that Sneddon and police violated Cruz’s civil rights.

Sex crime cases are particularly tricky to prosecute. Reports of sexual assault are often so delayed that no evidence is left other than testimony. And testimony can prove unreliable:



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“He grabbed my hair and then he started pulling me. And that's when I screamed. I tried to go away, and then my friends were trying to help me, and that's when he started choking me.” In January 2004, as Garden Grove transient Eric Nordmark sat on trial for molesting three girls, he was convinced that his accuser had been assaulted by someone. But he was wrong. In jail since May 2003, Nordmark was freed after the girls admitted they concocted the tale to avoid being punished for coming home late.

Perhaps the best known example of the fallibility of child witnesses is the 1984 McMartin scandal, where false memories of sex abuse were implanted into scores of children who attended a Huntington Beach day-care. The case soon fell apart. Of the seven employees indicted, only two were tried and both were acquitted. (Stanley Katz, the psychologist who examined Jackson's alleged victim, was an executive of the firm that helped conduct the McMartin interviews.)

Another instance from the same era had a particularly tragic outcome. In May 2004 a Kern County judge declared John Stoll innocent after he served eighteen years for allegedly leading a cabal of child molesters. The last of forty-six defendants in a string of put-up cases, Stoll's luck turned during two tearful, in-court recantations, including one by a 26-year old man whose false statements as a youth sent his mother to prison for six years.

Pedophiles may be particularly vulnerable to false accusations. In 1986 Nassau County, N.Y. police charged Arnold Friedman, an admitted past abuser, and his son Jesse for molesting children during group computer classes. Facing highly graphic tales of forced sex, both eventually confessed. Arnold Friedman committed suicide in prison, while his son served thirteen years. Police conceded that no one had complained until they went calling. One parent, whose child insisted that nothing happened, reported that detectives pressured his son to say otherwise.

We should all celebrate the outcome of the Jackson case, not for the sake of the accused, who will be ultimately judged by a higher order, but as an affirmation of a process that, however imperfect, has no suitable replacement. As in so many other things, those who now scream the loudest would probably be the first to demand the same right afforded to Jackson – a jury of twelve decent, thoughtful persons who would not hesitate to apply their “feelings” in court.



Posted 1/24/10

## TINKERING WITH THE MACHINERY OF DEATH\*

***Academics prove that the death penalty works.  
And that it doesn't.***

When ASC members opened the November 2009 issues of the society's two publications, stodgy old *Criminology* and the supposedly more real-world *Criminology and Public Policy*, they must have felt dizzied. *Criminology's* lead piece, "[The Short-Term Effects of Executions on Homicide](#)," by Land, Teske and Zheng, concludes that capital punishment works, at least in Texas, preventing .5 to 2.5 homicides per execution. Meanwhile, in *Criminology & Public Policy*, Kovandzic, Vieraitis and Boots answer the question posed by their article, "[Does the Death Penalty Save Lives?](#)" with a resounding no, that it doesn't.

Indeed, the differences in opinion seem unusually sharp, with C&PP Senior Editor John Donohue flat-out asserting in his introductory remarks that "no credible evidence exists" that the death penalty deters homicide. Whoa – it's not that simple! Decades of research have produced findings supporting both sides of the debate. Some of the squabbling can be attributed to differences between disciplines. Economists, who believe that criminal behavior is influenced by cost-benefit analyses, tend to favor the death penalty, while traditional criminologists, preferring to think that they take a broader, more nuanced view, often come out against.

Either way, crunching the numbers presents a major challenge. While executions are exceedingly few, homicide is plentiful and influenced by many factors, so teasing out the unique effects (if any) of the former on the latter stretches the statistical arts, some would say to the breaking point. As far back as 1978 [a book-length report](#) commissioned by the National Academy of Sciences panned death-penalty studies for, among other things, making "implausible" assumptions about the data for the sake of applying sophisticated statistical techniques. (For a skeptic's more recent review of death penalty research click [here](#) and scroll to page 4.)

Alas, concerns about over-reaching haven't slowed investigators down. On reading these pieces one quickly encounters methodological complexities that are impenetrable to all but trained statisticians. Forgive the pun, but the impression is of a mathematical duel to the death. Writing in the same issue of *Criminology and Public Policy* that published the article favoring the death penalty (*Criminology* doesn't include opposing views) here is what Emory University economist Paul Rubin had to say:

In sum, Kovandzic et al. (2009) change the model specification, estimation method, as well as both the dependent and independent variables used by earlier death penalty studies that report deterrence, and they find no deterrence....To prove their assertions, Kovandzic et al. instead should have established, with rigor, that their results are derived from more appropriate statistical models and must, therefore, be the correct one. Moreover, their statistical methods are unjustified and, at times, inappropriate. Their assertion about the lack of a deterrent effect is, therefore, unwarranted given their evidence. (p. 858)

After finishing off his enemy with a slide rule, Dr. Rubin goes on to suggest that (horrors!) human bias is likely at work:

Most murders occur in poor neighborhoods and among relatively uneducated persons, often with risky lifestyles. An element of elitism may be present in academic recommendations for abolishing the death penalty, because others will bear the costs. (p. 858)

Yes, where one stands undoubtedly influences what one sees. But as the frailty of the adjudicative system has become well recognized, minds have changed for the best of reasons. In Texas, the hang 'em high State that hosts nearly half of America's executions, one barometer of the public mood, the [Dallas Morning News](#), recently came out against the death penalty. It used to strongly favor it:

It's hard to imagine that, at the start of this decade, it was legal to execute people for crimes they committed as children, to execute the mentally retarded and to bring racial biases into jury-selection processes. The Supreme Court righted those wrongs and, for the first time, established that post-conviction DNA evidence could be considered in the appeals process. And in Texas, life without parole – or 'death by prison,' as we like to call it – finally became an option for juries. These are all signs that courts, prosecutors, politicians and the public are recognizing the problems in our imperfect system of justice. This newspaper feels more strongly than ever that those flaws are sufficiently widespread that the justice system cannot be trusted to impose irreversible sentences of death...

If, as most criminologists believe, punishment deters, then it's probably true that fear of being put to death has prevented some murders. But that presumed benefit alone isn't dispositive. State-sanctioned killing is a political and moral issue that goes to the heart of the relationship between the people and their government. Capital punishment is also replete with racial and socioeconomic disparities. Simply put, if you can't afford a good lawyer, better break open that Bible. What's more, it's become painfully clear that

the justice system does goof, sometimes in a big way. According to the Death Penalty Information Center, [139 death-row prisoners](#) have been exonerated since 1973. To date the Innocence Project reports 249 DNA-based exonerations, [including seventeen on death row](#).

It's likely that our contemporary justice system has executed innocent persons. (For an example, click [here](#).) Surely, such blunders are unforgivable. Yet as the article in *Criminology* suggests, enjoying Texas-sized benefits requires ramping up the threat of execution to Texas-size levels. Naturally, that might increase the frequency of tragic mistakes. To what extent is impossible to estimate. Dead men tell no tales, and since we don't track miscarriages of justice until they're officially acknowledged, the error rate remains a cipher. (It's analogous to the problem that plagues deterrence research. We don't know who's deterred, so how can we be sure how or if deterrence works?)

Considering its problems one would be hard-pressed to support the death penalty just because of its reported effects in Texas. But what if the benefits could be extended to the rest of the country? In 2009 the Lone Star State (pop. 24,782,302) [put twenty-four persons to death](#), or approximately one per million. Applying that ratio to the U.S. (pop. 307,006,550) calls for about 300 executions per year. Using the benefit range reported by Kovandzic et al. that would save from 150 to 750 lives, yielding, based on 16,272 murders reported in 2008, an overall reduction in homicide from .9 to 4.6 percent.

Hmm. Executing two dozen persons *each month* might not be a problem in China or North Korea, but could we stomach that in the U.S.A.? Keep in mind that according to the deterrence paradox we can't know whose lives are saved, so stirring up public support might be problematic. Really, given the controversies about its fairness, doubts about its effectiveness, and the likelihood of wrongful executions, expanding the use of the death penalty seems unlikely and unwise. With fifteen States and D.C. having already abolished capital punishment, it may be time for the U.S. to quit "tinkering" and join the E.U. and the rest of the civilized world in doing away with this throwback to the Dark Ages altogether.

*\* Adapted from Justice Blackmun's famous words in [Callins v. James](#) (1994): "From this day forward, I no longer will tinker with the machinery of death."*

Published in the *Los Angeles Times* op-ed section, December 8, 2005

## **TOOKIE'S FATE IS THE WRONG DEBATE**

***Capital punishment isn't just wrong: it's un-American***

Jay Wachtel

Whether Stanley Tookie Williams lives or dies is not my concern. He chose the gangster life and now stands a good chance of reaping its rewards. Actually, the criminal justice system probably prolonged his existence. Had he not been in prison, Williams would likely be dead, a victim of the power struggles that have consumed many of his gangbanging peers.

Killing him, though, is something else again. If the co-founder of the Crips had met his end on the street, few would have blinked twice. But now that the government proposes to do the deed, the liberal crowd has worked itself into a frenzy. And that's not a bad thing.

Don't get me wrong; I like the idea of punishment. Letting evildoers run amok terrorizes the law-abiding. But now that life without parole is a universal fact, the shooting, electrocution or poisoning of criminals subject to permanent custody has become an exceedingly burdensome artifact.

One must be cold-blooded to be unaffected by the idea of capital punishment. No matter how tidy we try to make the act of killing, dropping the hammer on someone strapped to a gurney is an inherently troubling business. Executions also run counter to the principle that those in government custody should come to no further harm.

We judiciously keep condemned prisoners alive for as long as it takes, create massive paper trails and spend countless sums fighting appeals so that at some point we might win the game and kill them. Along the way, a few savvy inmates manage to achieve a degree of notoriety and public support, causing survivors even more grief.

Speeding up the process is hardly a solution. Advances in DNA technology confirm that innocent people have been convicted, with some condemned to die. According to the Death Penalty Information Center, 122 death row inmates have been freed since 1973. In an imperfect system, in which the accused are often too poor to mount an effective defense, it seems inevitable that innocent people will occasionally be executed.

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Among those who have apparently suffered this miserable fate was Texas inmate Ruben Cantu, who a recent investigation by the Houston Chronicle strongly indicates was wrongfully put to death in August 1993. Once we add the risk of occasionally killing the wrong person to the costs of running death rows, funding endless appeals and putting up with flak from liberals, there better be a good reason to continue what many consider a barbaric practice.

Perhaps the best argument is that only capital punishment can bring the closure that victims and survivors of horrific crimes deserve. Maybe so, but 12 states, the District of Columbia and most of the civilized world have willingly given it up.

With few exceptions, capital punishment seems to be a characteristic of totalitarian and authoritarian regimes, among them such happy places as Cuba, Belarus and Libya. European democracies have outlawed executions, as has most of South America (a few countries make exceptions for war crimes). Even Russia, which during the Soviet era embraced shooting people in the back of the head as the ultimate measure of social control, stopped executions in 1999.

I recently spent a week consulting with police in Ukraine. This is not a place that is soft on crime. Still, Ukraine abolished the death penalty in 1999. One month before Williams became an international celebrity, my hosts wanted to know why the world's leading democracy continued to put people to death. I told them that although a majority of Americans support the death penalty, an increasing number have come to believe that more killing is not the answer.

Now that Williams' future is in the governor's hands, let him base his decision on what's best for California, not for a has-been gangster. And however long Williams lives, let him and his misguided cheering section shut up.

Posted 11/30/07

## THE TRAGEDY OF JESSICA'S LAW

By Julius Wachtel, (c) 2010

"These costs are likely to be in the several tens of millions of dollars annually within a few years [and] would grow to about \$100 million annually after ten years, with costs continuing to increase significantly in subsequent years."

These observations are lifted word-by-word from the official [voter information guide for Proposition 83](#), also known as Jessica's Law, which California voters overwhelmingly approved in 1996. It addresses the fiscal impact of a provision that requires certain sex offenders wear GPS tracking devices *for the rest of their natural lives*. Proposition 83 also expanded the definitions of sex crimes, increased punishment and restricted where sex offenders can live. Projected cost increases included "tens of millions of dollars annually" for State prisons, "low tens of millions of dollars annually" for referral and commitment, and "\$100 million annually within a decade" for hospitals.

Where would the money to electronically shadow as many as 3,000 or more *new* offenders each year come from? Ah...the law said nothing about funding. It was also silent about its, um, *practicality*. Just think, within ten years we could be tracking thirty-thousand offenders; within twenty, sixty-thousand! Here's what Richard Word, the president of the California Police Chief association recently told the [Los Angeles Times](#):

"I don't know of any agency that has the resources to track and monitor [so many people] in real time...You'll need an air traffic controller to track these folks."

More likely, a platoon of them. California parole agents currently use GPS to watch 1,000 high-risk sex offenders. To increase that thirty-fold would cost untold millions for agents, support staff, offices and equipment. Facing a \$10 billion budget deficit, the state suggested that local governments bear the costs for ex-cons not on parole. Jerry Powers, chief probation officer for Stanislaus County, told the *Times* why that cow won't fly:

"Powers told his colleagues that it would be 'ludicrous' to think that local agencies would voluntarily monitor all sex offenders by satellite. 'It would bankrupt any of our systems very quickly,' he said."

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Jessica's Law was an initiative, meaning that a special-interest coalition bypassed the Legislature and went directly to the citizens. Seventy percent of those voting said "yes." Why? Because everyone -- the Governor, the police, the sheriffs, the prosecutors -- raved about its provisions. One would have to be a Commie (or a defense lawyer) to not see the light! Here's a snippet of the police chiefs' statement in the voter guide:

"Don't be fooled by the false arguments the group of lawyers against Proposition 83 is making. They represent criminal defense attorneys who make their living defending criminals. Of course they don't want tougher laws!...EVERY major POLICE, SHERIFF, and DISTRICT ATTORNEY organization in California strongly supports Jessica's Law...Your YES vote on Proposition 83—Jessica's Law—will give law enforcement the tools they need to stop sexual predators before they strike again."

What do the boosters say now? Woodland PD Chief Carey Sullivan, the police chiefs' representative, admits that "we would have been far better off with lifetime parole or probation than...with lifetime GPS."

Too late! Jessica's Law is on the books. Stop whining and get to work!

Legal crusades are inevitably distorting. In a zero-sum economy like California ramping up the fight in one area requires that we pull resources from another. Are we O.K. that parole agents can't watch gang members because they're too busy chasing perverts? How can we make an informed decision when police executives -- who should know better -- are too cowardly to sound the alarm before it's too late?

It's not just about money. An especially Draconian provision of the law prohibits registered sex offenders from living within a third of a mile of a school or park. That has kept many from moving into supportive environments with family or friends. Instead they're caught up in a shell game, being hustled by weary parole agents from one sleazy motel to another. Many give up and wind up camping in cars and on sidewalks, making monitoring extremely difficult. How this enhances their chances at rehabilitation -- and our prospects for living in a safe society -- is hard to say.

The sheriffs, police chiefs and politicians who jumped on the Jessica's Law bandwagon can brag all they want about being on the side of angels. At least *we* know the truth.



Posted 10/12/24

## WANT BROTHERLY LOVE? DON'T BE POOR!

*Violence is down in Philly, L.A. and D.C. Have their poor noticed?*



*For Police Issues by Julius (Jay) Wachtel.* Crime is reportedly down across the U.S. Comparisons between 2022-2023 reveal improvements in many violence-beset cities. Say, Philadelphia, where homicides plunged from 514 to 410. Less crime-struck places also got better. Murders fell from 438 to 386 in New York City and from 391 to 329 in Los Angeles.

