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Dear Brethren,

It is assuredly a great honor for us to have been selected as co-editors of the official journal of SWACJ, and it is our hope that we will serve the journal and our membership well. We would like to thank the former editor, Jon Sorensen of Prairie View A&M University, for stepping up to the plate for Volume 2 of the journal. Jon continued to advance the journal's prestige, which we hope to carry on over the next three years. We would also like to thank the associate editors and those individuals who served as peer-reviewers over the past year. Your commitment to the journal is greatly appreciated, and we hope that it will continue to grow stronger in the coming years.

To that end, it is our intent to enhance the prestige of the journal by ensuring the quality of the manuscripts received and, through the peer-review process, select only high-quality articles for publication. We also plan to enhance the visual lay-out of the journal, adopt an "Editor's Selection" under the book reviews, and move toward publishing some printed editions of the journal. It is also our goal to move into a publication cycle where the Spring issue is published prior to the annual meeting of ACJS, and the Fall issue is published prior to the annual meeting of the SWACJ. We expect to make additional enhancements in the future, but as this is a transition issue, some of these will have to wait for now.

Although Jon stepped down as the editor of the journal at the business meeting in Oklahoma City, his work and dedication to the journal did not end there. He continued to work on the next issue of the journal by managing the peer-review process, and he assisted us in the transition of editors. Jon then, is largely responsible for the articles found in this issue; all we really had to do was the final copy-editing/production process, along with the two book reviews, one being part of the new feature for the journal, the "Editor's Selection." Again, our thanks to Jon for his assistance in this issue.

The other person that we have brought on board, to help manage the details of publishing a journal, is a Sam Houston State University Doctoral student, Sam Swindell, who is being graciously supported by the College of Criminal Justice. Sam will handle the administrative aspects of the journal, allowing us to focus on the substantive aspects of the peer-review process.

If you have any comments or suggestions about the direction of the journal or if you would like to submit a manuscript or book review, please do not hesitate to contact us at the central e-mail address for the journal swjcyj@shsu.edu. We look forward to working with you.

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The Implications of a Key-Man System for Selecting a Grand Jury: An Exploratory Study

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ABSTRACT

Unlike the generally random process that is common in petit juries, grand juries may be selected by means likely to produce partiality, particularly if they are drawn from those who are part of, or propertied in, the criminal justice system. The potential problems associated with a key-man approach to grand jury selection warrant an examination of the process used in a major metropolitan Texas county. This study attempts to identify both (a) the occupations of individuals who nominate the grand jurors and (b) the individuals chosen as jurors, specifically looking at Hispanic surnamed grand jurors. Over half of the commissioners nominating individuals to serve as grand jurors were associated with the criminal justice system, and less than ten percent of the serving grand jurors were Hispanic surnamed though approximately one third of the county population was Hispanic.

INTRODUCTION

The individuals who select the grand jury select the law. If a district attorney, an individual judge, or a small faction of the community holds the power to indict or to not indict, they have the ability to control the justice system's impact on the community. For example, it has been argued that racist Klansmen prevented the indictment of suspected murderers during the Civil Rights movement in Mississippi in the 1960s and that colonial rebels influenced the indictment of British soldiers for murder during the Revolutionary War. Thus, it is suggested that control of the grand jury is effectively the control of justice.

Unlike the generally random process used to select petit juries, grand juries may be selected by a means to produce partiality. Conflict theory has long recognized the potential problems associated with racial and ethnic exclusion in the process of power and social regulation. One such process, the key-man approach to grand jury selection, has been previously identified by numerous court decisions as being susceptible to prejudice and bias. This study examines the process used in a major metropolitan county in southeastern Texas, hereafter referred to as the County, and attempts to identify both (a) the types of individuals who nominate the grand jurors and (b) the types of individuals chosen as jurors, specifically looking at Hispanic surnamed grand jurors.

HISTORICAL BACKGROUND

The grand jury was considered so important by the nation's founding fathers that the Bill of Rights included an amendment guaranteeing the right of an indictment by a grand jury for all infamous or capital crimes. Its use was so

accepted by the colonists however, that it wasn't even considered an issue to be defended by Hamilton when The Federalist Papers were published in support of the proposed Constitution (1961).

Traditionally, the role of the grand jury has been twofold. First, though not always foremost, the grand jury has been responsible for determining whether probable cause exists for the trial of an individual charged with the commission of a crime. The premise was that citizens, not agents of the government, would have the power to censure one of their own via an indictment. Second, the grand jury has had the ability to initiate an investigation into any matter that one of their members suspected violated criminal law. In the past one hundred and thirty years, these inquests have become famous for addressing municipal corruption.

The 1871 investigation of New York City's Tweed Ring and the 1937 Philadelphia grand jury that indicted 107 persons for various vice charges and demanded the dismissal of 41 police officers demonstrate how the grand jury has served the interests of justice when "professional" members of the justice system have failed to do so (Younger, 1963). Recognizing the power of the grand jury to both investigate and indict members of the community, controlling the selection of its members has always been crucial to those in positions of authority. From its reputed origin in England under King Henry II to the modern utilization of the key-man system for selecting grand jurors in states such as Texas, its "hand-picked members almost always came from the settled, relatively affluent, 'respectable' segments of the community" (Frankel & Naftalis, 1977, p. 34). Though Massachusetts chose grand jurors at town meetings during the colonial period, most, like the colony of Virginia, utilized the English process of having the County sheriff select the grand jurors. Along with disallowing women, slaves, and the indentured from service, many of the states had property requirements that specified that candidates had to be landholders. These propertied individuals were assumed to have a stake in the established system of government and would support the goals and objectives of the Crown (Clark, 1975).

As the new nation expanded westward, the grand jury system followed. Representatives of the government selected jurors from those deemed eligible. Selecting officials might be the clerk of court, county supervisors, or judges of election, but whoever chose was part of, or propertied in, the political and justice system, which historically have been one and the same. The concept of being propertied in the system gives one the power to create laws, to decide who will be defined as the law breaker, to use the law to support one's own interests, or to be able to have the law serve the interests of the "ruling class" (Adler, Mueller & Laufer, 2004). Social power is retained through the political power process (Mann, 1986). While there are differing criminological perspectives on the origins of criminal law, most recognize that the propertied influence the definition of the law. The law, for all intents and purposes, is their property. As such, some states continued to limit those eligible for jury duty to those who were landholders—those who were propertied in the traditional sense of the word (Younger, 1963). Eventually the formal property requirement would be dropped, but the control of the selection process would not. In lieu of the sheriff, many states would select their grand jurors by the use of special individuals called jury commissioners, responsible for identifying candidates for service on the grand and, in some cases, petit juries (Fukurai, 2001). These commissioners, while not always landholders, were still propertied in the sense that they were associated with, supportive of, and actually "owned" the legal and political system in their local community.

Robert and Helen Lynd, in the classic 1929 sociological study of a typical American city, quoted a weekly Democratic paper describing those selected to serve on juries by the local jury commissioners:

Juries drawn by _____ and _____ are made up almost wholly from men and women connected with the _____ [local Republican boss] outfit—precinct committeemen, deputy road superintendents, deputy assessors, school hack drivers, ditch commissioners, relatives of Judge _____, Sheriff _____, Deputy Sheriff _____ and other beneficiaries of the system. (Lynd & Lynd, 1929, p. 429)

TWO METHODS OF SELECTION: RANDOM AND KEY-MAN

Today most states in the Union, and the federal judiciary, have adopted a process to select both petit juries and grand juries through random selection. This process, familiar to millions of Americans, is targeted toward selecting a representative group of citizens to serve as grand jurors. Yet some, to include Texas and California (Fukurai, 2001),

continue to utilize, for a number of reasons, an alternative method of grand jury selection, identified as the key-man or Commissioner method even when state law allows for random selection at a court's discretion² (G. Hikle, personal communication, May 5, 2004³).

The random selection process is extremely time-consuming for the courts as all candidates need to be individually interviewed for eligibility (A. Tobias, personal communication, February 13, 2004⁴). The logistics of assembly, including the management and movement of potentially hundreds of candidates also becomes an issue for court administrators. The inconvenience of the numerous potential jurors that the court must sift through to find a small group of people capable of serving as jurors for an extended period of time is a further problem, if not for the court, then for those who potentially will serve.

Olson (1973) notes that the key-man method, on the other hand, allows for a panel of individuals to be selected who have an understanding of the local government, a grasp of the concept of due process, are motivated and able to ask pertinent questions, and can work in a committee environment. It also tends to be a much more efficient process (Tobias, personal communication, February 13, 2004). However, the key-man system, unlike the random selection of jurors commonly used for the selection of petit juries, has continued to favor those in power, disenfranchising the poor, minorities, the young, and women. Whether selected by sheriffs or commissioners, "from the earliest days...in keeping with a frank and fairly open tendency toward elitism, grand jurors were selected by means guaranteed to produce partiality." Even the Supreme Court has noted that the system is susceptible to abuse. (Frankel & Naftalis, 1977, p. 34; see also Coffey & Norman, 1978; Fukurai, 2001; Hamel, 1998; Hernandez v. Texas, 1954).

Progress in addressing discrimination has been realized, especially since the Civil Rights movement, with numerous federal court cases attempting to reduce the negative effects of the key-man system. Yet recently there has been a public discussion regarding the loss or retrenchment of the rights achieved by various minorities in the last fifty years (Lee, 2004). "The gains that have been achieved in ethics and politics are not cumulative. What has been gained can also be lost and over time surely will be" (Gray, 2004, p. 3). The current limitations imposed on affirmative action are but one example of a loss imposed externally on the community. The failure to recognize the cost of securing those rights and utilizing the benefits thereof, such as access to the polls and education, further damages the minority community. The key-man system, when abused, can reinforce the perceived lower status of a given minority group by allowing the court system to revert to the historic days of racism and discrimination (Bryant, 2004).

Flaws in the justice system allow individuals to rationalize their detachment from the community and the social contract. The loss of trust and the undermining of one's sense of fairness can lead to a moral corruption that destroys the very fabric of society (Bok, 1978). The erosion of attachments to the prevailing social order in minority groups contributed to the race riots of the 1960s (Gaines & Kappeler, 2003) and militia movement decades later. Although historically the courts have attempted to address the potential for abuse in the key-man system in numerous decisions, it has allowed it to continue with modifications made to fix the specific concerns of individual cases. Gray (2004, p.3) stated that "unlike the ascending spiral of scientific progress, freedom is recurrently won and lost in an alternation that includes long periods of anarchy and tyranny...." Given that, one can appropriately ask if the key-man system has regressed to its previous forms of abuse and tyranny. Does the key-man system's existence have the potential to damage the public's perception of a fair and equitable criminal justice system?

METHODOLOGY

The questions raised above are examined in the case of a large metropolitan county in Texas in two separate analyses. First, we describe and examine the process of selecting grand jurors. Second, we attempt to identify both (a) the occupations of individuals who nominate the grand jurors and (b) the individuals chosen as jurors, specifically looking at Hispanic surnamed grand jurors. Although a less structured and replicable process is used, as there is currently no mechanism in place for determining who is *propertied* at this point, again defined as those who control the law, this work represents a preliminary and exploratory look at the concept of representation in the grand jury process.

The Grand Juror Selection Process

In the County used in this example the district court impanels five grand juries every three month session for a total of 20 grand juries a year. Every year these grand jurors issue approximately 90,000 true bills of indictment (J. Brooks, personal communication, May 21, 2004⁵). To select those 20 grand juries, the district court judges appoint 60 to 100 individual jury commissioners.

Though the district court can use a process of random selection to determine its grand jurors, the method identified previously as the key-man system is preferred in the County. This allows for individuals appointed by a state district judge to select the prospective jurors (Castaneda v. Partida, 1977). Only once in the recent past has random selection been used in the County and, in a demonstration of inefficiency, it took days to sit that one grand jury instead of hours (Tobias, personal communication, February 13, 2004).

Texas Grand Juror Selection Procedure

In the state of Texas, Chapter 19 of the Code of Criminal Procedure controls the use of the key-man system. The code describes the process of selecting grand jury commissioners and grand jurors. It states that a district judge “shall appoint not less than three nor more than five persons to perform the duties of jury commissioners.” These individuals are responsible for identifying 15 to 40 candidates for service as a grand juror. The qualifications include being “intelligent citizens of the county and able to read and write the English language,” “be residents of different portions of the county,” shall not have acted as a jury commissioner “more than once in any 12-month period,” and be a “qualified juror in the county.” Chapter 19 directs the jury commissioners to retire “...to a suitable room to be secured” and that they are to be furnished with “...stationery, the names of those appearing from the records of the court that are exempt or disqualified from serving on the jury at each term and the last assessment roll of the county.” They are to be “kept free from intrusion of any person during their session and shall not separate without leave of the court until they complete their duties.” They are to select “not less than 15 nor more than 40 persons” from the County who are determined to “represent a broad cross-section of the population of the county, considering the factors of race, sex and age.”

Upon selecting the candidates for the grand jury, the list is returned to the district judge who directs the court clerk to deliver the same to the sheriff for execution of a court summons. If less than fourteen of those summoned to serve “are found to be in attendance or qualified to serve, the district judge shall order the sheriff to summon such additional number of persons as may be deemed necessary to constitute a grand jury of twelve persons and two alternates.”

When the district court has fourteen persons in attendance, each person is to “be interrogated on oath by the court or under his direction, touching his qualifications.” “When, by answer of the person, it appears to the court that he is a qualified juror, he shall be accepted as such...” When fourteen qualified jurors are found to be present, the court shall proceed to impanel the grand jury “...composed of not more than twelve qualified jurors” and “...two alternates to serve on disqualification or unavailability of a juror during the term of the grand jury.” *Unavailable* is defined as being dead or having a physical or mental illness preventing full participation of the juror. Nine members of a grand jury form a quorum with all the powers vested by statute in the jury.

The Selection of Grand Jury Commissioners

In attempting to determine how key-men are selected in the County, the names of the grand jury commissioners who served during the years 2002 and 2003 were obtained from the County District Court Clerk. Due to the secrecy of the court system, the great majority of those lists of names had no other identifying information on them. The names were then run on the Internet through the Google search engine in an attempt to identify the individual commissioners. They were also run against the Texas State Bar association online membership list, the County approved bondsmen list, and the County online directory. Names were cross-checked against addresses on the County online registered voter directory to determine probable familial relationships. Various individuals associated with local law enforcement reviewed the lists in an attempt to further identify individuals. Finally, four individual grand jury commissioners were interviewed, three of

whom served during the sampled years. Using these identifiers, individual grand jury commissioners were categorized by occupation and/or personal relationships.

