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Criminological Highlights: Children and Youth

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This issue of *Criminological Highlights: Children and Youth* addresses the following questions:

1. Why do youths confess to crimes?
2. Why were Mexican-American boys less likely than white boys to be given "out-of-family placements" for criminal offences in the 1930s and 1940s in Los Angeles, California?
3. How do high imprisonment policies ensure that there are sufficient people to imprison?
4. How can courts get people to appear for court hearings when required?
5. How do White Americans' estimates of the proportion of crime that Black youths are responsible for affect Whites' views about how young offenders should be punished?
6. What are 'bail conditions' supposed to accomplish?

Criminological Highlights is designed to provide an accessible look at some of the more interesting criminological research that is currently being published. These summaries of high quality, policy related, published research are produced by the Centre for Criminology & Sociolegal Studies at the University of Toronto. The *Children and Youth* edition constitutes a selection of these summaries (from the full edition) chosen by researchers at the National Center for Juvenile Justice and the University of Toronto. It is designed for those people especially interested in matters related to children and youth. Each issue of the *Children and Youth* edition contains "Headlines and Conclusions" for each of 6 articles, followed by one-page summaries of each article.

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Full issues of *Criminological Highlights* are available at www.criminology.utoronto.ca and directly by email. Email Anthony.Doob@uroronto.ca or Rosemary.Gartner@utoronto.ca if you would like to be added to the email distribution list. The *Children and Youth* edition is also available from www.ncjj.org and www.ncjfcj.org

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Legally required warnings to youths about the consequences of making statements to the police do little if anything to protect youths' rights.

Statements from youths were rarely excluded from court hearings. "Police [in these interrogations] acted professionally and complied with *Miranda's* protocol – there is no ambiguity about warnings and waivers. In addition, most juveniles confess and tapes provide unimpeachable evidence of their statements" (p. 23). However, "*Miranda's* assumption that a warning would enable suspects to resist the compulsive pressures of interrogation is demonstrably wrong" (p. 24). Youths, like adults, may understand the words in the warning, but they "lack ability to understand and competence to exercise rights" (p. 24). This article suggests youths be required to consult a lawyer before waiving their rights, because if they "cannot understand and exercise rights without legal assistance, then to treat them as if they do denies fundamental fairness and enables the state to exploit their vulnerability" (p. 26).

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In Los Angeles, California, during the 1930s and 1940s, Mexican-American boys who came before the juvenile court were less likely than white boys to be removed from their homes because court officials did not want to use expensive and scarce resources to try to rehabilitate them.

Currently, the term "disproportionate minority confinement" of youths is a common enough problem that the acronym "DMC" is sometimes used, in the context of American juvenile justice, without the perceived need to explain either what the acronym stands for or its historically-specific origins and development. As the case of Mexican Americans in Los Angeles during the 1930s and 1940s illustrates, when out-of-home placements were still seen as a means of providing beneficial services to delinquent youths, minority boys were, at least in some courts, less likely than whites to be removed from their homes. These findings suggest that the present over-representation of minority youth in custodial institutions is related to the decline of the rehabilitative ideal and the greater association of out-of-home placement with punishment and incapacitation rather than treatment and rehabilitative services.

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When the fathers of children under 12 years old are imprisoned, there is an increased likelihood that these children will offend as adults.

The finding of a small but measurable effect of imprisonment of the father on the offending rate of his children when they are young adults is consistent with the growing literature on the effects of imprisonment on the families of those imprisoned (*Criminological Highlights* V12N6#7, V12N6#8). These findings, combined with those showing that imprisonment can increase the likelihood of future offending by those imprisoned (*Criminological Highlights* V11N1#1, V11N1#2), suggest that any presumed incapacitative impacts of imprisonment need to be assessed in the context of possible increases in criminal activity of those imprisoned and the family of the prisoner.

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Those who invoke criminal sanctions for accused people who don't show up on time for court might take a lesson from North American dentists and send out reminder cards.