Yes, crime and violence have fluctuated over time. Spikes in violence brought on by the pandemic continue to affect large metropolitan areas. While Philadelphia residents seem much better off today than in 2021, when they endured 562 homicides, The City of Brotherly Love had “only” 280 killings in 2015. Still, 104 fewer residents lost their lives last year. That’s inherently meaningful. And the seemingly favorable trend continues. [According to the City Controller](#), in 2024 Philadelphia experienced 193 fatal shootings thru October 2. That’s a stunning 42 percent fewer than on that day in 2023.

FIVE MOST AFFLUENT PHILADELPHIA ZIP'S							FIVE POOREST PHILADELPHIA ZIP'S						
			2023		2024					2023		2024	
			Full year		Thru 9/30					Full year		Thru 9/30	
	Pop	Pov	Shtgs	Rate	Shtgs	Rate		Pop	Pov	Shtgs	Rate	Shtgs	Rate
19106	13064	5.4	4	30.6	2	15.3	19133	25798	36.9	82	317.9	47	182.2
19154	34552	7.3	5	14.5	0	0.0	19121	33708	38.9	96	284.8	38	112.7
19128	38314	8.7	1	2.6	3	7.8	19134	59230	39.4	164	276.9	59	99.6
19147	39237	8.7	17	43.3	2	5.1	19140	53979	40.6	133	246.4	61	113.0
19114	31468	9	3	9.5	1	3.2	19104	38774	40.8	46	118.6	35	90.3
	156635	7.8	30	19.2	8	5.1		211489	39.3	521	246.3	240	113.5

Problem is, the benefits aren’t equally distributed. [In 2023](#) Philadelphia suffered 1,666 “criminal shootings” (375 fatal; 1,291 nonfatal; fatal.) across its 45 ZIP Codes. The

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five most prosperous ZIP's (left table, bottom row), [average poverty 7.8 percent](#), suffered a cumulative 30 shootings, producing a rate of 19.2 per/100,000 residents. In contrast, the five neediest ZIP's (right table, bottom row), average poverty 39.3 percent, endured a stunning 521 shootings. Philadelphia's most economically-deprived residents were burdened with a per/100,000 pop. shooting rate of 246.3, *nearly thirteen times worse* than what their counterparts experienced.

And what about 2024? According to the Controller, the city suffered 838 shootings thru Sept. 30, 2024 (174 were fatal; 664 were nonfatal.) That's about *half* the total number of shootings in 2023, so the trend seems favorable. Alas, benefits remained unequally distributed. Through Sept. 30, the five most prosperous ZIP's had 8 shootings, producing a nine-month rate of 5.1 per/100,000. Their five counterparts suffered a grisly 240 shootings, yielding a nine-month rate of 113.5. That's *more than twenty-two times* worse.

Who *really* profits from "the great crime drop"? After all, income-based disparities are by no means unique to Philadelphia. Los Angeles is served by twenty-one geographical police Divisions. They suffered a total of 329 homicides in 2023. Murder rates for each Division were computed using LAPD's [2023 homicide report](#), its [Division population counts](#) and [Census poverty data](#).

FIVE MOST AFFLUENT LAPD DIVISIONS							FIVE POOREST LAPD DIVISIONS						
			2023		2024					2023		2024	
			Full year		Thru 9/7					Full year		Thru 9/7	
Div	Pop	Pov	Homs	Rate	Homs	Rate	Div	Pop	Pov	Homs	Rate	Homs	Rate
Pac.	218686	7.2	10	4.6	4	1.8	Ram.	159878	23.1	20	12.5	19	11.9
Foot.	196318	10.2	10	5.1	6	3.1	SE	150720	23.7	38	25.2	25	16.6
WLA	242928	10.3	3	1.2	1	0.4	SW	193652	24	14	7.2	10	5.2
WVa.	201893	10.5	8	4.0	3	1.5	Cen.	81747	25.9	29	35.5	14	17.1
Dev.	230518	10.8	7	3.0	7	3.0	New.	149495	36.3	24	16.1	22	14.7
	1090343	9.8	38	3.5	21	1.9		735492	26.6	125	17.0	90	12.2

Comparing the five LAPD Divisions at each end of the prosperity scale yields a contrast that's shades of Philly. In 2023 LAPD's five most prosperous Divisions, Pacific, Foothill, West L.A., West Valley and Devonshire (left table, bottom row), avg. poverty 9.8 percent, suffered an aggregate 38 homicides. That produced a murder rate of 3.5 per/100,000 residents. In sharp contrast, the five Divisions at the other end of the wealth scale, Rampart, Southeast, Southwest, Central and Newton (right table, bottom row), avg. poverty 26.6 percent, suffered 125 murders. That yields a homicide rate of 17 per/100,000, *nearly five times worse*. Like Philly, these hazards to life and limb

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continued into 2024. Although the number of homicides has trended down, the difference in the burden between affluent and poor *increased to six-times-plus* (respective rates 1.9 and 12.2).

Ditto, the District of Columbia. [In 2023](#) its eight Wards endured a nearly lock-step relationship between poverty and homicide. Its four most affluent Wards (left table, bottom row), average poverty 5.1 percent, suffered an aggregate murder rate of 14.8 per/100,000 residents. In contrast, the four Wards on the economically-downtrodden extreme (right table, bottom row), average poverty 14.1 percent, endured a stunning homicide rate of 65.2 per/100,000. *That's more than four times worse*. And while homicide seems to be substantially down in 2024, the poorer Wards continue to struggle with a murder rate that's *four times higher* (partial-year rates 9.4 v. 37.7).

FOUR MOST AFFLUENT D.C. WARDS						
			2023		2024	
			Full year		Thru 10/11	
Ward	Pop	Pov	Homs	Rate	Homs	Rate
3	77813	2	1	1.3	2	2.6
2	83162	4.8	11	13.2	10	12.0
4	83103	6.6	16	19.3	12	14.4
6	106206	7.1	24	22.6	9	8.5
	350284	5.1	52	14.8	33	9.4

FOUR POOREST D.C. WARDS						
			2023		2024	
			Full year		Thru 10/11	
Ward	Pop	Pov	Homs	Rate	Homs	Rate
5	88965	7.5	33	37.1	21	23.6
1	83885	7.9	27	32.2	11	13.1
7	74561	20.5	51	68.4	40	53.6
8	73200	20.5	98	133.9	49	66.9
	320611	14.1	209	65.2	121	37.7

In March, 2023 Philadelphia's [Lenfest Institute for Journalism](#) published the results of a community poll about the issues facing the city. "Crime and public safety" topped the list of citizen concerns. Black persons and residents of the city's less-prosperous areas were far more likely to complain about the effects of gun violence. Ditto, Los Angeles. After an outbreak of shootings in the chronically poor, violence-beset Watts area last year, [the leader of an L.A. peace coalition](#) told the *Los Angeles Times* that citywide drops in violence "don't necessarily reflect our reality." His views were echoed by a gang interventionist. "It's time for our children to be able to play outside, be able to walk to and from school safely...This isn't a color thing."

What can be done? Post-George Floyd, tactics such as stop-and-frisk have fallen out of favor. While some beleaguered places (i.e., Philadelphia, L.A. and D.C.) have embarked on a cautious re-set, aggressively policing violence-stricken neighborhoods inevitably leads to tangles with citizens. Officers *are* human, and frequently clashing with non-compliant souls can cause them to form stereotypes and develop attitudes [that potentially distort all encounters](#). Black and Hispanic persons, who disproportionately inhabit poorer areas, are inevitably affected.

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Improving the safety of economically-fraught neighborhoods clearly calls for a lot more than policing. L.A.'s impacted Watts residents offered two fixes: jobs and the economy. [A landmark study by the Urban Institute](#) found that properly addressing “distressed urban neighborhoods” requires a concerted effort to provide educational opportunities, job training, housing, child care, and the physical and mental health supports that are crucial to well-being. So here's an idea. It's become commonplace to partner officers with mental health professionals. Why not get social workers to ride along, as well? Once an immediate problem is under control, a knowledgeable specialist can assess things and start the complex and demanding process of getting a family – and its misbehaving members – the assistance they need.

Improving the dynamics of urban areas requires that we look *within*. “Cities” are constructs. [As we've repeatedly emphasized](#), it's *neighborhoods* that really, really matter. So let's start there!

## WHAT *REALLY* WENT ON AT NEVERLAND?

***Distrustful of the State's witnesses, jurors could only wonder:  
was Michael Jackson's home a pedophile's lair?***

In 2004, one year after appearing in the documentary, the 13-year old who snuggled with Michael Jackson [was testifying](#) before the Santa Barbara County (Calif.) grand jury:

Q. All right. Tell the ladies and gentlemen of the Grand Jury the conversation? Lean into the microphone and tell them about it.

A. We were laying on the bed and he told -- he told me that men have to masturbate -- well, males have to masturbate or else they won't be able to like -- like be normal....

Q. All right, what happened after that?

A. He told me if I knew how.

Q. And what did you say?

A. I said no.

Q. All right. What happened next?

A. He told me that he wanted to teach me.

Q. Say that again?

A. He told me that he wanted to teach me.

Q. All right. Tell us what happened.

A. So we were laying in the bed, and then he started rubbing me.

Q. Rubbing you how?

A. He put his hands down my pants and he started rubbing me.

Q. What part of your body was he touching?

A. My private area.

More than a decade earlier, in 1993, another 13-year old boy had told a similar story:

“Physical contact between Michael Jackson and myself increased gradually. The first step was simply Michael Jackson hugging me. The next step was for him to give me a brief kiss on the cheek. He then started kissing me on the lips, first briefly and then for a longer period of time. He would kiss me while we were in bed together....”

[This excerpt](#) (it turns very graphic) isn't from a criminal case. It's from an affidavit in a [civil lawsuit](#) accusing Jackson of having sex with the victim at



Neverland and a string of motels. Jackson quickly settled the matter for a cool \$15 million. Criminal charges were never filed, supposedly because the victim wouldn't cooperate with police.

In 2003, beset by heavy debt and litigation, with his career stalled, Michael Jackson agreed to be in a documentary. Released in 2003, Martin Bashir's "[Living With Michael Jackson](#)" didn't have the effect that the singer intended. Depicted enjoying the high life in Neverland, his rococo Santa Barbara estate, and in Las Vegas and Berlin, where he dangled his surrogate newborn out a window, the troubled pop star came across as a profligate spender, hopeless narcissist and questionable parent. Questions about his upbringing unleashed a torrent of self-pity, replete with chilling tales of ghastly physical and emotional abuse by a brutal, domineering father. Seen in that light, Jackson's peccadilloes, including his preference for the company of children, made a certain sense. And that's where things would have ended had the filmmaker not decided, at the last moment, to confront Jackson about certain nasty rumors.

Michael Jackson was not the iconic figure that reactions to his passing now suggest. His eccentricities had alienated many fans. Carried on prime-time TV, the accounts of sleep-overs and his hand-holding intimacy with the boy caused a scandal, forcing authorities to investigate. Jackson fought back with a rebuttal video in which the boy and his family gave glowing accounts of the performer's character and good works. It was during this time that the molestations allegedly occurred. (His mother, Janet Arvizo, testified that Jackson was so determined to keep the family away from police that he forced them to remain in Neverland, warned that "killers" were on their trail and even offered to relocate everyone to Brazil.)

Jackson was charged in a [ten-count indictment](#). Count one accused him and unnamed staff members with child abduction, false imprisonment and extortion. There were also four counts of committing lewd acts on a child under the age of fourteen; one count of attempting to have the victim commit a lewd act on Jackson; and four counts of administering liquor to facilitate the commission of these crimes. His conviction seemed a foregone conclusion.

Yet the State's case was shaky from the start. Defense lawyers [gathered receipts](#) proving that instead of being held incommunicado, as she claimed, Mrs. Arvizo was shopping up a storm using Neverland credit cards. Defense investigators dredged up evidence that injuries she supposedly sustained years earlier, when a son was caught shoplifting, weren't caused by brutal store

detectives but by her former husband. (J.C. Penney's gave her a large cash settlement and dropped charges.) She was also facing allegations (later, charges) of welfare fraud, which in a memorable moment led her to take the Fifth. Jay Leno even took the stand to say he had turned her away from The Tonight Show when it seemed that she was obsessed with money.

Prosecutors were allowed to buttress their case with evidence that Jackson had molested other children. Unfortunately the victim/millionaire whose affidavit is quoted above slipped off to Europe, where he remained for the trial's duration. But another man, the [son of a former maid](#), gave compelling testimony of being molested by Jackson when he was ten. His family, though, had also benefited from a civil settlement, to the reported tune of \$2 million. One of Jackson's former security guards testified that funny things went on between his boss and several kids, including Macaulay Culkin. But when Culkin took the stand he only had good things to say about Jackson: the sleepovers, he insisted, were perfectly innocent.

The [victim's testimony](#) had mixed results. He did say that Jackson masturbated him twice. But he conceded telling his friends and teachers, out of shame, that nothing happened. His testimony that only his mother seemed troubled about living in Neverland badly weakened the prosecution's "abduction" theory. More curiously, he also said that his grandmother told him that men need to masturbate, the same comment he earlier attributed to Jackson.

After four months and 140 witnesses the case went to the jury. A week later they returned their [verdict](#): innocent on all counts. Jurors were of two minds. First and foremost, they loathed Ms. Arvizo. "What mother in her right mind would allow that to happen?" asked a female juror, referring to the sleepovers. They also thought the evidence thin. "We expected better evidence, something that was a little more convincing. It just wasn't there." Yet there was no appetite for simply declaring Jackson innocent. Indeed, one juror, [Raymond Hultman](#), went so far as to suggest the opposite. "I think that Michael Jackson probably has molested boys. But that doesn't make him guilty of the charges in this case."

Blowback was severe. Pundits and mainstream media ridiculed the verdicts and questioned the jury's competency. In a stinging rebuke, the [Los Angeles Times](#) huffed about Jackson's "weirdness" and "unpalatable taste for the tawdry." (It [later compared](#) his acquittal to those of O.J. Simpson and Robert Blake, attributing them to the vagaries of juror personalities.) In the midst of the



furor two jurors went public, suggesting they were now of a mind to convict Jackson. One was Juror Hultman.

Fast-forward four years. Heavily indebted, with his beloved Neverland on the chopping block, Michael Jackson was yesterday's news. But then he did something really outrageous: he died. A media frenzy broke out, the likes of which we haven't experienced since a skinny black guy with a nice smile became Prez. Here's what *Los Angeles Times* media columnist [Timothy Rutten](#) is trying to figure out:

...Yet on cable TV and on newspaper websites, it was all Michael, all the time. So, how did a pop singer heavily in debt and desperately hoping for a comeback, one who hadn't really sold any music for years, one who was best known for his bizarre life, obsession with cosmetic surgery and for the allegations of pedophilia against him, become in death the most beloved media figure since JFK?

Beats me. But if you've got an idea, post it in the forum!

Posted 5/10/09

## WHAT'S THE GUVERNATOR BEEN SMOKING?

### *Legalizing marijuana shouldn't just rest on economics*

...Well, I think it's not time for [legalizing pot] but I think it's time for a debate. I think all of those ideas of creating extra revenues, I'm always for an open debate on it...

Governor Schwarzenegger isn't alone. Fifty-six percent of California voters surveyed in the April 2009 [Field Poll](#) said they favored legalizing and taxing pot. Truth be told, the Golden State always had a soft spot for marijuana. Its [Compassionate Use Act](#) was the first, in 1996, to allow physicians to prescribe pot for treating a wide range of maladies including "cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, *or any other illness for which marijuana provides relief* (emphasis added)". [Twelve more States](#) from Hawaii to Rhode Island have since followed suit.

