

5

The Politics of Career Criminals

Box 5.1 Offender Profile

Calgary Police Department, Bureau of Pretrial Services and Bail: Pre-Sentence Investigation

Defendant: John Michael Jamison

DOB:	14 October 1959
POB:	Ottawa, Ontario, Canada
Race/Ethnicity:	White
Citizenship:	Canadian
Tattoos:	None
Scars:	None
Identifiers:	Prescription eyeglasses
Height:	70 inches
Weight:	85 kg

(Continued)

Box 5.1 (Continued)**Contact Officer: Sgt. William Halmry, 1405**

Agency: Calgary PD

Charge 1: Operating motor vehicle while intoxicated (45-18-2005)

Charge 2: Operating while intoxicated/exceed .150% (45-18-2011)

Charge 3: Operating motor vehicle w/restrained license (45-18-1079)

Synopsis

Defendant (John Michael Jamison, 1959/10/14, hereafter referred to as def) was observed driving along the right shoulder of Highway 210 at 2234 on November 12, 2003, in the city of Calgary, province of Alberta, Canada. Upon contact, arresting officer noticed a strong odor that, based on his training and experience, is consistent with the odor of alcoholic beverages. In plain sight were 11 empty bottles of Heineken beer strewn about the interior of the vehicle, a 2000 Toyota Camry. Def manifested visible indications of alcohol intoxication: slurred speech, flushed complexion, watery eyes, and lumbering motor skills. Def instantly advised the officer that he was extremely intoxicated and expressed a desire to be arrested. Immediately, def was advised of his legal rights and protections against discussing his conduct with the officer, which def eagerly waived. Def politely declined roadside sobriety tests. Def submitted to a portable breath test (PBT), which yielded a blood alcohol content (BAC) of 0.227%. Def was transported to local corrections, where he was administered another PBT that yielded a BAC of .251%. PBT results, emptied beer bottles, and def's acknowledgement of driving while intoxicated were entered as the state's evidence.

Social History

Def was widowed on October 1, 2003. Def's deceased spouse died from natural causes related to brain cancer. Def had been continuously married for 21 years to the deceased. Def has no biological or adoptive children and no dependents.

Def has lived in Calgary for 17 years, is a homeowner, and has resided in same domicile for 11 years. Def is employed with Financial Systems as a certified public accountant. Def has been continuously employed with Financial Systems since 1981. Def has B.S. degree with honors in accounting from the University of Toronto, where he graduated in May 1981.

Substance Abuse

Def reports no current or past involvement in use of illegal narcotics. Def reports never using marijuana, cocaine, opiates, amphetamines, or any schedule I or II controlled substance. Def reports taking Tylenol w/codeine two times during adulthood as pain medication prescribed after podiatric surgery (ingrown toenails). Pharmaceutical check confirms two prescriptions for Tylenol-3; no additional medications.

Def reports increased drinking since spouse's death. Def reports drinking approximately 75 beers per week for the past 4 weeks. Def reports profound sadness at wife's passing and that alcohol helps to control his feelings. Def reports no additional clinical signs of depression.

Criminal History

Def reports no prior juvenile or adult criminal history; none found via Interpol, local, province, and national records, or American NCIC. Driver's history revealed no prior citations.

Def reports police contact 10 days ago in which def appeared to be intoxicated in public. Def was observed walking from local alcohol establishment to his home. Officer conducted welfare and warrants check and followed def to his residence. Def reports/records confirm no citation was issued.

Assessment

Def poses little to no risk to community for flight, danger, or recidivism. Scores on Risk Assessment Inventory Instrument were 0, 1, and 0, respectively. Def has outstanding community ties but little

(Continued)

Box 5.1 (Continued)

social support. Def is cooperative, remorseful, and embarrassed about his arrest. Def seems amenable to treatment.

Recommendation

Sentence: Deferred prosecution

Term: 6 months

Conditions: 40 hours counseling w/ treatment staff re: alcohol use and dealing w/loss of spouse

SOURCE: Calgary Police Department, Bureau of Pretrial Services and Bail, Pre-Sentence Investigation.

NOTE: This is a fictional profile; any similarity to an offender, living or dead, is purely coincidence.

**Box 5.2 Ohio Department of Rehabilitation and Correction
Inmate Dossier**

*****Not for public dissemination*****

Inmate Name: Jackson Michael Copeland

Aliases

Jack Copeland	Jim Coplin
Jackie Copeland	James Michaels
Jackie Cope	Steve D'Ontario
Johnny Copeland	Joseph Branch
Mike Copeland	Rich Foster
Johnny Mike	Richard Foster
Leroy Johnson	Dick Foster
Lou Johnson	Dick Rogers
Jim Copin	Dick Copeland

Physical

Race: W	Weight: 240
Sex: M	Hair/Eyes: BRO/BLU
Height: 604	Skin: Drk

Date(s) of Birth

January 1, 1940 (22 variations of DOB)

Place(s) of Birth

Akron, Ohio

Identifiers

SC L Arm/SC R Arm/SC Face/SC R Leg/GSW L Leg/GSW R Chest/GSW L Arm/SC Chest/SC Abdomen/TAT R Forearm/TAT L Forearm/TAT L Arm (Multiple)/TAT R Arm (Multiple)//TAT R Chest/TAT L Hand/TAT R Hand

Commitment Information

Inmate Copeland awaits execution upon 3 convictions for aggravated murder and ancillary crimes during crime spree committed while Inmate Copeland was on escape status from Mansfield Reformatory.

Profile Classifications

Public Risk:	10
Violence:	10
Escape:	10
Institutional Risk:	10
Assaultive:	10
Suicide:	1
STG:	1
Education:	N/A Condemned
Vocational:	N/A Condemned
Treatment:	N/A Condemned
Visitation:	None

(Continued)

Box 5.2 (Continued)**Disciplinary Record**

Disobeying order: 31 cts.
Assault w/weapon: 2 cts.
Fighting: 3 cts.
Verbal abuse officer: 14 cts.
Possess weapon: 3 cts.
Disrespect staff: 11 cts.
Throw bodily fluids: 11 cts.
Malingering: 3 cts.
Failure to clear room: 4 cts.

Juvenile Social Profile

Official records destroyed. Based on prior prison dossiers, Inmate Copeland became Ward of the State of Ohio at age 7 upon death of biological mother, who was murdered by intimate acquaintance. Biological father's whereabouts are unknown. Inmate Copeland was first adjudicated in 1949 (age 9) for housebreaking (burglary), arson, and brandishing a deadly weapon. Inmate Copeland was committed to State Training School for Boys for 3 years. Inmate Copeland was released to his maternal grandmother, who became his legal guardian. Inmate Copeland was adjudicated in 1953 (age 13) for arson, robbery w/force, gross sexual imposition on minor, and possession of firearm, and returned to State Training School for Boys for 3 years. During incarceration, Inmate Copeland was adjudicated for multiple counts of sodomizing other inmates and attempted murder of another inmate. In 1956, Inmate Copeland was transferred to the Ohio State Reformatory, where he terminated his sentence in 1958. Prison psychiatric staff assessed Inmate Copeland and determined that he manifested acute antisocial personality disorder (psychopathy).

Arrest History

1—Arrested or received 1958/01/30

Agency: Erie PA Police Department
Charge 1: Joyriding
Charge 2: Drunk Driving

Charge 3: Unauth Use Vehicle
Charge 4: Ill Poss Firearm
Charge 5: Corrupt Minor
Court: Prosecutor Rejected Filing of Charges

2—Arrested or received 1958/02/02

Agency: Albany NY Police Department
Charge 1: Joyriding
Charge 2: Drunk Driving
Charge 3: Unauth Use Vehicle
Charge 4: Ill Poss Firearm
Charge 5: Corrupt Minor
Charge 6: Enable Runaway
Charge 7: Viol Dyer Act
Charge 8: Viol Mann Act
Court: Charges 1-8 Guilty Plea
Sentence: NY DOC, Indeterminate to 4 Yrs
Federal sentence to be served concur with state
charges order of United States Attorney

3—Arrested or received 1958/03/24

Agency: Auburn Penitentiary
Sentence: Indeterminate to 4 Yrs

4—Arrested or received 1961/11/01

Agency: Onondaga County (NY) Sheriff's Department
Charge 1: Rob w/Firearm
Charge 2: Rob w/Firearm
Charge 3: Aggrav Menacing
Charge 4: Murder w/Malice
Court: No Disposition

5—Arrested or received 1962/04/26

Agency: Syracuse NY Police Department
Charge 1: DUI
Charge 2: Unauth Use Vehicle

(Continued)

Box 5.2 (Continued)