It appears that simple reminders to those charged with criminal offences combined with educational material about the consequences of failing to appear for court can significantly reduce the rate of failures to appear. The benefits, of course, accrue not only to the police and court system but also to accused people who otherwise might not appear in court. The results suggest, therefore, that courts can contribute to 'crime control' by simply adopting the business model of some dentists.

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White Americans who believe that Black youths disproportionately commit crime and that whites are disproportionately the victims of violent crime are likely to believe that the youth justice system should be more punitive toward young offenders.

Although "White Americans are only modestly supportive of punitive juvenile justice policies" (p. 695), "racialized views of youth crime play an important role in shaping public opinion on juvenile justice…. Punitiveness toward juvenile offenders tends to be higher among both Whites who believe that Black youths commit a larger proportion of juvenile crime in comparison with White youths, and those who think that Whites account for a larger percentage of violent crime victims in comparison with Blacks" (p. 697).

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Many conditions of release on bail imposed on Canadian youths bear no relationship either to their alleged offences or to plausible concerns about those who remain in the community awaiting trial.

In order to be released, youths consented to, or had imposed on them, an average of 9.3 separate conditions, the violation of any one of which could – and often did – result in additional criminal charges. In other words, almost all of the conditions criminalized ordinary behaviour. In the case referred to in the title of the article, a youth charged with shoplifting from one store in Ontario's largest chain of drug stores was prohibited from entering this store and any of their other 622 stores in the province (but not, apparently, the stores of its competitors).

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Legally required warnings to youths about the consequences of making statements to the police do little if anything to protect youths' rights.

Many jurisdictions have special procedures to warn youths about the consequences of making statements to the police (e.g., the U.S. *Miranda* warning). Developmental psychology suggests, however, that although youths may understand the meaning of the words they are told, they may lack the judgment and maturity to appreciate the purpose and importance of the rights they are being asked to waive.

To understand the interrogation of youths, this study examined records of 307 interrogations of 16- and 17-year-olds charged with felonies in four Minnesota counties. All were completed cases and constituted all formal police interrogations of 16-17 year-olds that took place in these counties between 2003 and 2006. The data examined included recordings of these interrogations (which were required by the state courts), the police reports related to the cases, as well as court records. Most of the youths (69%) had been arrested prior to the incident in which they were interrogated and most (57%) had been to court before. Their charges varied considerably.

To get youths to waive their rights, police used 'standard' interrogation techniques, including "communicating the value of talking – 'telling her story' – and telling the truth before they gave a *Miranda* warning" (p. 10-11). When speaking to the youths, police sometimes referred to the warning as a formality or a bureaucratic exercise, but were careful to ensure that youths indicated that they understood the warning. 93% of the youths who were interviewed waived their rights to silence and to counsel. Those youths with prior felony arrests were somewhat less likely to waive their rights (87%) than were those with no prior felony arrests (95%). But even 'experienced' youths were largely willing to talk to the police.

Most interrogations were very short: 77% took 15 minutes or less. Only 10% took more than 30 minutes. Most youths (80%) were cooperative with the police. It appeared that "most juveniles did not require a lot of persuasion or intimidation to cooperate" (p. 14). The police used a variety of 'standard' interrogation techniques that are used with adults. In 69% of the cases they used one or more 'maximization' techniques which are designed to "convey the interrogator's rock-solid belief that the suspect is guilty and that all denials will fail" (p. 5). These included confronting the youth with evidence such as statements from witnesses or co-accused (54% of cases). In 33% of the cases the police accused the youth of lying and in about 30% they urged the youth to tell the truth. Another set of techniques involved "minimizing tactics [on the part of the police officer which] offer face-saving excuses or moral justifications that reduce a crime's seriousness, provide a less odious motivation or shift blame…" (p. 15). As with adults, these were used less frequently than 'maximization techniques' (17% of cases). Most youths (59%) "confessed within a few minutes of waiving *Miranda* and did not require prompting by police" (p. 17). Only 12% did not make incriminating admissions.