FINDINGS

Grand Jury Commissioners

A review of the records for the grand jury commissioners for the year 2002 and 2003 reveal that out of 129 individuals who served as commissioner, fully one half are or were propertied in the criminal justice system. These 67 persons, all of whose income and expected primary social interaction are derived from the criminal justice system, choose the individuals who would ultimately have power of indictment over the 3.4 million people of the County. Information on those 67 persons revealed the following:

Twenty-four (19 %) commissioners are, or were, employees of the court system of the County to include court reporters, court coordinators, trial coordinators, administrative assistants, clerks, etc. Three served twice during the two-year reporting period.

Fourteen (11 %) are attorneys with at least two being former prosecutors. One of those had been with the local district attorney's office responsible for presenting cases to the grand jury. One of the 14 attorneys is also a judge on the 14th Court of Appeals responsible for reviewing appeals from the very district court judge that she nominated grand juror candidates for.

Eleven (9 %) are, or were, employees of the County Community Supervision & Corrections Department. These badge-carrying employees of the County probation office, working for the district court system, are responsible for pre-trial intervention, intensive supervision, electronic monitoring, community service restitution, as well as the apprehension and arrest of violators while also providing other services to the district court.

Six (5 %) commissioners were either retired or current law enforcement officers identified as deputy sheriffs or deputy constables, of which two serve the district courts as bailiffs and one as a criminal process server. One officer served twice during the two-year reporting period. A seventh individual is the spouse of a senior management law enforcement officer.

Two are bail bondsmen, responsible for guaranteeing the bond of suspects released pending trial (quite probably for the same individuals that their nominated grand jurors eventually indicted). A third individual, who served twice during the two-year reporting period, is the spouse of a bail bondsman.

At least four hold or have held executive positions in area governmental or semigovernmental agencies such as the local City Council, the Theatre District Association and the Metropolitan Transit Authority (the local transit agency with its own police force).

One is a former executive of the County Youth & Family Services Division, whose duties included determining injuries to suspected victims of child abuse. One individual previously counted as a former court employee is the current director of the Children's Assessment Center under Youth & Family Services.

One commissioner is a director of major civic organization whose mission is defined as providing financial support to law enforcement organizations for lifesaving equipment, education, and dependents of officers killed in the line of duty. Two individuals are private investigators, one serving as a civil court process server.

Again, over one half of these County grand jury commissioners are directly connected, i.e., propertied, to the criminal justice system.

Selection of Grand Jurors

The determination of the number of Hispanic⁶ commissioners, Hispanic grand juror candidates and actual Hispanic grand jurors was based on a comparison of all identified names provided by the County District Courts against the 1980

Census “List of Spanish Surnames.” This list, compiled in 1979 by the Bureau of Census, republished by Platt (1996), reportedly consists of 12,567 names. It was used in lieu of the 1996 Census Bureau list of the “639 Most Frequently Occurring Heavily Hispanic Surnames,” as developed by Word and Perkins (1996), in an attempt to look at the data from the most conservative perspective. It is likely that some Hispanic females have Anglo surnames and thus were not identified. However, this was most likely offset by Anglo females with Hispanic surnames being identified as Hispanic. Further, any female shown with more than one surname, if either was a Hispanic surname, was also treated as Hispanic, again in an attempt to look at the data from a conservative perspective.⁷

In determining the County adult Hispanic citizen population, census figures from 2000 were used. The total population identified for the County was 3,400,528. The non-citizen population of 532,939 was subtracted, leaving a citizen population for the County of 2,867,639 (See Table 1).

Table 1: Comparison of County Hispanic Citizen to Non-citizen Population

	County N	Hispanic N	%
Total	3,400,528	1,120,625	33
Non-citizen	532,939	404,592	76
Citizen	2,867,639	716,033	24

The Hispanic population was 1.2 million. As Table 1 demonstrates, almost 64% of Hispanics are citizens, and Hispanics comprise one quarter of the total citizen population.

Census data also indicated that the County population 18 years old and above is 2.4 million. The Hispanic 18 and over population totaled over 700,000 (almost 30% of the adult population of the County). Subtracting the Hispanic 18-and-over figure from the overall adult population gives a non-Hispanic 18-and-over population of 1.7 million (conservatively assuming that all non-Hispanic adults are citizens).

Table 2: Comparison of County Hispanic/Non-Hispanics by Voting Age Eligibility (18 Years Old and Over)

	18 years old and over N	% of County	Citizens 18 years old and older N	% of County
Hispanic	716,111	30	457,595	21
Non-Hispanic	1,699,911	70	1,699,911	79
Total County	2,416,022		2,157,506	

Approximately 64% of 700,000 plus Hispanics, 18 years of age or over, equals almost one half million adult Hispanic citizens, assuming that the ratio of adult Hispanic citizens to adult Hispanic non-citizens is similar to the ratio of Hispanic citizens to Hispanic non-citizens. Hispanic adult citizens that are eligible for grand jury duty make up over 21% of the 2.2 million County adult citizens.

Grand Jurors

Census data states that the County is approximately one third Hispanic. Based on the previous Census figure calculations, approximately 21.2% of the adult (over 18) citizen population of the County is Hispanic. A review of the grand jurors actually nominated for grand jury duty in the County from January 2001 to December 2003 revealed the following:

Out of 40 grand jury candidates lists supplied by the court clerk, 32 actually identified the selected grand jurors and alternates. Out of the entire 40 candidate lists of 836 potential jurors, 98 were Hispanic surnamed, equaling 11.7% of the list.

Out of the identified grand jurors (384 individuals from the identifying 32 lists), 34 were Hispanic surnamed, equaling 8.85% of the total identified jurors.

When looking at the alternate grand jurors (those individuals who are grand jurors in name only unless one of the primary jurors has an untimely death), 11 Hispanic surnames were found among 64 alternates, equaling 17.1%, almost double the actual grand juror percentage.

No forepersons were identified as Hispanics out of the 32 jury lists. Five assistant forepersons, a position activated only in the absence of the foreperson, were identified, equaling 15.6% of the assistant positions.

If grand jurors were drawn randomly from the general adult citizen population, the expected number of Hispanics among the 676 grand jurors would be 141. The standard deviation is approximately 11 (10.56). The data in this case reflect a difference between the expected and observed number of Hispanic grand jurors of approximately 6 (5.6) standard deviations. That is twice what is considered acceptable by the United States Supreme Court (*Castaneda v. Partida*, 1977).

Hispanics represent over 21% of the eligible population but were nominated at half that rate, and those who actually served were even less—8.85%. When the district judges decided which of the nominated candidates were to actually serve, they failed to select any Hispanics from the sampled lists to act as foreperson, and they appointed Hispanics to the alternate (non-voting) lists at twice the rate that they appointed them to the actual grand jury. In simple terms, the court system appears to show the active and full participation of the local Hispanic community in the grand jury but, in reality, that participation was literally in name only.

The February 2002 term of the 208th District Court further demonstrates this. The List of Prospective Grand Jurors shows 20 individuals nominated, none Hispanic. Yet at the bottom of the list two other names were added in what looks to be a different type of penmanship and ink. Both of those names are Hispanic. Those two names are then identified as being appointed as alternates. Further research determined that one of those individuals served as a district criminal court bailiff—a law enforcement position. The voting members were all non-Hispanic, but when the list with alternates is only looked at statistically, nine [2/22=9%] percent of the grand jurors would be identified as Hispanic.

DISCUSSION

The key to justice in the County is, in part, who those commissioners are and how they are chosen. The choice to “...protect the innocent and indict those towards whom evidence leads” (*Constitutional Rights...* 2000, p. 20) starts with the selection of those commissioners. The commissioners’ attitudes, beliefs, and political ideology influence which individuals are considered for the actual grand jury and, ultimately, how a grand jury decides an indictment. And if a grand jury commissioner selects candidates for the grand jury from their own personal acquaintances, the Supreme Court, if not the Texas Court of Appeals, has recognized that “discrimination can arise from commissioners who know no [minorities] as well as from commissioners who know but eliminate them” (*Smith v. Texas*, 311 U.S. at 132, 1940).

Gateway Control: the System of Indictment

Fully one half of the grand jury commissioners were identified as being propertied in the justice system.⁸ One former commissioner, originally serving as a grand jury alternate (his name having been passed on by a police lieutenant to a commissioner looking for volunteers) and later requested to serve as a commissioner by a court representative, stated that of the two individuals he remembered nominating, one was the wife of a police officer. He, a police captain, had the potential of influencing an otherwise secret grand jury to have a police perspective that could easily influence the determination of indictments instead of a community perspective (*Corbett*, personal conversation, August 4, 2004⁹). Further examples of this gateway control of the process will be discussed.

Discrimination and Disenfranchisement

In Texas, and the County in particular, the key-man system has historically allowed for extensive discrimination (Smith v. Texas, 1940) and has prevented Hispanics and other qualified citizens from having the opportunity to participate in the justice system. This problem with participative justice is evidenced by the numerous court decisions related to under-represented minorities on juries and the historical antagonism of state law enforcement agents against Hispanics and African-Americans (Hammel, 1998; Hayden, 2004; Skolnick & Fyfe, 1993; Wadman & Allison, 2004).

The federal courts have recognized the potential discriminatory aspects of the selection of the grand jury venire and, in particular, the potential abuse of the key-man system (Castaneda v. Partida, 1977; Duren v. Missouri, 1979; Jefferson v. Morgan, 1992; Vasquez v. Hillery, 1986). Yet, for the sake of expediency, the County district courts have continued to use the key-man system and have systematically discriminated against the Hispanic population by limiting their participation in the grand jury process. This failure jeopardizes the assurance of an impartial jury (Holland v. Illinois, 1990) by not allowing a fair cross-section of the populace to be considered for service and it can be considered intentional discrimination as the jury pool selection practice “is susceptible of abuse or is not racially neutral” (Castaneda v. Partida, 430 U.S. at 494, 1977).

Evidence from the analysis conducted here suggests that the selection process continues to limit the number of Hispanics who are allowed to serve. In so doing, the process reinforces a strong bias toward conservative values related to justice, the death penalty, and the use, or misuse, of force by the police by limiting the pool of potential grand jurors to the personal associates of court employees and law enforcement officers. This bias, previously identified as New Institutionalism, a distinct form of institutional racism, is created by the organized setting of the court following standardized routines that perpetuate discrimination, even though those participating may truly believe that they have no intention of doing so (Haney Lopez, 2000).¹⁰

On the Issue of Being Propertied

The grand jury system in the County appears to compromise the historic intent of the grand jury by consciously and consistently appointing individuals responsible for identifying potential grand jurors from those actually propertied in the justice system itself: attorneys, court officers, probation officials, and law enforcement officers. These individuals, chosen by the district judges to find candidates to serve as grand jurors, have perpetuated a grand jury system that fails to represent an appropriate cross section of the community it supposedly embodies.

The Special Case of Police

Police officers in the County, besides testifying in front of the grand jury, regularly serve on the grand jury, and in at least one known case, while the grand jury was investigating her peers. One of the grand juries that investigated the actions of the local police department and its crime laboratory included an officer of the department (May term, 2003 of the 228th District Court). As an aside, that same jury, refusing to utilize the District Attorney for legal guidance, included at least two attorneys, one a former federal attorney.

The February term of the 185th District Court included a grand jury commissioner normally employed by the County Community Supervision and Corrections Department (generally known as the probation department). The List of Prospective Grand Jurors, made up of 18 names, included two persons from the probation department, one court liaison officer, and an attorney. The final selection included one of the probation personnel with the second probation officer being appointed as an alternate juror. The court liaison officer was identified as the second alternate juror. The assumption is that the presiding judge did not want to impact the court system’s workload to the point of distraction by having all three serve as jurors at the same time.

In still another example, the August 2002 term of the 176th District Court, all three jury commissioners were employees of the Community Supervision and Corrections Department. For all practical purposes, the County probation department determined the grand jury for the 176th District Court. That grand jury included a coordinator for the Children’s Assessment Center—the organization responsible for assisting juvenile victims of sexual abuse—and a former

local police department lieutenant who is now, reportedly, a captain with the Texas Department of Criminal Justice, Institutional Division.

In the August 2002 term of the 338th District Court, one of the jury commissioners was a director of the metropolitan civic organization, which defines its mission as providing support to the dependents of police officers killed in the line of duty, to provide life-saving equipment to police departments, and to aid in the education of law enforcement officers. Four of the twelve grand jurors were serving directors of this one civic organization. It has yet to be determined if any officer-involved shootings were reviewed by this grand jury.

Conservatism and the Status Quo

In the County the district court judges have, in recent years, campaigned during primaries as being more conservative than their fellow Republican challengers (Campbell, 2000; Flood, 2002; Robinson, 1998; Turner, 2004). Upon election, they then have, besides the duty of conducting felony trials, the responsibility of both selecting the grand jury commissioners from their personal circle of associates and of eventually determining the qualifications of the grand jury candidates nominated by those commissioners. Those personal associates, liberal or conservative, become crucial to determining the grand jurors, and by extension, the initial perspective, after the arresting officer's, of the criminal justice system.

The difficulty is that in utilizing friends and court associates these individuals perpetuate a conservative viewpoint instead of a community viewpoint in the jury room. Prior to an article appearing in the local newspaper (Flood, 2002) exposing the fact that the district attorney's office submitted lists of volunteers for grand jury duty to any district judge who requested it, the author spoke to an investigator of the district attorney's office about the Texas grand jury process. He was informed that, if he wanted, he would be appointed to the grand jury—this while still serving as a federal law enforcement agent. The implication was that the district attorney controlled the selection of at least some of the individuals who served. Though that process is now disavowed, if one were to offer the district attorney a volunteer for grand jury service, his or her name would be passed to the court administrator for forwarding to any district court requesting candidates. The perception may be different, but the reality is the same—an associate of the district attorney would be serving on the grand jury that the DA would be presenting cases to for indictment (Tobias, personal communication, February 13, 2004).