Charge 3: No Operator Insurance

Charge 4: Drive w/o Valid DL

Court: Charges 1-4 Dismissed

6—Arrested or received 1962/05/30

Agency: Rochester NY Police Department

Charge 1: Rob w/Firearm

Charge 2: Rob w/Firearm

Charge 3: Aggrav Menacing

Charge 4: Aslt w/Intent to Rape

Charge 5: Aslt w/Intent to Kill

Court: Guilty at Trial on Charges 1-3; Charges 4-5 Dismissed

Sentence: 8 Yrs NY DOC

7—Arrested or received 1962/08/14

Agency: Attica Prison

Sentence: 8 Yrs

8—Arrested or received 1965/09/15

Agency: New York Dept. Parole and Probation

Charge 1: Release Conditional Parole 2 Yrs

9—Arrested or received 1965/12/18

Agency: Poughkeepsie NY Police Department

Charge 1: DUI

Charge 2: Domestic Battery

Charge 3: Aslt

Charge 4: Child Abuse/Willful Cruelty

Charge 5: Resist Arrest

Charge 6: Obstruct Police

Court: Held

Disposition: Parole Detainer

Sentence: 173 D Jail, Parole Reinstated

10—Arrested or received 1967/03/10

Agency: Summit County OH Sheriff's Department

Charge 1: Abduction

Charge 2: Rape

Charge 3: Lewd Acts on Minor

Charge 4: Resist Arrest

Charge 5: Obstruct Police

Charge 6: Aslt on Police Off

Charge 7: Ex-felon Possess Weapon

Charge 8: Attempt to Disarm Officer

Court:

Charge 1: Guilty Plea

Charge 2: Guilty Plea

Charge 3: Dismissed

Charge 4: Dismissed

Charge 5: Dismissed

Charge 6: Guilty Plea, Simple Aslt

Charge 7: Guilty Plea

Charge 8: Guilty Plea

Sentence: Ind-40 Yrs Ohio DOC

11—Arrested or received 1968/01/02

Agency: Mansfield Reformatory

Sentence: Ind-40 Yrs

12—Arrested or received 1977/06/05

Agency: Ohio Board of Parole

Sentence: 5 Yrs Supervised Release; Request to Relocate to Los Angeles
Approved (CADOC)

13—Arrested or received 1978/11/11

Agency: Los Angeles Police Department

Charge 1: Poss Controlled Substance

Charge 2: Poss Inject Device

Charge 3: Poss Drg Paraph

(Continued)

Box 5.2 (Continued)

Charge 4: Solicit Prost
Court: Charges Dismissed

14—Arrested or received 1979/01/12

Agency: Los Angeles County Sheriff's Department
Charge 1: Under Influence Controlled Substance
Charge 2: Vagrancy
Charge 3: Commercial Burglary
Charge 4: Solicit Prost
Charge 5: Failure to Appeal
Court: Held
Disposition: Guilty Plea
Sentence: 21 D Jail, \$

15—Arrested or received 1979/03/10

Agency: San Francisco Police Department
Charge 1: Under Influence Controlled Substance
Charge 2: Commercial Burglary
Charge 3: Poss Burg Tools
Charge 4: Ill Poss Firearm
Charge 5: Poss Drg Paraph
Charge 6: Furnish Dwelling for Drug Sales
Charge 7: Poss LT 1 oz MJ
Court: Prosecution Rejected Filing of Charges

16—Arrested or received 1979/05/02

Agency: Marin County Sheriff's Department
Charge 1: Under Influence Controlled Substance
Charge 2: Burglary 2
Charge 3: Burglary 2
Charge 4: Ill Poss Firearm
Charge 5: Robbery by Force
Charge 6: Resist Arrest
Court: Charges 1-4 Dismissed
Charge 5: Guilty Plea Fel

Charge 6: Guilty Plea Fel
Sentence: 3 Yrs State Prison

17—Arrested or received 1979/05/04

Agency: California Board of Parole
Disposition: Violation
Sentence: 3 Yrs Prison Concurrent

18—Arrested or received 1982/07/01

Agency: Cuyahoga County OH Sheriff's Department
Charge 1: DWI
Court: Guilty Plea
Sentence: 45 D Jail

19—Arrested or received 1982/08/26

Agency: Lorain County Sheriff's Department
Charge 1: Public Intox
Charge 2: Disord Condt
Charge 3: Public Fighting
Charge 4: Vagrancy
Charge 5: Solicit Prost
Court: Dismissed

20—Arrested or received 1982/10/30

Agency: West Virginia State Patrol
Charge 1: DWI
Charge 2: Resist Arr
Charge 3: No Operator Insurance
Charge 4: Driving w/o Valid License
Court: Guilt Plea to All Charges
Sentence: 20 D Jail, \$

21—Arrested or received 1983/01/01

Agency: Cincinnati OH Police Department
Charge 1: Brawling

(Continued)

Box 5.2 (Continued)

Charge 2: Aslt w/Deadly Weapon
Charge 3: Aslt w/No Intent to Kill
Charge 4: Public Intoxication
Charge 5: Brandishing
Charge 6: Under Influence Controlled Subs
Charge 7: Resist Arr
Charge 8: Obstruct Police
Charge 9: Obstruct Ops
Charge 10: Habitual Criminal Offender
Court:
Charge 1: Guilty Plea
Charge 2: Guilty Plea
Charge 3: Dismissed
Charge 4: Guilty Plea
Charge 5: Dismissed
Charge 6: Dismissed
Charge 7: Dismissed
Charge 8: Dismissed
Charge 9: Dismissed
Charge 10: Dismissed
Sentence: 720 D Hamilton County Jail

22—Arrested or received 1986/03/15

Agency: Rochester NY Police Department
Charge 1: Domestic Violence
Charge 2: Aslt 3
Charge 3: Aslt 3
Charge 4: Child Abuse 2
Charge 5: Resist Arrest
Charge 6: Obstruct Police
Court: No Disposition

23—Arrested or received 1993/10/10

Agency: Akron Police Department
Charge 1: Domestic Violence

Charge 2: Poss Schedule II (Cocaine)
Charge 3: Poss Drug Paraph
Charge 4: Resist Arrest
Charge 5: Obstruct Police
Charge 6: Aslt on Police Off
Charge 7: Ex-felon Possess Weap
Charge 8: Agg Robbery
Charge 9: Agg Robbery
Charge 10: Habitual Criminal Offender
Court:
Charge 1-7: Dismissed
Charge 8: Guilty Plea
Charge 9: Guilty Plea
Charge 10: Dismissed
Sentence: 20 Yrs Prison

24—Arrested or received 1993/12/12

Agency: Mansfield Reformatory
Sentence: 20 Yrs

25—Arrested or received 2003/11/05

Agency: Akron Police Department and Summit County District
Attorney
Charge 1: Agg Murder
Charge 2: Agg Robbery
Charge 3: Agg Murder
Charge 4: Agg Robbery
Charge 5: Agg Murder
Charge 6: Agg Robbery
Charge 7: Murder
Charge 8: Agg Robbery
Charge 9: Escape Correctional Facility
Charge 10: Escape With Force
Charge 11: Auto Theft
Charge 12: Agg Aslt

(Continued)

Box 5.2 (Continued)

Charge 13: Kidnap
Charge 14: Burg Dwelling
Charge 15: Rape
Charge 16: Agg Robbery
Charge 17: Burg Dwelling
Charge 18: Burg Dwelling
Charge 19: Rape
Charge 20: GSI Minor
Charge 21: Rape
Charge 22: Kidnap w/Aggravation
Charge 23: Kidnap w/Aggravation
Charge 24: Att Homicide
Charge 25: Att Homicide Law Enforcement Officer
Charge 26: Felon Posses Firearm
Charge 27: Felon Posses Firearm
Charge 28: Felon Posses Firearm
Charge 29: Felon Posses Firearm
Charge 30: Felon Posses Firearm
Charge 31: Felon Posses Firearm
Charge 32: Felon Posses Firearm
Charge 33: Felon Posses Firearm
Court:
Charges 1-26: Guilty at trial
Charges 27-33: Dismissed
Sentence:
Charge 1: Death
Charge 2: Life
Charge 3: Death
Charge 4: Life
Charge 5: Death
Charge 6: Life
Charge 7: Life
Charge 8: Life
Charge 9: Life
Charge 10: Life
Charge 11: 25 Yrs

Charge 12: 25 Yrs
Charge 13: Life
Charge 14: Life
Charge 15: Life
Charge 16: 50 Yrs
Charge 17: 40 Yrs
Charge 18: 40 Yrs
Charge 19: Life
Charge 20: 50 Yrs
Charge 21: Life
Charge 22: Life
Charge 23: Life
Charge 24: 75 Yrs
Charge 25: 75 Yrs
Charge 26: 5 Yrs

26—Arrested or received 1993/11/12

Agency: Mansfield Reformatory

Sentence: Death (X3) Consecutive + 14 Life w/o Parole + 385 Yrs
Ohio DRC

SOURCE: National Crime Information Center FBI Identification Record, Interpol, Ohio Bureau of Investigation, Ohio DRC Diagnostic and Classification Unit, inmate self-reports with Dr. Nelson Bentley, Ph.D.

NOTE: This is a fictional profile; any similarity to an inmate, living or dead, is purely coincidence.

Introduction

The vignettes from previous chapters and the offender profiles shown in Boxes 5.1 and 5.2 illustrate two ideal types of offenders. On one hand is the fairly nonserious offender, whose trouble with the law is linked to life circumstances relating to social institutions such as family or work. Chronic offending from this perspective unfolds developmentally. On the other hand is the serious, violent offender, whose repeated violations of the law are a way of life. The extremity of his conduct lends credence to the idea that habitual antisocial behavior is the manifestation of some pathology or criminal propensity.

It is important to recognize that the theoretical perspective that one believes best represents the evidence is not wholly removed from one's ideological worldview. Whether one believes that serious criminals are changeable speaks to ideological assessments of the character and nature of human beings and their behavior. For some, the term *career criminal* is a label that will serve to further stigmatize and exacerbate the risk factors that chronic offenders experience. For others, this moniker is the mark of Cain.

