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Catching the Really Bad Guys: An Assessment of the Efficacy of the U.S. Criminal Justice System☆

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ABSTRACT

Purpose: History shows that one of the most important institutions to a society is its criminal justice system. The current study offers an analysis of the criminal justice system's effectiveness in identifying, apprehending, convicting, and punishing high-level/persistent offenders.
Methods: Data were drawn from all four waves of the Add Health study. Survey-corrected univariate statistics and logistic regression models were estimated to provide population parameter estimates of the frequency of arrest and punishment for a group of persistent offenders compared to non-persistent offenders.
Results: Findings indicated persistent offenders (as identified by self-reported crime) were *much* more likely to be arrested (63% vs. 26%), accounted for more arrests ($\bar{x} = 1.71$ vs. $\bar{x} = .53$), were more likely to be convicted (39% vs. 11%), were more likely to be placed on probation (38% vs. 12%), and were more likely to be sent to jail (43% vs. 13%) compared to non-persistent offenders. These differences remained when levels of psychopathy, age, race, and sex were controlled in the logistic regression models.
Conclusions: These findings suggest the criminal justice system does a good job of identifying and punishing offenders who break the law more frequently.

Introduction

As societies have grown more sophisticated an interesting correlation with citizens' violent behavior has emerged. Specifically, one of the hallmarks of any industrialized society is the reduction in violence that follows in near lockstep with societal advancement and improvement. As Pinker (2011) noted in his 700 page treatise, violence has declined over the past few centuries (the United States crime surge of the 1960s-1980s appears to be a minor uptick when viewed on the larger historical scale) and much of this decline can be attributed to the influences of the "leviathan"—the governmental monopoly on the meting out of punishment for wrong-doing. In this respect, Pinker noted that one of the most important institutions to an industrialized society is its criminal justice system, necessarily raising the question of how best to gauge the quality and effectiveness of a criminal justice system.

One obvious answer to the question of how best to analyze the criminal justice system's effectiveness is to analyze the rate at which criminals are arrested by the police. A more effective system, in this respect, should raise the probability that any given criminal will be arrested for his/her wrong-doing. There is one problem with this approach, however: nearly all citizens are criminals. Given the sheer number of criminal statutes on the books in the U.S., it is inconceivable that most citizens could make it through the first two decades of life having *never* broken the law. This reality seemingly prevents any sincere effort to assess the efficacy of a criminal justice system because an arrest rate lower than 100% of the population suggests a certain amount of failure.

An alternative approach, however, is to analyze the criminal justice system's ability to identify, apprehend, convict, and punish the *really* bad guys. In other words, if all humans fall somewhere on a continuum of criminality (ranging from rarely engages in criminal activity to often engages in criminal activity; Goring, 1913; and see generally, DeLisi, 2009; Gottfredson & Hirschi, 1990; Moffitt, 1993), perhaps one could judge the success of the criminal justice system by analyzing how often high-rate criminals are arrested, convicted, and punished. Scholars have noted a correlation between number of offenses committed and number of arrests accrued (Piquero, Jennings, & Barnes, 2012), but there has been almost no effort to assess the overall prevalence of arrest among different "types" of offenders. Building upon one of the most prominent criminological theories (Moffitt, 1993) and drawing on data from a large nationally representative data source, the current study will analyze whether high-rate offenders, as compared to the

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general population, are more likely to be arrested, convicted, and punished by the criminal justice system. Given the amount of emphasis placed on evidence-based criminological practices in recent decades (Clear, 2010; Mears & Barnes, 2010) an assessment of the criminal justice system's effectiveness in catching the *really* bad guys seems a timely endeavor (DeLisi, 2010) and the results of such an analysis may help to inform future policy on a large scale.

Different offending trajectories

One of the most prominent contemporary criminological theories is Moffitt's (1993) developmental taxonomy. Moffitt began with the modest goal of trying to provide a clearer understanding of the aggregate age-crime curve. The aggregate age-crime curve reveals a clear and consistent pattern of criminality that onsets in early adolescence, peaks around age 18-20, and quickly returns to pre-adolescent levels during adulthood. This finding has been a mainstay of criminological research for at least a hundred years (Farrington, 1986) and certain scholars have argued that it so consistent it need not be explained (Hirschi & Gottfredson, 1983). Moffitt (1993), however, provided a nuanced interpretation of the age-crime curve by suggesting it masks two distinct trajectories of offending (i.e., offending patterns) and one trajectory of non-offending (i.e., abstainers [e.g., Vaughn et al., 2011]). The two offending trajectories are referred to as the *adolescence-limited trajectory* (AL) and the *life-course-persistent trajectory* (LCP).

The first of these two offending trajectories, the AL trajectory, follows the larger aggregate age-crime curve and captures the large majority of people in the offending population (~90% of offenders are believed to be AL offenders). AL offenders display moderate-to-low levels of problem behavior in childhood, they begin to experiment with minor/non-violent delinquency during adolescence, and they quickly desist from criminal activity upon entering adulthood. In addition to outlining the offending trajectory, Moffitt (1993) also proffered several hypotheses about the etiology of AL offending. AL offending is believed to have roots in two primary influences that take hold in adolescence: the maturity gap and exposure to delinquent role models. The maturity gap occurs when a youth reaches physical maturity but has yet to be afforded social maturity. Children in industrialized societies have, fairly consistently, experienced pubertal onset at an earlier age with each successive generation (Euling et al., 2008; Walvoord, 2010). At the same time, society has pushed back the age at which adulthood is reached in the social sense (Moffitt, 1993; Piquero & Brezina, 2001). This divergence leads to a gap between biological maturity and social maturity and youth can be suspended in this gap for several years during adolescence. As such, the maturity gap is hypothesized to be a noxious influence that can encourage delinquent behavior and research has supported this argument by revealing adolescents who are caught in the maturity gap are more likely to report minor deviance and minor drug use (Barnes & Beaver, 2010). The maturity gap by itself, however, is not enough to cause delinquency. Indeed, Moffitt (1993) argued AL delinquency is learned from other delinquent youth, perhaps those youth who follow the LCP trajectory.