Country	Cannabis	
	Percent	SE
Colombia	10.8	0.6
Mexico	7.8	0.5
US	42.4	1.0
Belgium	10.4	1.6
France	19.0	1.6
Germany	17.5	1.6
Italy	6.6	0.8
Netherlands	19.8	1.3
Spain	15.9	1.3
Ukraine	6.4	1.0
Israel	11.5	0.5
Lebanon	4.6	0.9
Nigeria	2.7	0.5
South Africa	8.4	0.6
Japan	1.5	0.4
People's Republic of China	0.3	0.1
New Zealand	41.9	0.7

It's not just about medical use. Support for complete decriminalization has been on the rise throughout the U.S. [Four decades ago](#) the split was twelve percent for and eighty-four percent against. By late 2005 the gap had narrowed to thirty-four yes versus sixty no, with younger men mostly in favor and women and older men largely opposed. As might be expected, attitudes vary by region. There's far more support for pot on the East and West coasts than in the more conservative South and Midwest.

In 2008 the World Health Organization surveyed alcohol and drug use around the globe. Its [findings](#) were a bit surprising. The Netherlands only placed third. Despite their permissive drug laws, just twenty percent of the Dutch said they had ever used cannabis. Second place went to New Zealand, with a far higher 41.9 percent. Taking the crown was the good old U.S.A., where 42.4 percent admitted inhaling at least once. (Incidentally, we were also number one for ever using tobacco, 73.6 percent, and cocaine, 16.2 percent).

Surveys by the [National Institute of Drug Abuse](#) confirm that marijuana is the most popular illicit drug in the U.S. Parents won't like it but [in 2008](#) nearly one-fourth of 10th-graders and one-third of 12th-graders admitted smoking pot at least once during the preceding twelve months.

Marijuana's proponents claim that it's a harmless mood elevator, no worse than alcohol or tobacco. Many scientists disagree. Smoking pot is believed to pose a host of [significant health risks](#), including cancer and diseases of the lungs and respiratory tract. Because they tend to inhale deeply and hold smoke for a prolonged period, pot smokers are likely worse off than those who only use tobacco. And it doesn't stop there. There is good reason why popular culture pokes fun at potheads. Marijuana's active ingredient, THC (tetra-hydro-cannabinol) affects key brain functions including [memory and learning](#). Pot has been linked with poor performance at school and work, and even low dosages can seriously impair judgment and motor skills, making it dangerous to use machinery and drive a car.

THC does have therapeutic qualities. It's in anti-nausea medications used by chemotherapy patients. Marijuana, a powerful appetite stimulant, is of value for those suffering from AIDS and other wasting illnesses. Of course, it's these benefits (and not pot's recreational potential) that justified medical use laws in the first place.

Yet, as well intentioned as the compassionate use statutes may be, their application leaves something to be desired. California's permissive approach (physicians need only give verbal approval) lets unscrupulous clinics sell pot under the flakiest of pretenses. About the best that can be said of these profitable centers of stoner culture is that they don't sell to children. Calling the situation "Looney Tunes," [LAPD Chief Bratton](#) strongly criticized the lack of oversight: "They pass a law, then they have no regulations as to how to enforce the darn thing and, as a result, we have hundreds of these locations selling drugs to every Tom, Dick and Harry."

The good Chief hasn't seen anything yet. Tom Ammiano (D-San Francisco) has introduced [California State Assembly bill 390](#), which legalizes pot for everyone 21 and over. Although the measure includes detailed provisions for licensing producers and retailers, growing marijuana and making reefers is ridiculously simple, so combating illicit manufacture, collecting taxes, preventing sales to minors and controlling purity and potency could easily drain away a good chunk of the [\\$1.3 billion a year](#) that the law would reportedly generate. (Naturally, it's all contingent on the Fed's allowing it. But that's a story for another day.)

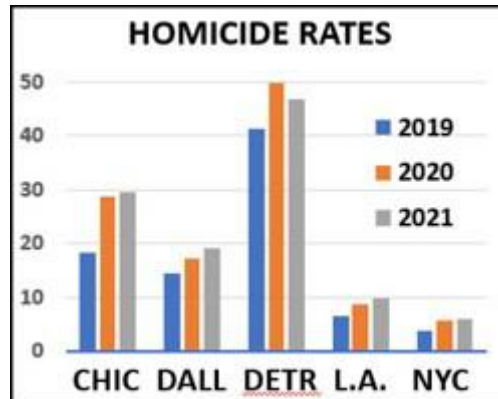
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There's little doubt that letting buyers get weed from medical marijuana clinics instead of slimy street dealers has expanded sales. Whatever the gain, it's nothing compared to the [staggering forty percent](#) increase in consumption that State tax authorities estimate Assemblyman Ammiano's bill would yield. So is that what we really want? Given what's known and suspected about pot's effects on health, does it make sense to encourage young people to take on a habit that can cause cognitive disorders and life-threatening medical conditions? That's to say nothing, of course, of having even more Toms, Dicks and Harrys driving around in a drug-induced haze.

After all the jawboning about obesity, unhealthy food in the schools and the evils of alcohol and tobacco, it's now proposed that we do an attitudinal U-turn and embrace a mind-altering drug, and all for the sake of a buck.

Heck, it could make one want to light up!

Posted 1/31/22

**WHAT'S UP? VIOLENCE.****WHERE? *WHERE ELSE?****As usual, poor neighborhoods shoulder most of the burden*

For *Police Issues* by Julius (Jay) Wachtel. “[I just want justice for my child, that’s all.](#)” That soul-stirring sentiment, expressed by a disconsolate Chicago-area father after the shooting death of his fourteen-year old son on November 12th., likely echoed the reaction of the parents of another 14-year old boy, [slain nearby just a few hours later](#). Indeed, the murderous reputation of Englewood, the neighborhood where the second killing took place, recently led us to use it in an essay entitled “[The Usual Victims](#)”.

Yet as one scours for insights into the murderous violence that’s beset our troubled nation since the murder of [George Floyd](#) and the beginning of the pandemic, neighborhoods are ignored. Academically and in the media, the focus is on cities. Of course, *place* matters. (We even have a post [of that name!](#) But as it emphasizes, to really understand *why* the violence, and how best to respond, one must ultimately go beyond political aggregates such as cities and drill down to neighborhoods. That’s the principle that underpins our “[Neighborhoods](#)” special topic. But before we apply that approach,

HOMICIDE RATES							
	%pov	2019	Rate	2020	Rate	2021	Rate
Chic	18.4	492	18.2	771	28.6	794	29.5
Dall	17.5	198	14.5	236	17.3	262	19.2
Detr	30.6	275	41.4	328	49.7	309	46.8
L.A.	16.7	258	6.4	351	8.8	395	9.9
NYC	16.0	319	3.8	468	5.6	485	5.8

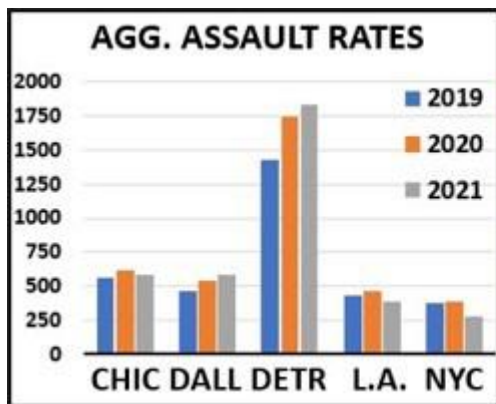
let’s turn to five major cities – Chicago, Dallas, Detroit, Los Angeles and New York City – to assess whether a “crime wave” really exists.

These are the numbers that go along with our opening homicide

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graph. (Sources listed below. Rates per 100,000 pop. were computed using city population figures in FBI and Census portals.)

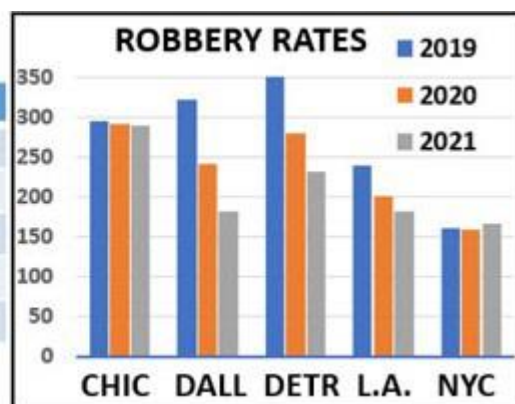
Clearly, each city endured substantial increases in murder. Detroit's numbers are truly deplorable, Chicago's a bit less so. Still, note that 57 percent increase in murders for 2020. Los Angeles and New York City, which started off and ended in a far better place, also experienced substantial increases that year (36 percent and 46.7 percent respectively.) And except for Detroit, which reported fewer homicides in 2021, murder rates kept getting worse.



	%pov	2019	Rate	2020	Rate	2021	Rate
Chic	18.4	15296	565.0	16597	616.2	15708	583.2
Dall	17.5	6369	467.2	7417	544.2	7959	583.9
Detr	30.6	9467	1426.8	11518	1746.2	12125	1838.2
L.A.	16.7	17216	428.7	18535	463.3	15772	386.2
NYC	16.0	31336	374.0	32056	386.2	22823	275.0

While America is decidedly on the wrong track homicide-wise, aggravated assault presents a more complex picture. Each city experienced a substantial increase in 2020; Detroit's already sky-high figures surged 21.7 percent. And while the Motor City and Dallas endured another jump in 2021, Chicago, Los Angeles and New York City experienced declines. In the latter two, the numbers actually fell below 2019 levels.

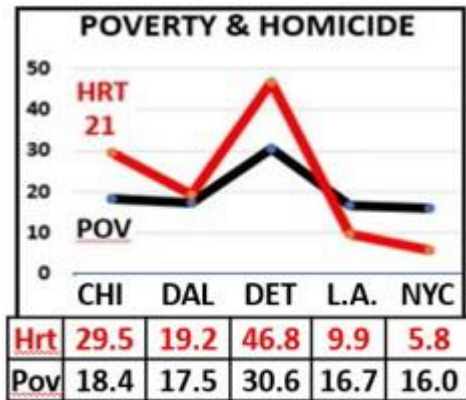
	%pov	2019	Rate	2020	Rate	2021	Rate
Chic	18.4	7983	295	7869	292.1	7796	289.4
Dall	17.5	4400	323	3292	241.5	2481	182
Detr	30.6	2346	354	1848	280.2	1529	231.8
L.A.	16.7	9652	240	8013	200.3	7314	182.8
NYC	16.0	13396	160	13182	158.8	13835	166.7



What about robbery? Chicago didn't experience a significant change in rates. New York City reported a handful more robberies in 2021 than in 2019. Dallas and Detroit, on the other hand, demonstrated significant improvement; Los Angeles, a tad less so.



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So is violent crime up or down? Homicide rates went up between 2019 and 2021 in each city in our cohort, and in Chicago and Detroit substantially so. Aggravated assault rates increased in Chicago, Dallas and Detroit but receded somewhat in Los Angeles and New York City. Robbery numbers, though, mostly decreased. Bottom line: when it comes to crimes whose objective is to injure or kill – i.e., murder and aggravated assault – things are bleak, and particularly so in the poorer cities. Over the

years, the numbers we’ve crunched demonstrate a strong link between poverty and violence, and especially homicide (see, for example, our recent review of ten major cities in [“Woke Up, America!”](#)). That’s borne out here. (Note that we cite Chicago’s Census poverty numbers but they’re generally considered a couple points too low).

City boundaries are artificial constructs. What about neighborhoods, the places where people actually live? Patterning our efforts on [“The Usual Victims”](#), [“Woke up, America!”](#) and [“Fix Those Neighborhoods!”](#) we collected 2019-2021 data on homicide, aggravated assault and robbery for two patrol areas in Los Angeles and two in New York City. Each pair was purposely comprised of one prosperous area and one that’s economically deprived. L.A.’s pair includes LAPD’s well-to-do West Los Angeles sector (pop. 228,000, pov. 11.3%) and chronically poor 77th. Street (pop. 175,000, pov. 30.7%). For New York City the pair includes the 19th. precinct, which covers Manhattan’s wealthy Upper East Side (pop. 220,000, pov. 7.2%) and the 73rd., which serves Brooklyn’s impoverished Brownsville and Ocean Hill areas (pop. 86,000, pov. 29.4%).

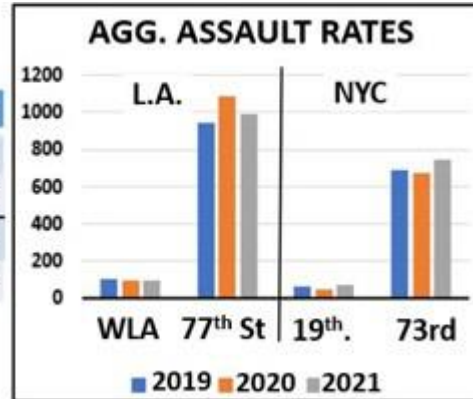
How did these places fare violent-crime-wise? Let’s grab a look.



Div	%pov	2019	Rate	2020	Rate	2021	Rate
WLA	11.3	1	0.4	4	1.8	0	0
77th	30.7	37	21.1	56	32.0	62	35.4
19th	7.2	0	0	1	0.5	2	0.9
73rd	29.4	11	12.8	25	29.1	23	26.7



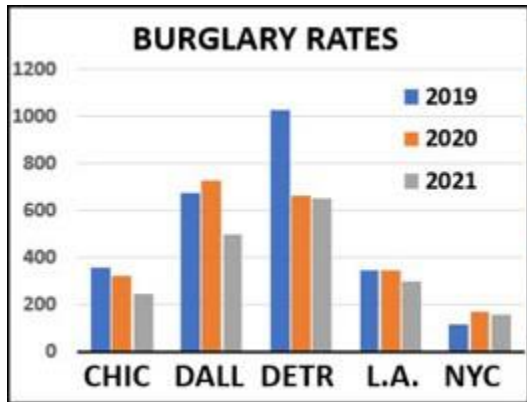
Div	%pov	2019	Rate	2020	Rate	2021	Rate
WLA	11.3	229	100.4	218	96	221	96.9
77th	30.7	1644	939.4	1903	1087	1726	986.2
19th	7.2	138	62.7	113	51	152	69.1
73rd	29.4	592	688.4	580	674	640	744.2



Div	%pov	2019	Rate	2020	Rate	2021	Rate
WLA	11.3	177	77.6	147	64.5	159	69.7
77th	30.7	198	578.3	236	478.9	262	477.1
19th	7.2	171	77.7	237	107.7	174	79.1
73rd	29.4	293	340.7	250	290.7	230	267.4

Our neighborhoods forays consistently reveal a strong relationship between poverty and violence (see, for example, “[Location, Location, Location](#)” for Los Angeles, and “[Repeat After Us](#),” “[Be Careful What You Brag About](#)” and “[Place Matters](#)” for New York City). As expected, L.A.’s 77th. St. and New York City’s 73rd. endured far higher rates of homicide, aggravated assault and robbery than their prosperous counterparts. Their homicide surge in 2020 – 51.4% in L.A.’s 77th. St., 127.3% in NYC’s 73rd. – seems remarkable. Aggravated assault followed a different pattern. Just like for the city cohort, rates increased at first in Los Angeles and retreated in New York City. On the other hand, robbery, a hybrid crime, was clearly on a downtrend. Most robberies don’t cause physical injury – that’s not their objective – and if it was up to us, we’d assign them to the “property” camp.