This chapter explores three of the more controversial issues related to career criminals. The first and most important of these issues is the ethical concerns among criminologists about the scientific inability to accurately predict chronic offending. Although criminologists have confidently identified the small group of inveterate criminals, prospectively identifying them has proven more difficult. As a result, scholars are equivocal, judicious, and rightly concerned that mistakenly punishing offenders purported to be career criminals carries with it intolerable human and fiscal costs. The dilemmas of prediction and singularly identifying individual offenders are examined herein at length.

The remaining two issues, news media coverage and academic politics, are less central to criminology but nevertheless figure into the collective understanding of career criminals. However, like the ethical problem with prediction, they serve to weaken our resolve to appropriately respond to the challenges posed by career criminals. News media outlets devote considerable resources toward covering crime but are largely unhelpful in elucidating the career criminal problem. For example, the extensive coverage of horrendous crimes often fails to make the explicit connection that these crimes are disproportionately the work of chronic offenders. This is important because the public indignation that crime news generates is often misplaced toward criminal offenders generally. This can contribute to a public demand to get tough on crime generally instead of the more cost-effective and efficient focus on career criminals. Additionally, news media accounts inconsistently present habitual criminals as sympathetic figures who are victims of social disadvantage, strident criminals who take advantage of loopholes in the lenient criminal justice system, and victims of a needlessly harsh criminal justice system. These competing images create diffuse skepticism about career criminals and the appropriateness of criminal justice policies to control them.

Finally, a peripheral but lingering idea in criminology is the belief that career criminals are social constructions that serve as fodder to promote conservative, crime-control interests. The social constructionist perspective and its attendant political ramifications stand in opposition to the

empirical or positivist stance that career criminals are genuine threats to public safety. The constructionist view is critiqued here. While this discussion is critical, it is important to recognize that, at the very least, the social constructionist viewpoint illustrates a theoretical, and perhaps ideological, unwillingness to reconcile empirical data with one's belief system. Although located to the left of mainstream developmental theories, the constructionist arguments demonstrate just how politically loaded a topic such as career criminals is.

The Ethical Quandaries of Prediction

At a variety of points in the criminal justice system, practitioners employ prediction to guide their decision making when processing criminal offenders. Traditionally, prediction was a clinical assessment based on the individual's "gut feeling" that was itself rooted in experiential knowledge. There are many examples of how this manifests. Police officers weigh a "prediction" of the likelihood that a defendant will appear in court when issuing a summons or making an arrest. Pretrial service personnel similarly predict the risks of flight, recidivism, and danger that an individual poses when ascertaining bond. Probation and parole officers gauge their supervision of clients based on intuitive predictions of how risky their clients are. In all of these contexts, the "evidence" that professionals utilize when making predictions of future conduct is the prior conduct of the same individuals. It is a psychological truism that the best predictor of future behavior is past behavior.¹

Despite this axiom, many criminal offenders behave in unpredictable ways, and forecasting their future conduct has proven difficult. This has been particularly frustrating to criminologists and policy makers who seek to identify the small group of career criminals. Prediction has evolved from clinical assessments to the use of actuarial instruments composed of criteria that empirically relate to criminal offending. A controversial example of the actuarial approach is the scale developed by RAND researcher Peter Greenwood with assistance from Allan Abrahamse. Based on data derived from self-reported criminal records of 2,190 male jail and prison inmates in California, Michigan, and Texas, the Greenwood Scale contained seven items thought to predict chronic offending. The items were distilled from the offense backgrounds and social characteristics of the most recidivistic prisoners and are the following: prior incarceration for the same type of offense, incarceration for more than half of the preceding 2 years, conviction prior to age 16, juvenile incarceration, recent narcotic use, adolescent

narcotic use, and employment for less than half of the preceding 2 years. Offenders were scored (0 = no, 1 = yes) for each characteristic. Those with cumulative scores of 0 or 1 were considered low-rate, those who scored 2 or 3 were medium-rate, and those who scored 4 or higher were high-rate criminals.

Overall, Greenwood and Abrahamse estimated that 27% of offenders were low-rate, 44% were medium-rate, and 29% were high-rate. Incarcerating only the latter group would reduce the robbery rate by 15% while reducing the total robbery incarceration rate by 5%. A similar 15% reduction in burglary would require a 7% increase in the burglar inmate population. Overall, the scale correctly predicted just 51% of offenders. After its publication, scholars found a variety of shortcomings with the Greenwood Scale and its purported ability to prospectively identify chronic offenders and reduce the prison population. For example, the scale had a false positive rate in excess of 50%. This meant that half of the offenders predicted to be high-rate actually were not. Thus, incarcerating them on the basis of their "predicted risk" would not only produce unnecessary prison costs but also, and more important, imprison those who were not career criminals. Moreover, the scale had a false negative rate of about 16%, which meant that nearly one in five career criminals was missed. In a later work, Greenwood himself largely concurred with his critics about the difficulty in predicting chronic offenders.²

In the intervening years, other criminologists have attempted to refine the Greenwood Scale to arrive at a more accurate prediction instrument. Although they were applied to new and diverse samples of offenders and contained refined scale items, prediction instruments continued to yield false negative rates in excess of 50% and be largely ineffective at identifying career offenders.³ In fact, prediction scales appeared to be more equipped at predicting low-rate offenders. For example, Hennessey Hayes and Michael Geerken ingeniously noted that although prediction instruments were ineffective at identifying the high-rate offenders, they were quite accurate at identifying low-rate offenders. Indeed, theirs and prior instruments correctly predicted 60% to 84% of low-rate offenders. As a result, Hayes and Geerken suggested that policy makers should focus on the majority of offenders who are not career criminals and whom prediction instruments can identify. Moreover, they proposed that noncareer offenders could be selected for early release from prison since their low propensity for recidivism could confidently be assessed. Another recent scaling effort also demonstrated that while identifying career criminals is difficult, identifying benign offenders is not. Recently, Matt DeLisi

developed a theoretically informed scale to identify the life-course persistent offender conceptualized by Terrie Moffitt. The scale was amazingly accurate in predicting outcomes for nonchronic offenders. For example, when identifying low-rate offenders for violent arrests, property arrests, felony convictions, and prison sentences, the current identifications were 94%, 88%, 93%, and 95%, respectively. Like prior efforts, the scale identified high-rate offenders at rates no better than chance.⁴

Numerous scholars have levied critiques, at times impassioned, against prediction instruments because of their inaccuracy and the attendant ethical dilemmas. Mark Moore succinctly summarized these critiques:

There are problems with the idea of relying on predictive tests. To retributivists, it seems wrong to impose criminal liabilities on the basis of predictions of further criminal acts. To many others, it seems wrong to impose liabilities on people who are falsely predicted to commit crimes in the future. Still others worry about the characteristics that will be used in the predictive tests, thinking that it would be wrong to use characteristics that were not under the control of the offenders and were not themselves criminal in nature. And there are always the questions of exactly at what point in the criminal justice process the tests would be applied and what consequences the use of the tests would have for criminal offenders.⁵

Despite the genuine concerns of scholars and the empirical inadequacy of many of their prediction instruments, prediction has and will continue to be practiced in criminal justice vis-à-vis career criminals. Fortunately, one area where prediction has fared better is the risk prediction instrument used by federal parole. For more than 30 years, the U.S. Parole Commission's Salient Factor Score has proven to be an effective actuarial device in predicting career criminality among federal offenders. The Salient Factor Score contains measures such as prior adjudications and convictions, prior commitments of more than 30 days, active criminal justice status, age, and heroin addiction. It is reverse-coded; thus, offenders who scored 0 to 3 are assessed as poor risks, 4 to 5 are fair risks, 6 to 7 are good risks, and 8 to 10 are very good risks. Over the years, the Salient Factor Score has been streamlined and refined to encompass only criminal history-relevant items and replicated on multiple validation samples.⁶

In my opinion, the inability to prospectively identify career criminals via prediction instruments and the ethical questions that this failure raises have been extremely damaging. Many criminologists are rightfully concerned about attempts by policy makers and the criminal justice system to

selectively focus on individual offenders in a forecasting context. By and large, we have been unable to do so, and most prediction instruments work only as well as if one had flipped a coin to assess dangerousness or likelihood of recidivism. Obviously, this is unacceptable. Not only does this serve as an impetus for future researchers to develop better actuarial devices, but it also serves as a cautionary tale for the academic community to treat with apprehension claims that career criminals can be identified in advance.

Media Portrayals of Career Criminals

To be sure, the mass media coverage of crime, criminals, and the criminal justice system is extensive. Newspapers from the smallest village to the largest metropolis provide daily stories of criminal acts that occur in the community. A regular feature of the American newspaper is the police blotter, a daily or weekly listing of community residents and other persons who have been arrested by local authorities. On television, crime-related stories are often the lead story on local news programs, and television movies and scores of programs are entirely devoted to criminal justice issues. The number of Internet sites devoted to crime is innumerable. In short, crime is integral to the news media, especially in the United States.

As mentioned earlier, when dealing explicitly with career criminals, the media transmit inconsistent and often conflicting messages. Media coverage of career criminals is organized into three camps: coverage of crime events that often fails to make the explicit point that the preponderance of crimes are committed by career offenders; coverage that is often sympathetic to career criminals because of adversities that the defendants themselves have endured; and coverage that alternately portrays the criminal justice system and crime-control policies as absurd, needlessly punitive, ineffective, and unfair to career criminals.