Conclusion: Statements from youths were rarely excluded from court hearings. "Police [in these interrogations] acted professionally and complied with *Miranda's* protocol – there is no ambiguity about warnings and waivers. In addition, most juveniles confess and tapes provide unimpeachable evidence of their statements" (p. 23). However, "*Miranda's* assumption that a warning would enable suspects to resist the compulsive pressures of interrogation is demonstrably wrong" (p. 24). Youths, like adults, may understand the words in the warning, but they "lack ability to understand and competence to exercise rights" (p. 24). This article suggests youths be required to consult a lawyer before waiving their rights, because if they "cannot understand and exercise rights without legal assistance, then to treat them as if they do denies fundamental fairness and enables the state to exploit their vulnerability" (p. 26).

Reference: Feld, Barry C. (2013). Real Interrogation: What Actually Happens When Cops Question Kids. *Law & Society Review, 47* (1), 1-35.

In Los Angeles, California, during the 1930s and 1940s, Mexican-American boys who came before the juvenile court were less likely than white boys to be removed from their homes because court officials did not want to use expensive and scarce resources to try to rehabilitate them.

In the first half of the 20th century there was an optimistic belief that "fatherly, compassionate judges and well-trained probation officers would assist parents in guiding their children through adolescence while simultaneously rooting out the causes of crime" (p. 194). The assumption was that when families and the community failed, the court would act in the child's best interest and remove the youth from the adverse environment.

In Los Angeles in the 1930s, Mexican Americans "suffered regular discrimination; they were prohibited from certain whites-only parks and restaurants; and they were assigned mainly to segregated schools" (p. 196). State, county, and federal governments attempted to deport and repatriate them and many were forced out of the country illegally. However, interventions by courts into the lives of Mexican-American children were seen, by some, as a form of child welfare (i.e., a privilege extended to them). The view was sometimes expressed that Mexican-American families expected the courts to take care of their children and were unfairly taking advantage of being in the United States.

During the 1930s and 1940s, Mexican-American children were disproportionately likely to be arrested by the police. Whether this was due to higher rates of offending, more concentrated enforcement of minority neighbourhoods, or the use of discretion by the police in screening out white youths is not clear. What is clear, however, is that when white and Mexican-American youths ended up in juvenile court in Los Angeles, white youths were considerably more likely to be given dispositions that involved them being removed from the family. This held true even when age, family structure, whether they were receiving welfare, whether the youth was born in California, as well as the offence seriousness and prior involvement with the court were statistically controlled.

In California during this time, "out-of-family placements – and the newly developed youth forestry camps in particular – were viewed as scarce commodities to be reserved, largely, for more 'deserving' white boys. "For a variety of reasons, correctional officials concluded that Mexican-American youth were unresponsive to the programming offered at their institutions, and that the presence of too many Mexican Americans detracted from the rehabilitative programming designed primarily for whites" (p. 210). The lower likelihood of Mexican-American youths receiving a sentence of out-of-family placement, then, appears to be the result of conscious decisions to limit this group's access to what were seen as beneficial services.

Conclusion: Currently, the term "disproportionate minority confinement" of youths is a common enough problem that the acronym "DMC" is sometimes used, in the context of American juvenile justice, without the perceived need to explain either what the acronym stands for or its historically-specific origins and development. As the case of Mexican Americans in Los Angeles during the 1930s and 1940s illustrates, when out-of-home placements were still seen as a means of providing beneficial services to delinquent youths, minority boys were, at least in some courts, less likely than whites to be removed from their homes. These findings suggest that the present over-representation of minority youth in custodial institutions is related to the decline of the rehabilitative ideal and the greater association of out-of-home placement with punishment and incapacitation rather than treatment and rehabilitative services.

Reference: Schlossman, Michael B. (2012). Less Interest, Less Treatment: Mexican-American Youth and the Los Angeles Juvenile Court in the Great Depression Era. *Punishment & Society, 14*(2), 193-216.

When the fathers of children under 12 years old are imprisoned, there is an increased likelihood that these children will offend as adults.