In at least one case, instead of using the DA's recommendations, a former district court judge appointed a fellow church congregante as a commissioner. He, in turn, and in full compliance with the Code of Criminal Procedure, nominated four other members of the same church to the grand jury. All were appointed (J. Brooks, personal communication, May 21, 2004). The doctrines of that one individual fundamentalist church suddenly had the ability to influence the life and death decisions for numerous non-members. As a quorum is composed of nine jurors, those four congregantes actually had the ability to prevent the grand jury from even meeting to fulfill the State's affairs. The intent of a geographical spread of grand jurors was subverted, unintentionally or not.

One couple served, they believed, at least eight times collectively as jury commissioners over the years (with their son having served at least once). They would share potential juror names between themselves, as needed (Brooks, personal communication, May 21, 2004). Their service was out of a sense of civic duty to their community, but they would have had an undue influence on the decisions of the grand juries beyond all expectations of the justice system. Their beliefs, as mirrored in the associates, friends, and fellow church members they continually nominated to a grand jury, would have had the potential to influence the choice of a true bill or no bill in numerous cases. If a potential death penalty case was being considered, the personal beliefs of these two people, as reflected in their nominated grand jurors, would have had an influence far beyond their number—two—in comparison to the influence of the other 3.4 million people of the County.

In discussions with various district attorney offices in the state, it was mentioned that at least one Dallas County judge had used the same grand jury members for the past five years. One can only wonder about the similar perspectives these 12 citizens bring to the jury room.

On the Issue of the Death Penalty

The County has long been recognized as the number one county in Texas, if not the United States, for executions. From 1976 to December 7, 2003, the County had 271 persons sentenced to death. Dallas County had only 91 and Bexar County (San Antonio) only 66 (Texas Department of Criminal Justice, 2003). As of March 17, 2004, 154 offenders were on death row from the County (Texas Department of Criminal Justice, 2004).

The reasons for the County's reputation as a successful death machine include a district attorney in support of executions, adequate funding of the DA's office, a capital murder statute and court system process favorable to the implementation of the death penalty, and numerous conservative judges with a prosecutor's background. And "behind it all, pushing execution totals ever higher, is an immense tide of regional culture, religion and history..." (Tolson, 2001). The key-man selection process is one more cog in that death machine. With commissioners being chosen from the propertied, the opportunity for a grand jury to consider not accepting the recommendations of the district attorney for a capital murder indictment, especially when that jury may even have had their names forwarded to the courts by the DA's office for service, is limited. With police, probation officers, and court personnel making recommendations for jury service, one can only expect more conservative beliefs in the use of the death penalty.

Baker (1985) concluded, after interviewing more than one hundred police officers, that "Generally speaking, police officers lean to the right politically and morally. They advocate the straight and narrow path to right living. They believe in the inviolability of the marriage vows, the importance of the family, the necessity of capital punishment" (p. 15). And if they serve on a grand jury considering a capital offense one can assume, based on Baker's research, that they would be one of the least likely to "no-bill" a suspect or recommend a less harsh charge for indictment.

CONCLUSIONS

The issue in this investigation has been the alleged problems in a key-man approach to grand jury selection and its current use in the County. Based on this evaluation, it would seem that the County's approach to selecting grand juries contains most of the problems suggested in previous grand jury literature. Our analysis suggests the existence of minority discrimination and disenfranchisement. A small segment of the population is over-represented in the County system and, apparently, those not generally associated with the system have a lower probability of serving. The system makes heavy use of propertied personnel, especially in the critical key-man position, thus extending its reach into the citizen domain and potentially obviating control mechanisms. There is also evidence of a conservative mind-set in these propertied personnel and those in the system generally, which could lead to further control of the indictment decision-making process.

For example, a south Texas grand jury failed to indict a United States Marine working an anti-drug stakeout where he killed an animal herder on the Texas-Mexican border. No matter how justified the Marine may have been in believing his shooting was in self-defense, that conviction became questionable when it was revealed that two of the grand jurors were current or former border patrol agents, and another two were customs employees (Herrick, 1997). The recognition that the government agents were, quite possibly, protecting themselves and their peers from any future indictment for the same offense committed at a later date by either them or a fellow officer is left unsaid.

Olsen and Khanna reported (2004) that the County sheriff's deputies have shot 22 individuals in autos since 1999 claiming that they were firing in self-defense. Of the 22, at least seven were uninvolved passengers, including a two-year-old. Four of the injured reportedly were never charged with a crime. Of the 22, 18 were unarmed. Three were caused by deputies shooting at fleeing autos, in violation of department policy. None of these officers are known to have been indicted for negligent behavior with an assistant district attorney claiming that all that an officer needs to prove is a reasonable perception of a deadly threat to himself or the public to avoid being indicted.

In October of 2003, an off-duty officer moonlighting in uniform at a part-time security job killed a 15-year-old when his weapon went off accidentally while arresting the teen. Though he had not followed departmental procedures, and eventually was fired by the department for his actions, the grand jury declined to indict for gross negligence. One can only

wonder if a fellow officer or associate sat on that grand jury based upon the history of the County. This lack of indictment was likely an important part of an arbitrator's decision to reinstate the officer. With no one in the justice system interested in finding out who was serving, an individual has a problem even determining which of the five grand juries sitting at the time were presented with the case. The defense will not pursue that information, as a no-bill served their purposes quite well and the prosecutor, having already chosen not to press charges, has no interest whatsoever in any further controversy being initiated regarding evidence of the officer's culpability in a homicide. From the DA's perspective, "no harm, no foul" seems to be the operating standard, at least as it relates to the office's reputation.

Olsen and Khanna further reported (2004) that in the County, law-enforcement officers seldom face criminal charges in shootings. Based on a review of 193 officers in 18 local agencies who killed or wounded citizens over the past five years, only three officers were prosecuted. One was indicted in 1999 for aggravated assault and official oppression (acquitted at trial); one pled guilty to violating the Private Investigators and Private Security Act for a shooting off-duty while serving as a security officer (he was fined and terminated from employment under a plea agreement); and one officer is currently under indictment for murder. These three indictments were the total response by the grand jury to officers shooting 65 unarmed people—killing 17—since 1999 (Khanna & Olsen, 2004).

When the courts willfully violate the law, whether in the name of expediency or in ignorance, a tendency for people to lose trust in the institution quickly develops. In the case of the County courts, at least one grand juror and one commissioner illegally served. Both previously served as commissioners during the preceding 12 months, yet the courts allowed one to serve as a commissioner a second time and the second individual to serve as a grand juror in violation of the Texas Code of Criminal Procedure. Unless brought up by a knowledgeable defense attorney, the courts are not held accountable for their own violation of Texas law. Further, with a belief by members of various minority groups that an erosion of civil liberties has taken place in recent years, the continued use of propriety individuals in the grand jury process can only lead to a worsening of that perception, even if it may be inaccurate.

A Left Realist Perspective

Kinsey, Lea, and Young (1986, p.59) stated that, "The issue of local democratic accountability of the police relates to the issue of local participation in the control of other state agencies as a way of overcoming the increasing marginalization of the innercity populations out of participation in the political system." They continue by remarking that, "A government which seeks to counter crime must start by guaranteeing the effectiveness of policing, which means asserting the primacy of democracy in the criminal justice system—a democratic magistracy and judiciary as much as a democratic police" (p. 214). That democratic judiciary includes a grand jury truly representing of the community it serves. It also means that officers are held accountable for their actions by the community they serve, but in the County at least, the killing of unarmed suspects by officers is not something that generally leads to indictments. Until officers are held accountable for their use of deadly force, police-induced homicides will continue. A grand jury made up of a broad segment of the community may be more likely to do just that. But even if they choose not to indict, a community knowing that the jury truly represents their interests, and is not influenced by police interests, will tend to be more accepting of the justice system, of its decisions, and of those who serve it.

The Solution

For over two hundred years the United States has had a grand jury system in place serving as both a "sword" to vanquish the guilty and a "shield" to protect the innocent from the vagaries of the government (Leipold, 2003, p. 182). Achieving a fair crosssection and avoiding the perception of intentional discrimination (racial, political, or by class) is simple. The County district courts, along with the rest of Texas' courts, can, and should, use the same random selection process that the state uses for petit jury selection. The federal government recognized the inherent inequalities of the key-man system, and Congress eliminated it in 1968 with the passage of the Jury Selection and Service Act. Justice Antonin Scalia considers the one argument offered against random selection—efficiency—a moot point. In a recent majority decision written by the justice regarding the expense of appeals for sentence reductions created by a Supreme Court

decision, he wrote, "Our decision cannot turn on whether or to what degree trial by jury impairs the efficiency or fairness of criminal justice" (Blakely v. Washington, 2004). His comments are no less applicable to correcting the potential injustices of the key-man system of grand jury selection.

By the simple expedient of random selection, a perception of impartiality will return to the decisions of the grand jury and, in so doing, the acceptance of the legitimacy of the police and the courts can only be enhanced. As Sunshine and Tyler (2003) stated, "...the key antecedent of legitimacy is the fairness of the procedures used by the police" (p. 513). This is as applicable to the courts as it is to the police. When the community fails to perceive that the social control mechanisms are fair and just, they no longer will deem it appropriate to live by its norms, rules, and laws. When that happens, our government becomes "their" government, with all that loss would entail.

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NOTES

- 1 My thanks to Marilyn McShane, Trey Williams, and the UHD faculty, who graciously guided me through the research and drafting of this article, and to Beth Pelz for her unwavering support.
- 2 Bexar County, Texas, chooses to use a random selection process for all district court grand jurors but for one court manned by a long-sitting judge who insists on the use of jury commissioners.
- 3 Greta Hikle is an assistant district attorney with the Bexar County District Attorney's Office.
- 4 Andy Tobias is an assistant district attorney serving as the grand jury division chief responsible for grand jury presentations and coordination in the County.
- 5 James Brooks has served as a grand juror and as a grand jury commissioner in the County. During the two years sampled, he served as both a jury commissioner and as a grand juror, and his wife also served as jury commissioner, having nominated him (James) for the grand jury. Based upon local newspaper articles, it was determined that Brooks served on one of the two grand juries that investigated the local police department laboratory for criminal wrongdoing.
- 6 Though it is recognized that the use of the term "Hispanic-surnamed" is an imprecise way to distinguish Hispanics, Latino/as, or Spanish-surnamed individuals and does not conform to contemporary usage, due to the extensive use of the term in various documents, court cases and books referred to in the text, including the 1980 Census "List of Spanish Surnames" (used in lieu of the 1996 list of "639 Most Frequently Occurring Heavily Hispanic Surnames"), the former form of identification has been chosen simply in the interest of continuity.
- 7 In this case a conservative perspective is created by a procedure that will provide the highest estimated number of Hispanic surnames. This number will be used to determine proportional representation in comparison with all other surnames.
- 8 This figure is derived from those individuals whom we were able to identify. It is probable that unidentified others also are propertied in the criminal justice system. Thus, this estimate is likely to be an underestimate.
- 9 A.H. Corbett, a captain with a local police department, has served as an alternate grand juror and as a grand jury commissioner while serving as the commander of the investigations division (and laboratory) of his police department.
- 10 Ian F. Haney Lopez's article on institutional racism details one of the most cogent explanations for the County court system bias available in print.



Measuring Recidivism in a Juvenile Drug Court: Systematic Outcome Study of a Juvenile Drug Court Using Historical Information

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Key Word(s): juvenile drug courts, program evaluation, juvenile recidivism, historical comparative methods, New Mexico, juvenile substance abuse, drug treatment

ABSTRACT

A number of unpublished technical reports claim that drug courts have been more successful than other forms of community supervision in closely supervising drug offenders in the community through frequent monitoring and close supervision, including mandatory frequent drug testing, placing and retaining drug offenders in treatment programs, providing treatment and related services to offenders who have not received such services in the past, generating actual and potential cost savings, and substantially reducing drug use and recidivism while offenders are in the program (Belenko, 1998). This paper presents research done as part of an outcome evaluation of the Eleventh Judicial District Juvenile Drug Court in Farmington, NM, completed in mid-2004. Since many juvenile drug court participants exit the program near their eighteenth birthday, the research design includes an innovative approach to address questions of participant recidivism by tracking both new referrals to juvenile probation and new arrests as an adult. Using a meticulously matched historical comparison group, the results establish a statistically significant lower overall recidivism rate for drug court participants.

THE DRUG COURT REVOLUTION

In response to the upward trend in drug abuse and related crimes during the 1970s and 1980s, the United States began its "War on Drugs," which emphasized a policy of imposing severe mandatory sentences for drug offenders. As a result of this strategy of increased prosecutions and longer time served in prison, prisons around the country quickly filled to capacity. The number of drug offenders in Federal prisons increased more than 12% annually, on average, from 14,976 during 1986 to 68,360 during 1999 (Scalia, 2001). Ironically, these efforts towards increased incarceration had few general deterrent effects and did little to reduce the demand for drugs. Local jurisdictions throughout the country began to search alternatives to the traditional methods of processing drug crimes. Drug courts became one of the most influential and arguably revolutionary solutions proposed to address the growing strain caused by drug offenders. In fact, John Walters, Director of the National Drug Control Policy, claims that drug courts are perhaps the most significant innovation in criminal justice of the past twenty years (Huddleston, Freeman-Wilson, Marlowe, & Rousell, 2005). The first drug court program in the country was created and implemented in 1989 in Dade County, Florida. The goal of the program was to reduce the costs of incarceration, drug abuse, and recidivism (Eleventh Judicial Circuit of Florida, 2006). One year later, the Oakland Drug Court was created and, by the end of 1992, Las Vegas, Nevada; Portland, Oregon; and Fort

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Lauderdale, Florida, had drug courts. By 1999, drug courts were commonplace in American jurisdictions, with 279 adult and 69 juvenile drug courts in operation and 164 adult and 48 juvenile drug courts in the planning process (OJP, 2001). Today, according to the National Association of Drug Court Professionals (NADCP) and the Office of Justice Programs (OJP) Drug Court Clearinghouse, there were 1,262 drug courts operating in early 2005 with another 575 programs planned in the United States (BJA, 2005). Interest in the drug court revolution is not limited to American courts as there is also now an International Association of Drug Court Professionals (IADCP) (Fox and Huddleston, 2003).