The Criminological Significance of Career Criminals

Frequently, atrocious criminal events, the ones that inspire the most outrage and fear among community residents, are the handiwork of chronic offenders. Across the nation, there are regrettably many incidents demonstrating this point.

In Missouri, a woman was kidnapped, brutalized, and raped for several hours before she was able to escape her captor. Ultimately, the defendant in the case pleaded guilty to seven counts of sodomy in exchange that numerous other felony charges were dismissed. It was later discovered that the defendant had been imprisoned for 20 of the previous 21 years for prior convictions for murder, assault, robbery, burglary, and assorted other offenses. While on parole in 1990, the defendant committed a similar incident where he kidnapped and repeatedly sodomized a young woman—and this case resulted in an acquittal!

In Illinois, residents of the Chicago Cabrini-Green housing projects were shocked by the brutal attack of a young girl who was raped and beaten to such a degree that she was left blind, mute, and crippled. The 26-year-old defendant in this case was sentenced to 120 years in prison. Records maintained by the Illinois Department of Corrections indicated that the defendant had been imprisoned at age 18 for convictions for armed robbery and attempted aggravated criminal sexual assault.

In Connecticut, a 27-year-old man was charged in the stabbing deaths of his aunt and her two children before leading the police to the skeletal remains of a woman who had been missing. Court records indicated that the man had 23 prior convictions, including 9 felony convictions in the past 10 years.

In California, an armed man abducted two teenage girls from a youth hangout and bound their male companions with duct tape. After raping both girls, the perpetrator drove for 100 miles to an isolated area where, according to the victims, he announced that he was going to murder both women and bury them. Miraculously, the police caught up to them seemingly moments before the perpetrator was going to commit the double homicide. Police shot the abductor to death. As savage as this scenario was, it became increasingly clear that it was only the latest exploit of this violent career criminal. At the time of his death, the man was wanted in California on five counts of rape, the alleged victim being his own stepdaughter, and in Nevada for carjacking. For nearly two decades, he had accumulated several arrests and convictions in several states, including prison terms for burglary, methamphetamine possession, and grand theft.

In Pennsylvania, a 7-year-old girl gnawed her way through duct tape bindings and broke a window after being abducted and left in a basement for 24 hours. The suspects in the case allegedly abducted the girl and threatened to kill her unless their sizable ransom was paid. As the case unfolded, it was learned that both suspects had lengthy criminal records,

including multiple arrests for drug violations and crimes of violence. It was later learned that the pair had abducted the girl because they believed her family had recently received a sizeable insurance settlement.

In Oklahoma, two convicts escaped from the Oklahoma State Penitentiary. One defendant was serving a life sentence for the murder and rape of an 81-year-old woman, an act committed when the perpetrator was just 17 years old. After capture, the defendant was convicted of two escape-related charges and, according to prison records, first-degree manslaughter after he had been incarcerated for 6 years. The prison record for the other escapee was even more prolific. As a juvenile, he was convicted and incarcerated for four counts of kidnapping, four counts of burglary, and three counts of theft. He previously escaped from prison while serving sentences for these crimes before receiving a 20-year sentence for kidnapping, assault on a police officer, escape, and conspiracy charges. Thus, the instant offense was his third escape from prison in less than a decade.

In Nevada, a 33-year-old man was sentenced to death for murder and armed robbery, a case in which he used a 15-year-old female runaway to lure the victim to a motel with a ruse of sex. During the murder trial, a former victim of the defendant testified that he raped her at knifepoint in Illinois. Records also show that the defendant had served prison time in Ohio for burglary and parole violations.

In Ohio, two men killed a promising high school football star for what appeared to be a robbery. One man was convicted of 15 criminal counts, including murder, attempted murder, and assault, and received a 46-year-to-life sentence. Records indicate that the defendant had already been committed to state prison on three separate occasions for drug trafficking, weapons charges, escape, and failure to comply with court orders. The other accused, who is awaiting a retrial, had four prior prison stints for crimes such as property, drug, weapons, and escape charges. Also in Akron, Ohio, a man was sentenced to life in prison without parole and classified as a violent sexual predator for the kidnapping and rape of a 9-year-old girl. Ohio prison records indicate that the same man was convicted of corrupting a minor and escape in 1992 (1-year sentence), gross sexual imposition in 1992 (3-year sentence), and rape in 1998 (4-year sentence).⁷

The recurrent theme is that persons who are no strangers to the criminal justice system often account for serious violence crimes that constitute the news. Unfortunately, the significance of this is not often explored. By not stressing the explicit link between career criminals and the incidence

of crime, the news media lose an opportunity to inform the public. Instead, news consumers are left with the idea, sometimes correct, that the criminal justice system accords considerable leniency to criminal offenders, even high-rate ones. This creates public indignation directed against criminals writ large and calls for tougher criminal justice, a situation that policy makers are often willing to oblige. Thus, public outrage over crime tends to be general and unfocused, not specific and concentrated on the small cadre of career criminals. In the place of cries to stop the "violent few" is general rancor. Even offenders buy into this. For example, a frequent offender who was imprisoned for robbery after being paroled early for a prior robbery conviction has launched a \$1.6 million suit against prison and parole officials. The offender asserts that the *state* was responsible for his crimes because it knew full well that career offenders like himself are incorrigible and recidivate upon release.⁸

The Sympathetic Life of Career Criminals

The media's tendency to miss the criminological import of crime events committed by chronic offenders is unfortunate but somewhat innocuous. Portraying them as victims of social circumstances rather than their own pathologies is more problematic. Because many career offenders were themselves the victims of considerable cruelty and disadvantage during their childhood, it is somewhat easy to empathize with them.⁹ However, does empathy compete with our desire to morally condemn and punish repeat offenders? The following news accounts address the tension between compassion and a desire to punish.

In Florida, a 67-year-old woman was sentenced to 4 years in prison for five felonies related to masterminding a multicity pickpocket enterprise. The frail woman—who suffers from kidney failure, arthritis, and is wheelchair-bound—clearly presented herself as a sympathetic defendant. Florida prison records indicated that the woman had been imprisoned twice previously, both for grand theft, and served two probation sentences for cocaine possession and grand theft. Between the ages of 46 and 67, the defendant amassed nine felony convictions.

An increasingly contentious debate centers on the appropriateness of executing defendants who are either mentally ill or mentally retarded. Two recent cases, both occurring in Texas, are illustrative. The U.S. Supreme Court recently decided that the execution of the mentally

retarded constituted a violation of the 8th Amendment's proscription against cruel and unusual punishment. The case involved a man with an IQ of about 60 who was convicted of raping, stomping, and mortally stabbing a woman in 1979. Often relegated to the back paragraphs in articles covering this case was the fact that the defendant was on parole after serving less than 2 years of a 5-year sentence for a previous rape conviction. Another Texas inmate with diagnosed paranoid schizophrenia was executed in 2003 for killing a woman who resisted his attempts to rape her. Arrest records indicated that the defendant told authorities that he killed the woman simply because he *wanted* to be returned to prison. Texas prison records indicated multiple prior stints in prison for crimes such as aggravated robbery with a deadly weapon, burglary, arson, and assorted parole violations.

In California, a defendant was executed for the murder of an 81-year-old woman who was shot in the face after the defendant burglarized her home. The man was only the 10th person to be executed in California since capital punishment was reinstated in 1978. As the execution approached, defenders suggested that the defendant should be spared because of his brutal childhood at the hands of an abusive father and mentally ill mother. Other apparently redeeming features of the defendant were that he had suffered from ineffective defense counsel and, while on death row, learned Latin and had begun to write poems about repentance. The defendant's prison dossier tells a different story. The defendant was an escapee from Utah State Prison, where he was serving time for multiple convictions for aggravated burglary. While imprisoned, he murdered another inmate and assaulted several other inmates and staff. He admitted to killing at least six people in Nevada but was never charged.

In Florida, a man died while on death row—just before the Innocence Project used forensic evidence to prove that he was actually innocent of the charges for which he was condemned. (The vital role of the Innocence Project is discussed in Chapter 6.) For good reason, the miscarriage of justice received a great deal of condemnatory press coverage. Unfortunately, the outrage that should have been directed against the error-prone criminal justice system was redirected by attempting to lionize the defendant by lamenting his lifetime of disadvantage. Moreover, the defendant, who was actually innocent of the murder charges that wrongfully resulted in his placement on death row, had previously been convicted of two separate killings, one when he was just 13 years old and the other when he was 18 years old. Of course, miscarriages of justice are intolerable;

however, it was questionable to suggest that this person was an innocent angel unscrupulously plucked from the streets. Indeed, he had two prior murders underneath his belt, circumstances that undoubtedly contributed to his wrongful arrest and ultimate prosecution.