[According to the FBI](#), violent and property crimes are continuing to move in opposite directions. In late 2018 violent crime reversed a two-year downtrend and shot back up while property crimes, including burglary, continued a decade-plus plunge. FBI numbers don’t cover all of 2021, so we used city data (sources below) to prepare two burglary graphs, one for the five-city cohort and another for the rich area/poor area comparo.



	%pov	2019	Rate	2020	Rate	2021	Rate
Chic	18.4	9578	353.8	8643	320.9	6597	244.9
Dall	17.5	9210	675.6	9917	727.6	6792	498.3
Detr	30.6	6820	1027.9	4361	661.1	4277	648.4
L.A.	16.7	13809	343.9	13773	344.3	11933	298.3
NYC	16.0	9846	117.5	13907	167.5	12794	154.1

Div	%pov	2019	Rate	2020	Rate	2021	Rate
WLA	11.3	1023	448.7	1059	464.5	946	414.9
77th	30.7	651	372.0	454	259.4	508	290.3
19th	7.2	223	101.4	384	174.5	253	115
73rd	29.4	166	193.0	195	226.7	154	179.1



Burglary charted a seemingly benign course, with rates in each city except New York winding up lower in 2021 than in 2019. But in many areas the threshold for “serious” property crime has increased. For example, in 2014 [California Proposition 47](#) constrained the circumstances under which burglary can be charged. That makes us reluctant to interpret burglary’s recent changes in rate, either between cities or within. So let’s go back to violence. We’ll start with a bit of self-plagiarism from “[Woke up, America!](#)”:

Best we can tell, the middle-class neighborhood where my wife and I reside has been free of violent crime, or any property crime of consequence, for, um, thirty years. Many of our readers can probably boast likewise. To be sure, drive a couple miles one way or the other and things can get gloomy. And that’s within the same city.

That “gloominess” seems to be worsening. A profusion of soul-shattering acts of violence have welcomed the new year. [On January 10th](#) three robbers got into a gunfight with LAPD officer Fernando Arroyos, 27, who was off-duty and house-hunting with his girlfriend in challenged South Los Angeles. Officer Arroyos, a Cal Berkeley grad who had dreamed to be “first in his family to go to college and to be an LAPD officer,” was mortally wounded. On the opposite shore, [an appalling five on-duty NYPD officers](#) were

shot during the first three weeks of this year. [In the fourth, most recent episode](#), Officer Jason Rivera, a 22-year old rookie, was killed and his partner, Wilbert Mora, 27, a four-year veteran was critically wounded ([sadly, he later passed](#)). Their assailant was a middle-aged man whose mother had called 9-1-1 about his aggressive behavior. She didn't mention – nor apparently, was she asked – if he had a gun. It turned out to be a Glock .45 with a high-capacity magazine.

[Seventy-three](#) American law enforcement officers were feloniously slain in 2021, sixty-one by gunfire. That deplorable toll surpassed the former decade-high sixty-six in 2016. It's also a full one-third worse than in 2019, when forty-eight officers were victims of homicide, and 2020, when forty-six fell. And it's not just cops. An unending stream of news accounts depicts a growing hazard for ordinary folks as well. [On January 13th](#), a homeless man with an extensive criminal record fatally stabbed a beloved UCLA graduate student, Brianna Kupfer, 24, while she was tending to a Los Angeles-area furniture store. [One day later](#) a balloon release marked a pledge by challenged Chicago neighborhoods to “come together and work together” to end the violence that cost the lives of two 14-year olds in separate shootings two days earlier. [One week later](#), in



another troubled Chicago area, eight-year old Melissa Ortega was fatally wounded and several passers-by experienced a near-miss when a 16-year old gang member unleashed a barrage at a rival gangster. Out on probation for two carjackings, the shooter was arrested and (this time) is being held without bond.

Why the carnage is a matter of considerable debate. [According to the New York Times' David Brooks](#), polarization and anger fueled by a host of spiritual, cultural and moral poisons have led America's social compact to come undone:

But something darker and deeper seems to be happening as well — a long-term loss of solidarity, a long-term rise in estrangement and hostility. This is what it feels like to live in a society that is dissolving from the bottom up as much as from the top down.

Los Angeles offers bountiful examples of that “dissolving.” For an example of our society's coming apart at its more privileged levels consider [the June 1, 2021 killing](#) of an L.A. County firefighter, and the wounding of his Captain, by an angry colleague who barged in to the fire station. And for an example of our fracture at the opposite end, there's [the January 22, 2022 gang-related massacre](#) in struggling Inglewood, which took the lives of four persons in their early twenties, including the birthday party's “beautiful young” honoree.

Police aren't well positioned to keep unstable firefighters from lethally acting out. On the other hand, getting tough on armed thugs is supposedly right up their alley. [Mr. Brooks' employer](#), a news source whose editorial position hasn't often aligned with the cops, recently lent its forum to a Princeton sociologist who thinks that maybe the police *do* play at least one vital role:

We don't have another set of institutions that can deal with the problem of gun violence, or at least we don't have many institutions that can deal with the problem of gun violence. What I would argue is that they should move to the background, and police should be called when a gun is involved.

Dr. Patrick Sharkey isn't suggesting that cops get deeply involved in "ordinary" stuff. But when it comes to gun violence, who *else* is there?

What do *we* think? Grab a peek at "[Full Stop Ahead](#)." Blowback from George Floyd's murder and the constraints of the pandemic set off a flurry of reforms and adjustments that relaxed criminal sanctions, slashed prison and jail terms and reduced the oversight of offenders under supervision and those awaiting trial. [Law enforcement staffing plunged](#) and is yet to recover. Policing was severely dialed back, and proactive anti-crime strategies wound up on the back-back burner. But as violence continues, adjustments seem inevitable. Despite concerns by progressives who welcomed him to office, ex-police captain Eric Adams, New York City's second-ever Black mayor, [is planning to reinstate NYPD's plainclothes teams](#) (albeit, in a seemingly milder form.) And for a real head-snapper consider the situation that Manhattan's new D.A., Alvin Bragg found himself in. [Elected on a progressive, reformist plank](#), he even promised to seek leniency for those caught with a gun. But a sharp rise in violence has led to a "shift in tone." Mr. Bragg recently appointed a special lawyer to handle gun-related work, and "more than fifty" gun possession cases are reportedly in the pipeline.

One of our very first posts, "[Of Hot-Spots and Band-Aids](#)," expressed concern that intensive policing may be thought of as a permanent solution. As our "[Neighborhoods](#)" posts repeatedly implore, focused law enforcement practices can't (and shouldn't) substitute for investments in job training, education, health care and childcare. But when violence and gunplay rule the streets, "[geographically focused policing initiatives](#)" (that's that NIJ calls them) could help prevent the murder of eight-year olds and get society back on track. So maybe it's time to bring cops and out-of-



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mode strategies such as hot-spots policing back into the picture. All that's needed is to get America's badly polarized political class on board.

Alas, *that* chore is definitively beyond our pay grade.



Posted 5/13/22

## WHEN DOES EVIDENCE SUFFICE?

*Jurors may be more likely to give circumstances their due*



Chemirmir's eighteen victims, in order of mention

*For Police Issues by Julius (Jay) Wachtel.* Billy Kipkorir Chemirmir. That name – and assumedly, its bearer – will surely go down in infamy. A 49-year old Texas man, he has been indicted for [killing eighteen elderly women](#) (and is presumed to have murdered many more) during a years-long homicidal spree at senior living facilities in Dallas and its suburbs. Chermimir gained access by pretending to be a caregiver or maintenance worker. And when he discovered there was jewelry to steal, he suffocated his victims – each was in their eighties or nineties – and sold their valuables. Chermimir used pillows, and given the absence of obvious trauma and his victims' advanced age, the deaths were initially attributed to natural causes. Indeed, until one of his targets survived and called for help, no one suspected that a serial killer of the elderly was on the loose.



Chemirmir [wasn't totally unknown](#) to the criminal justice system. An immigrant from Kenya – he arrived as an adult in 2003 – he would in time rack up a couple of DUI's and, in 2012, an arrest for domestic violence. His next legal tangle, though, turned out far more significant. In June, 2016 [Chemirmir was arrested](#) for trespassing at "The Edgemere," a Dallas retirement home from

which he was expelled two months earlier. Although police had let him off with a warning the first time, they took the return engagement a bit more seriously. What they didn't know was that Chemirmir was a killer. By then he had already murdered two Edgemere residents, Phyllis Payne, 91, and Phoebe Perry, 94. (A third, Catherine Probst Sinclair, 87, died under suspicious circumstances, but her cause of death remains "undetermined".)

After a twelve-day jail stint Chemirmir began visiting another Dallas senior community, "The Tradition." He was often seen there during the summer and fall of 2016, and when challenged said he was checking for pipe leaks. He was finally told to stay away. Chemirmir was eventually indicted for murdering seven of the home's residents between July 2016 and October 2016: Joyce Abramowitz, 82; Juanita Purdy, 82; Leah Corken, 83; Margaret White, 86; Norma French, 85; Glenna Day, 87; and Doris Gleason, 92. (He is also thought to have killed a male resident, Solomon Spring, 89, but no charges have been filed.)



In November 2016 Tradition's employees called police about "a suspicious person" who was frequenting the premises under guise of being a maintenance worker. Officers took a report and suggested tightening things up.



Nearly a year later, Chemirmir apparently turned his murderous attention to the suburbs. He's been charged in the September 16, 2017 slaying of Marilyn Bixler, 90, a resident of "Parkview," a retirement facility in Frisco. Five weeks later, a 93-year old Parkview resident survived an attempt to smother her with a pillow. Her assailant allegedly left with her jewelry.

Chemirmir remained lethally active. Three days before Christmas 2017 he committed an alleged eighth slaying at The Tradition. His victim was Doris Wasserman, 90. During this period Chemirmir is also alleged to have slain three residents of private homes in Plano, Dallas and Richardson: Carolyn MacPhee, 81, Rosemary Curtis, 75, and Mary Brooks, 88.



His undoing ultimately came at “Preston Place”, a Plano retirement community. During the early morning hours of March 19, 2018, Chemirmir tried to suffocate resident Mary Bartel, 91, with a pillow. But after he left she regained consciousness and [police were called](#). By then Chemirmir had allegedly killed at least four Preston Place residents: Minnie Campbell, 84, Martha Williams, 80, Miriam Nelson, 81, and, only one day earlier, Ann Conklin, 82. (We say “at least” because there were several suspicious deaths as well.) Of course, the cops didn’t know that. But mention of a vehicle registered to Chemirmir had appeared in past reports of suspicious activity at retirement homes. On the following day, officers staked out his Dallas-area apartment and saw him toss a jewelry box into the trash. Inside the box they found the name “Liu Thi Harris.” Dallas police rushed to the 81-year old woman’s home. They were too late. She had already been suffocated with a pillow.



[Chemirmir’s trial for murdering Ms. Harris](#) began on November 15, 2021. Prosecutors played a video clip that depicted the accused and Ms. Harris inside a Walmart at the same time. The implication that Chemirmir followed her home was seconded by a January 2018 video clip from the same Walmart that paired him and a prior victim, Mary Brooks. Although Mary Bartel (she survived the suffocation attempt) had passed away, her deposition about the assault was admitted into evidence. Chemirmir’s alleged motive – to steal jewelry for resale – was also well supported. Ms. Harris’ jewelry box was identified by her son, and her jewelry and keys to her front door were found in Chemirmir’s car. Ms. Brooks’ daughter also testified that her mother’s safe and jewelry turned up missing. There was evidence that Chemirmir had offered jewelry from Ms. Bartel and Ms. Brooks for sale online, and a jewelry broker confirmed he made some purchases.

Still, the case wasn’t perfect. No deaths other than those of Ms. Harris and Ms. Brooks could be brought up. Ms. Bartel had never identified Chemirmir from a photograph, and physical evidence was lacking. As one might expect, Chemirmir didn’t take the stand. Criticizing the evidence as “all circumstantial” and the case as “quantity over quality,” the defense called no witnesses. While undoubtedly chancy, its gambit proved sufficient to convince one juror to hold out for acquittal. A mistrial was declared on November 19.

[Chemirmir’s retrial](#) kicked off on March 25. It was a literal replay. Again, the defense didn’t put on a case. Instead, his lawyers argued that prosecutors did not prove that Chemirmir entered Ms. Harris’ residence “beyond a reasonable doubt.” Once again, the

case was supposedly “all bark, no bite.” Not this time. Things wrapped up on March 28. And it took the jury *less than forty-five minutes* to convict the “circumstantially” accused killer of murdering Ms. Harris. Chemirmir got life without parole.

[According to the Daily Mail](#), as many as *one-thousand* elderly persons suffered “unexplained deaths” in Dallas-area nursing homes while Chemirmir was active. And some additional cases seem to be in the works. Still, none of the remaining seventeen indicted murders is known to offer a connection as compelling as the trail which led directly from Ms. Bartel’s assault to Ms. Harris’ jewelry box. Connecting Chemirmir to his victim would be essential. Ditto, a cause of death that doesn’t contradict suffocation. And recovering missing jewelry would be a big plus. Given Dallas County’s past tangles with wrongful convictions (its D.A. installed a pioneering “[conviction integrity unit](#)” in 2007) there’s little doubt that they’re likely to take care.

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On October 19, 2018, [Memphis police arrested a Chicago man, Jimmy Jackson, 72](#), on a Cook County warrant that accused him of murdering a 62-year old Chicago woman who had gone missing five months earlier. Family members who reported Daisy Hayes missing told police that they were certain that her boyfriend, Mr. Jackson, had killed her. And the cops clearly agreed.



Mr. Jackson stayed locked up until his trial last month. And [the circumstances pointing to his guilt](#) sure seemed compelling. A surveillance video showed Jackson wheeling away a heavy, bulging suitcase from the building where each had an apartment. And yes, [it was big enough to fit](#), as Ms. Hayes was barely over five tall and weighed a mere 85 pounds. Other videos depicted Mr. Jackson, with some difficulty, throwing the suitcase in a dumpster, then covering it with trash from other dumpsters. He then left with his own (non-bulging) suitcase. Apparently, heading for Memphis.

Alas, Ms. Hayes’ body was never found. And there was no DNA or physical evidence. Ms. Hayes hadn’t been answering phone calls, and it was two weeks before family members came looking. They must have found the place quite tidy, as video depicted Mr. Jackson [going in and out with cleaning supplies](#).

This wasn’t Mr. Jackson’s first serious go-round with the cops. [He had been arrested for a double homicide](#) years earlier, but prosecutors dropped the case after witnesses didn’t show. So his lawyer had to assess things very carefully. And he reached a unique

conclusion. There was no body. All that potentially nasty evidence was circumstantial. Let a judge decide!

On Friday, April 22, 2022 Cook County Judge Diana Kenworthy rendered the verdict. Cleaning an apartment isn't a crime. Ms. Hayes was elderly and had been drinking. And there was no physical or biological evidence that a crime had even occurred. She found Mr. Jackson not guilty.

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"This one conviction represents justice for all of the families." That's how [the daughter of one of Chemirmir's victims](#) welcomed the jury's verdict. In contrast, the judge's acquittal of Jimmy Jackson [left Daisy Hayes' daughter in tears](#). "Four years we've been fighting this, and all we got was a not guilty verdict." We don't deny that the circumstances presented at Chemirmir's trial were compelling. But we're equally convinced that a bulging suitcase, plus those trash bins, plus all that scrubbing, plus a sudden relocation to another state would have caused a whole lot of mutually-reinforcing chatter in a jury room, had Jackson opted for one. But his lawyer probably felt that a judge, deciding alone, would set tempting but inconclusive circumstances aside in favor of a more legally-focused argument, say, the lack of a clear motive and the absence of a corpse.