The evolution of juvenile drug courts occurred at a slightly slower rate than the adult courts with the first juvenile court emerging in 1995 (BJA, 2005). Although, initially, many believed the application of the drug court model to the juvenile courts would be relatively straight forward, the process of developing juvenile drug courts soon revealed a number of challenges (Drug Court Clearinghouse and Technical Assistance Project, 2000). Challenges unique to juvenile drug courts include (1) counteracting negative influences of peers, gangs, and other members of the community and family members with whom the juvenile must regularly interact; (2) addressing problems within the family environment, such as alcohol or drug abuse, which hinder the child's ability to refrain from drug use and to perform successfully in school and in activities outside of school; (3) obtaining adequate information about the child to address the child's problems without breaching confidentiality requirements applicable to juvenile proceedings; (4) handling the sense of invulnerability of juveniles who typically do not have the sense of having "hit bottom" frequently experienced by many adult drug court participants; and (5) responding to the evolving needs of juveniles as a result of the many changes that occur in the lives of every adolescent and teenager. These challenges, though not exhaustive, require the development of juvenile drug courts to include special strategies in order to address these issues. As of 2005, there were 334 juvenile drug courts operating in all fifty states of the country (BJA, 2005).

ELEVENTH JUDICIAL DISTRICT DRUG COURT

The Eleventh Judicial District Juvenile Drug Court, located in San Juan County, New Mexico began receiving referrals for juvenile participants in August 2000. Since that time, the court has screened more than 175 juveniles to determine eligibility and has approved over one hundred for intake into the program. To be eligible for admission to the drug court program, defendants must have no prior violent felony adjudications or prior convictions for sex offenses. Additionally, the defendant's current referring offense cannot be first degree felony. Finally, the defendant's referring offense must be drug or alcohol related. The goal in conducting this study was to better understand the effectiveness of the drug court program by determining how the program reduces the incidence of crime as measured by new referrals and new petitions as juveniles and arrests as adults (older than 18 years) for participants after they left the program when compared to a matched comparison group.

Outcome studies are useful for a number of reasons. First, knowledge involving client success and a program can be used in an interactive manner to create a self-correcting system and to improve programs. Second, both funding sources and service providers have a vested interest in utilizing scarce resources in the most effective manner. Programs that are effective in reducing future contact with the criminal justice system should be replicated. Third, outcome evaluation findings, if valid and reliable, can be used to make programs more useful to the target population.

The methodology used in conducting this study follows guidelines suggested by the federal Drug Court Program Office (DCPO) in their publication "Drug Court Monitoring, Evaluation, and Management Information Systems" (OJP, 1998), as well as generally accepted guidelines for impact/outcome evaluations. The design focuses on using a matched historical comparison group rather than a random sample. While randomized experiments are preferable, studies using nonrandom assignment may produce acceptable approximations to results from randomized experiments under some circumstances (Shadish and Ragsdale, 1996). Comparison group members were matched on sex, race/ethnicity, age, type of referring offense (i.e., drug possession/distribution, liquor laws, DWI, property crimes, and other crimes), the presence of a substance abuse history, geographical location, and drug court eligibility criteria (i.e., no violent felony convictions

and the current offense is not a violent felony). Comparison group members were also matched in time. This means comparison group members were taken from the same time period as the drug court group so that it is possible to control for what might be occurring in the larger community (e.g., a new District Attorney or change in laws) and for exposure time for recidivism. By matching the discharge date from the drug court program for the treatment group and the supervision end date for the comparison group, the two groups have roughly equivalent exposure times for recidivism. Successful drug court graduates and those who do not successfully complete the program are part of this study. The size of the drug court group and comparison group were approximately the same and were dependent on the number of participants who had left the drug court program based on the time parameters of the study. Information collected in the drug court client management database was used for the drug court treatment group. This includes referral information, demographic data, substance abuse history data, current offense data, school information, services received, and exit information. Subsequent official chronological offense histories were also collected.

The comparison group is comprised of drug court eligible individuals who for various reasons (e.g., were never referred) did not become drug court clients. These individuals were under the supervision of the local probation department. Information collected for the comparison group includes demographic data, substance abuse history data, chronological offense history data, current offense data, and exit status from probation information. Information for both the drug court group and comparison group consists of what is available from official records and does not consist of any self-report information.

Using historical information only allows us to collect official information that is available for the drug court and comparison group. It is our experience that historical information for the comparison group is much more limited than that which is available for the drug court group. This primarily occurs because many New Mexico drug courts use a variant of the same client management database designed by the University of New Mexico Institute for Social Research that routinely collects the information necessary to complete this type of study, while information for the comparison group is typically maintained in hard copy files that contain less information and often in different formats. The lack of available comparison group information limits the amount of data available for this study.

Outcome evaluation is typically the comparison of actual program outcomes with desired outcomes (goals). For criminal justice programs outcome evaluation measures typically focus on recidivism rates. Other types of outcomes that can be measured include changes in substance abuse and improvements in social indicators (e.g., employment, family relationships and living arrangements). Studies using historical information are limited to those measures that can be obtained through official sources, which is typically limited to official measures of recidivism. This is a weakness of this type of study. A strength of this type of study is it is relatively inexpensive to complete and requires much less time than other types of studies. This study focuses on recidivism—defined as an official new referral and petition or arrest (in-program and post-program) for any offense, and time to recidivism post-program.

RESEARCH DESIGN

This research paper builds on the work initiated through an independent evaluation research contract awarded to the University of New Mexico Institute for Social Research by the Eleventh Judicial District Court in San Juan County (Pitts & Guerin, 2004). The evaluation of the juvenile drug court program was executed by employing a mixed methodology approach (Berk & Rossi, 1990; Berg, 2001). The evaluation thoroughly examined the scope and nature of activity of the program relative to its stated objectives. The research team attempted to ascertain the level of operational effectiveness according to the demonstrable extent to which the program realized its primary mission. The evaluation utilized in-depth interviews with key players from the drug court team and focus groups (Berg, 2001; Patton, 1987; Patton, 1990). The research design also included a complex quantitative and qualitative data collection strategy based on client level information available through case files. Specifically, the research included a historical outcome study using a matched comparison group of individuals who did not participate in the juvenile drug court program. The current research

considers juvenile offenders who exited the juvenile drug court program between the two-year period of January 1, 2001, and December 31, 2002.

During the timeframe of the study, 62 juveniles exited the juvenile drug court program. One of the primary questions that administrators from the drug court program wanted to answer was whether or not drug court participants recidivated at a lower rate than non-drug court participants. Based on this question, a matched comparison group of juveniles on probation was selected based on a range of specific characteristics. The probation group, also referred to as the comparison group, was matched based on gender, ethnicity, referring offense, drug of choice, criminal history, geographical location, and release date from probation supervision. Any juvenile previously referred to and screened by the drug court was also excluded from consideration. The goal of the research was to draw a sample of probation participants who were similar in terms of chronological offense history, substance abuse, ethnicity, and gender. The comparison group was drawn from juveniles who were otherwise eligible for drug court but were never referred and did not participate in the drug court program. A number of factors could prevent an eligible person from being referred to the drug court program. These could include: differences in case management practices; available space in the drug court program; advice from the defense attorney; client's willingness or ability to participate in drug court; other pending court cases; other available drug treatment options; and/or other factors.

The New Mexico Children, Youth, and Families Department (CYFD) supplied data for all juveniles in San Juan County whose probation period ended during the two-year study period. The next step was to obtain permission from the San Juan County Juvenile Probation Office to review closed and active files for those individuals identified for inclusion in the comparison group. Even though automated data was available from CYFD, it was still necessary to review cases by hand to determine eligibility for the comparison group. If an individual met all the matching criteria for the study, they were included in the comparison group, and corresponding data was collected.

A number of independent factors could exclude an offender from being included in the comparison group. The following criteria were followed in the selection of the comparison group. All comparison group members:

- were matched to Eleventh Judicial District Court Drug Court participants who exited the program during the two-year period between January 2001 and December 2002 by gender, ethnicity, and referring offense;
- did not have prior violent felony convictions, referring offense was not a first-degree felony, and had no prior convictions for a sex crime;
- had never participated in the Eleventh Judicial District Court Drug Court program; and
- were matched to the extent possible to the Eleventh Judicial District Court Drug Court clients on primary drug of choice and geographical location.

Any potential comparison group member who had an indicated history of mental health problems or medical problems was excluded from the study. It was not possible to match participants on their employment status at intake into probation or on their years of completed education. Similarly, length of drug court participation could not be matched to the probation term because the average length of stay in the drug court program and probation vary. Drug of choice and city of residence also proved to be challenging, given the complexity of the matching process. A critical step in the matching process was the development of a ranked list of matching criteria to standardize the data collection. In the end result, 61 probation clients were matched to the 62 drug court clients. This attention to detail during the process of matching clients greatly improved the reliability of the data.

Once the two comparison groups were chosen, a chronological juvenile criminal history report was requested for both the drug court group and the comparison group. After establishing the importance of the study and securing permission, the New Mexico Children, Youth and Families Department (CYFD) Juvenile Justice Division (JJD) provided these reports through the local juvenile probation office. These reports contain information pertaining to each referral to the JJD, including incident date and charges, referral date to the local probation office, whether the incident was handled

formally or informally, and disposition information. An enhancement in this research design, compared to other similar studies, was the inclusion to adult criminal history information for both groups from the New Mexico Department of Public Safety. This is particularly important because many study group members were near 18 years of age when they left the program or probation. This report considers both juvenile and adult criminal activity, which is a considerable improvement in terms of methodological rigor and reliability.

DATA ANALYSIS AND DISCUSSION

This study considers drug court clients who exited the juvenile drug court between January 2001 and December 2002, a two-period. The criminal history information was gathered in May 2004 and thus, the recidivism measures shown here reflect a minimum of sixteen months of exposure time (the possible window where a new offense could be committed). In this section, the basic matching criteria are reviewed and some summaries of the data collected are presented.

According to the data provided by the New Mexico Children, Youth and Families Department, there were more than 450 juveniles released from juvenile probation in 2001 and 2002. The actual number eligible for participation in the comparison group was much smaller due to substance abuse and criminal history, drug court participation, etc. It is important to understand that an exact one-to-one match was not always possible and there are subsequently slight variations in the matches between the groups. The data presented in Table 1 show an almost perfect match based on gender, and considerations of Pearson’s chi-square show no statistically significant difference between the two groups. Subsequent tables are provided to show the similarity of the rigorous matching strategy for the two groups.

Table 1 – Gender					
Gender		Drug Court		Comparison	
		N	%	N	%
	Male	50	80. 6	48	78. 7
	Female	12	19. 4	13	21. 3
	Total	62	10 0.0	61	10 0.0

$X^2 (1) = .08, p > .05$

The sample is well matched according to ethnicity factors as shown in Table 2, and there is no statistically significant variation between the treatment and comparison groups. It is important to note the that this study is unique to other similar

studies in other parts of the country in that San Juan County has a large minority populations (particularly Native American and Hispanic).

Table 2 – Race/Ethnicity					
Race/Ethnicity		Drug Court		Comparison	
		N	%	N	%
	Anglo	18	29. 0	16	26. 2
	Hispanic	19	30. 7	20	32. 8
	Native American	24	38. 7	25	41. 0
	Other	1	1.6	0	----
	Total	62	10 0.0	61	10 0.0

$X^2 (3) = 1.16, p > .05$

After matching the treatment group to the comparison group based on gender and ethnicity, the next step was to consider referring offense. The main objective was to make certain that the comparison group closely mirrored the treatment group and to avoid including individuals who were more or less serious than the treatment group. Table 3 shows some slight differences between the referring offenses, but these are not statistically significant. Most notable are the higher percentage of drug possession and distribution charges in the treatment group and the number of DWI offenders in the comparison group. Even with these slight differences, the resulting match is highly comparable.

Table 3 – Referring Offense					
Referring Offense		Drug Court		Comparison	
		N	%	N	%
	Drug Possession/Distribution	18	29. 0	15	24. 6

Liquor Laws	13	21. 0	10	16. 4
DWI	7	11. 2	14	23. 0
Property Crimes	12	19. 4	13	21. 3
All Other Offenses	12	19. 4	9	14. 7
Total	62	10 0.0	61	10 0.0

$X^2 (4) = 3.20, p > .05$

Primary drug of choice was also considered. In the database maintained by the drug court, there is a specific field that stores this information. In the hard copy juvenile probation records, it was often necessary to read, and in some cases, interpret and decide upon the primary drug of choice. The differences between the two groups are shown in Table 4 and are not statistically significant.

Table 4 – Primary Substance of Abuse				
Primary Substance	Drug Court		Comparison	
	N	%	N	%
Alcohol	18	29. 0	28	45. 9
Marijuana	42	67. 8	33	54. 1
Other	2	3.2	0	---

Total	62	10 0.0	61	10 0.0
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$X^2 (2) = 5.26, p > .05$

Once the comparison group was identified, additional case information was gathered in order to further describe the two groups. The data on the drug court group was obtained from the standardized database in use by the court. The probation data was obtained from official sources included in the case file. A conscious effort was made to avoid the use of uncorroborated and/or self-reported information.

San Juan County covers a large geographical area in northwest New Mexico (see Map 1). The drug court office is located in Farmington, and participation in the drug court program requires juveniles to consistently have access to reliable transportation to treatment interventions, court hearings, and other meetings. Indeed, transportation is one of the largest obstacles that affects whether a person is referred to the drug court program or not. Table 5 shows the primary city of residence for the two groups. While the majority of both groups are from Farmington, Bloomfield, or Aztec, many of the individuals included in the comparison group are from more remote areas. Individuals in the drug court group traveled an average of 7.4 miles to reach the drug court while the comparison group traveled approximately 12.0 miles. The difference between the two groups is statistically significant ($t (77) = -2.6, p < .05$).

City of Residence (Distance from Farmington in miles)	Drug Court		Comparison	
	N	%	N	%
Farmington (4)	35	56.5	27	44.3
Kirtland (9)	3	4.8	8	13.1
Flora Vista (10.5)	3	4.8	1	1.6
Fruitland (11.5)	5	8.1	0	---
Bloomfield	11	17.7	8	13.1

(13.5)		7		1
Aztec (15.5)	5	8.1	5	8.2
Shiprock (28)	0	---	5	8.2
Other*	0	---	7	11. 5
Total	62	10 0.0	61	10 0.0

*Blanco (23.5), La Plata (17), Newcomb (63), Sanostee (60), Waterflow (15.5)

$X^2(7) = 21.79, p < .05$

Final disposition from drug court and probation supervision are not mutually exclusive since all drug court participants are also on probation. In other words, successful discharge from the juvenile drug court may not necessarily mean the juvenile will be successfully discharged from probation, and vice versa. Still, as a proxy measure, it is informative to see how the two groups compare. In the two-year period studied, 40% of the drug court participants discharged graduated successfully. In the same period, slightly less than half of the comparison group completed their term of supervision successfully. Again, while these two measures are not exactly comparable, Table 6 does show that the two groups are quite similar, and in fact, there is no statistical difference between the two.