In sum, a variety of sociological hardships have been invoked to cast collective pity on the lives, circumstances, and behaviors of career criminals. At times, these hardships have been presented as extenuating circumstances or justifications for habitual criminal behavior. This deflects needed attention from the habitual criminal conduct and can have calamitous consequences. A famous example is the case of Jack Henry Abbott. Abbott became famous for his prison memoir *In the Belly of the Beast* while serving time in New York for bank robbery and the fatal stabbing of another inmate. Abbott's writings were attractive to the intelligentsia of that era, especially author Norman Mailer, who lobbied for Abbott's parole. He was indeed paroled in 1981 and at-large for a mere 6 weeks before stabbing a man to death outside of a restaurant. He was subsequently prosecuted and imprisoned where he died of suicide in 2002.¹⁰

The Mercurial Criminal Justice System

The news media provide numerous examples of events supporting the view that the criminal justice system inappropriately responds to career criminals. In one view, the leniency of the criminal justice system and the unwillingness of its operatives to take the criminality of the worst offenders seriously contribute to additional crime. From another perspective, the criminal justice system is portrayed as a bully, the mean-spirited Goliath who sets chronic offenders up for failure or inflicts needlessly cruel policies on them. The following contain examples from each perspective.

A case that received nationwide publicity was the December 2000 escape of seven violent career criminals from a maximum-security prison in Texas. While in flight from prison, the men committed additional felonies culminating in the murder of an Irving, Texas, police officer during the robbery of a sporting goods store. Ultimately, the seven were captured. One defendant committed suicide, three were sentenced to death, and three were sentenced to lesser prison terms. Prior to the escape, the inmate leader was serving multiple life sentences upon convictions for 13 counts of aggravated kidnapping with a deadly weapon, 4 counts of

aggravated robbery with a deadly weapon, and burglary. The other two condemned offenders were serving time, prior to their escape, for capital murder with a deadly weapon and aggravated robbery with a deadly weapon (with two previous commitments for the same offenses), respectively. In fact, the latter offender had the temerity to blame the killing of the police officer on the victim, suggesting that had the officer been better trained, he could have avoided being ambushed and executed by the escaped convicts.

Citizens have begun to mobilize in Massachusetts out of frustration over the lack of veracity that judges have in dealing with habitual offenders. For example, an offender who had amassed more than 100 arrest charges during a 27-year offending career was recently released on a personal recognizance bond after an arrest for shoplifting, drug possession, and four active warrants. His record contained 9 arrests for assault with a dangerous weapon in addition to an assortment of property, drug, and public-order crimes. In California, the case of an ex-convict charged with murdering an undercover police officer is illustrative of the potential risks of not appropriately and competently dealing with chronic offenders. The defendant should have been incapacitated by the state's three-strikes statute; however, prosecutors mistakenly concluded that his six armed robbery convictions constituted a single firearm possession case, not six separate violent felonies. As a result, he had been sentenced to 32 months in prison instead of 25 years to life.

Prior to leaving office in the midst of a corruption scandal, George Ryan pardoned four death row inmates and commuted the sentences of all condemned offenders to life imprisonment in Illinois. The unprecedented move occurred because of allegations from some death row inmates who claimed that Chicago police officers beat them into confessing to capital offenses. The move received praise from civil libertarian groups yet evoked outrage from criminal justice and victim's rights organizations. Interestingly, one of the pardoned inmates remained behind bars for additional convictions that, presumably, were not the outcome of police corruption. According to records maintained by the Illinois Department of Corrections, the individual (whose death sentence for murder and 15-year sentence for armed robbery were pardoned) remains behind bars upon convictions for home invasion, rape, armed robbery, deviant sexual assault, aggravated kidnapping with no ransom, and kidnapping with secret confinement. The offender is expected to be paroled in November 2023 when he is 61 years old.

Not dealing with serious criminals in the harshest manner possible is not limited to the United States. In Canada, a career criminal who was on day parole while serving a life sentence for armed robbery committed seven drug-related homicides. The offender, whose official record dated to 1974, had compiled a record containing 36 prior convictions including 2 attempted murders, 2 escapes from prison, and multiple armed robberies. Another Canadian offender, serving a 5-year sentence for kidnapping and aggravated assault in which the victim needed reconstructive surgery, continued to plague correctional staff with his misconduct behind bars. Twice, the defendant was diagnosed as a prototypical psychopath. In Vancouver, a serial burglar with more than 100 burglary arrests or convictions on his 13-year criminal record received a mere 5-to8-month sentence after burglarizing a home and stealing nearly \$6,000 worth of property. Finally, another Vancouver case involved a career criminal who received unexpected leniency from the judge. The 47-year-old offender with 33 property-related convictions on his record received a 2-year probation sentence for credit card fraud and theft. The reasoning for the light sentence was that incarceration was ineffective in reducing this offender's criminal behavior; thus, it should not be used further. Ironically, the presiding judge in the case was the individual who offered this rationale while imposing the meager sentence.¹¹

In other circumstances, the news media document scenarios whereby career criminals are punished in seemingly draconian ways. In this view, the response of the criminal justice system to career criminals is framed as gratuitous, costly, and ineffective. A recent case that speaks to this is the recent life sentence administered to an Oklahoma offender who spat at and bit officers as they responded to a domestic violence incident. The news report portrayed the application of a life sentence as unjustified given the defendant's "history of drug and alcohol abuse" and "limited education." Imprisoning an offender for life for spitting on any officer also sends the message that the criminal justice system will respond with ferocity if one of its own operatives is victimized. The article did acknowledge that the defendant had prior felony convictions that qualified him for the life sentence. Fortunately, Oklahoma is a state with excellent online access to the records of its prisoner population. Based on the name and age parameters given in the news article, one can quickly obtain the prison profile of this offender. Prior felony convictions were unearthed: two prior convictions for first-degree rape, two convictions for burglary, and one conviction for unauthorized use of a vehicle. The message of incapacitating an offender

with “prior felony convictions” is a different one than the message that would have been sent by stating that two of these were for rape. Indeed, the apparent severity of the life sentence becomes contextually different for an offender with such a violent criminal past.

A recent California case involved the application of a third strike against an offender convicted of stealing \$11 worth of wine, lip balm, and breath freshener—an oversight that defense counsel asserted was the result of a brain injury that causes forgetfulness. The article also stated that the defendant had 17 prior felonies on his record, including the home invasion–robbery–rape of a woman and her 15-year-old daughter, the attempted murder of a police dispatcher, and a half-dozen armed robberies. Interestingly, the punishment for the \$11 theft was included in the “weird news” section of the local newspaper.

The lawful application of statutes designed to target and neutralize the worst criminal offenders has been portrayed as inappropriate and, at times, constitutionally dubious. This can create concerns that serve to undermine the retributive rationale that drives the enactment of these laws in the first place. Consequently, the following questions remain unanswered: Why are so many offenders who have been previously convicted of serious, predatory violence serving a fraction of their lengthy prison terms? How is it that an offender can, over a period of decades, amass dozens and even hundreds of arrests, convictions, and sentences? and Why, as communities attempt to cope with heinous crimes committed by career offenders, were these individuals freed in the first place? Because the news media transmit such inconsistent images of career criminals, casting them in varied roles ranging from monster to victim, we are uncertain about them. Thus, we cannot be convinced that an \$11 theft resulting in a life sentence is absurd, because it could be more or less outrageous than the continued recidivism of chronic offenders and the unwillingness of the criminal justice system to mete out punishment. For instance, in Colorado, an offender with 177 arrests was portrayed as the victimized pawn of a purported ploy by the local criminal justice system to induce voters to pass a jail expansion issue.¹²

Academics and Career Criminals

Travis Hirschi and the late Michael Hindelang, two of the most influential criminologists, once had this to say about their peers:

Few groups in American society have been defended more diligently by sociologists against allegations of difference than ordinary delinquents. From the beginning, the thrust of sociological theory has been to deny the relevance of individual differences to an explanation of delinquency, and the thrust of sociological criticism has been to discount research findings apparently to the contrary.¹³

To be sure, the overwhelming majority of criminologists (regardless of their political orientation) fully recognize the existence of career criminals and the nefariousness of their conduct. Unfortunately, not all criminologists do. Over the years, some have mounted a veritable campaign against the career criminal and the policies designed to neutralize him. In part, their uneasiness about the worst offenders stems from predominantly liberal political leanings that are fundamentally oriented against the idea of preternaturally antisocial people. Evidence of this is provided here.

There is no doubt that criminologists, as academics, are significantly more liberal in their political philosophy than the general population.¹⁴ For example, Anthony Walsh and Lee Ellis polled members of the American Society of Criminology to assess their self-reported political orientation and preferred theoretical explanation for criminal behavior. They found that more than half (50.3%) of the criminologists identified as liberal and another 8.2% identified as radical or extreme Left. Nearly 26% of criminologists reported that they were moderates, and only 15.6% self-identified as conservative. Significant differences existed across the groups in terms of their preferred theoretical perspective, leading Walsh and Ellis to suggest that political perspectives, whether they are linked to empirical evidence, are a significant component of criminological theorizing. Indeed, the American Society of Criminology has taken an organizational stand against capital punishment. It is difficult to imagine such a stand occurring among crime control-minded conservatives.