And the gamble paid off, if not for justice, at least for the accused.

Posted 8/22/10

## WHO DESERVES A BREAK? AND HOW WOULD WE KNOW?

*A Sheriff's lieutenant urges cops to consider the individual  
before making an arrest*

“Are you really going to put a felony on this guy? Here is a kid that could have been planning on going into the military, being a cop or fireman, and/or just being a guy with a career.”

*By Julius (Jay) Wachtel.* When Los Angeles County [Sheriff's Lieutenant Bill Evans](#) issued an instructional memo setting out a fictional encounter between a deputy and a Christian college student with a switchblade (it's described as an “illegal folding pocket knife”) he didn't expect that the document would ricochet around the country at the speed of the Internet.

But it did. Now everybody from Maine to Montana to this blogger wants to weigh in. (Well, not everyone. At last check the President's stayed out of it.) Not all the reaction has been positive. Hubert Williams, president of the [Police Foundation](#) and former chief in Newark didn't think that focusing on the youth's character was appropriate. “The moment you start saying ‘take the individual into account’ you've opened the door to allow bias into the decision-making process.” [Merrick Bobb](#), southern California's famous police watchdog, had another concern:

What if the same kid was a black student with long dreadlocks at Dorsey High? What if the same kid was a Latino and undocumented? A single parent with a young child at home? I would hope the same ability to empathize and exercise compassionate discretion would be triggered in those instances also.

Discretion is an inescapable part of policing. Agencies choose how and where to deploy cops and which crimes to emphasize, while individual officers decide whom to stop and what to do with them afterwards. Cops, of course, can't simply act how they please. Some laws – domestic violence comes to mind – require an arrest when there's sufficient evidence. Even if not mandated by law, it would be unthinkable for cops not to arrest an armed robber or a violent criminal. Police discretion is bounded in other ways. As [James Q. Wilson](#) pointed out, communities influence the police, and conduct that may lead to an arrest in one city may not in another.

So what *should* a cop do about a college student with a switchblade? Seeking guidance from the [LAPD manual](#) (regrettably, the LASD's isn't online) we come across section 1/508, "Police Action Based on Legal Justification." It advises that what's appropriate varies with the situation. Hmm. Then there's section 1/512, "Alternatives to Physical Arrest, Booking or Continued Detention," which warns that if an arrest is legally justifiable, the decision to invoke a less serious alternative must be based on fact alone:

Once a violator has been identified, it is the function of the Department to initiate the criminal process; however, there are circumstances when a crime may occur and the Department will not make a physical arrest. There may be a report written and an application for a complaint made; or in some cases, when the offense is of a minor nature, a verbal warning or other direction may be given. The decision not to make an arrest will be guided by Department policy and the factual situation involved, not by the personal feelings of the officer.

That's all well and good if there is an applicable policy and there are plentiful "facts." Yet the paradox is that policies governing the exercise of discretion tend to lack detail precisely because these "facts" are often nonexistent or too ambiguous or politically incorrect to articulate, let alone put into writing. To be sure, one could draft a policy that gives a break to youths carrying switchblades that they *don't* intend to misuse. But on what "facts" would cops be expected to rely? (For New Haven PD's exceptionally detailed policy, which applies only to order-maintenance situations, click [here](#).)

Lieutenant Evans knows that officers often exercise leniency. Perhaps he'd like the practice to increase. Yet encouraging them to do so in weapons cases seems questionable. Decisions to arrest are influenced by perceptions of a suspect's dangerousness, and it so happens that weapons possession is its most salient indicator. Criminal record, gang involvement and suspect demeanor are also important. All are demonstrable "facts," so if an agency wishes to regulate the use of discretion each could probably be part of a defensible policy.

On the other hand, turning to extrinsic factors such as religiosity or which college one attends invites fatuous distinctions. Decisions to let someone go shouldn't rest on idle speculation. That's probably what spurred a Sheriff's station commander to suggest that it would have been better to share the memo at a meeting where the "subtleties" of police decision-making could be properly addressed.

There's no question but that the lieutenant was well intended. Where, he asks, would some of us be had we run into a "hard-line cop" when doing "crazy stuff" in our younger

years? Fair enough, but as we mentioned in [Before JetBlue](#) it's precisely the overlooking of crazy stuff that has allowed ticking time-bombs to become police officers. It goes without saying that everyone benefits when characters who may have a penchant for violence are formally rather than informally processed. Sure, be compassionate, but when it comes to carrying a switchblade (incidentally, it's a misdemeanor under [P.C. 653k](#)) being Christian seems like an awfully flimsy excuse.

Posted 6/16/08

## WHY THE DROP?

“...There will continue to be crimes of passion and anger. And it is important to note that crime in Los Angeles has dropped precipitously in the last decade. Even with the increase in homicides, management of violent crime is moving in the right direction...”

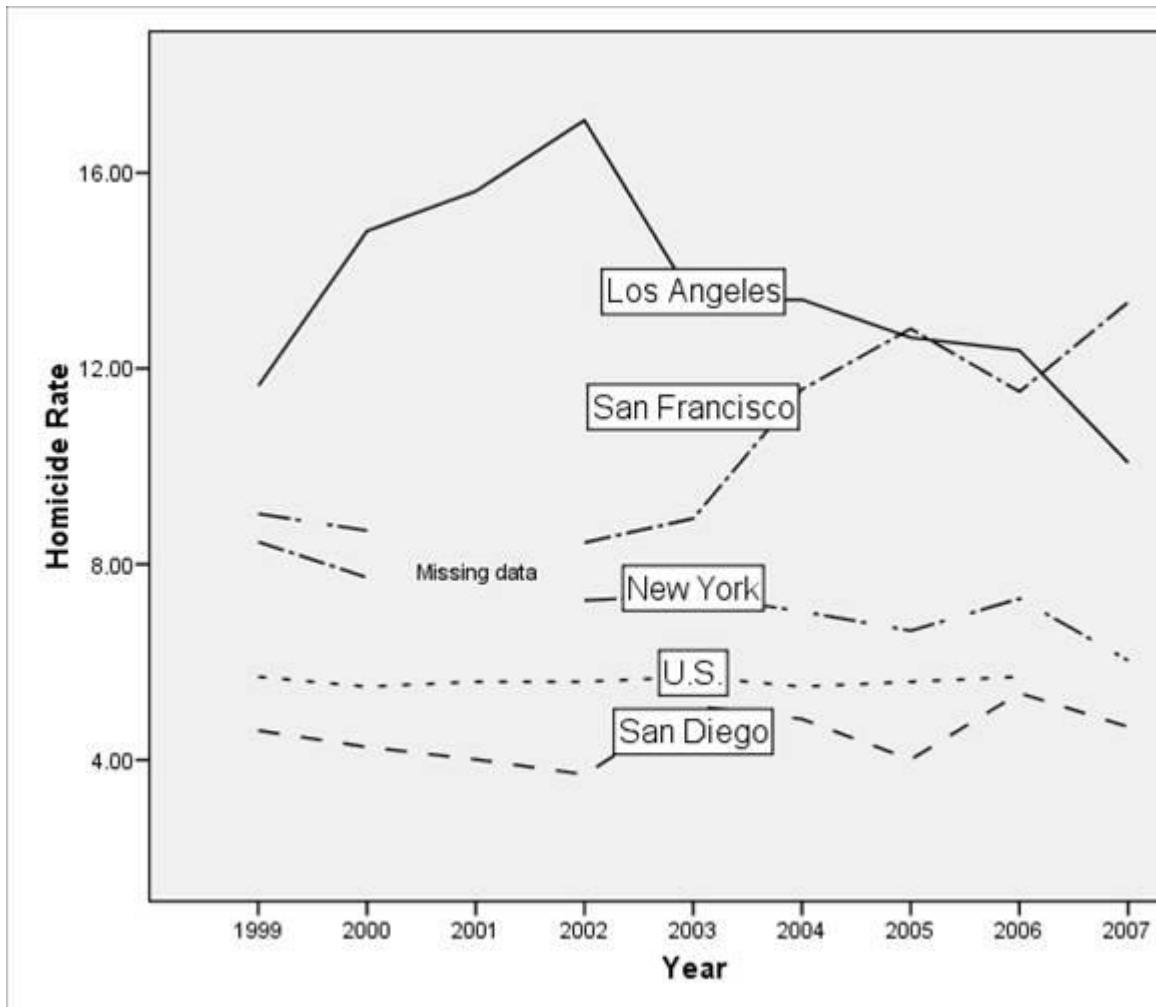
Continuing its love-fest with LAPD Chief “Hollywood” Bill Bratton, that’s how the [L.A. Times](#) explained away the [murders](#) of eleven persons over a single weekend, with nine shot dead, at least six in gang-related incidents. And remember last month’s [six shootings in six hours](#)?

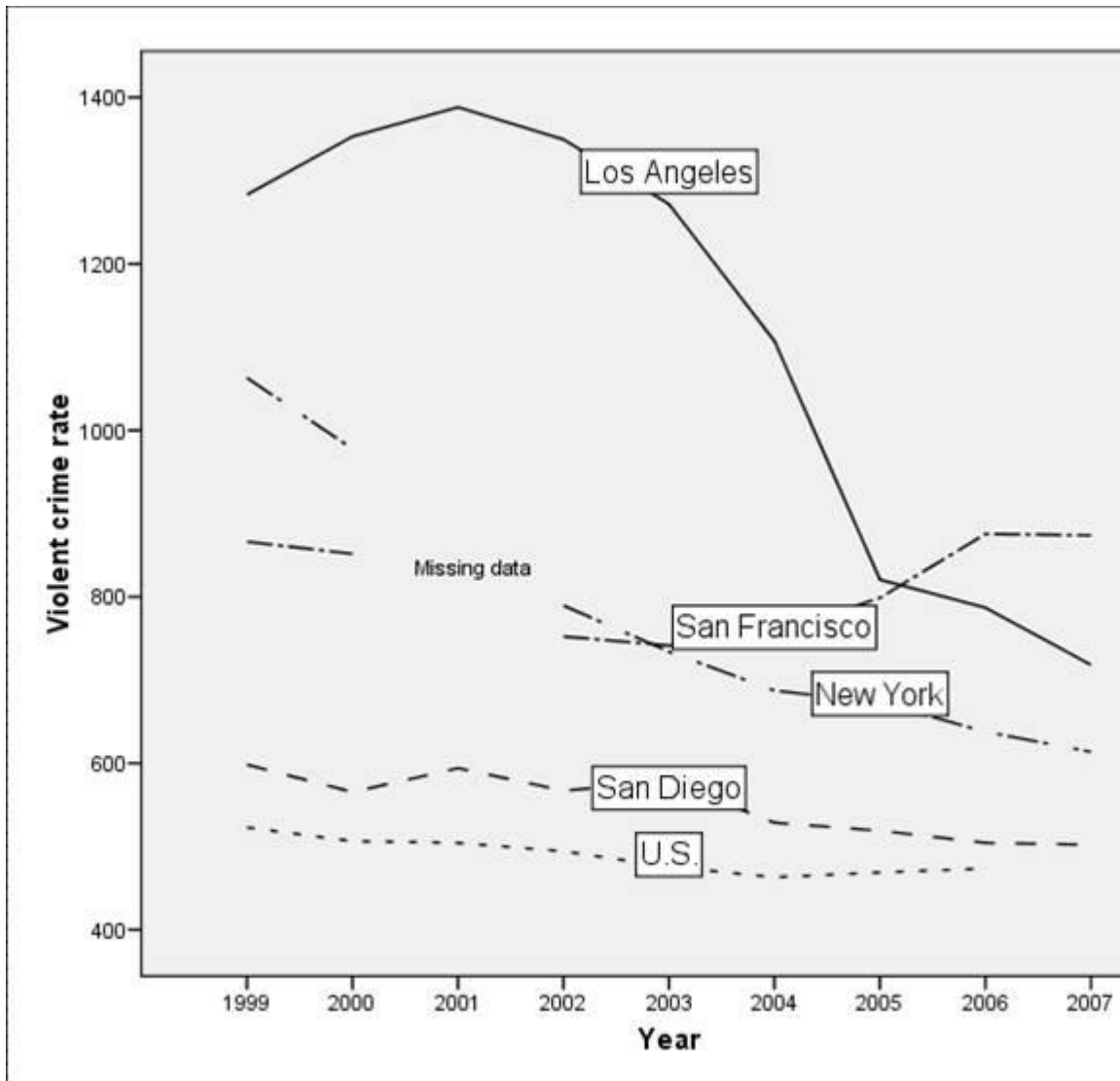
Recent events aside, homicide does seem to be on a downward trajectory. Preliminary FBI data indicates that in 2007 Los Angeles had 390 murders, a 19 percent reduction from 2006 when 480 were recorded. If this figure holds up there were 40 percent fewer murders in 2007 than in 2000, when killings reached a decade-high peak of 654 (statistics derived from [UCR](#) Table 8.)

And wait, there’s more! Between 1999 and 2007, a period when L.A.’s population increased by more than two-hundred thousand, the number of violent crimes fell by 41 percent, from 46840 to 27801. Using the 2001 peak of 52243 as a base, that works out to a stunning reduction of 47 percent.

Now if only we knew *why*. The following charts compare changes in homicide and violent crime rates per 100,000 population for the three largest California cities -- Los Angeles, San Diego and San Francisco -- with rates in New York City and the U.S. as a whole.







As America's gang capital, L.A.'s been beset by criminality, but in the last decade its murder and violent crime rates have plunged, actually landing below San Francisco's. What's the reason? The *Times* knows: it's that we're doing a better job "managing" crime. Unfortunately their explanation stops there, but it's safe to say that the miracle is largely attributed to Chief Bratton, and particularly his much-ballyhooed Compstat program, a computerized pin-map that uses current data to alert commanders to crime trends and hot spots.

Bratton was appointed in October 2002, replacing Bernard Parks, a man who was viewed as so heavy-handed in administering discipline that many officers reportedly gave up interacting with thugs for fear of being punished. A cop's cop, the new chief is far more popular among the rank and file. Could it be that a renewed sense of mission invigorated officers and got them working again?

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It's an appealing thought. But while the fall in murder coincided with the change in leadership, the violent crime rate was already going down when Bratton came on the job. In truth, L.A. may simply have too few cops to proactively battle violence. As these pages have [reported](#), compared to New York, the city is dramatically under-policed, with half the ratio of officers to population and, given the much higher population density in the Big Apple, a far smaller visible presence.

Other than Compstat and better leadership, what else could account for L.A.'s "success"?

- Crime's been on a prolonged downtrend in most areas, with a recent moderate leveling. Check out New York, whose overall drop in violent crime is nearly the same as L.A.'s, though perhaps not as dramatic.
- Although there is controversy about the long-range benefits of harsh sentencing, there's no question but that California's mandatory minimums and three-strikes laws have incapacitated offenders for longer periods. If that was the main reason for the disparity, though, we would expect drops in San Diego and San Francisco as well.
- During the past decades the racial composition of South Los Angeles has dramatically changed, from predominantly African-American to mostly Hispanic. It's reported that many Black gang members have moved to Antelope Valley and parts East (Riverside, San Bernardino). If it's true, as some claim, that they are the more violent, their absence may account for some of the drop.
- FBI and DEA have been applying racketeering statutes against L.A. gangs, sending many top "shot-callers" to long stays in the Federal big house. But without conducting a study, whether that's had an effect on homicides and violence is impossible to say.
- National crime stats come from the police, the same agencies whose effectiveness the data supposedly measures. Many reporting problems have surfaced over the years. Bookkeeping errors (unsurprisingly, usually leading to undercounts), differences in categorization, even purposeful jiggling -- they've all taken place. Suffice it to say that cooking the books is eminently possible, and no one's watching.