Table 6 – Disposition at Exit

Disposition at Exit	Drug Court		Comparison	
	N	%	N	%
Graduate/Terminated Positively	25	40.3	29	47. 5
Absconded/Terminated Negatively	37	59.7	32	52. 5
Total	62	100. 0	61	10 0.0

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$X^2(3) = .651, p > .05$

As mentioned previously, many drug court participants continue on supervision following their release from drug court. Table 7 shows the average length or stay in drug court for the treatment group and the average term of supervision for the comparison group. Drug court graduates spent an average of 10.1 months in the program, whereas unsuccessful participants spent an average of 6.0 months in the program. By contrast, unsuccessful comparison group subjects spent an average of 9.7 months under supervision while those who were successfully released from supervision spent 9.4 months. This is not surprising since the court determines probation supervision terms.

The mean age for both groups at the time of intake into the drug court or beginning of the supervision term is quite similar—15.8 years old for drug court participants versus 16.3 years for members of the comparison group. This difference is statistically insignificant and there is no reason to suspect any differences between the two groups on the basis of age $t=.0413, (p > .05)$.

Similarly, subjects from both groups had precisely the same mean years of education (9.1 years), and there are no indications that differences in education would affect recidivism. See Table 7 for a summary of the highest grade completed by groups.

Table 7 - Highest Grade Completed					
Highest Grade	Drug Court			Comparison	
	N	<i>Cumulative %</i>		N	<i>Cumulative %</i>
6	3	4.8		2	3.4
7	6	14.8		3	8.5
8	11	32.8		8	39.0
9	18	62.3		3	61.0
10	13	82.3		3	83.1
11	7	95.1		8	86.4

	12	3	100.0	2	100.0
Total	61			5 9	

$X^2(6) = 3.93, p > .05$; Missing=3

While there is no statistical difference between the groups in terms of years of education completed, there is a significant difference between the groups in reference to whether they were enrolled in school or not at the time of intake/assignment to probation. More than 90% of the treatment group was in school upon their intake into the drug court program, compared to only about half of the comparison group who were enrolled. Although not an eligibility criteria, drug court participants are expected to either be working towards their high school diploma or to have their GED. It is important to note that most drug court participants also participate in the grade court as a condition of their participation.

Table 8 – Enrolled in School

Education	Drug Court		Comparison	
	N	%	N	%
Full-Time/Part-Time	57	91.9	31	50.8
Obtained GED	1	1.6	3	4.9
Not in School	4	6.5	27	44.3
Total	62	100.0	61	100.0

$X^2(2) = 22.68, p < .05$

As might be expected, employment status is related to school involvement and is similarly significant between the two groups. The vast majority of drug court participants were enrolled in school at the time of intake, and most were not working. Table 9 summarizes the employment status of the study subjects.

Table 9 – Employment Status				
Employment Status	Drug Court		Comparison	
	N	%	N	%
Employed Full-time	1	1.6	1	1.7
Employed Part-time	3	4.8	12	20.0
Unemployed	4	6.5	14	23.3
In School Only	54	87.1	32	53.3
Job Training/Intern	0	---	1	1.7
Total	62	100.0	60	100.0

$X^2(4) = 37.31, p < .001$; Missing=1

Most treatment group and comparison group subjects were living with one or both parents at the time of intake. However, there was a statistically significant difference between the two groups stemming from a fairly large percentage in the comparison group who were not living with a parent at the time of their assignment to probation. The available data did not allow us to consistently gather specific living arrangements, although it appears that the majority of participants were in single-parent situations. A future study should seek to further investigate the living arrangement dynamics.

Table 10 – Living Arrangements

Living Arrangements		Drug Court		Comparison	
		N	%	N	%
Living with One or both Parent(s)	58	93.5	46	75.4	
Other Arrangement	4	6.5	15	24.6	
Total	62	100.0	61	100.0	

$X^2(1) = 7.74, p < .01$

RECIDIVISM

Recidivism can be defined in numerous ways, including a referral for any new offense, a referral for a similar offense or the same offense (i.e., drug possession), a conviction, or a new petition. For this research, recidivism refers to any subsequent referral to the Juvenile Justice Division of the Children, Youth and Families Department. This research also considers any new arrest as an adult as reflected in the data maintained by the New Mexico Department of Public Safety as an important measure of recidivism.

It is important to note exposure time for recidivism varied for the study group from between approximately sixteen months to forty months. This occurs because individuals from both groups exited from either the drug court program or probation comparison group on different dates between January 2001 and December 2002.

In both groups, the majority of subjects did not receive a subsequent referral to the JJD following their release from the drug court or probation. Among the treatment group participants, 22.6% received a new referral compared to 29.5% among the comparison group. While a lower percentage of the drug court participants received new referrals, there is no statistical significant difference between the two groups. Age is a consideration here since many subjects in both groups were at or near their eighteenth birthday upon their release from drug court or probation and would not have been eligible to have a subsequent juvenile referral.

Table 11 – New Juvenile Referrals		
New Referral	Drug Court	Comparison

		N	%	N	%
	Yes	14	22. 6	18	29. 5
	No	48	77. 4	43	70. 5
	Total	62	10 0.0	61	10 0.0

$X^2(1) = .774, p > .05$

This study also includes adult criminal activity subsequent to the participant’s release from drug court or probation. This fact, coupled with the increased length of exposure time considered in this study, increases the reliability of the results. Based on the adult arrest data, the data showed that a lower percentage of drug court participants had new arrests than their comparison group counterparts. While the relative difference was statistically insignificant, the effect of the drug court intervention is apparent. It is important to note here that drug court participants are considered here as a whole, regardless of whether they graduated or not, and both juvenile and adult measures of recidivism are lower than a comparable, drug-court-eligible comparison group.

Table 12 – New Arrests as an Adult

Table 12 – New Arrests as an Adult					
New Arrest as an Adult	Drug Court		Comparison		
	N	%	N	%	
	Yes	11	17. 7	18	29. 5
	No	51	82. 3	43	70. 5
	Total	62	10 0.0	61	10 0.0

$$X^2(1) = 2.37, p > .05$$

By combining the two measures, it is possible to create an overall measure of recidivism. Table 13 shows the recidivism rates for both groups for any subsequent juvenile referral *or* new arrest as an adult. Drug court participants were significantly less likely to recidivate than similar subjects who do not receive drug court programming. The data also reveal significant differences based on whether or not the participants were successfully or unsuccessfully discharged. More than two-thirds of comparison group subjects (69.0%) who were discharged unsatisfactorily from probation supervision went on to have a subsequent arrest. Among the drug court group, 43.2% of those who did not graduate from the program received new charges subsequent to their release. Perhaps most important, drug court graduates recidivated at the lowest rate of all (28.0%) with only seven graduates receiving new charges.

Table 13 – Overall Recidivism

New Offense		Drug Court		Comparison	
		N	%	N	%
Yes	23	37.1	34	55.7	
No	39	62.9	27	44.3	
Total	62	100.0	61	100.0	

$$X^2(1) = 4.3, p < .05$$

CONCLUSIONS AND RECOMMENDATIONS

With the most rigorous research design of a juvenile drug court program in New Mexico to date, this study shows support for the effectiveness of Eleventh Judicial District Juvenile Drug Court Program in reducing criminal recidivism. Through a meticulous matching process, this research has identified a well-suited comparison group based on gender, ethnicity, substance abuse history, primary abuse substance, criminal history, and other exclusionary criteria. While the comparison group participants were never referred to the drug court program, all were technically eligible for participation. The distinction “technically eligible” is made since some of the comparison group subjects may not have had the necessary transportation and/or parental support to participate in the juvenile drug court program. Indeed, the

bivariate analyses presented here show statistically significant differences in living arrangements that could be relevant to drug court participation.

The finding that drug court participants recidivate less often than the comparison group subjects, whether they graduate or not, is particularly intriguing. While non-graduates stay in the program on average six months, the gap between the mean length of stay of graduates and non-graduates is only four months. This would seem to suggest that there is some residual benefit of drug court participation even among non-graduates. A future study should do a survival analysis to determine at what point in time drug court participants have a noticeable reduction in recidivism. Similarly, it would be informative to know the point of diminishing returns among graduates. In other words, is there an added benefit of keeping drug court participants in longer? Would a nine-month average length of stay produce the same result or would a twelve-month stay produce better outcomes?

The significant differences in educational attainment and concurrent school enrollment are important to consider further. The comparison group subjects were more likely to not be enrolled in school. The unique emphasis on education in San Juan County resulting from the prominent grade court initiative should be considered more fully. Although this study does not include specific data or analyses of the grade court program, the inter-relationships between the drug court and the grade court may be a significant factor in the lower overall recidivism rate.

The significant differences in the number of miles from the city of residence to the drug court and the juvenile probation office (both are located in Farmington) should also be considered. Transportation or the lack thereof, is a serious problem in San Juan County according to drug court and probation representatives. Many residents live in remote areas, and compliance with official sanctions of the court, either through drug court or probation, is difficult to achieve. In the current study, despite our rigorous efforts to match the participants, the mean difference in miles from the city of residence to Farmington was significantly different. Even so, when comparing the mean number of miles from the city of residence, there is no significant difference between successful and unsuccessful participants ($t(121) = -.165, p > .05$). Anecdotally, drug court and probation officials report that long distances make supervision difficult and revocation more common. A future study should seek to confirm this finding that the mean distance the juvenile lives from Farmington does not seem to impact successful outcomes. Perhaps this realization would allow the drug court to accept additional referrals from more distant areas.

Finally, a future study should include additional measures of success in addition to criminal recidivism. Additional measures of success would concentrate on changes in substance use and increases in measures of social stability (i.e., school improvement, family, employment).

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A Daily Reminder: The Impact of Creating a Daily News Notebook of DWI-Related Articles on Reducing Drinking and Driving Recidivism

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Although many public policies have been implemented to deter drunk driving, alcohol-related crashes still cost billions of dollars each year nationwide. In addition, alcohol-related crashes cost society in terms of lost lives. Estimates indicate someone is killed in an alcohol-related crash every 32 minutes, and 3 in 10 Americans will be involved in alcohol-related crashes at some time in their lives (National Highway Traffic Safety Administration – NHTSA, 2000). In 2004, alcohol was involved in nearly 40% of the traffic fatalities in America, totaling 16,694 alcohol-related deaths. Of these alcohol-related fatalities nationwide, 1,642, or about 10%, occurred in Texas (National Center for Statistics & Analysis, 2005).

While progress has been made in the last 20 years, Texas consistently ranks high among states in the number of alcohol-related deaths. Further, alcohol is the primary drug of abuse in Texas. In 2003, 30% of all clients who were admitted to publicly-funded substance abuse treatment programs in Texas identified alcohol as their primary problem (Maxwell, 2004).

In Texas, like the rest of the United States, drinking and driving has continued to be a major concern and focal point for new legislation. Tougher legislation has been supported and often introduced by such victim advocate groups as Mothers Against Drunk Driving (MADD). Texas has lowered the legal Blood Alcohol Content (BAC) level from .10 to .08, and has instituted mandatory driver license suspension for DWI offenders who refuse or fail the chemical test (National Council of State Legislatures, 2003). DWI offenders in Texas must also spend some time in jail, even if granted a probated sentence. However, incarceration alone has not proven to be an effective deterrent to future DWI behavior (DeJong, 1997; Mann, Vingilis, Gavin, Adlaf, and Anglin, 1991; Nichols and Ross, 1990). Several different combinations of interventions with various types of treatment were studied in California involving 88,552 first-time DWI offenders.

[Root, Miller, Zessin — A Daily Reminder: The Impact of Creating a Daily News Notebook of DWI-Related Articles on Reducing Drinking and Driving Recidivism \(2006\)](#)

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Results showed that a combination of alcohol treatment and license suspension had the lowest recidivism rate, while jail alone or jail with license suspension had the highest rate (DeYoung, 1997).

Other attempts to discourage drunk driving in Texas have included hefty fines, probation supervision with a required DWI educational component, and installing ignition interlock devices on vehicles of repeat offenders. Ignition interlock devices connected to breath analyzers prevent the vehicle from starting if the BAC of the one being tested is determined to be too high. Studies conducted in Maryland (Beck and Rauch, 1999) and Ohio (Morse and Elliot, 1992) showed that such devices were contributing to lower recidivism rates, but recent research has indicated that interlock devices are not particularly useful for preventing recidivism among first-time DWI offenders (Fulkerson, 2003; Marques, Tippets, and Voas, 2003).

Other strategies to reduce drinking and driving across the nation have included raising taxes on liquor, comprehensive community intervention programs, setting up random DWI checkpoints, using electronic monitoring devices, and implementing dedicated detention facilities, which provide substance abuse treatment and counseling. The University of New Mexico's Institute for Social Research Center for Applied Research and Analysis (2002) reported the effectiveness of these various policies in a comprehensive literature review.

EDUCATIONAL INTERVENTION POPULAR IN TEXAS

The Texas State Legislature, like most states, has mandated a DWI Education Program (DWI School) for DWI offenders in order to enable them "...to have a sound knowledge base upon which to make future decisions concerning their drinking/driving behavior" (Texas Commission on Alcohol & Drug Abuse - TCADA, 2001). A certified instructor delivers this 12-hour educational course utilizing a combination of lectures, group discussions, videos, and homework assignments, in a classroom setting.

DWI School informs participants about the deleterious effects of alcohol use on driving ability, provides an overview of current DWI laws, and reviews the personal, economic, and societal costs of DWI behavior. Each participant personalizes a plan to avoid future DWI behavior and must pass a comprehensive multiple-choice test at the conclusion of the program. Popkin (1994) suggested that between 20% and 40% of those convicted of drunk driving for the first time would fall into the social drinker category, and benefit by this type of educational program. However, according to a meta-analysis involving approximately 200 independent studies of DWI interventions, the majority of which included educational components, Elisabeth Wells-Parker and her coauthors found that education programs have not produced meaningful changes in behavior unless combined with other treatment or intervention modalities (Wells-Parker, Bangert-Drowns, McMillen, & Williams, 1995).