It is well established that children whose parents have committed criminal offences are, themselves, more likely to commit offences. Thus it is hardly surprising that children whose fathers spent time in prison are more likely than other children to offend. This paper allows an examination of the impact of imprisonment of fathers on their children while controlling for the criminal behaviour of the father.

This study tracks 5,981 children who were born in the early 1970s and tracked until 2003. All of them had fathers who were convicted of a crime in the Netherlands in 1977. Most of the fathers (59%) had been convicted of a crime but were never imprisoned. The fathers of the others had been imprisoned at least once before the child reached 18. The criminal convictions of the father may have taken place before the child was born, when the child was less than 12 years old, or between 12 and 18, or some combination of these.

In an analysis without control variables, the imprisonment of the father was associated with a higher rate of offending (likelihood of offending each year after age 18) for both boys and girls. It appears that the effect of the father's imprisonment was largest when the father was imprisoned between the child's birth and when the child was 12 years old.

Some of the controls that were added – for example whether the parents separated at some point before the child turned 18 years old – could well be, in part, a consequence of imprisonment of the father. Nevertheless, adding various controls – the offending history of the father, whether the parents separated, whether the father was born outside of the country, whether the child was born when the mother was under 20 years old – reduced, but did not eliminate the impact of the father's imprisonment. "Children whose father was imprisoned between ages 0 and 12 thus have a significantly higher chance of a conviction, even after accounting for the father's criminal history (and other family characteristics) compared to children whose fathers never went to prison" (p. 98).

The impact of the imprisonment of the father was significant, but rather small in size once the offending history of the father had been taken into account. One possible explanation for the small effect is that during the period of the study "the Netherlands had a history of an extended social welfare system and… a relatively mild penal climate with relatively low prison populations" (p. 101).

Conclusion: The finding of a small but measurable effect of imprisonment of the father on the offending rate of his children when they are young adults is consistent with the growing literature on the effects of imprisonment on the families of those imprisoned (*Criminological Highlights* V12N6#7, V12N6#8). These findings, combined with those showing that imprisonment can increase the likelihood of future offending by those imprisoned (*Criminological Highlights* V11N1#1, V11N1#2), suggest that any presumed incapacitative impacts of imprisonment need to be assessed in the context of possible increases in criminal activity of those imprisoned and the family of the prisoner.

Reference: Van de Rakt, Marike, Joseph Murray, and Paul Nieuwbeerta (2012). The Long-Term Effects of Paternal Imprisonment on Criminal Trajectories of Children. *Journal of Research in Crime and Delinquency, 49*(1), 81-108.

Those who invoke criminal sanctions for accused people who don't show up on time for court might take a lesson from North American dentists and send out reminder cards.

Many North American dentists, who often make regular dental appointments weeks or months in advance of the scheduled appointment, send out postcards reminding their patients to show up for their appointments. Some even mention that there will be penalties for those who don't show up. This study examines whether courts could learn from the experience of dentists. It examines whether sending out reminder cards to those required to come to court reduces the 'failure to appear' rate.

Accused people are punished for not appearing, when required, for court appearances on the assumption that – like most criminal offences – the act of not appearing for court is a motivated one. The alternative perspective is that people may simply forget, or do not realize that showing up for court is seen, by courts, to be a serious matter. If either of these is the case, then reminding them of their obligation to appear and explaining the consequences of failing to appear in court might be a way of reducing the number of failures to appear. Studies suggest that many defendants "lead disorganized lives, forget, lose the citation [the written notice they receive from the police] and do not know whom to contact to find out when to appear, fear the justice system and/or its consequences, do not understand the seriousness of missing court, have transportation difficulties, language barriers, are scheduled to work, have childcare responsibilities, or other reasons…" (p. 178).

This study, carried out in 14 counties in Nebraska, randomly assigned 7,865 accused adults who were charged with non-traffic misdemeanour offences to one of four experimental conditions. One group was treated normally (and not given a reminder). A second group was sent a post-card simply reminding them of their hearing date, time, and place. The third group was given the reminder and was told that there could be serious criminal consequences of not appearing. The fourth group got the reminder and the explanation of sanctions but was also told that the courts try to treat people fairly.