Posted 6/8/09

## **WITH SOME MISTAKES THERE'S NO GOING BACK**

### ***In capital cases finality of the process must take a back seat***

The majority of the affidavits support the defense's theory that, after Coles raced to the police station to implicate Davis, the police directed all of their energy towards building a case against Davis, failing to investigate the possibility that Coles himself was the actual murderer. For example, none of the photospreads shown to eyewitnesses even included a picture of Coles. Additionally, three affiants now state that Coles confessed to the killing. To execute Davis, in the face of a significant amount of proffered evidence that may establish his actual innocence, is unconscionable and unconstitutional.

These aren't the words of a crusading reporter or ACLU lawyer. They're from the minority opinion in a recent [decision](#) by the U.S. Eleventh Circuit Court of Appeals rejecting Troy Davis's petition to file a Writ of Habeas Corpus.

Roll back twenty years. During the early morning hours of [August 19, 1989](#) Davis, Coles and a juvenile named Collins asked a homeless man for some of his beer. When the man refused he was struck in the head with a gun butt. Savannah police officer Mark MacPhail chased Davis and Coles. During the encounter he was shot and killed. Later that morning Coles went to police and fingered Davis.

The case was tried two years later. The facts seemed compelling. Four eyewitnesses, including Coles, testified that Davis was the shooter. Two others said that Davis confessed. The homeless man identified Davis as his assailant. What's more, ballistics matched the fatal rounds to bullets from a shooting that took place hours earlier (that victim survived.) Davis, the State suggested, was responsible for not one shooting but two.

There was no physical evidence other than bullets. Davis was convicted of the officer's murder and sentenced to death.

In time Davis' new defense team poked holes in the case. Two of the four eyewitnesses said they never got a good look at the shooter but were pressed by police to identify Davis. Both witnesses who said that Davis confessed took it back. Defense investigators also dredged up three new witnesses, each of whom gave affidavits swearing that Coles admitted killing the officer.

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Coles and an eyewitness named Steve Sanders held firm. Only problem is, Sanders originally told police that he couldn't ID the killer, so he was never shown the photospread and only picked out Davis at the trial. By then, of course, the defendant was well known.

In March 2008 the [Georgia Supreme Court](#) refused to grant Davis an evidentiary hearing. Justices were badly split, with four against and three in favor. Those who prevailed felt that on balance the trial testimony was more credible, particularly as the recanters didn't actually say that Davis was innocent. The losing side's views were summarized by Chief Justice Lea Ward Sears:

While the majority wisely decides to look beyond bare legal principles and seeks to consider the strength of Davis's new evidence, I believe that it has weighed that evidence too lightly. In this case, nearly every witness who identified Davis as the shooter at trial has now disclaimed his or her ability to do so reliably. Three persons have stated that Sylvester Coles confessed to being the shooter...Perhaps these witnesses' testimony would prove incredible if a hearing were held...But the collective effect of all of Davis's new testimony, if it were to be found credible by the trial court in a hearing, would show the probability that a new jury would find reasonable doubt of Davis's guilt or at least sufficient residual doubt to decline to impose the death penalty.

Once there's a conviction the burden of proof shifts to the defendant. To justify a post-conviction evidentiary hearing Georgia law requires that "the new evidence [must] be so material that it would probably produce a different verdict." By the slimmest of margins, the judges thought not. Davis appealed their decision to the US Supreme Court (it agreed to review the matter only two hours before his scheduled execution.) Having done so, it too declined to intervene. Davis then applied to the Eleventh Circuit for leave to file a Writ of Habeas Corpus. In a 2-1 [decision](#) against Davis the prevailing justices disparaged the merits of his case:

All told, the testimony by [eyewitnesses] Murray and Sanders remains; the two other eyewitnesses do not now implicate anyone, much less Coles; Coles continues to implicate Davis; and the testimony of Larry Young [homeless man] and Valerie Coles [Coles' sister] still collides with Davis's. When we view all of this evidence as a whole, we cannot honestly say that Davis can establish by clear and convincing evidence that a jury would *not* have found him guilty of Officer MacPhail's murder...As the record shows, both the state trial court and the

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Supreme Court of Georgia have painstakingly reviewed, and rejected, Davis's claim of innocence. Likewise, Georgia's State Board of Pardons and Paroles thoroughly reviewed, and rejected, his claim, even conducting further research and bringing in witnesses to hear their recantations in person....

As a last ditch effort, on May 19, 2009 Davis [filed for a Writ of Habeas Corpus](#) with the US Supreme Court. And that's where his case stands.

State and Federal courts have ruled that Davis isn't entitled to an evidentiary hearing because his new evidence would not, in their opinions, have affected his trial's outcome. Yet it's precisely in capital cases where referring to long-past judgments by admittedly fallible juries is morally unsatisfying. Actually, many prosecutors would probably agree. Only problem is, when physical evidence is lacking the passage of time can seriously erode the State's ability to present a compelling case, let alone counter new claims. It's not an idle concern. Based on the public record and his own experiences, the blogger thinks it more likely than not that Davis is guilty. He also believes that Davis stands an excellent chance of being acquitted if retried.

On the other hand, maybe Davis really *is* innocent. Yet on retrial he could be convicted anew. Georgia's Chief Justice, who clearly thinks him innocent, suggested that a new jury might at least spare his execution, if not grant an outright acquittal. It's a nice thought, but not something on which a genuinely innocent person would want to rest their hopes.

If the death penalty is to be retained, how can we help assure that it's justly applied?

- There were plenty of witnesses against Davis but no DNA. A rule might forbid imposition of the death penalty in the absence of compelling physical evidence.
- Evidentiary hearings could be required before death sentences are carried out. Depending on the strength of the defendant's arguments, judges could remand cases for a new trial or reduce the penalty to life without parole.

We depend on police, prosecutors and the courts to protect the innocent, deter potential violators and provide a sense of closure to victims and families. Yet the law has become an impossibly complex insider's game that can obscure if not displace the greater moral values it's meant to uphold. Fears that the legal process rather than facts are driving Davis's execution explain why his pleadings have, rightly or not, drawn such [extraordinary international support](#). It's something that America, which offers itself as a model of enlightened justice, can't afford to ignore.

Posted 10/25/21, edited 11/25/21

## **“WOKE” UP, AMERICA!**

***Violence besets poor neighborhoods. So why should the well-off care?***



*For Police Issues by Julius (Jay) Wachtel.* “In 2020, the United States witnessed a nearly 30% increase in the murder rate – which is the largest increase in the 60 years that the FBI has been keeping records. And 77% of those homicides were committed with a firearm.” Deputy Attorney General Lisa Monaco’s [October 6th. address](#) to the Major Cities Chiefs Association actually began with the grim recap of a recent series of shootings of Federal law enforcement officers, including the killing of a DEA agent.

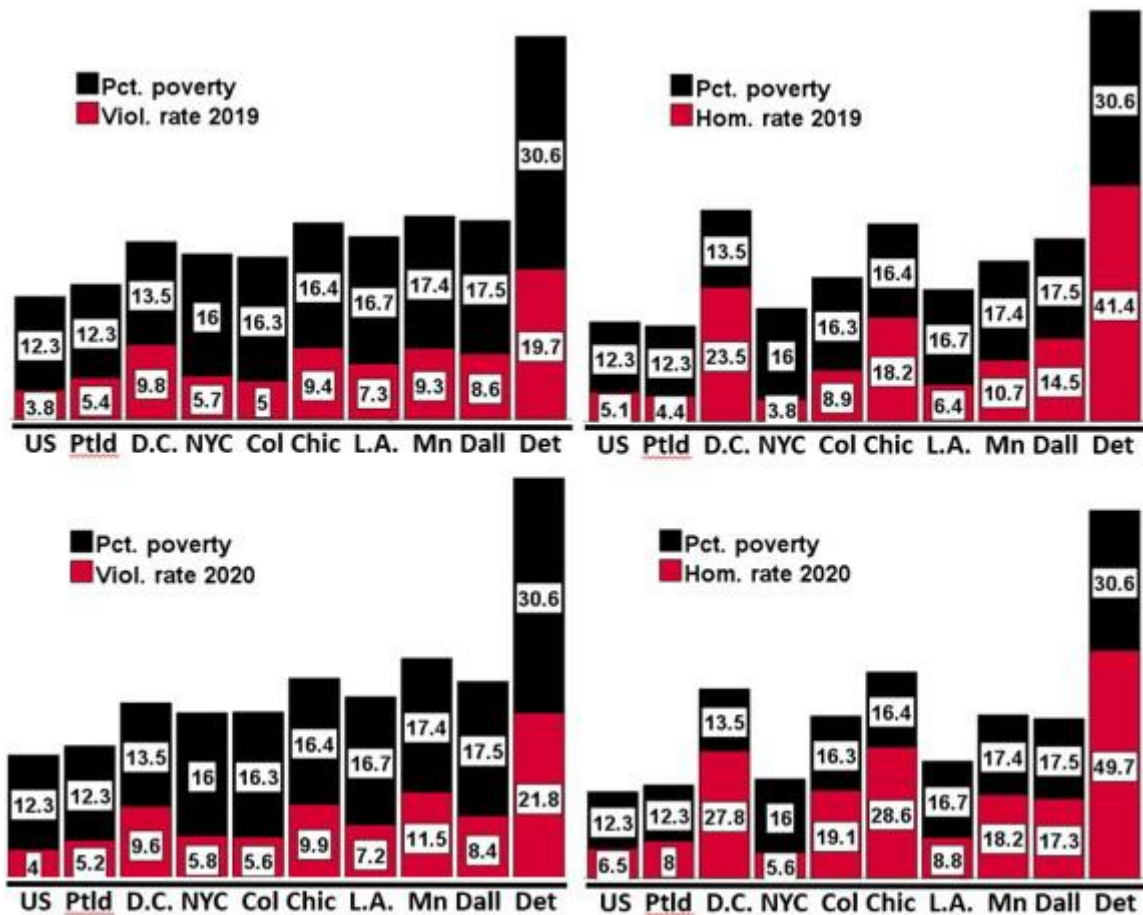
Violent crime did increase in 2020, and in many places quite dramatically. This table displays poverty, violent crime (murder and non-negligent manslaughter, rape, robbery, aggravated assault) and homicide data for eight cities featured in recent Police Issues essays: [Chicago](#), [Columbus](#), [Dallas](#), [Detroit](#), [Los Angeles](#), [Minneapolis](#), [New York City](#), and [Portland](#). (In November we added a ninth, the District of Columbia.) They appear in order of percent of residents in poverty according to the [2019 ACS](#). Number of violent crimes and homicides in 2019 are from the [UCR](#), and for 2020 they’re from the [Crime Data Explorer](#) (violence and homicide rates are both calculated per 100,000 pop.)



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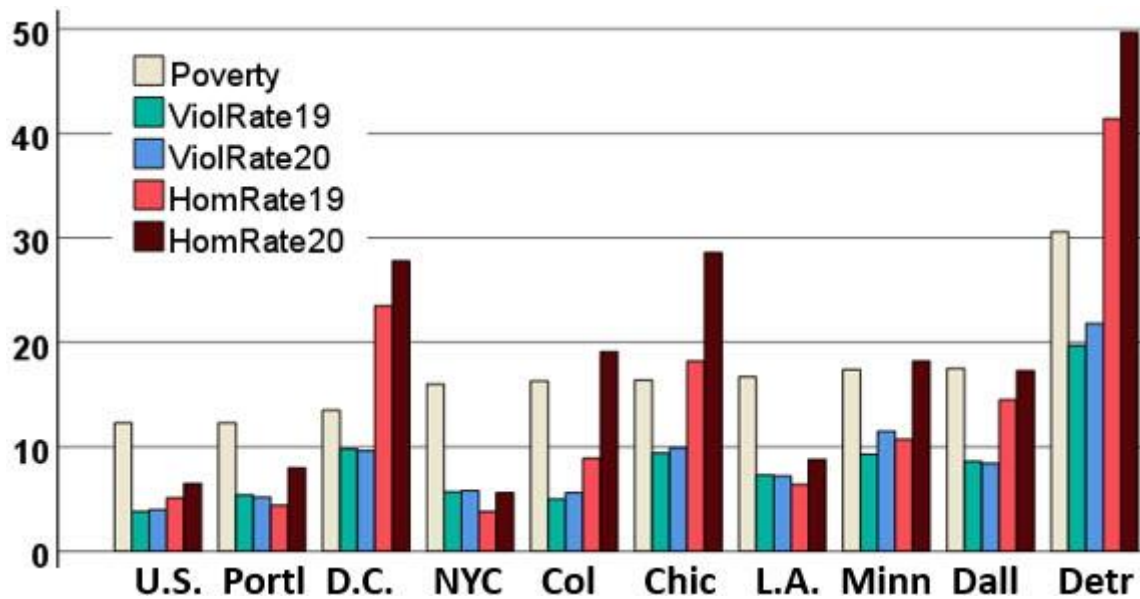
	Pov	Pop19	Pop20	Viol19	Viol20	VRT19	VRT20	Hom19	Hom20	HRT19	HRT20
U.S.	12.3					380.8	398.5			5.1	6.5
Portland	12.3	662114	662941	3606	3465	544.6	522.7	29	53	4.4	8.0
D.C.	13.5	705749	712816	6896	6828	977.1	957.9	166	198	23.5	27.8
NYC	16	8379043	8300377	47821	47959	570.7	577.8	319	468	3.8	5.6
Columbus	16.3	906120	911383	4561	5064	503.4	555.6	81	174	8.9	19.1
Chicago	16.4	2707064	2693598	25532	26583	943.2	986.9	492	771	18.2	28.6
L.A.	16.7	4015546	4000587	29400	28882	732.2	721.9	258	351	6.4	8.8
Minn.	17.4	431016	435116	3990	5025	925.7	1154.9	46	79	10.7	18.2
Dallas	17.5	1363295	1363028	11764	11514	862.9	844.7	198	236	14.5	17.3
Detroit	30.6	663502	659616	13040	14370	1965.3	2178.5	275	328	41.4	49.7

Here's the data in graphic form:



While the magnitude of the increases varied from place to place, poorer places generally got the raw end of the deal: they often began with higher rates of violence, and increases – particularly, in homicide – were usually more pronounced:

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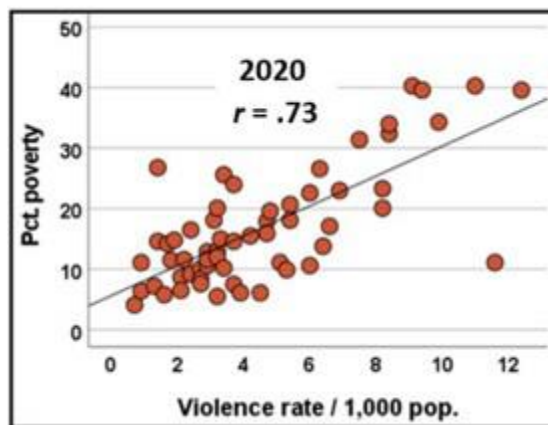
Elevated levels of violence persisted into 2021. For example:

- [Portland](#) reported 40 homicides, 761 robberies and 6,671 assaults between January 1 and September 30, 2020. During the same period this year there were 63 homicides (a 58 percent increase), 816 robberies and 7,100 assaults. Police attribute [the sharp increase in murder](#) to budget cuts, a loss of officers and the disbandment of a specialized unit due to concerns about discriminatory policing.
- [New York City](#) recorded 374 homicides, 9,980 robberies and 16,173 felony assaults from January 1 through October 10, 2020. During that period this year there were (again) 374 homicides, 9,976 robberies and 17,412 felony assaults.
- [Chicago](#) reported 623 murders and 6,091 robberies from January 1 through October 13, 2020. During that period this year there were 639 murders and 5,760 robberies.
- [Los Angeles](#) recorded 265 homicides, 6,233 robberies and 14,248 aggravated assaults from January 1 through October 9, 2020. This year's corresponding toll came in at 307 homicides, 6,266 robberies and 15,548 aggravated assaults.
- [D.C. suffered 201 homicides in 2021 as of Nov. 23](#). That's 11% more than during the same period in 2020, when there were 179. Even when compared with full years, it's the greatest number of murders since 2003, when there were 248. It's *more than twice as many* as in 2012, when there were 88 murders, and 42 percent more than in 2017, when the homicide count was 116.