Victim Impact Panels (VIP), another type of educational intervention often used in Texas and throughout the United States, were started in 1982 by Mothers Against Drunk Driving (MADD). VIPs feature lectures by victims or family members/friends of a victim of a drunk driver, making an emotional appeal for offenders to change their attitudes toward drinking and driving. The purpose is to elicit awareness of the detrimental consequences real people have suffered due to a drinking and driving event, ultimately hoping to compel DWI offenders to change their behavior (Rojek, Coverdill, & Fors, 2003).

Two studies sponsored by MADD in Oregon (MADD, 1989; O'Laughlin, 1990) showed positive results in reducing recidivism among first-time DWI offenders who had attended VIP. Fors and Rojek (1999) also showed a reduction in future drunk driving incidents among Georgian DWI offenders who had attended VIP. However, other studies have shown mixed results for the effectiveness of VIP in reducing DWI recidivism. (C'de Baca, Lapham, Paine, and Skipper, 2000; Foley and Kimmey, 2003; Shinar and Compton, 1995; Sprang, 1997; and Liu, 1993).

Michele Polacsek, et. al., (2001) designed an experimental study to assess the effect of VIP over the effects of DWI School in reducing recidivism, and on moving individuals through the stages-of-change toward not drinking and driving. The 813 offenders studied were randomly assigned to either DWI School alone or a combination of DWI School and VIP. They found that VIP had no added effect toward decreasing re-arrest nor increasing motivation to change DWI behavior than did the DWI School by itself over a 2-year period following the intervention. In addition, another study found the effectiveness of VIP in changing attitudes toward drinking and driving to have a rather short life span (Badovinac, 1994).

The Honorable Larry Standley, presiding over Harris County Criminal Court-at-Law #6, thought that drinking and driving might be reduced if first-time DWI offenders were compelled to keep the harmful consequences of such behavior at the forefront of their minds for an entire year. Judge Standley orders first-time misdemeanor DWI defendants that receive a probated sentence, typically for one year, to take a daily accounting of this potential harm by reading articles related to drinking and driving. They are then ordered to place these articles in a notebook that must be presented to their probation officers on each visit and to the judge prior to successful termination of probation. Judge Standley's order to create the daily notebook would seem to be a perfect adjunct for both DWI school and VIP interventions by re-enforcing the lessons learned in the 12 hour class and exposing DWI offenders to more stories of harmful consequences than they would hear in just one VIP session.

In order to assess the impact of the notebook order on revocation and recidivism rates of first-time DWI offenders, the research effort, which culminated in the present study, has spanned more than four years and employed a wide variety of research designs and statistical techniques. First, a cross-court comparison showed no statistically significant differences in revocation rates among the 15 Harris County Criminal Courts-at-Law (Root, 2001a). Next was a study based on survey input by Judge Standley's probationers to determine the perceived value of the DWI notebook condition of supervision compared to DWI School and VIP (Root, 2001b). Most probationers perceived DWI School and VIP as the superior conditions of supervision to prevent future DWI behavior. However, probationers who were willing to spend more time developing the notebook found real value in the exercise. Further, in those questions that directly compared the DWI School and VIP conditions with the notebook, a third of the probationers thought that the notebook did a better job of preventing recidivism. Finally, the present study was designed to determine the impact of the notebook on reducing recidivism, defined as DWI re-arrest.

INNOVATIVE EDUCATIONAL INTERVENTION USED IN HARRIS COUNTY

DWI defendants who plead guilty in Harris County Criminal Court-at-Law #6 are instructed in open court how to carry out a daily activity that will be required as a condition of community supervision. Before accepting the defendant's plea of guilt, Judge Standley reads the following aloud from the bench:

You will keep a DWI notebook. Every day you will look in the major newspaper where you live, cut out any articles that relate in any way to DWI whether it's proposed legislation, traffic fatalities, professional athletes or public officials being charged with the same offense. Anything related to this topic should be cut out and kept in this notebook on a daily basis. If there are no articles on a particular date you will cut out the date and make a notation "No Articles this date". This is not meant to embarrass you. You do it in the privacy of your own home. It is only meant to give you a daily reminder of what you are on probation for. You will show this to your probation officer every time you report so they can verify you are in compliance with this condition. Failure to comply could result in a future jail term as an added condition of probation. At the conclusion of your

probationary term this notebook will be forwarded to the Court by your probation officer. There are several notebooks for you to review before you leave court today to give you an idea of what is expected. These examples are from actual probationers who have successfully completed DWI probation in this Court.

Written English instructions on how to prepare the daily notebook are then given to each defendant and are verbally translated to Spanish-speaking or other non-English speaking defendants. Probationers are instructed to use articles from publications in their primary language. Harris County Community Supervision & Corrections Department has specialized caseloads for Spanish and Vietnamese-speaking offenders.

Any probationer who fails to comply with the condition of supervision requiring the creation of the notebook is escorted to court by his/her probation officer where Judge Standley admonishes the delinquent probationer from the bench in open court. The judge then escorts the probationer to his chambers, where over 80 boxes of notebooks are stored, just to emphasize the importance that he places on this condition. To date, no probationer has refused to comply with the notebook condition after such admonishment.

THE DATA COLLECTION PROCESS AND SAMPLING RESULTS

There were 8,128 first-time DWI offenders placed on probation between January 1, 1999, and December 31, 2000, by the 15 misdemeanor criminal courts in Harris County. Because cases were assigned randomly to the 15 courts, no systematic differences in demographic make-up of the subjects would be expected. Nevertheless, the original sampling procedure matched the treatment and control groups on age, gender, education, and race/ethnicity. The samples were further matched by virtue of being from courts with nearly identical revocation rates.

Judge Standley supervised 635 offenders, who were designated the treatment group. Seven of the other 14 courts had revocation rates within 1.4% of Judge Standley's and were used as the pool for creating the control group. Each of these seven courts contributed approximately the same number of individuals to the control group.¹ Of the original 635 offenders in each group, 604 were maintained in the control group and 595 in the treatment group for the final samples. Those eliminated from the final samples included individuals who had died, had absconded, or had been deported from the United States.

The study data was obtained from self-reports and official criminal records. Age was determined as the difference in days between the offender's birthday and the day probation began, expressed in years by dividing the days in the equation by 365.25 (in order to account for leap years). The youngest DWI offender in the study was 17 years and the oldest was 80 years, with a mean age of 34 years (median=32 and mode=29). Most of the DWI offenders in this study were men (N=948) although a sizable minority (N=251 or 20.9%) were women.

Education was coded as the number of years the offender had reported completing in school and the type of diploma/degree earned. Altogether, only 43 offenders had missing data on education. Of those with available educational data, 52.2% had no high school diploma or GED; 7.3% had a GED; 29.0% had a high school diploma; and 11.6% had college degrees.

The race/ethnicity variable showed a distribution of 85.6% white, 8.2% African-American, 4.8% Hispanic, and 1.4% Asian. However, it should be noted the official criminal records in Harris County do not always record Hispanic ethnicity consistently. It is highly likely that many Hispanics were classified as white.

Although all the offenders included in the treatment and control groups were first-time DWI offenders, many had prior traffic violations. Taxman and Piquero (2001) made a persuasive argument that a prior history of non-alcohol related traffic violations indicated "high risk behavior" and was among the best predictors of DWI recidivism. Therefore, the number of previous non-alcohol related traffic violations was used long with the demographic characteristics as independent variables in the analysis. About two-thirds of the entire sample had no prior traffic violations to their initial

DWI arrest, while 22.3% had at least one such violation, and 13.4% had two or more. In the analysis, the original variable of raw number of prior traffic violations was used, along with a ternary variable divided into no prior, a single prior, or more than one prior traffic offense.

Alcohol dependency, based on evaluations made by the Substance Abuse/Life Circumstances Evaluation (SALCE) and scores from the Wisconsin Risk/Needs Assessment completed the independent variables used in our analysis. SALCE was validated as an assessment instrument in a study commissioned by the National Highway Traffic Safety Administration (NHTSA) and correctly identified 92% of problem drinkers and 57% of non-problem drinkers (Lacey, Jones, and Wiliszowski, 1999). Although there were a number of false positives found in the validation study, we used the SALCE because it was the recommended assessment for DWI offenders in Texas by the Texas Commission on Alcohol and Drug Abuse.

SALCE assessments use a 1 to 5-point scale to determine alcohol dependence (ADE Incorporated, 1990). A score of 1 or 2 indicates a status of “social drinker” a score of 3 a “possible problem drinker” and a 4 or 5 a “problem drinker”. A little over a third of the DWI offenders in the combined sample (36.4%) were considered “social drinkers,” while 26.1% were “possible problem drinkers,” and 37.5% were “problem drinkers.” For the Cox regression analysis, the original raw scores were reduced to a dichotomous variable of problem/non-problem drinkers.

The Wisconsin Risk/Needs Assessment is administered to all probationers in Harris County. The instrument covers a wide variety of criminogenic factors and is based primarily on self-reported data (National Institute of Corrections, 2003). The probation officer has some subjective input to the instrument as well. Ratio-level integers are totaled for the overall risk level (for this sample the range was 0 to +25) and needs level (for this sample the range was -4 to +36). The assessment tool then reduces these raw scores to two ternary variables as follows:

RISK	NEEDS
Maximum	15 or higher raw score
Medium	8-14 raw score
Minimum	0-7 raw score

Only 16 of the DWI offenders were considered “maximum risk,” and only one was assessed “maximum needs.” The overwhelming majority fell into the minimum risk and minimum needs categories (71% were minimum risk and 82.7% were minimum needs). It should be noted that the supervision requirements are directly tied to the level of risk assessed; the higher the risk, the more closely the probation officer must supervise the offender. Minimum risk level requires meeting the probationer face-to-face only once every 90 days, while a medium risk level necessitates monthly office visits, and maximum risk level entails a combination of monthly office visits and home visits with the offender. Because the probation officer performs the preliminary assessment on all offenders on their caseloads, many of these assessments are likely to be underscored. The ternary variables were reduced to dichotomous variables of no risk/some risk and no needs/some needs for the analysis.

The offenders in the treatment group were sentenced to a slightly longer period of supervision than were those in the control group, and served on average approximately three weeks longer. The means test showed that all judges were extending probation terms for those deemed to have a drinking problem based on the SALCE assessments, as seen in **Table 1**.

Table 1: Average Number of Months Ordered to Serve on Probation for First-Time DWI Offenders in Harris County (1999-2000)

		Report			
# of Months Probation Ordered					
Problem Drinker? Based on SALCE	Type of Group	Mean	N	Std. Deviation	Std. Error of Mean
No	Control Group	12.37	214	2.580	.176

METHODOLOGY

Various models utilizing the independent variables, including the treatment and control groups, were estimated using Cox proportional hazards regression (survival analysis) in order to determine if the notebook was having a significant effect on reducing the time until DWI re-arrest subsequent to the beginning date of supervision. Logistic analysis has often been used in studies on DWI recidivism. In logistic analysis, the variable being predicted was binary: a “one” if the subject had recidivated, and a “zero” if s/he had not. Survival analysis is an improvement in that it offers the ability to incorporate the time elapsed until that recidivism occurs. This “time to recurrence” is information ignored by simple logistic regression. Survival analysis also is able to take “censoring” into account.

In this study, the critical event to be detected is a subsequent DWI arrest after the onset of probation for the initial DWI conviction. Non-detections are called “censored” data points. In other words, if the DWI offender did not recidivate within the time limit for reviewing re-arrest records, s/he would be part of the “censored” data. This data is “right-censored” since the study had a cutoff date (end of March 2004) after which no further arrest records were inspected. The class of “censored” individuals includes some who will never recidivate, and some who might take longer than the timeframe under review to recidivate. Cox regression effectively estimates the sizes of these two groups, under certain assumptions, and takes this into account in its estimation of the impacts of the predictors.

PRELIMINARY SURVIVAL ANALYSES

It is very important to establish the basic structure of the timing of recidivism, and indeed whether recidivism will necessarily occur for all offenders or only a portion of them, in order to assess the appropriateness of utilizing Cox regression. In our dataset, fully 82.8% of the treatment sample had not recidivated by the end of March 2004, while even more (87.8%) of the control group had not recidivated.

Using these data and a non-parametric test (Maller and Zhou, 1996) it appeared to strongly support the hypothesis that “immunes” (those who would never recidivate) existed in the samples. Unfortunately, using another test from Maller and Zhou (1996) suggested that additional tracking time would be needed before drawing a firm conclusion about the size of the immune population.

Parametric estimation (Schmidt and Witte, 1988; Bunday and Kiri, 1992, Maller and Zhou, 1996) of the “immune” proportion in an exponential model suggested that only about one-fourth (26.2%) will ever recidivate, and that the exponential model, which hypothesizes that the probability of recidivism at any given point in time or the “hazard rate” is constant over time, is a good fit to these data. The practical, immediate conclusion of these preliminary tests was that the assumptions for use of the Cox regression as the fundamental analytic regimen seemed more reasonable in light of the exponential distribution pattern of the recidivism times.