Two voices from diametric political angles have written about the liberal orthodoxy among criminologists. According to David Garland,

For the educated middle classes, a "civilized" attitude towards crime-stressing social circumstances rather than individual responsibility . . . has been a sign of cultural distinction making off urbane, educated, cultured opinion from the more vulgar, more reactionary views. To adopt a correctionalist, non-punitive attitude was, at once, to disdain the vulgarities of the undereducated, to express compassion for the poor masses, and *to further their professional interest* [italics added].¹⁵

Social critic and scholar Thomas Sowell similarly commented on the professional orientation of criminologists:

In this formulation [political correctness]—common among the intelligentsia—people are in jail because they cannot function in this society. It is not that they do not choose to function, but to prey on others instead . . . usually neither evidence nor logic is asked or given for such blanket indictments of “society” or for a non-judgmental view of criminals. It is simply part of the zeitgeist and a shortcut to distinction-cheap-glory to take a stand against “society.”¹⁶

Like those in other areas of work, criminologists develop a professional identity and political persona that are commensurate with the norms of their profession. Against the backdrop of a liberal academic community, it should be expected that some scholars were hesitant to acknowledge the existence of a small cadre of career criminals. Furthermore, considerable resistance should be expected against public policies designed to stop career criminals (recall the discussion at the beginning of this chapter). Unfortunately, academic dissension can carry heavy costs, namely equivocating the willingness to address serious repeat criminals. One of the techniques that academicians use that bears on these costs is social constructionism, the worldview that the objective and empirical are in fact subjective and manufactured.

Constructing the Career Criminal

As early as the 1930s, some within criminology demonstrated an unusual solicitude for criminal offenders and an equally visceral distaste for official social control. For example, Frank Tannenbaum described the process of sanctioning the criminal offender as the dramatization of evil.¹⁷ The progenitor of the social constructionist school in criminology may very well be one of the discipline’s most hallowed figures, Edwin Sutherland. In two articles published in 1950, Sutherland voiced his concern about the creation and diffusion of laws aimed at offenders who engaged in sexually predatory offenses.¹⁸ According to Sutherland, isolated incidents of serious crimes committed by sexual psychopaths received nationwide media coverage and were blown out of proportion to the extent that such events were isolated, rare events in the overall picture of crime. As the news of the bad acts of sexual psychopaths spread, community residents became increasingly panicked and clamored for the system to protect

them. In haste, policy makers enacted legislation that was driven by this expressive indignation toward violent sexual predators.¹⁹

Sutherland's work is characteristic of the social constructionist approach used in studying the worst type of offenders, such as career criminals or sexual psychopaths. First, legislation that results from politically mobilized citizens who are outraged by crime is often disparaged as resulting from "moral panic." The motivation for decrying indignation against serious criminals is perhaps a good one. Incidents of atrocious violence, committed by career criminals or otherwise, are rare compared to the prevalence of mundane crimes such as burglary, larceny, auto theft, drug violations, simple assault, and the like. In this sense, constructionists are correct in noting that the dangers posed, in probability terms, by serious violent criminals are relatively rare. To illustrate this point, scholars cleverly show that the dangers posed by ordinary household events exceed the likelihood that one will be abducted, raped, and killed by a psychopath. Thus, when considering all of the crimes that occur across the larger criminological landscape, panic does appear unwarranted and probably should not drive policy.²⁰

A more troubling aspect of this approach centers on the skepticism surrounding serious violent criminals who engage in behaviors like murder, rape, and abduction. It is as if scholars with this worldview deny the very existence of offenders whom more than a century of researchers have identified. For example, Jonathan Simon reviewed the history of the career criminal offender as it relates to criminology and suggested that hard-core recidivists were borne from a relationship between government and criminology. In this view, criminologists are weary of the very notion of the career criminal but invoke this "bogeyman" out of a social duty to assuage public fears.²¹ Some have taken this logic even further by imputing diabolical motives among those who stress crime-control measures. For example, Elliott Currie likened the conservative, tough-on-crime movement of the latter 20th century to social Darwinism with his insinuation that the belief that violent or wicked people exist is analogous to believing or advocating a Darwinian social engineering program.²²

Alida Merlo and Peter Benekos suggested that the presentation of atrocious crimes creates the misguided belief that most crimes are random and heinous. However, they expressed concern that the publicity surrounding the exploits of career offenders galvanizes the collective fear of crime and facilitates the easy passage of "quick fix" policies. The examples that they provided include Megan's Law, originally a New Jersey law that requires states to notify communities when sex offenders move into their neighborhood; and two New York laws—Jenna's Law,

which is a measure to end parole for all violent felons; and Joan's Law, which imposes a life imprisonment without parole sentence for murder-rapes where the victim is younger than 14.²³ Merlo and Benekos are correct in the sense that retributive policy, in the absence of front-end prevention policies, will not meaningfully fix the crime problem. However, it is an important first step.

Even criminal career researchers are occasionally guilty of mollifying the certainty about career criminals. For example, scholars from the Columbus, Ohio, Dangerous Offender Project suggested that "the violent-monster theme occurs frequently in popular and criminal literature . . . although such persons do exist, they do not appear in our samples in sufficient numbers to perpetuate the myth as a serious problem." Based on quantitative analyses of official records, Alfred Blumstein and Soumyo Moitra concluded that "the long-record 'career criminal' is as likely as the shorter-record persisters to have made the current arrest his last. In that event, locking up the 'career criminal' averts no more crimes than locking up any other persisters."²⁴ Statements such as these are unfortunate because they contradict the very rationale for studying career criminals. The very reason that career criminals are fodder for research and policy is that so few offenders commit so much of the crime. The very language used by constructionists (e.g. "moral panic") suggests that punitive responses to violent crime or violent criminals are knee-jerk reactions of moralistic people who unfairly stand in judgment of others. It is unclear how outrage against predatory behavior is viewed as moralistic. For example, Sutherland stated, "'Molestation' is a weasel word and can refer to anything from rape to whistling at a girl."²⁵ What is a "weasel" word? Did Sutherland imply that molestation is inexact and should not be used? It would seem that a term such as *molestation* is in the same family as sexual battery, rape, and the like. Indeed, there exists cross-cultural consensus about the wrongfulness of crimes that Sutherland described.²⁶ By suggesting that moralists are imposing their viewpoints on others is tantamount to suggesting that predatory criminals and violent crimes are accepted by some segments of our society. This is not the case.

Part and parcel of this approach is the portrayal of the criminal justice system, not violent repeat offenders, as the real threat to public safety.²⁷ Again, Sutherland was prescient in this regard, once stating that laws enacted to proscribe the violence committed by sexual psychopaths may be more injurious to society than the violence committed by predatory criminals. In conflict theory terms, David Greenberg stated that

it is psychologically easier, I suggest, to overcome normative reservations about incarcerating on the basis of predicted future acts rather than past conduct, when one believes that those to be incarcerated are a different, criminal breed, not like the rest of us. If candidates for incarceration are members of a feared or despised minority group, as is often the case in American courts today, such beliefs are especially easy to accept.²⁸

Similarly, in their review of the National Academy of Sciences report on criminal careers and career criminals, Sheldon Messinger and Richard Berk claimed that the methods of crime control being devised to contain and incapacitate career criminals were more fearsome and dangerous than the offenders themselves. In other words, just as criminology was making the study of career criminals one of the discipline's central areas of inquiry, a minority of voices began to assail the very concept of the career offender and the presumably draconian policies designed to remove them from circulation.

As discussed at the onset of this chapter, the main source of this discontent centered on the ethical and logistical problems in identifying or predicting career criminals. However, some took this concern further because of their discomfort with the state deciding who was dangerous. What criteria would be used? Given what is known about the significance of early onset of problem behaviors, would society be served well by incarcerating for life any person who is arrested before the age of 10? Similarly, should delinquent youth who are contacted by the police for violent crimes be removed from circulation? Does an early involvement in violence portend a life of crime? The Philadelphia birth cohort studies found that minorities were significantly more likely than whites to be habitual offenders. Thus, should the criminal justice system focus its energies toward nonwhite offenders? These were some of the questions on the minds of criminologists who debated, often vociferously, the slippery slope of the career paradigm and its policies such as selective incapacitation.

Conclusion

Career criminals have proven to be controversial figures among scholars, policy makers, media outlets, and the general public. Theoretical explanations for habitual criminality, the presentation of chronic offenders in the news media, and viewpoints about the appropriateness of the state in controlling them differ. For some, career criminals are somewhat sympathetic

figures who are exploited by a largely sensationalistic news media and susceptible to anticrime public sentiment. For others, career criminals are accorded too many opportunities to slip through the cracks of a disorganized and lenient criminal justice system. Evidence for each perspective is provided in bulk by numerous media outlets. Regrettably, this creates an unclear picture of whether the criminal justice system is overly lenient and soft on crime, excessively harsh and damaging to society, or somewhere in between. Similarly, inconsistent messages are transmitted regarding whether the career criminal is real or imagined, a volitional actor or an acted-upon victim.

Although career criminal research is a dominant research area, dissenting voices within the discipline have heaped counterproductive political issues upon the study of high-rate offenders. In some ways, this work continues the tradition of academic solicitude toward criminals that previous scholars have written about. It is critical to remember that the half-hearted acknowledgment that career criminals do in fact exist but that their numbers are relatively low and therefore do not warrant the hype, press clippings, or research devoted to them misses the point entirely. Career criminals are, ipso facto, rare in number, extreme in behavior, and bad in totality. They are not conjured images of bad apples to play upon the base impulses of the general public.

Finally, a more common and central concern among criminologists is the poor record of prediction instruments in identifying career criminals for punishment purposes. This failure creates serious ethical and logistical problems and contributes to the inability of the criminal justice system to effectively control high-rate offenders.

Notes

1. Gottfredson, S. D., & Gottfredson, D. M. (1986). Accuracy of prediction models. In A. Blumstein, J. Cohen, J. A. Roth, & C. A. Visher (Eds.), *Criminal careers and "career criminals"* (Vol. 2, pp. 212-290). Washington, DC: National Academy Press (p. 239).