The LCP offending trajectory provides a stark contrast to the AL trajectory. Where the AL trajectory is defined by a sharp rise and subsequent fall in delinquency during the adolescent years, the LCP trajectory is defined by stability of antisocial behavior from early childhood to late adulthood. Recognizing that *criminal* behavior does not onset until adolescence, Moffitt (1993) argued LCP offenders will display high levels of childhood problem behaviors, these behaviors evolve into more severe forms of delinquency during adolescence, and eventually lead to serious interpersonal crimes in late adolescence and adulthood (Loeber, 1996). In other words, LCP offenders are believed to display antisocial behavior in some form across all points of the life course, meaning that LCP offending is demarcated by its *persistence* over time. Fortunately, only a small portion of the population follows this trajectory. Some estimates suggest that LCP offending accounts for roughly 10 percent of the offending population (Moffitt, Caspi, Harrington, & Milne, 2002). In a string of recent papers, Vaughn and colleagues' suggest the number may be close to 5 percent in the general population (Vaughn, Salas-Wright, DeLisi, & Maynard, 2014; Vaughn et al., 2011).

Because LCP offending manifests early in the life course, its etiology must also be traced to early childhood or biological factors such as genetics (e.g., Beaver, DeLisi, Vaughn, & Wright, 2010). Indeed, LCP offending is said to result from the coalescence of two influences—neuropsychological deficits and an adverse rearing environment—that emerge in early childhood and may even be predicted by events that take place before birth (e.g., prenatal factors). The term *neuropsychological deficits* is best understood as an umbrella concept that captures any biological or genetic risk factor that plays out in the brain by impacting the brain's structure or the brain's functioning (Raine, 2008). Moffitt (1993) argued that the presence of neuropsychological deficits makes it difficult to navigate the social environment in a prosocial manner and, supporting this hypothesis, scholars have shown that many factors believed to tap neuropsychological deficits are indeed correlated with LCP offending propensity (Jackson & Beaver, 2013; Moffitt, 1990; Piquero, 2001; Raine et al., 2005). For instance, research has revealed that exposure to nicotine during prenatal development (Gibson, Piquero, & Tibbetts, 2000; McGloin, Pratt, & Piquero, 2006), being born of low birth weight (Tibbetts & Piquero, 1999), and genetic risk factors (Barnes, Beaver, & Boutwell, 2011) predict LCP offending. Neuropsychological deficits, alone, are not enough to cause LCP offending, however. Instead, LCP offending is most likely to manifest when neuropsychological deficits *and* an adverse rearing environment are both present. Research has largely supported this interactional hypothesis by showing that children who suffer from both risk factors have a heightened risk of developing an offending pattern that is indicative of the LCP pathway (Moffitt, 2006; Moffitt & Caspi, 2001; Raine, Brennan, & Mednick, 1994). Moreover, LCP offending has been tied to mating effort (Cale & Lussier, 2011) and evolutionary/environmental pressures to reproduce, revealing LCP offending might be understood as an adaptive strategy developed to increase or maintain levels of reproductive fitness among certain members of the population (Boutwell, Barnes, Deaton, & Beaver, 2013).

Life-course-persistent offending

As noted above, LCP offending is defined by a persistent pattern of antisocial behavior that manifests, albeit in different forms, across all stages of the life course (e.g., Boutwell, Barnes, & Beaver, 2013; Jennings & Reingle, 2012; Vaughn et al., 2014; Wiesner, Capaldi, & Kim, 2012). Researchers have devoted a considerable amount of effort to identifying the LCP pathway and, though differences have been noted from study to study (see generally, Andersson & Levander, 2013; DeLisi, 2013), the extant evidence clearly suggests a small proportion of the population is over-represented in criminal activity (DeLisi, 2005; Moffitt et al., 2002; Tracy, Wolfgang, & Figlio, 1990; Wolfgang, Figlio, & Sellin, 1972). This finding has been observed across independent samples, across different measurement strategies, and among different cohorts of study participants, suggesting it is not a statistical artifact attributable to one type of research design or one sample (DeLisi & Piquero, 2011; Piquero et al., 2012; Reiss & Roth, 1993; Weiner, 1989).

Much of the available evidence concerning offending trajectories has been gleaned from scholars' use of statistical techniques that seek to identify the underlying "groups" of offenders in a dataset. This approach is typically referred to as *latent trajectory modeling* (Piquero, 2008; Skardhamar, 2010). In essence, latent trajectory models sift through a dataset looking for cases that can be grouped together based on similar levels of offending. As reviewed by Piquero (2008), a growing number of criminologists have utilized this approach and the end result is that much is now known about the differential patterns of offending and the etiology of these patterns. A few studies have attempted to identify