But our concern isn't about differences *between* cities. Instead, it's about disparities *within*. Best we can tell, the middle-class neighborhood where my wife and I reside has been free of violent crime, or any property crime of consequence, for, um, *thirty years*. Many of our readers can probably boast likewise. To be sure, drive a couple miles one way or the other and things can get gloomy. And that's within the same city. Say that a Martian criminologist lands on our block and asks whether violence and economic conditions are linked on the Earth, as they are on its planet. How would we respond?

Well, we could refer to our lead table and cite U.S. poverty and homicide rates. Or, say, New York City's. Job done! But either response would mislead. As essays in our [Neighborhoods special section](#) have long argued, the risk of victimization depends on *where*. In the end, *neighborhoods* – the places where we live – are what *really* “counts” (see, most recently, [“The Usual Victims”](#)).

Consider the Big Apple. New York City's [Furman Center](#) collects poverty and “serious” crime data for each of the city's “community districts” (i.e., neighborhoods). Serious violent crimes include “most types of assault, burglary, larceny, motor vehicle theft, murder (including non-negligent manslaughter), rape,



District	Poverty	Viol
Tottenville	4.1%	0.7
Queens Village	5.5%	3.2
Upper East Side	5.8%	1.6
Financial District	6.1%	3.9
Greenwich / SoHo	6.1%	4.5
Brownsville	34.3%	9.9
Hunts Pt./Longwood	39.6%	9.4
Mott Haven/Melrose	39.6%	12.4
Belmont/East Tremont	40.3%	9.1
Morrisania/Crotona	40.3%	11

and robbery.” Both vary widely among the city's 59 districts. Poverty ranges between 4.1 and 40.3 percent, while in 2020 “serious violent crime” went between 0.7 and 12.4 per thousand population. We used the Center's data to generate the scattergram (each “dot” represents a community district) and its accompanying table. They indicate that within New York City, violence and poverty increase and decrease pretty much in sync. This relationship is confirmed by a sizeable “r” statistic (its value can range from zero, meaning no relationship between variables, to one, a lock-step association.)

[“Fix Those Neighborhoods!”](#) described large disparities in poverty and violence within New York City and Los Angeles in 2020. We contrasted the per/100,000 murder

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rates of the Big Apple's wealthy Upper East Side (pop. 220,000, poverty 7.2%, murder rate 0.5) and its struggling Brownsville district (pop. 86,000, poverty 29.4%, murder rate 29.1). We also compared affluent West Los Angeles (pop. 228,000, poverty 11.3%, murder rate 1.8) with the impoverished 77th. Street area (pop. 175,000, poverty 30.7%, murder rate 27.4).

Those inequalities persisted into this year. Between January 1 and October 17, 2021, NYPD's well-off 19th. precinct, which covers the Upper East Side, [posted two killings](#) (one more than last year), yielding a murder rate of 0.9/100,000. In contrast, the 73rd. precinct, which handles Brownsville, [logged fourteen homicides](#). While that's better than the twenty-two killings it recorded at that point in 2020, its murder rate, 16.3, was still eighteen times higher than its wealthy competitor's.

Not much changed in Los Angeles, either. LAPD's been screaming bloody (murder) about the city's 2021 increase in homicide, [which is greatly burdening](#) its beleaguered detectives. What the newspaper article *didn't* mention is that West L.A. doesn't need their help: as of October 16, [none of its 228,000 residents](#) have been murdered this year. *Not one*. Meanwhile the economically distraught 77th. Street area (pop. 175,000) posted *forty-four* killings, yielding a rate of 25.1.

Neighborhood	Pop	Pov	Person crimes	Rate
Arnold Creek	2,811	3.2	4	1.42
Alameda	5,622	6.9	8	1.42
Crestwood	1,488	7.3	1	0.67
Ashcreek	4,383	7.5	17	3.88
Hayhurst	5,978	8.6	9	1.51
Downtown	11,170	32.8	494	44.23
Centennial	7,386	29.7	318	43.05
Lloyd	2,124	25.3	152	71.56
Eliot	3,851	23.8	141	36.61
Creston-Kenilworth	8,242	20.7	64	7.77

[“Don't Divest – Invest!”](#) compared Portland's ten most prosperous neighborhoods with the ten most stricken by poverty. Using [Portland Police Bureau crime data](#) for 2021 (Jan. 1 through September 30), and neighborhood population and poverty figures from [Portland Monthly](#), we compared crimes against person rates between the five most prosperous neighborhoods and the five least. Check out that table on the left. As one would

expect, poverty and crime lined up most convincingly

We could go on, but the point's obvious. In our country's many poverty-stricken neighborhoods, things are harkening back to the violence-ridden years of the crack epidemic. So why hasn't America embarked on that [“Marshall Plan”](#) *Police Issues* keeps yakking about? As we've repeatedly implored, “a concerted effort to provide poverty-stricken individuals and families with child care, tutoring, educational opportunities,

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language skills, job training, summer jobs, apprenticeships, health services and – yes – adequate housing could yield vast benefits.”

Last December John Jay’s [The Crime Report](#) actually published one of our rants. They even entitled it “[Memo to Joe Biden](#)”! Alas, your faithful blogger never heard from the White House. We recently deduced the reason. According to the very “woke” *The New York Times*, [unless President Biden’s “social safety net” bill is substantially shrunk](#) it will go nowhere. With that in mind, Senator Joe Manchin (D – W.Va.) offered an obvious fix: “Limit access to every program in the ambitious measure to only those Americans who need it most.” Makes sense, right? Not to Democratic Rep. Mikie Sherrill, who represents a prosperous area of New Jersey. Instead of limiting child care benefits to families that earn *no more than twice* a state’s median income, her recent amendment extended the proposed benefit to nearly everyone. Why? Because of an apparently widespread concern among “Blues” that unless the upper-crust gets its cut, even the “wakest” voters might defect to the “Reds”.

Hmm. Anyone still up for that “Marshall Plan”? Nah, we didn’t think so.



Posted 10/20/22

## WORLDS APART...NOT!

*Violence-wise, poor neighborhoods in Oakland and Houston  
aren't so different*



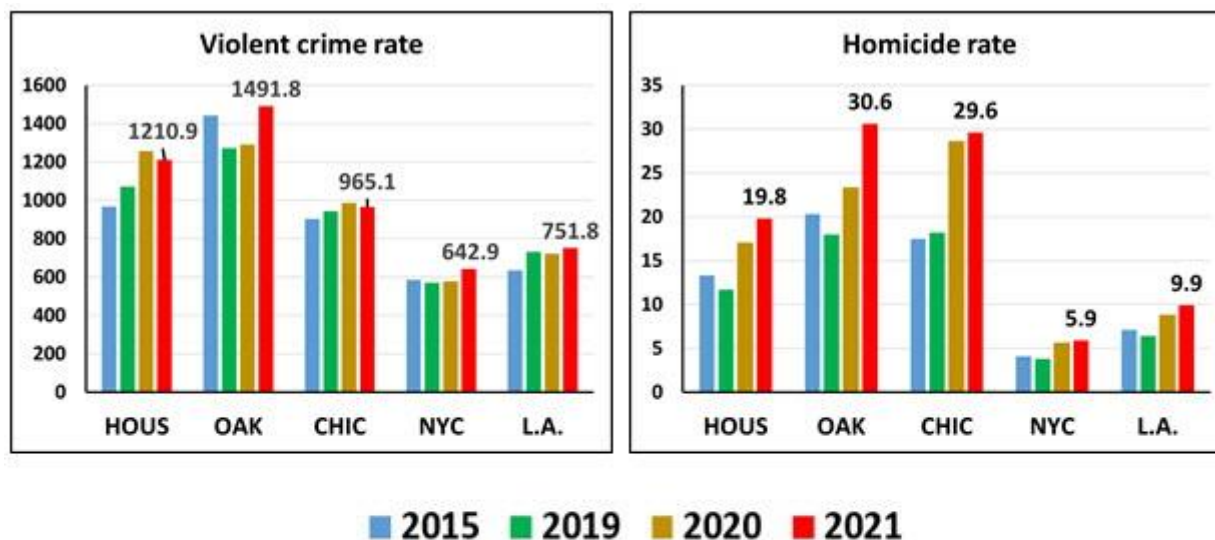
*For Police Issues by Julius (Jay) Wachtel.* Oakland Police Chief LeRonne L. Armstrong's [September 27 news release](#) was seriously disquieting. "In the midst of the deadliest week this year with eight lives lost" he announced a major effort to deploy "all available resources" to fight the gun violence that threatened to consume his community. While the good Chief didn't mention it, [only a week had passed](#) since a shooting just outside City Hall claimed the fourth death by gunfire in less than a day. And what the Chief *couldn't* know was that on September 28 – one day after his comments – [two shooters would open fire inside a local high school complex](#), wounding six including a security guard, in what the beset city has called a gang-related attack.

We posted an update about the school shooting on the twenty-ninth. But what we couldn't predict was that on the same day the Department of Justice would issue [an elaborate news release](#) announcing a "surge of resources" to combat violence in Houston.

*Houston?*

In law enforcement circles, and likely elsewhere, Oakland's long carried a reputation for being a dangerous place. Not so much America's famed "Space City". Boasting nearly two and one-half million residents, the home of each U.S. person-on-the-moon mission ranks [fourth, population-wise](#), behind New York City, Los Angeles and Chicago. And other than for occasional slap-downs over the behavior of its cops (see, for example, "[Before Jet Blue](#)") it's mostly figured in our essays as the place where [George Floyd](#) earned his criminal stripes before relocating to Minneapolis.

Our bad. After reading about the AG’s intentions, we looked up Houston’s crime numbers. And while they’re not quite “up” to Oakland’s level, they’re also quite bad. Here’s a comparo that includes New York City, L.A. and Chicago as well:



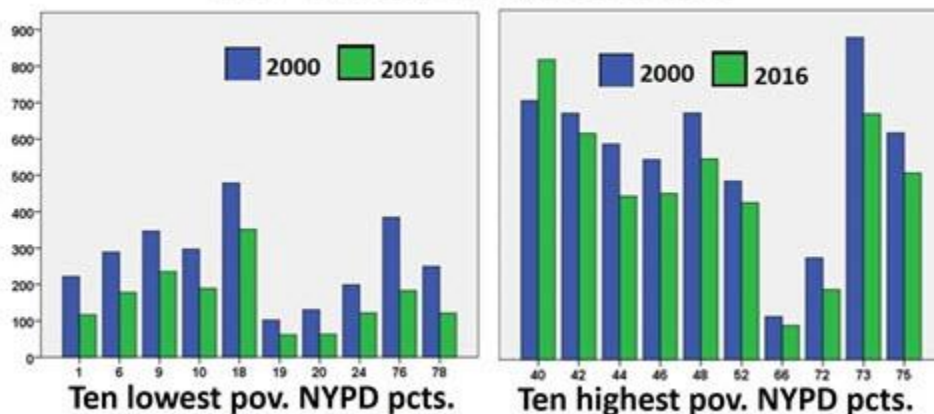
	2015		2019		2020		2021	
	Viol	Mur	Viol	Mur	Viol	Mur	Viol	Mur
HOUS	966.7	13.3	1072.2	11.7	1256.3	17.0	1210.9	19.8
OAK	1442.5	20.3	1271.8	18.0	1290.9	23.3	1491.8	30.6
CHIC	903.8	17.5	943.2	18.2	986.9	28.6	965.1	29.6
NYC	585.8	4.1	570.7	3.8	577.8	5.6	642.9	5.9
L.A.	634.8	7.1	732.2	6.4	721.9	8.8	751.8	9.9

(2015 and 2019 data is from the [UCR](#). 2020 data is from the [NIBRS](#). 2021 data for Houston is from the [NIBRS](#). 2021 data for the other cities is from their sites. Click [here](#) for LAPD, [here](#) for NYPD, [here](#) for Chicago, and [here](#) for Oakland).

Full stop. Municipal boundaries are artificial constructs. People live in *neighborhoods*. And as we’ve often reported, residents of economically better-off places endure less violence – often, far less – than their deprived cousins. Consider, say, New York City. Despite recent surges in violence, the crime rates that former Mayor Bloomberg [used to brag about](#) remain, comparatively speaking, a marvel. But even in the Big Apple, violence and affluence are undeniably linked. Here, for example, is the somewhat dated comparo in “[Be Careful What You Brag About \(Part II\)](#)”:



**New York City felony assault rates**



Our data forays indicate that neighborhood poverty continues to exert its unholy influence, in New York City and elsewhere:

- “[What’s up? Violence](#)” set out homicide, aggravated assault and robbery rates per 100,000 pop. For New York City’s wealthy Upper East Side (pop. 220,000) and its downtrodden Brownsville/Ocean Hill area (pop. 86,000).

NYPD	% Pov	Homicide		Agg Aslt		Robbery	
		2020	2021	2020	2021	2020	2021
19th	7.2	0.5	0.9	51	69.1	107.7	79.1
73rd	29.4	29.1	26.7	674	744.2	290.7	267.4

- It’s not just New York City. Here we use data from “What’s Up?” to compare LAPD’s advantaged West L.A. area (pop. 228,000) with the city’s chronically poor 77th. Street district (pop. 175,000):

LAPD	% Pov	Homicide		Agg Aslt		Robbery	
		2020	2021	2020	2021	2020	2021
WLA	11.3	1.8	0.0	96	96.9	64.5	69.7
77th St	30.7	32.0	35.4	1087	986.2	478.9	477.1

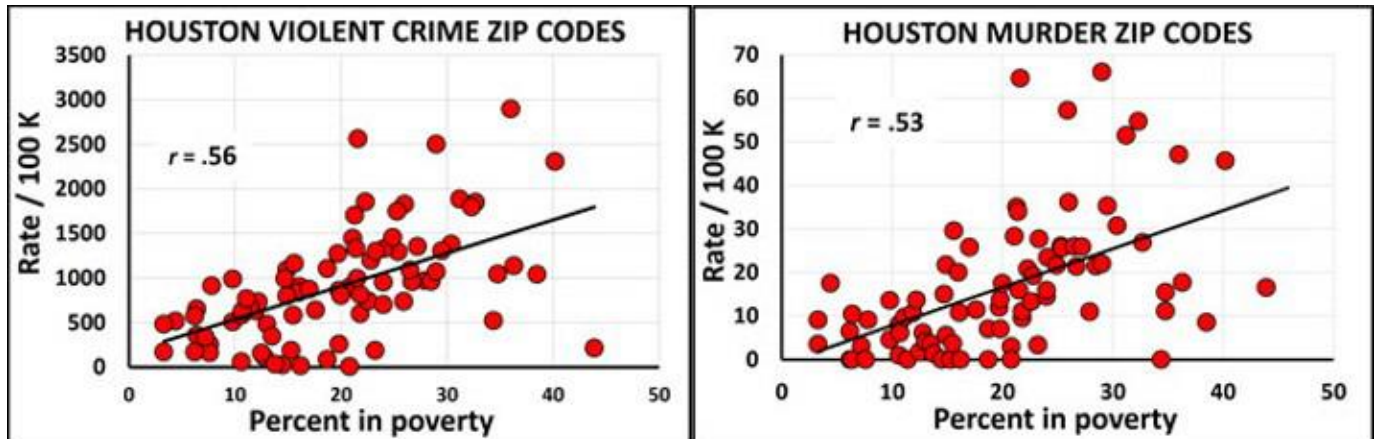
- Data from Chicago PD’s [2021 Annual Report](#) and the city’s [community poverty level report](#) was used to compare homicide, violent crime and poverty rates between CPD’s 20th. District (its primary constituent neighborhood is [Lincoln Park](#), pop. 70,492, pov. 12.3%) and its 7th. District, which serves the chronically troubled [Englewood area](#) (pop. 24,369, pov. 46.6%). These are rates, so they're directly comparable. Once again, poverty’s influence seems indisputable:

Chicago area	CPD Dist.	% Pov	Homicide		Viol. crime	
			2020	2021	2020	2021
Lincoln Pk	20	12.3	7.6	3.3	314.8	378.8
Englewood	7	46.6	126	97	3246.3	3001.2

### Houston

So what about our new places of interest? Do neighborhood economic conditions exert a like influence on the personal safety of Houston’s inhabitants? There’s been a “tweak” in our approach. We’ve grown fond of the Census’ ability to specify income and poverty by ZIP. [Houston has ninety-six ZIP codes](#). Eliminating those that are clearly non-residential or include adjacent cities, we wound up with eighty-five. Turning to the [Census](#), we recorded each Zip’s percent of residents in poverty (i.e., “below 100 percent of the poverty level”).