2. Cohen, J. (1983). Incapacitation as a strategy for crime control: Possibilities and pitfalls. In M. Tonry & N. Morris (Eds.), *Crime and justice: An annual review of research* (Vol. 5, pp. 1-84). Chicago: University of Chicago Press; Visher, C. A. (1986). The RAND inmate survey: A reanalysis. In A. Blumstein, J. Cohen, J. A. Roth, & C. A. Visher (Eds.), *Criminal careers and "career criminals"* (Vol. 2, pp. 161-211). Washington, DC: National Academy Press; von Hirsch, A. (1985). *Past or*

future crimes: Deservedness and dangerousness in the sentencing of criminals. New Brunswick, NJ: Rutgers University Press; Greenwood, P. W., & Turner, S. (1987). *Selective incapacitation revisited: Why the high-rate offenders are hard to predict.* Santa Monica, CA: RAND Corporation.

3. Auerhahn, K. (1999). Selective incapacitation and the problem of prediction. *Criminology*, 37, 703-734; Decker, S., & Salert, B. (1986). Predicting the career criminal: An empirical test of the Greenwood scale. *Journal of Criminal Law and Criminology*, 77, 215-236; Miranne, A. C., & Geerken, M. R. (1991). The New Orleans inmate survey: A test of Greenwood's predictive scale. *Criminology*, 29, 497-516.

4. Hayes, H. D., & Geerken, M. R. (1997). The idea of selective release. *Justice Quarterly*, 14, 353-370; DeLisi, M. (2001). Scaling archetypal criminals. *American Journal of Criminal Justice*, 26, 77-92.

5. Moore, M. H. (1986). Purblind justice: Normative issues in the use of prediction in the criminal justice system. In A. Blumstein, J. Cohen, J. A. Roth, & C. A. Visher (Eds.), *Criminal careers and "career criminals"* (Vol. 2, pp. 314-355). Washington, DC: National Academy Press (p. 351). Other summaries or reviews on the topic appear in Gottfredson, S. D., & Gottfredson, D. M. (1986). Accuracy of prediction models. In A. Blumstein, J. Cohen, J. A. Roth, & C. A. Visher (Eds.), *Criminal careers and "career criminals"* (Vol. 2, pp. 212-290). Washington, DC: National Academy Press; Mathiesen, T. (1998). Selective incapacitation revisited. *Law and Human Behavior*, 22, 455-469; Monahan, J. (1996). Violence prediction: The past twenty and the next twenty years. *Criminal Justice and Behavior*, 23, 107-120; Moore, M. H., Estrich, S. R., McGillis, D., & Spelman, W. (1984). *Dangerous offenders: The elusive target of justice.* Cambridge, MA: Harvard University Press; Silver, E., & Miller, L. (2002). A cautionary note on the use of actuarial risk assessment tools for social control. *Crime & Delinquency*, 48, 138-161; Webster, C. D., Hucker, S. J., & Bloom, H. (2002). Transcending the actuarial versus clinical polemic in assessing risk for violence. *Criminal Justice and Behavior*, 29, 659-665.

6. Hoffman, P. B. (1994). Twenty years of operational use of a risk prediction instrument: The United States Parole Commission's Salient Factor Score. *Journal of Criminal Justice*, 22, 477-494; Hoffman, P. B., & Beck, J. L. (1985). Recidivism among released federal prisoners: Salient Factor Score and five-year follow-up. *Criminal Justice and Behavior*, 12, 501-507; Janus, M. G. (1985). Selective incapacitation: Have we tried it? Does it work? *Journal of Criminal Justice*, 13, 117-130. To be sure, there are other actuarial instruments that have proven effective in predicting violence (although perhaps not necessarily career criminality), and not all criminologists are so skeptical about the prospects of prediction. For examples, see Brantley, A. C., & Ochberg, F. M. (2003). Lethal predators and future dangerousness. *FBI Law Enforcement Bulletin*, 72, 16-22; Monahan, J., et al. (2000). Developing a clinically useful actuarial tool for assessing violence risk. *British Journal of Psychiatry*, 174, 312-319; Stevens, D. J. (2000). Identifying criminal predators, sentences, and criminal classifications. *Journal of Police and Criminal Psychology*, 15, 50-71.

138 CAREER CRIMINALS IN SOCIETY

7. The references for these events appear in the following order: Batz, J. (2002). Fail safe. Retrieved October 9, 2002, from <http://www.riverfronttimes.com/issues/2002-10-02/feature.html/print.html>; Associated Press. (2002). Official approve settlement to "Girl X" who was beaten, raped in public housing. Retrieved April 18, 2002, from http://www.courttv.com/news/2002/0417/rapesettlement_ap.html; Associated Press. (2002). Man charged in stabbing death of his aunt and two children. Retrieved January 2, 2001, from http://www.courttv.com/news/2000/1229/stabbing_ap.html; Johnson, A., Brunner, M., Lewis, G., The Associated Press, & Reuters. (2002). Teen girls rescued; kidnapper killed. Retrieved August 2, 2002, from <http://www.msnbc.com/news/788577.asp>; Fazlollah, M., Achrati, N., & Soteropoulos, J. (2002). Suspected kidnappers, family have web of ties. Retrieved July 25, 2002, from <http://www.philly.com/mld/philly/news/local/3731617.htm>; Associated Press. (2001). Two escape from Oklahoma prison. Retrieved January 16, 2001, from <http://www.msnbc.com/news/516690.asp?Onm=-239>; Puit, G. (2003). Jury sentences career criminal to death. *Las Vegas Review-Journal*, p. 1B. Retrieved October 2, 2003, from http://www.lexis-lexis.com/universe/document?_m=110dc2e4064430e32f77b975c0718df3. . .; Gross, A. (2003). Man convicted in murder at car wash gets 46 years to life. Retrieved March 14, 2003, from http://www.ohio.com/mld/beaconjournal/news/loca/states/ohio/counties/summit_county/5. . .; Chancellor, C. (2003). Rapist gets life term. Retrieved January 14, 2003, from <http://www.philly.com/mld/beaconjournal/4942006.htm?template=contentModules/printstory>. . .

8. *The American Enterprise*. (2002, April-May). 13 (3), 9. Retrieved March 13, 2003, from http://web5.infotrac-college.com/wadsworth/session/595/683/33158061/27!xrn_7_0_A845

9. Elkins, I. J., Iacono, W. G., Doyle, A. E., & McGue, M. (1997). Characteristics associated with the persistence of antisocial behavior: Results from recent longitudinal research. *Aggression and Violent Behavior*, 2, 101-124; Thornberry, T. P., Ireland, T. O., & Smith, C. A. (2001). The importance of timing: The varying impact of childhood and adolescent maltreatment on multiple problem outcomes. *Development and Psychopathology*, 13, 957-979.

10. The references for these events appear in the following order: Associated Press. (2002). "Mother of all pickpockets" sentenced. Retrieved June 3, 2002, from http://www.courttv.com/people/scm/scm_053002.html; Biskupic, J. (2001). Retarded killer's appeal goes before high court. Retrieved March 26, 2001, from <http://www.usatoday.com/news/court/2001-03-25-retardedkiller.htm>; Associated Press. (2003). Mentally ill inmate facing death this week loses clemency bid. Retrieved March 26, 2003, from <http://www.cnn.com/2003/LAW/03/25/texas.execution.ap/index.html>; Associated Press. (2002). California executes former escaped convict for 1980 killing of 81-year-old woman. Retrieved January 29, 2002, from http://www.courttv.com/news/2002/0129/execution_ap.html; Walsh, F. (2003). Frank Lee Smith's long hard life. Retrieved October 1, 2003, from <http://www.pbs.org/wgbh/pages/frontline/shows/smith/etc/>

longhard.html; Reuters. (2000). Panhandler convicted of brick assault. Retrieved November 30, 2000, from <http://www.msnbc.com/news/496504.asp>; Ripley, A. (2003, February 10). The struggle to stay outside the gates: A year has passed since *TIME* profiled ex-con Jean Sanders. A very hard year. *TIME*, 161 (6), 8; Associated Press. (2002). Prison author Jack Henry Abbott commits suicide. Retrieved February 11, 2002, from <http://www.foxnews.com/story/0,2933,45212,00.html>.

11. The references for these events appear in the following order: Associated Press & Reuters. (2001). Texas jail-break leader on trial for murder. Retrieved August 14, 2001, from <http://msnbc.com/news/613205.asp?dm=L218N>; Ryan, H. (2002). Newbury blames victim for "tragedy." Retrieved January 18, 2002, from http://www.courtvt.com/trials/texas7/011702_ctv.html; Scott, A. R. (2003). A career criminal with over 100 charges still walking the streets. Retrieved March 24, 2003, from <http://massjudgesaccountability.us/outrages/outrage5.html>; Pfeife, S. (2003). Prosecutor's mistake let murder suspect leave prison early. Retrieved March 13, 2003, from <http://web5.infotrac-college.com/wadsworth/session/595/683/33158061/20!xrn. . .>; Associated Press. (2003). Illinois Gov. George Ryan pardons four death row inmates. Retrieved January 11, 2003, from http://www.courtvt.com/news/death_penalty/011003_pardons_ap.html; Sun Media Corp. (2002, August 8). B. C. man charged in murders; drug link touted in 7 slayings in the mid-1990s. *Edmonton Sun*, p. 9; Lisle, L. (2003, February 15). A lock on trouble: Career criminal condo continues to manipulate from behind bars. *The Ottawa Sun*, p. 24; Falcon, M. (2002, November 15). Crown goes easy on career criminal. *The Vancouver Province*, p. A30; D'Angelo, A. (1998). Career criminal avoids jail: Judge says jail ineffective, tries probation. Retrieved March 24, 2003, from <http://www.nsnews.com/issues98/w090798/09049805.html>.