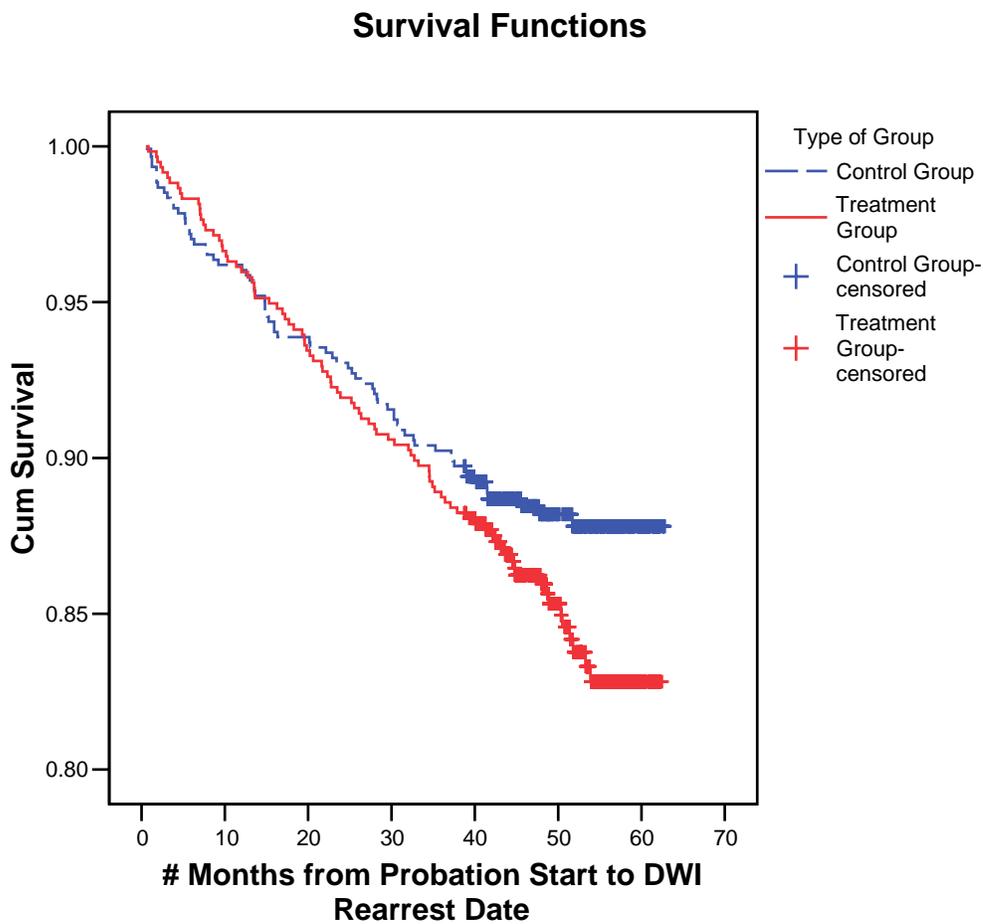
For a more extensive treatment of the methodology employed, see Miller and Root, *A Survival Analysis of Recidivism Among First-time DWI Offenders*, in preparation (available directly from the authors upon request).

RESULTS/FINDINGS

Approximately 13% (N=160) of the original 1,199 offenders that had been convicted of DWI in 1999 or 2000 were arrested again for drunk driving before the end of March 2004. Interestingly, this was the same percentage found in a 1984 study on Harris County DWI offenders, although recidivism in that study was defined as reconviction for DWI rather than simply re-arrest (Wheeler and Hissong, 1988). There was no statistically significant difference between the treatment group (N=89) and the control group (N=71) in the number of recidivists.

Figure 1 demonstrates the similarity of recidivism patterns for the treatment and control groups over most of the time period covered in this study.

Figure 1: Survival Functions of DWI Offenders in Both Treatment and Control Groups

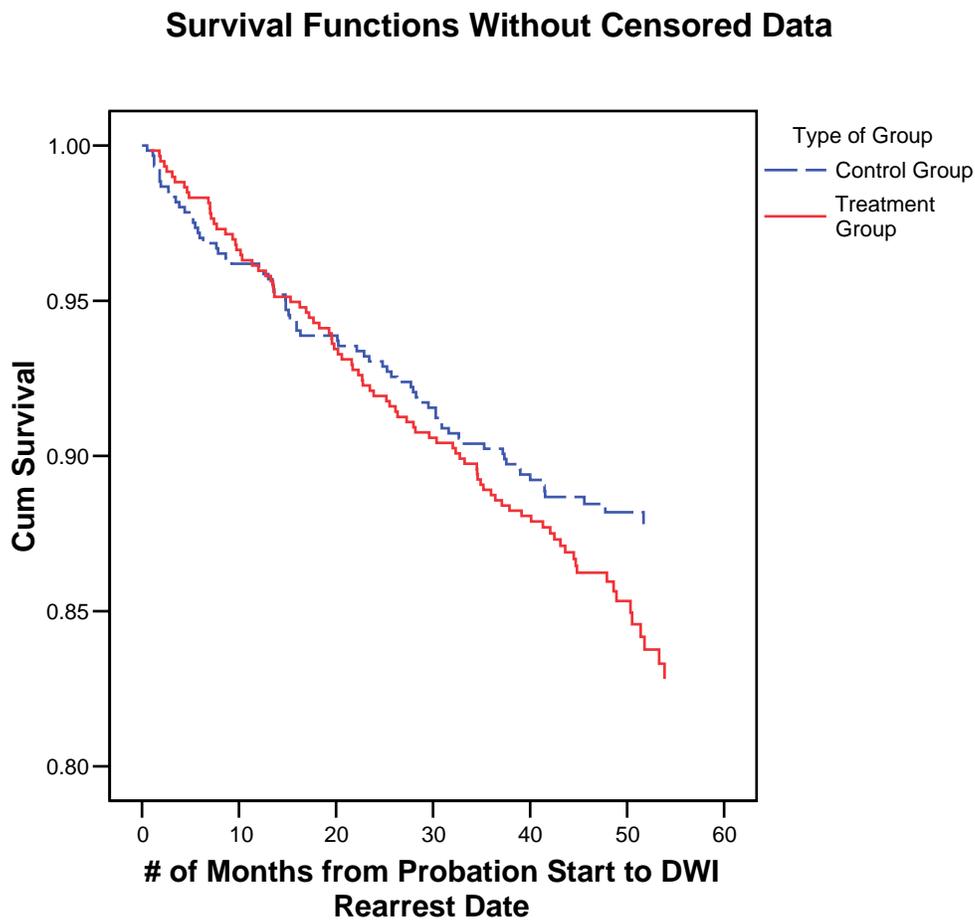


Although no statistically significant differences were found between the two groups in terms of the numbers that were arrested again for drunk driving, more DWI offenders in the treatment group had recidivated by the end of the tracking period. However, it did take somewhat longer for the treatment group to be re-arrested (among those who did recidivate),

compared to the control group. The survival analysis showed that during the supervision period of one year subsequent to the initial DWI conviction, the recidivating members of the treatment group took three to four months longer than their counterparts in the control group for re-arrest (9.5 months versus 5.9 months). This difference was not statistically significant (p-value = .164).

The treatment group continued to show a slightly lower number of recidivists than the control group (although never attaining statistical significance) for the first 20 months following the starting date of probation for the initial DWI conviction. However, after those first 20 months, the treatment group recidivated at a higher rate than did the control group. **Figure 2** illustrates the rather rapid decline of survival for the treatment group beginning approximately eight months after the end of their supervision terms.

Figure 2: Survival Functions of DWI Offenders in Treatment and Control Groups Without Censored Data



While the differences in recidivism rates between the two groups never attained statistical significance, the notebook appeared to have some limited effect on reducing drinking and driving behavior during the year-long period that the treatment group was on supervision and about eight months following termination of supervision. It is analogous to college students who will remember the lessons learned while still attending class, and perhaps for a time following the final exam, but eventually will tend to forget the substance of the educational experience because of a lack of daily reinforcement.

POLICY IMPLICATIONS OF THE FINDINGS

Unless there were some way of inspiring offenders to continue to search the newspapers daily for articles, it is highly unlikely that there would be long-lasting effects of creating a daily notebook. However, from a public safety point of view, the notebook intervention’s ability to reduce drinking and driving behavior (for at least the period during which the daily activity of gathering articles was taking place) would provide some beneficial results. There might also be other advantages for ordering the notebook as a condition of supervision from a cost-benefit analysis in comparison to more expensive clinical substance abuse treatment. Finally, the quality of the notebook may indicate likelihood to recidivate, acting as a harbinger for judges to employ other more effective treatment interventions.

Notebook vs. Substance Abuse Treatment and Interlock Devices

The original research design did not account for clinical substance abuse treatment as an independent variable. If the DWI offenders in the treatment group were being ordered to attend Alcoholics Anonymous (AA) meetings or some form of clinical substance abuse treatment, or if they had ignition interlock devices placed on their vehicles, it might be possible that these interventions rather than the notebook was suppressing their recidivism while they were still on supervision. In order to isolate the notebook as the sole difference between the interventions used in the treatment and control groups, orders to attend AA or clinical substance abuse treatment and interlock installation orders were reviewed.

There was no significant difference (p-value=.418) between the two groups on having an ignition interlock device installed on their vehicles. Interlock devices were ordered for 57 offenders in the treatment group and for 50 in the control group. However, there was a statistically significant difference between the numbers of offenders ordered to AA or clinical substance abuse treatment as a condition of supervision between the two groups (p-value=.008) as seen in **Table 2**.

Table 2: Comparison Between Orders to Attend Alcoholics Anonymous or Clinical Substance Abuse Treatment for DWI Offenders in the Treatment & Control Groups		Was Alcoholics Anonymous or Clinical Substance Abuse Treatment Ordered?		Total
		No	Yes	
Control Group	Number of DWI Offenders	444	71	515
	Column %	47.1%	60.2%	48.5%
	Row %	86.2%	13.8%	100%
Treatment Group	Number of DWI Offenders	499	47	546
	Column %	52.9%	39.8%	51.5%
	Row %	91.4%	8.6%	100%
Total	Number of DWI Offenders	943	118	1061
	Column %	100%	100%	100%

	Row %	88.9%	11.1%	100%
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Findings statistically significant p-value= .008 Missing data on 138 cases

Based on the SALCE, the treatment group had a significantly higher percentage of problem drinkers than the control group (p-value = .024) yet more of the offenders in the control group (N=71) were ordered to attend AA and clinical substance abuse treatment than were the offenders in the treatment group (N=47). Further, based on the initial Wisconsin Risk/Needs Assessment, the treatment group was at an overall higher risk to recidivate than was the control group (p-value = .001). The treatment group also had a higher percentage of offenders with prior non-alcohol-related traffic convictions, which approached statistical significance (p-value =.057) indicating once again that they were presumably at higher risk for recidivism than the control group.² Nonetheless, the treatment group was able to stave off re-arrest for a longer time than the control group during the probation period, the very time that the AA and clinical substance abuse treatment was being administered to the control group.

Therefore, considering the treatment group did better at not recidivating during the period of supervision, perhaps the notebook order was equally as effective at reducing recidivism as the far more expensive substance abuse treatment order given the control group. From a public policy standpoint, ordering the notebook would be far more cost effective than ordering substance abuse treatment for first-time DWI offenders.

Content Analysis of Notebook

The original research design did not anticipate an internal analysis of the quality of the notebooks being created. However, 137 notebooks created by those in the treatment group were located in Judge Standley’s storage facility. These notebooks were examined for the total number of articles gathered and their relevance to drinking and driving issues. Although the court order did not require finding an article every day, it was assumed that the higher number of relevant articles gathered, the better the predictive influence over the tendency to recidivate.

Ratios were constructed of the number of relevant articles to the number of total articles collected and the number of articles to the number of days on supervision. The 137 probationers whose notebooks were reviewed served an average 422 days on probation (median=376) and their notebooks contained an average of 165 articles (median=133) of which 47% were deemed relevant to drinking and driving. The other 53% were not articles, per se, or may have been about drug or alcohol-induced criminal behavior rather than specifically about drinking and driving.

Most of the “non-articles” were statistics printed from the MADD or NHTSA websites, advertisements from liquor companies urging consumers to not drink and drive, or photos of vehicular accidents (not all of which were alcohol-related accidents). Examples of the “irrelevant” articles included a domestic assault involving a drunken spouse and a report of a murder that occurred outside a local bar. Other articles had absolutely nothing to do with drugs or alcohol (e.g., immorality among high school students, focusing on their willingness to cheat on tests.) More than half of the treatment group had less than a high school education, which might account for the less than stellar performance on the notebook assignment.

Clearly, the probation officers were not carefully reviewing the notebooks for content compliance with the court order. Given that the overwhelming majority of these offenders were only required to meet with their probation officers once every 90 days, closer scrutiny of the notebooks might be difficult to achieve. We would recommend that the probation officers take a more active role in reviewing the notebooks when the probationer reports for a visit. If the notebooks do not show the requisite daily requirement for articles collected, or if the articles seem to be irrelevant to the assignment, the officer should assist the probationer in understanding how to comply with the notebook order.

Overall, articles were submitted approximately 41% of the days the probationers served. Only 12 (about 9%) of the 137 probationers whose notebooks were reviewed actually recidivated, and the mean time to the DWI re-arrest was 35 months. Cox regression was used to measure the relationship between the number of articles collected and the time to recidivism. Also explored was the relationship between the number of relevant articles collected and the time to recidivism. Finally, several ratio variables were constructed and analyzed with regard to the time to recidivism. None of the analyses were significant at the .05 level of significance; however, some were close and represent promising avenues for future research. **Table 3** reflects the likelihood ratio tests.

Although the lowest p-value is for the variable measuring the total number of articles collected, there are logical reasons for preferring a ratio score. The coefficient for the ratio of total articles to the number of days served on probation is .2182. Therefore, compared to a person who failed to turn in a notebook (the baseline case) a person who turns in one article per day (ratio=1.0) will have a hazard rate 21.82% times as high. In other words, a probationer who turned in articles daily would have about an 80% less likely chance of being re-arrested for drunk driving when compared to the one who turned in no articles at all.

Table 3: Bivariate Cox Regression Results

Predictor Variable	Coefficient	Standard Error	p-value
Number of articles	0.9958	0.0034	.1830
Number of relevant articles	0.9927	0.0080	.3432
Ratio of relevant to total articles	1.2800	1.4084	.8227
Ratio of articles to days on probation	0.2182	0.2968	.2203
Ratio of relevant articles to days on probation	0.0491	0.1667	.3541

Despite the lack of statistically significant differences in DWI recidivism between the treatment and control groups, the notebook order seemed to be at least as effective, and much less expensive, than clinical substance abuse treatment in reducing DWI recidivism. In addition, it took over three months longer for the treatment group to be re-arrested for drinking and driving while both groups of offenders were still on community supervision; therefore, the DWI notebook order bodes well for public safety concerns. Finally, when the daily requirement for gathering articles was met, there did seem to be the promise for a much less likely chance of being re-arrested for drunk driving compared to one who failed to comply with the order to create a daily notebook.