The results were simple. All reminders worked, but explaining the sanctions that could be imposed for a failure to appear (with or without the 'justice' message) worked better. The proportion of failures to appear were as follows:

No reminder:	12.6%
Reminder only:	10.9%
Reminder & sanction:	9.1%

These findings would suggest that there could be substantially fewer failures to appear if simple reminders were sent out that included the time and place of the court hearing and warnings about the criminal consequences of failing to appear. For example, if 1000 reminders were sent out in these jurisdictions, a reminder containing an explanation of the penalties for failure to appear in court would reduce the number of these 'failures' from 126 (with no reminder) to 91 (with this reminder and message). Whether this is cost effective depends on how various cost estimates are made. For example, using the actual data on the effect of the reminder, one could compare the cost of mailing 1000 reminders to the savings (criminal justice and social) from having 35 fewer failures to appear within this group of 1000 people.

Conclusion: It appears that simple reminders to those charged with criminal offences combined with educational material about the consequences of failing to appear for court can significantly reduce the rate of failures to appear. The benefits, of course, accrue not only to the police and court system but also to accused people who otherwise might not appear in court. The results suggest, therefore, that courts can contribute to 'crime control' by simply adopting the business model of some dentists.

Reference: Rosenbaum, David I., Nicole Hutsell, Alan J. Tomkins, Brian H. Bornstein, Mitchel N. Herian and Elizabeth M. Neeley. (2012) Court Date Reminder Cards. *Judicature, 95*(4), 177-187.

White Americans who believe that Black youths disproportionately commit crime and that whites are disproportionately the victims of violent crime are likely to believe that the youth justice system should be more punitive toward young offenders.

Previous research has demonstrated that White Americans who perceive that they live in neighbourhoods with high concentrations of Blacks are more likely to report high levels of fear of crime (*Criminological Highlights* V1N1#7). In addition, those White Americans who see Black Americans as responsible for a disproportionate amount of crime are most likely to be punitive (*Criminological Highlights* V7N1#5). This paper explores the possibility that support for a more punitive youth justice system is concentrated among those who view Blacks as largely responsible for youth crime and who believe that Whites are disproportionately victims of violence.

Youth justice systems in the US and in Canada have one important common element: they are based on the idea that youths who offend should be treated less harshly than adults who committed the same act. Though most research suggests that Americans and Canadians favour retaining a separate youth justice system, there is some support in each country for a harsher response to offending by youths. This study examines data from 743 White respondents to a US national poll carried out in 2010.

The main focus of the study was a set of 7 questions in which respondents indicated their level of support for specific punitive policies (e.g., "Trying more juveniles in adult courts"; "Making sentences more severe for juveniles who commit crimes"). In addition, respondents were asked what they thought should be "the youngest age that we should allow someone who commits a violent offence to be tried as an adult." Respondents were asked two key variables related to race: "When you think about juveniles who commit crimes, approximately what percent would you say are White… Black… Latino?" They were asked a similar question about victims of violent crime.

The White respondents were not, overall, very punitive toward young offenders. Most of the respondents (63%) thought that youths under 16 were too young to be tried as adults. In addition, most (81%) believed that it is generally possible to rehabilitate young offenders who have committed violent offences.

However, even when controlling for characteristics of the community (e.g., employment rate of the community, crime rate) and of the individual (e.g., age, sex, education, income, perceived victimization risk, whether their household had been victimized), those who saw delinquency concentrated among Black youths and those who saw Whites as disproportionately likely to be victims of violent crime were more likely to hold punitive attitudes toward young offenders. Similarly, those who saw Blacks as disproportionately responsible for youth crime were more likely to favour trying younger youths as adults. In other words, "among Whites, judgements about whether [young] offenders possess qualities that warrant a legal distinction between them and adult criminals are influenced by racial concerns" (p. 694).