12. The references for these events appear in the following order: Associated Press. (2003). Defense attorney vows to appeal life sentence for spitter. Retrieved July 7, 2003, from http://web.lexis-nexis.com/universe/document?_m=5b0e2edd1ef132bb. . .; Associated Press. (2003). Strike 3! \$11 theft gets career criminal 25 years to life in California prison. Retrieved March 24, 2003, from <http://cnews.canoe.ca/CNEWS/WeirdNews/2002/11/15/4555-ap.html>; Holland, G. (2002). Justices to debate 3-strikes law. Retrieved November 5, 2002, from http://wire.ap.org/Apnews/center_package.html; Manson, P. (2003, September 5). 3 drug convictions portend life sentence, judge says. *Chicago Daily Law Bulletin*, p. 1; Riccardi, N. (2003, May 27). Prosecutors seek fewer 3rd strikes. *Los Angeles Times*, p. B2; Hebert, A. (2003). Woman says inmate set up to fail. Retrieved September 24, 2003, from http://www.dailycamera.com/bdc/county_news/article/0,1713,BDC_2423_2265897,00.html.

13. Hirschi, T., & Hindelang, M. J. (1977). Intelligence and delinquency: A revisionist review. *American Sociological Review*, 42, 571-587 (p. 571).

14. For examples, see Lipset, S. M., & Ladd, E. C. (1972). The politics of American sociologists. *American Journal of Sociology*, 78, 67-104; Lipset, S. M. (1982). The academic mind at the top: The political behavior and values of faculty elites.

Public Opinion Quarterly, 46, 143-168; Sowell, T. (1992). *Inside American education: The decline, the deception, the dogmas*. New York: Simon & Schuster; Walsh, A., & Ellis, L. (1999). Political ideology and American criminologists' explanations for criminal behavior. *The Criminologist*, 24, 13-27; Wilson, J. Q. (1983). *Thinking about crime* (Rev. ed.). New York: Vintage. An excellent and honest look at the politics of criminologists and the ways that they influence policy is Cullen, F. T., & Gilbert, K. E. (1982). *Reaffirming rehabilitation*. Cincinnati, OH: Anderson Publishing Company.

15. Garland, D. (2000). The culture of high crime societies: Some preconditions of recent "law and order" policies. *British Journal of Criminology*, 40, 347-375 (pp. 356-357).

16. Sowell, T. (1999). *The quest for cosmic justice*. New York: The Free Press (pp. 149-150).

17. Tannenbaum, F. (1938). *Crime and the community*. New York: Ginn.

18. Sutherland, E. (1950a). The diffusion of sexual psychopath laws. *American Journal of Sociology*, 56, 142-148; Sutherland, E. (1950b). The sexual psychopath laws. *Journal of Criminal Law and Criminology*, 40, 534-554.

19. For variations on this theme, see Feeley, M. M., & Kamin, S. (1996). The effect of "three strikes and you're out" on the courts: Looking back to see the future. In D. Shichor & D. K. Sechrest (Eds.), *Three strikes and you're out: Vengeance as public policy* (pp. 135-154). Thousand Oaks, CA: Sage; Kramer, R. C. (1982). From "habitual offenders" to "career criminals": The historical construction and development of criminal categories. *Law & Human Behavior*, 6, 273-293; Surette, R. (1996). News from nowhere, policy to follow: Media and the social construction of "three strikes and you're out." In D. Shichor & D. K. Sechrest (Eds.), *Three strikes and you're out: Vengeance as public policy* (pp. 177-202). Thousand Oaks, CA: Sage. Surette's article is noteworthy because it presents empirical data to support its argument.

20. To be sure, conservative criminologists can share in the blame of using political rhetoric and moral panics to influence policy. A case in point is Professor John DiIulio and his use of the "superpredator." According to DiIulio (see Bennett, W. J., DiIulio, J. J., Jr., & Walters, J. P. [1996]. *Body count: Moral poverty... and how to win America's war against crime and drugs*. New York: Simon & Schuster), the moral poverty that characterized the inner cities would help create a quasi-feral juvenile offender more vicious than any criminal ever seen. The prediction was made in the 1990s, a decade that saw unprecedented reductions in violent crime. Thus, the arrival of waves of young, superpredatory career criminals did not appear as DiIulio envisioned. DiIulio's thesis was derided by mainstream criminology. For other research investigating the role of politics, media construction, and crime, see Benekos, P. J., & Merlo, A. V. (1995). Three strikes and you're out! The political sentencing game. *Federal Probation*, 59, 3-9; Welch, M., Fenwick, M., & Roberts, M. (1997). Primary definitions of crime and moral panic: A content analysis of experts'

quotes in feature newspaper articles on crime. *Journal of Research in Crime and Delinquency*, 34, 474-494; Welch, M., & Roberts, M. (1998). State managers, intellectuals, and the media: A content analysis of ideology in experts' quotes in feature newspaper articles on crime. *Justice Quarterly*, 15, 219-242.

21. Simon, J. (1996). Criminology and the recidivist. In D. Shichor & D. K. Sechrest (Eds.), *Three strikes and you're out: Vengeance as public policy* (pp. 24-50). Thousand Oaks, CA: Sage; Pratt, J., & Dickson, M. (1997). Dangerous, inadequate, invisible, out: Episodes in the criminological career of habitual criminals. *Theoretical Criminology*, 1, 363-384.

22. Currie, E. (2004). Crime, justice, and the social environment. In B. W. Hancock & P. M. Sharp (Eds.), *Public policy, crime, and criminal justice* (3rd ed., pp. 52-69). Upper Saddle River, NJ: Prentice Hall.

23. Merlo, A. V., & Benekos, P. J. (2004). Dynamics of criminal justice. In B. W. Hancock & P. M. Sharp (Eds.), *Public policy, crime, and criminal justice* (3rd ed., pp. 153-175). Upper Saddle River, NJ: Prentice Hall.

24. Miller, S. J., Dinitz, S., & Conrad, J. P. (1982). Careers of the violent: The dangerous offender and criminal justice. Lexington, MA: Lexington Books (p. 87); Blumstein, A., & Moitra, S. (1980). The identification of career criminals from chronic offenders in a cohort. *Law and Policy Quarterly*, 2, 321-334 (p. 329).

25. Sutherland, E. (1950a, p. 143).

26. DeLisi, M. (2001). Extreme career criminals. *American Journal of Criminal Justice*, 25, 239-252; Rossi, P. H., Waite, E., Bose, C. E., & Berk, R. E. (1974). The seriousness of crimes: Normative structure and individual differences. *American Sociological Review*, 39, 224-237; Wilson, J. Q. (1997). *The moral sense*. New York: The Free Press.

27. A cottage industry of works exist that generally claim that the criminal justice system and thus the state itself are potentially the greatest threats to public safety and should be the object of our collective fear and the subject of policy reform. Although these works are diverse in their particular subject matter, they are sufficiently similar in their use of a critical perspective that fundamentally questions the righteousness and legitimacy of the criminal justice system and its effects on American society. Rather than being outraged by the behaviors of chronic offenders, these works demonstrate enmity toward the system. A quotation that captures the tenor of this scholarship was written by Harry Allen: "To paraphrase Winston Churchill, the standard of human decency in a society is reflected in the way it handles its offenders. If this is so, future historians will judge contemporary American society as located securely in the province of hell." For examples, see Allen, H. E. (1995). The American dream and crime in the 21st century: Presidential address to the Academy of Criminal Justice Sciences. *Justice Quarterly*, 12, 427-446 (p. 437); Chilton, R. (2001). Viable policy: The impact of federal funding and the need for independent research agendas—The American Society of Criminology 2000 Presidential Address. *Criminology*, 39, 1-8; Christie, N. (1993). *Crime control as*

142 CAREER CRIMINALS IN SOCIETY

industry: Toward gulags western style. New York: Routledge; Cullen, F. T., & Wozniak, J. (1982). Fighting the appeal of repression. *Crime and Social Justice*, 18, 23-33; Feeley, M. M., & Simon, J. (1992). The new penology: Notes on the emerging strategy of corrections and its implications. *Criminology*, 30, 449-474; Glaser, D. (1978). The counterproductivity of conservative thinking about crime. *Criminology*, 16, 209-225; Miller, J. G. (1996). *Search and destroy: African-American males in the criminal justice system*. Cambridge, UK: Cambridge University Press; Schwartz, M. D. (2001). One critical criminologist's view of the future and value of ASC. *The Criminologist*, 26, 1-5; Skolnick, J. H. (1995). What not to do about crime: The American Society of Criminology 1994 Presidential Address. *Criminology*, 33, 1-15; Tonry, M. (1995). *Malign neglect: Race, crime, and punishment in America*. New York: Oxford University Press; Wellford, C. F. (1997). 1996 Presidential Address: Controlling crime and achieving justice. *Criminology*, 35, 1-12.

28. Greenberg, D. F. (1991). Modeling criminal careers. *Criminology*, 29, 17-46 (pp. 39-40).