FUTURE RESEARCH

More careful sampling of offenders and their notebooks should provide a better estimate of how the notebook acts to extend the time before DWI re-arrest occurs, particularly among those offenders who make the effort to comply with the court’s instructions. In order to adequately measure the impact of the notebook on DWI recidivism would not require more than three years post community supervision termination because the essential differences occur during the period while the offender is on supervision. There is very little residual effect thereafter. However, further analysis of the notebooks is indicated, especially regarding the role that the probation officer takes in monitoring and motivating diligence among the offenders to comply with the court order in creating the daily notebook. Failure to adequately comply with the DWI notebook order might indicate other problems underlying the tendency toward recidivism, and become an indicator for closer supervision or other interventions.

It also remains to be seen if the notebook order would have the same effect in other jurisdictions. Experimental research designs are often difficult to justify in criminal justice circles due to ethical concerns. However, if a judge in

another jurisdiction would adopt the notebook order as a condition of supervision, then a quasi-experimental design could attempt to duplicate our efforts.

Based on the present results, it would appear that the notebook condition of supervision is at least as effective as more expensive clinical substance abuse treatment orders. That alone might be persuasive enough to encourage other judges to implement this intervention to reduce DWI recidivism.

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1 The specific numbers of offenders contributed to the final control group sample from each of the Criminal Courts-at Law are listed as (N=#). Court #1 (N=97) Court #2 (N=96) Court #3 (N=80) Court #8 (N=70) Court #10 (N=88) Court #12 (N=96) and Court #13 (N=77)

2 There was no reason for the treatment group to have more high risk offenders than were in the control group due to the random assignment of cases among the 15 criminal misdemeanor courts. Most DWI cases are disposed as a result of plea bargains between the prosecuting attorneys and defense attorneys. There were numerous defense attorneys representing these offenders, but they would represent offenders in all the criminal courts. The prosecutors were assigned to a particular court; however, the individual prosecuting attorneys were rotated among the courts on average every 4-6 months. Because the dataset covered a two-year time span, there was no reason to believe that this sample would have any sort of bias introduced based on the plea bargaining process.

Because of these significant differences between the two groups, a more closely matched comparison group for the treatment group was created from the original sample, based once again on the demographic variables and adding the variables prior traffic convictions, SALCE scores, and Wisconsin Risk/Needs scores. The final matched set had 422 probationers in each group and the final analysis was duplicated on this sample. Because the results of the statistical analyses were essentially identical, the reported results were made on the sample of 1,199 offenders rather than the 844 in the revised matched sample.



Book Review

Haberfeld, M.R. (2006). *Theories of Police Leadership*. Upper Saddle River, N.J.: Pearson Prentice Hall.

By Wendi Pollock, Sam Houston State University

BOOK OVERVIEW AND EVALUATION OF THE MAIN POINTS

M.R. Haberfeld's book, *Theories of Police Leadership*, provides an excellent overview of leadership theories while illustrating them with real life examples, in a way that few books do. Not only is the reader treated to a practical book, written in clear language, but they get the benefit of a set of tables to compare and contrast the theories for themselves. The structure of this book makes it a possible solution to a problem that Haberfeld discusses in the first chapter.

Chapter One makes a strong claim that leadership training should begin in the basic academy. Haberfeld argued that while there are certain topics that each state mandates for police cadets, those mandates represent only the minimum of what a cadet must learn. Every academy has the option to add a leadership block into their training, on top of the other requirements. This is the proactive teaching of leadership. Unfortunately, most departments use a reactive method to teach leadership, by waiting until the individual has already been promoted into a leadership position to teach them leadership.

Haberfeld goes on to assert that departments should train cadets in leadership, but they should use examples from the top management of the police agencies. The reasoning behind this is that if academies use basic scenarios that come from typical activities of the line officer (an officer taking a bribe for example), the cadet will resort to saying only what he or she thinks is acceptable; they will not discuss what they actually think about the subject. If a Chief is used as an example, the cadet does not feel as directly connected, and a conversation about the scenario is more likely to reveal how that cadet really thinks and feels about the leadership. Haberfeld finishes the introduction with the five aspects of an effective leader: recruitment, selection, training, supervision, and discipline, which are arranged into a pentagon-shaped diagram that is referred to as the Pentagon of Police Leadership (p. 7).

In the second chapter, the author discusses the use of the term "ethics" versus the term "integrity". In that discussion, Haberfeld says that the term "integrity" is better to use for police departments because it carries a better connotation. Where "ethics" seems to imply that something is wrong and now has to be cleaned up, "integrity" only implies a push to keep things in good order. He then goes on to the triangle of police integrity, which includes recruitment, selection, and training. Training also breaks down into three components: explanation, demonstration, and practice (p. 25). Again the message is to start early and discover early who has the signs of being a good and ethical leader further along in his or her career. The rest of the book is then laid

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out for the reader. In each of the subsequent chapters, a theory will be looked at in detail. At the end of each chapter a real-life police application and illustration is used.

Chapter Three looks at leadership and team theory. "Team" is defined as "two or more people who cooperate towards a common goal and who have specific functions to perform" (p. 31). A good team leader will clarify membership and team goals early in the team formation and will then slip into a more participatory style of management. From there, a good leader must help the team transition through increases in cohesion while guarding against both groupthink and affect. Groupthink occurs when a group gets so isolated from outside influences that they begin to reject ideas without the full benefit of all considerations. Affect is when a group's negative emotions become contagious, and the group, as a whole, begins to get cynical. If those two things can be avoided, a good team leader can make a team more valuable than the sum of its parts. The author does caution that teamwork does not appear to work well in policing in the United States. Perhaps this is because of the long-standing hierarchal structure of policing. If you insert a group into that pre-made structure, and the group is separated out, they look a little like the boss's pets.

Chapter Four addresses Leader-Member Exchange Theory. Under this theory the leader does not have the same relationship with all of his or her employees. This creates a group known as the "in-group," which has a positive relationship with their boss, and the "out-group," who, at best, has no special relationship with their boss. The "in-group" gets more input into decisions and in return is judged by higher expectations and is expected to be more loyal. The "out-group" members just do their jobs. This chapter goes on to say that some researchers argue that the dichotic relationship between the "in-group" and the "out-group" is too simplistic and that the relationship should look more like a continuum. There are also some fundamental issues with the use of the dyad as the unit of measurement for this theory. Regardless of the debate, a good leader under the original leader-member exchange theory should develop "in-group" relationships with all of his or her employees. This may be problematic considering the pull of politics that is involved in policing.

Chapter Five examines Transformational Leadership. "Transformational leadership is a style in which the personality of the leader stimulates change because he or she raises consciousness, motivation, and morale" (p. 71). This is basically the charismatic leader who encourages people to live up to their highest standards and then to transcend those standards and work for the benefit of the organization. Research has shown that transformational leaders do have an impact on their subordinates' behaviors and motivations, but it is unclear whether or not they have an impact on subordinates' commitment to quality and productivity. The fact that most of the studies have been done on military personnel may limit what commanding officers have the power to influence.

Style Theory, the subject of Chapter Six, states there are two aspects of leadership: task-orientation and relationship orientation. If you assign each of those two aspects a high and a low value and put them together in a grid, you create four different types of leadership styles. The most effective leader is both a high-task and a high-relationship manager. According to the author, only one style is needed because an effective leader would "change the situation rather than adapting to it" (p. 99). Harvard studies point out that task and relationship orientations may parallel traditional matriarchal and patriarchal roles. Studies done on military personnel in the 1950's and 1960's lend support to the theory that a high-task/high-relationship manager is the best.

Chapter Seven is dedicated to Situational Leadership. This style of leadership is relatively self-explanatory. A good leader is one who can change, depending on the situation. A situational leader is not

chosen for the circumstances, but instead, can change him- or herself when the circumstances change. Some research has shown that good situational leaders can have positive effects on employee burnout rates.

Chapter Eight addresses Contingency Theory. Contingency Theory posits that certain leaders perform better under certain factual circumstances, which compliment their leadership style. A good leader is someone who was selected for a specific task based on his or her way of doing things. If a leader finds him or herself in a task that they are not suited for, they must attempt to change the situation to suit their leadership. Criticisms of the theory include the assumption that any given task will call for only one style of leadership, and the idea that a leader's style works in one direction and affects performance; however, no "reverse causality" is considered (p. 144).

The Path-Goal Theory of Chapter Nine matches leadership styles with the most appropriate group of subordinates. A leader can be directive, supportive, achievement-oriented, or participative. The basic idea is that people will only work if they feel that they can achieve a goal. Depending on what their goals are, they will need different types of leaders to clear paths for them.

Chapter Ten covers the Freudian side of leadership with the Psychodynamic Approach. This theory basically says that a person's background and personal experience makes them the leader that they are today. Their relationship with their parents, for example, may influence how they relate to subordinates. This will mean that they will interact better in certain circumstances and with certain people depending on those people's backgrounds and experiences. A good leader, according to this author, understands his or her background and how that affects their leadership style and then uses that knowledge as effectively as possible. Everything from birth order to personality type are covered in this chapter, and research has lent some indirect support to psychodynamic findings.

Chapter Eleven covers the Skills approach. This approach basically says that leaders can be made. Over time, through teaching and experience, leaders learn technical, human relations, and conceptual skills. As they move up through the policing ranks they learn how and when to apply those skills. Social, intellectual, and emotional intelligence are noted as pluses, but skills are the number-one thing that makes a good leader. Studies performed on U.S. Army personnel, as well as one done on civilian Defense Department personnel, have lent support to this school of thought.

Chapter Twelve looks at the common traits of good leaders. Unlike psychodynamic theories, this approach is unconcerned about the origin of the traits in a leader. Instead, it is simply concerned with the trend showing that certain characteristics are common in successful leaders. Some of these traits include: intelligence, persistence, self-confidence, initiative, and task-knowledge. This theory is pointing out that, if someone can be found who combines or can be taught to combine these traits, they will most likely be a successful leader.

Chapter Thirteen, the final chapter, looks to what should be done in the future. Haberfeld claims that police leaders should follow Jim Collins's leadership theory. In this theory, an organization should set ambitious goals, leaders should embody the organization's core values and goals instead of pursuing self-interests, and everyone should be patient. According to Collins, changes can take up to seven years to become evident. While this sounds great, finding that leader who always puts the organizational goals over his or her own and who works to gear subordinates for future success in his or her position, will be a difficult task at best.

COMMENTS AND BROADER APPLICATIONS

The examples used in this book were taken from U.S. policing. Many of them were simply examples of a Chief handling a situation in a way that solved the problem and made the public happy. Other examples did not solve the problem, or solved the problem but managed to offend someone in the process. With the possible exception of team theory, most of these examples lent themselves to any of the theories applied to show why they worked or failed to work.

As pointed out several times in the book, criminal justice organizations, unlike private organizations, operate in the realm of the public eye. With that scrutiny comes politics, which may envelop race relations, money, use of force issues, and much more. Not only must a manager of these organizations deal with subordinates under them, who may number in the thousands, but they must also consider public image and the implications of such scrutiny on their organizations, especially by those untrained in the methods and hazards of contemporary policing.

The book also noted that finding good leaders starts with the selection and hiring process. Unfortunately, politics also play a role in that. For example, when looking at the sheriff who is in charge of the local jails, the public selects them directly. In that instance, Trait and Skills approaches are seen most often. The public is more likely to vote for the “great man” who has the skills to be a good sheriff, regardless of whether such skills alone make good leaders.

In applying these theories to corrections, the problem again begins with recruitment, selection, and initial training. Since corrections positions are often dangerous, and since the pay scale is low for the job, the young and uneducated are often recruited in bulk. Couple that with short-term training programs that do not include leadership training, and it may be rare to find a good leader. Because of these methods, an abundance of transactional and leader-member exchange leadership may be seen. People in these organizations, leaders and subordinates alike, may simply be working for a paycheck (transactional). A leader can remain “hands-off” unless a problem in productivity, that would threaten his or her paycheck, arises. There is also a likely abundance of “in” versus “out” groups. Leaders who are young and who have no training are not likely to recognize that these groups may have formed solely because of his or her personal preferences and that these groups do not benefit the organization. A skills approach may be the most beneficial in criminal justice. While finding the perfect natural leader would be preferred, they are few and far between. The best method, in the meantime, may be to start early and teach the employees the skills they need to manage, and then to pick from them the ones that appear to use those skills most effectively.

WHERE TO USE THIS BOOK

This book is perfect for anyone who has never been exposed to theories of leadership. It would therefore be an excellent book for teaching leadership at a college undergraduate level. Unfortunately, as Haberfeld has pointed out, leadership is not often taught early. This book may help to correct that problem. In clear language, the book provides a good overview of the predominant leadership theories along with visual tables for easy comparison. In addition, the book not only applies the theories to real-life examples, but it summarizes how the particular theory worked, or failed to work, in the given situations. For undergraduate students, this is a good book to teach things that are often left out of the average college experience. The policing examples make this book beneficial for any class on organizational theory, policing, or police leadership. It provides an excellent introduction to leadership, for future leaders.

As future leaders are not only found in the university setting, this book's usefulness is also not limited to universities. Criminal justice practitioners may find the book useful in two respects. The first would be to teach individuals, in the basic academies, about leadership theories. In this way, the book would help cadets to find a leadership style that they feel they could fit into. Reading this book also allows the individual cadet to understand different leadership styles, thereby giving him or her the ability to alter their "natural" leadership style when the situation calls for it. In this way, the cadet can learn to be a better leader than he or she may otherwise have been. By illustrating that more than one leadership style may produce good and effective leaders in different situations, the book also extends beyond influencing the individual cadet to possibly influencing the future of an organization. Eventually some of the trainees will make it to the top of the chain of command. In these upper positions, they will be responsible for choosing good leaders. Skills learned early and reinforced throughout his or her career may create more informed decisions about the different types of leaders who will lead a given organization.

There are some downsides to using this book in any setting. As mentioned above, the examples may not always illustrate the way a leadership theory works, but instead, how the theory failed to work. The author does a good job of explaining the application; however, the illustration is more confusing and less useful when a theory "should" have been used as opposed to when it was used successfully. Several of the examples are similar types of situations, in which the author just chose to apply a specific theory. The author overcomes these weaknesses by writing a section at the end of each application that explains the application and evaluates the results. This makes any uncertainty about the applications short-term.

For the university or academy settings, or just for someone who has an interest in leadership styles, this book is very clear in its overview of each theory. It is a great introduction for someone with no knowledge of leadership theories. It is written in common language and has a clear set of charts that allow the reader to compare and contrast the different aspects of each theory.