[Houston PD’s crime data portal](#) provides a street address for each crime incident, and the ZIP codes of most. Filling in those that were missing, we coded full-year 2021 data for aggravated assaults, robberies and murders (not simply “homicides,” but unlawful, intentional killings.)



Do Houston’s neighborhoods experience a connection between economic conditions and violence? According to our scattergrams – each dot is a Zip – the answer seems “yes”. As Zip’s get poorer, murder and violent crime rates consistently increase. While the relationship isn’t perfect – some poor places had no murders – the correlations are substantial.

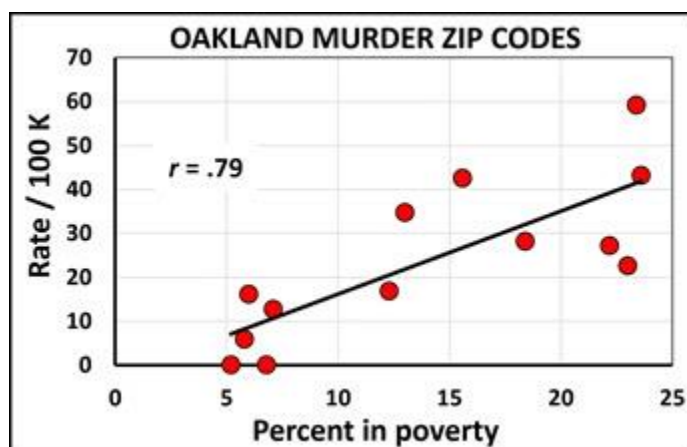
Searching for another way to visualize the relationship, we fell back on our earlier effort in “[Don’t Divest – Invest!](#)”, which contrasted Portland’s ten most “peaceful” neighborhoods with the ten most racked by crime and violence. This table, which sets

out Zip codes in order of poverty, compares Houston's five wealthiest Zip's with the five most disadvantaged:

Houston's five most prosperous ZIP's								
ZIP	Pop.	Pov.	Murd	Rate	Viol Cr	Rate	White	Black
77005	29022	3.3	1	3.4	49	168.8	78.9	2.4
77094	11022	3.3	1	9.1	53	480.9	57	4.8
77007	40112	4.4	7	17.5	208	518.5	74	5.6
77062	25568	6.2	0	0.0	43	168.2	68.8	9.2
77098	15487	6.2	1	6.5	89	574.7	73.3	3.1
Houston's five poorest								
ZIP	Pop.	Pov.	Murd	Rate	Viol Cr	Rate	White	Black
77026	21269	36	10	47.0	616	2896.2	27.7	50.5
77060	45376	36.3	8	17.6	516	1137.2	61.9	18
77093	46985	38.5	4	8.5	488	1038.6	74	11.1
77051	17547	40.2	8	45.6	405	2308.1	15	75
77050	6052	43.9	1	16.5	13	214.8	38.1	25.3

“Disadvantage” clearly carries some violent baggage. While the uncertainties of data (and the vagaries of human nature) create exceptions, the trend is nonetheless clear: more bucks, less violence. In addition to rates, which are comparable across jurisdictions, we also included actual murder and violent crime counts. Proportion of White and Black residents is from the Census. Its [2021 estimates](#) indicate that about thirty percent of Houston's residents are White and about twenty-two percent are Black. Note that the latter are substantially under-represented in the most prosperous Zip's. And that under-representation carries some potentially lethal baggage. According to DOJ's just-released [national criminal victimization data for 2021](#), Black persons endure a substantially higher rate of serious violent victimization (7.4 per 1,000) than either Whites or Hispanics (each was 5.4).

## Oakland



[Oakland's crime data](#) includes street address but not Zip codes. Limiting events to those classified as “murder”, we entered the address of each incident into Google for the Zip. Oakland has [thirteen regular Zip's](#). Excluding one murder in a Zip it shares with another city, it reported 100 murders in 2021. (We ignored

two dozen “homicides” not classified as murders.)

Here’s the scattergram. As in Houston, each dot is a Zip. Although Oakland’s number of “cases” is limited, the relationship between poverty and murder seems well supported. That connection, as well as the disadvantage suffered by Black persons, is evident in a five wealthiest/five poorest comparo (again, Zip’s are in order of poverty):

Oakland’s five most prosperous ZIP’s						
ZIP	Pop.	Pov.	Murd	Rate	White	Black
94611	39042	5.2	0	0	66.3	6.7
94618	17110	5.8	1	5.8	69.3	4.4
94619	24833	6	4	16.1	36.9	22.9
94602	29593	6.8	0	0.0	45.8	15.4
94610	31553	7.1	4	12.7	54.6	16.9
Oakland’s five poorest						
ZIP	Pop.	Pov.	Murd	Rate	White	Black
94603	35486	18.4	10	28.2	15.5	28.9
94607	25723	22.2	7	27.2	28.5	30.4
94601	53104	23	12	22.6	20.7	16.2
94621	33820	23.4	20	59.1	12.8	30.5
94612	16203	23.6	7	43.2	36.6	26

So what’s the takeaway? Houston and Oakland follow the same pattern that we’ve repeatedly observed within cities. [“Don’t “Divest” – Invest!”](#) examined twenty Portland neighborhoods. Its “ten most/least peaceful” comparo essentially duplicates our findings here, and literally everywhere else we’ve looked. And it’s not just “within” cities. That same pattern: more poverty, more crime is also evident in between-city comparisons. Check out [“But is it Really Satan?”](#), which looked at poverty and crime in twenty-one Louisiana cities.

Fine, you say, but what to do? No matter how well done, policing cannot itself “fix” neighborhoods. To be sure, attempts to do so continue. Some are couched under the umbrella of DOJ’s [“Project Safe Neighborhoods.”](#) To its credit, that well-known strategy’s current incarnation goes beyond tough-nosed enforcement. It now articulates a need for “fostering trust and legitimacy in our communities, supporting community-based organizations that help prevent violence from occurring in the first place.”

Yet cops can’t defeat poverty. For *that* conundrum we turn to the [Urban Institute](#). Its landmark study, [“Tackling Persistent Poverty in Distressed Urban Neighborhoods,”](#) offers a splendid approach for developing and instituting “place-conscious strategies” that can rebuild the *human* infrastructure. Their bucketful of to-do’s, which we

discussed in “[Mission Impossible?](#)” includes educational opportunities, job training and apprenticeships, summer jobs for youth, transportation, child care, and physical and mental health resources. And yes, safety *is* important. So police *do* have a role to play. But the solution clearly calls for a lot more than policing.



Posted 1/29/12

## YOU THINK *YOU'RE* UPSET?

### ***Criminologists demand that kingpins be held criminally liable for the financial mess***

*By Julius (Jay) Wachtel.* “White-Collar Criminology and the Wall Street Occupy Movement,” Henry Pontell and William Black’s sharp-tongued missive in the current issue of *The Criminologist*, accuses the criminal justice system of an inexcusable failure to hold top financial executives accountable for the current mess:

The global meltdown of 2008 was influenced by flawed financial policies, law-breaking, greed, irresponsibility, and not an inconsiderable amount of concerted ignorance and outright stupidity...Control fraud [fraud by executives] has played an integral part...In the end control fraud will persist as long as the kleptocratic corporate culture remains entrenched...This [arresting and denigrating Wall Street protesters] stands in stark contrast to the virtual absence of indignation, moral outrage and effective law enforcement that would have stopped those whose real crimes have led many law-abiding citizens around the world into the streets.

Henry and William are in good company. Here’s what [President Obama recently had to say](#):

Too often, we’ve seen Wall Street firms violating major antifraud laws because the penalties are too weak and there’s no price for being a repeat offender. No more. I’ll be calling for legislation that makes those penalties count so that firms don’t see punishment for breaking the law as just the price of doing business.

Well, the barn door’s been open for a while. More than 1,000 savings and loan institutions collapsed during [the S & L crisis of the 1980’s and early 1990’s](#). Then the worst financial calamity since the Great Depression, it cost taxpayers a cool \$124 *billion* to resolve. Studies place much of the blame on risky investment strategies, inadequate regulation and poor oversight, factors that now seem depressingly familiar. Whether crime played a significant role is a matter of debate; the FDIC and many economists said no, while [Pontell and Black said yes](#). Regardless, [the Feds staged a massive law enforcement response](#). According to the *New York Times* 839 persons were ultimately convicted for their roles in the debacle.

Most of those brought to account were relatively low-level employees. But a few top executives also got hammered. Perhaps the best known is [Charles Keating](#). A wealthy banker and real-estate developer, Keating had five U.S. Senators in his pocket. While “The Keating Five” did their best to hold regulators at bay, their generous friend eventually earned ten years in a California prison for selling worthless bonds to ordinary folks. But [his conviction was thrown out](#) before the term was half up. [A Federal appeals court later ruled](#) there was no proof that Keating, who never had personal contact with buyers, knew that the representations made by his sales force were false.

Irate, the Feds then tried and convicted Keating for fraud and racketeering. Once again the conviction was reversed, this time because jurors had taken the state conviction into account. A civil judgment that ordered the septuagenarian to recompense the Government to the tune of \$4.3 billion was also reversed. Knowing that the Feds were determined to bring him down whatever the cost, in 1999 [Keating pled guilty to four counts of fraud](#) in exchange for time served. A parallel case against his son was also dropped. The Justice Department nonetheless declared victory. “What we get out of this is, Keating admits for the first time criminal culpability.”

It’s true, as Pontell and Black point out, that the current crisis [has spawned far fewer prosecutions](#) than the old. But the time is still young, and the FBI says that it has 3,000 investigations underway. In “[Fighting the Wall Street Mob](#)” we looked into the case of Raj Rajaratnam, a hedge fund magnate whose success was all but guaranteed by a steady flow of tips from corporate insiders. Rajaratnam, who pled guilty and got eleven years, was part of a web of collusion involving tipsters, traders, and so-called “research” firms that brought those who knew and those who wished to know together. The most recent target to come out of that case, former Goldman Sachs director [Rajat Gupta](#), is the 56th. Wall Streeter charged with insider trading in the past two years. A remarkable *fifty-one* have been convicted.

What’s really remarkable is that it happened at all. Unlike ordinary crimes, white-collar offenses typically require proof that a defendant knew or suspected that what they were doing was illegal. *Mens rea* is seldom an obstacle when going after the little fish. Corrupt mortgage brokers who flip homes using straw buyers and pocket the proceeds – a crime that was commonplace during both crises – leave such a trail of slime that once their shenanigans are discovered all they can do is plead guilty. Such cases are relatively easy to investigate (straw buyers are themselves easy to “flip”) and yield multiple defendants, promising the obsessively numbers-oriented Feds bragging rights on the cheap.



On the other hand, there's precious little to distinguish legal from illegal trading. When a friendly someone passes on a tidbit from a boardroom meeting, who's to know? Rajaratnam and his buds would still be up to their old tricks had a wily FBI agent not turned to the tool that helped neuter the mob. Thousands of hours' worth of wiretaps produced a bounty of *mens rea*, with enough crook talk to satisfy the most demanding juror.

Rajaratnam and Gupta (who is still to be tried) were fairly high up in the food chain. Still, they were more opportunists than shot-callers, and while their self-serving acts gave them an unfair advantage it didn't threaten to bring down the house. What Pontell and Black are really screaming for is the head of a Keating, someone whose skullduggery cost ordinary citizens real money.

The Feds almost got two. In 2007 several [Bear Sterns hedge funds](#) that invested in mortgage-backed securities collapsed, costing investors a tidy \$1.6 billion. In what was considered a "slam dunk" case Federal prosecutors charged managers Ralph Cioffi and Matthew Tannin with holding back news that the ship was sinking, effectively throwing their clients' life preservers overboard. As proof the Government offered e-mail exchanges between the two. One, which said "the entire subprime market is toast," was followed up days later with a cheery "we're very comfortable" note to investors. But the managers also speculated that since prices had tanked maybe it really *was* a good time to buy. "There was a reasonable doubt on every charge," a juror explained. "We just didn't feel that the case had been proven."

In January 2011 the Justice Department [announced they would not be prosecuting](#) Angelo Mozilo, former kingpin of Countrywide Financial, the mortgage lender whose spectacular belly-flop helped propel the meltdown. Like his lesser counterparts at Bear Sterns, Mozilo also penned facially incriminating e-mails. Here's how he privately described a bundle of unsecured subprime mortgages that Countrywide was offering for sale: "In all my years in the business, I have never seen a more toxic product." Yet the prospective buyers were all highly sophisticated investors, and if they thought the product viable, who's to say that it wasn't? (Mozilo did pay about \$70 million in civil penalties and restitution, chump change considering what taxpayers have shelled out.)

Well, if not Mozilo, who? In 2001 [the U.S. Senate formally referred Goldman Sachs](#), the poster child of the recession and its top cheese Lloyd Blankfein to the Justice Department for prosecution. Should that really happen – and most observers would bet heavily against it – the Government will need to prove *beyond a reasonable doubt* that Blankfein knew his firm, *which remains in business*, was a house of cards. Well, good luck with that.

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Cioffi and Tannin are the only major-firm financial denizens to be prosecuted in connection with the recent meltdown. It's for such reasons that Pontell, Black and others smell a conspiracy to let kingpins skate. But when a jury of ordinary people turns away an opportunity for revenge, we ought to pay attention. Our system requires proof that white-collar defendants have evil in their hearts. But the big boys' distance from corrupt transactions and the ambiguities and contradictions of the market can make it impossible to demonstrate their state of mind to the necessary certainty.

Of course, if we're displeased with the present way of doing things because it gives culpable one-percenters a free pass we could always change the law. Then when *we* get in trouble it's a cinch that Mozilo and Blankfein would send us their lawyers to help out.

Right?