Conclusion: Although "White Americans are only modestly supportive of punitive juvenile justice policies" (p. 695), "racialized views of youth crime play an important role in shaping public opinion on juvenile justice…. Punitiveness toward juvenile offenders tends to be higher among both Whites who believe that Black youths commit a larger proportion of juvenile crime in comparison with White youths, and those who think that Whites account for a larger percentage of violent crime victims in comparison with Blacks" (p. 697).

Reference: Pickett, Justin T. and Ted Chiricos (2012). Controlling Other People's Children: Racialized Views of Delinquency and Whites' Punitive Attitudes Toward Juvenile Offenders. *Criminology, 50* (3), 673-710.

Many conditions of release on bail imposed on Canadian youths bear no relationship either to their alleged offences or to plausible concerns about those who remain in the community awaiting trial.

Many Canadian youths, instead of being released by the police when they are arrested are detained in custody for a bail hearing. Most of these youths are eventually released on conditions set by a judge or a justice of the peace. Previous research (*Criminological Highlights 12*(5)#3) has shown that if the court imposes large numbers of conditions on youths released on bail and the case is not disposed of relatively quickly, the youth is likely to be charged with a new offence – "failure to comply with a court order." In Canada in 2011/12, 3508 youths (or 7.3% of the cases disposed of that year) had 'failure to comply with a court order' (most often related to conditions of bail) as the most serious offence in the case.

This study examines the conditions that are imposed on youths in four Toronto-area courts. Youths can be detained if it is thought that they would not appear in court when required or that they would commit a criminal offence that would threaten public safety. The principle specified in Canadian bail laws is that, in general, the least onerous form of release is presumed to be appropriate unless the prosecutor can demonstrate to the court why a more onerous form of release is justified. The manner in which the law is written, then, implies that conditions should not be imposed on youths unless they can be shown to be necessary.

This court observation study recorded the conditions imposed on youths, noting, as well, the information about the offence that was available to the presiding justice. More conditions were imposed on youths who had committed more serious offences and youths facing large numbers of charges. Many conditions showed no logical relationship to ensuring that the youth appeared in court as required and did not threaten public safety (the justification for conditions).

The most common conditions were that the youth should reside with the youth's surety (76% of cases), "be amenable to the rules of the home" (84% of cases), not possess any weapons or a firearms acquisition certificate (79% of cases) and attend school (39% of cases). 31% of the youths were put under house arrest, and 30% were required to attend counselling.

Conditions were then evaluated by the authors as having a "clear connection" or "no apparent connection" or an "ambiguous connection" with the concerns related to release. Residing with one's surety, for example, was seen as having an ambiguous relationship since its connection with reoffending and appearing in court is possible, but not clear. "Not communicating with the victim" (or co-accused) on the other hand, was always rated as having a 'clear connection.' Curfews, on the other hand, often had no apparent connection (e.g., when the offence didn't take place during the curfew hours) but sometimes did. Some conditions – such as attending school – almost never had a connection with concerns about bail. None of the counselling orders had any relationship to the offence.

In one rather ordinary case a youth had taken the contents of the pockets of another youth – 20 cents and some membership cards – at 11:15 in the morning The youth was charged with robbery and released on bail with 8 separate conditions including attending counselling and house arrest (except when accompanied by mother or father to attend school or counselling).

Conclusion: In order to be released, youths consented to, or had imposed on them, an average of 9.3 separate conditions, the violation of any one of which could – and often did – result in additional criminal charges. In other words, almost all of the conditions criminalized ordinary behaviour. In the case referred to in the title of the article, a youth charged with shoplifting from one store in Ontario's largest chain of drug stores was prohibited from entering this store and any of their other 622 stores in the province (but not, apparently, the stores of its competitors).

Reference: Myers, Nicole M. and Sunny Dhillon (2013). The Criminal Offence of Entering Any Shoppers Drug Mart in Ontario: Criminalizing Ordinary Behaviour with Youth Bail Conditions. *Canadian Journal of Criminology & Criminal Justice, 55*, 187-214.