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Chapter 15

Mitigation and the Study of Lives: On the Roots of Violent Criminality and the Nature of Capital Justice

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Introduction

In this chapter I address the elusive concept of "mitigation" and the way in which attempts to assemble and present mitigating evidence to capital juries that might engender compassion and lead to merciful decisions has involved experts, attorneys, and investigators in the study of lives—the lives of capital defendants. Among social scientists, at least, the criminal law is notorious for its extremely narrow focus on decontextualized criminal acts and what seem to be arbitrarily defined states of mind. Much that a social scientist would want to know about the historical, social contextual, and even immediate situational influences on criminal behavior—knowledge that otherwise would be crucial to meaningfully analyze and truly understand the actions of a criminal offender—is deemed irrelevant by the criminal law. This narrowness has been the source of great frustration among social scientists, most of whose work has been systematically excluded from individual trials, appellate opinions, and the drafting of criminal statutes and codes. Because it has led legal decision-makers to ignore most of the racial, socioeconomic, and social psychological differentials that play such a crucial role in the etiology of crime in our society, this myopic focus probably also has been at the root of much injustice in the criminal system (e.g., Haney 1983).

There is one exception to this general rule—a capital penalty trial. A line of United States Supreme Court cases beginning some 20 years ago established the right of capital defendants to present a broad range of potentially mitigating evidence—evidence intended to produce life rather than death verdicts—

in the final stage of a capital sentencing proceeding.¹ Although chronically scarce resources and, in some jurisdictions, widespread attorney incompetency mean that this rule often is honored only in the breach, the range of potentially relevant evidence has been greatly expanded to include what amounts to, in essence, a psychobiographical account of the defendant's life. As one legal commentator summarized it: "At the penalty phase of a capital trial, the central issue is no longer a factual inquiry into whether the defendant committed any crimes; it is the highly-charged moral and emotional issue of whether the defendant, notwithstanding his crime, is a person who should continue to live (Goodpaster 1983:334-335). To address this issue, the capital jury must be informed about who the defendant is and, to the extent that it is possible to know, how he got to be that way." Psychologically informed social histories are invaluable to this process.

Of course, these psychobiographical stories are not told to jurors who approach the topic of violent criminality as blank slates. In fact, most jurors enter the courtroom already holding a conventional view of crime and criminals that they have gleaned from the media and, to a certain extent, from the law itself. Armed with this conventional and pre-existing narrative about why people do bad things, jurors are predisposed to posit violent acts as the product of an odd combination of equally free and unencumbered evil choices, on the one hand, and monstrously deranged, defective traits, on the other. Indeed, in most of the "crime stories" that form the basis of jurors' "common knowledge" about these issues, they are taught that extreme violence of the sort that they confront and attempt to comprehend in capital cases is carried out by de-

1. Indeed, much of what I will present in this chapter about "modern" penalty phase practice and its reliance upon social histories predates even this line of capital cases. More than 30 years ago the California Supreme Court described the nature and function of a capital penalty trial this way:

The emphasis must be upon the individual rather than the offense; such insistence upon the importance of the individual symbolizes a basic value of our society that contrasts with a totalitarian denigration of the individual as an appendage of the state. Our insistence upon the dignity and worth of the individual must surely be strictly and steadfastly applied in the crucial context of the individual's life or death. The jury decides whether the individual should be permitted to live upon the basis of a complete and careful analysis of that person as a human composite of emotional, psychological and genetic factors. The jury looks at the individual as a whole being and determines if he is fit to live. The jury is entitled to weigh psychiatric and other testimony as to his susceptibility to rehabilitation and reformation (*People v. Morse* 1964: 647).

Thus, although much of the research that I will cite on social historical factors is of relatively recent origin, recognition of the importance of taking a comprehensive approach to capital penalty trials and the basic respect for persons that it embodies are not.

humanized, anonymous figures or monsters rather than real people. If the victim of violent crime is depicted as "everyman," then the perpetrator is "other" personified. Elsewhere I have termed this the myth of demonic agency" (Haney 1995), because it serves to deny the humanity of the persons who commit capital murder by substituting the heinousness of their crimes for the reality of their personhood. This myth is essential to maintaining the system of death sentencing in the United States, and its dehumanizing effects are amplified by procedures and practices that occur within the trial itself.² "Mechanisms of moral disengagement" further distance jurors from the personhood of the capital defendant and disengage them from the moral complexities of the actions they are being asked by the state to authorize (Haney 1997c).

A capital penalty trial provides a rare opportunity to confront this mythology directly and to counter the partial and misleading stereotypes that plague the public's view of criminality. Properly conducted penalty phases present capital jurors with a fuller and more accurate view of the causes of violence and enrich their understanding of the person whose life they must judge. The presentation of mitigation requires the construction of an empathetic narrative, one that may include the broad sociological forces that constitute the larger context of the crime, the background and developmental history of the defendant and, in some cases, the deeper psychological issues that help to account for why a particular crime was committed by a specific defendant. As I will suggest in this chapter, the pre-existing biases with which they approach the penalty trial and the virtually incomprehensible sentencing instructions they are given at its conclusion mean that most jurors will need extensive education about how and why these things are relevant. Also, because they have few if any alternative sources of information about such issues, the patient, coherent, elaborate presentation of social history evidence in the penalty trial is absolutely indispensable to any claim that might be made about fair, reliable, and morally defensible capital verdicts.

Crime Stereotypes and Social Histories

The task of presenting a humanizing, empathetic narrative that will enable jurors to understand not only the harm that a capital defendant has inflicted, but also the circumstances from which he has come and the social history that has helped to produce his actions, is rendered more difficult by the elusiveness

2. A framework of what can be termed "structural aggravation" is built into death penalty trials as a whole. Structural aggravation stems from the ways in which capital trial practice, procedures, and instructions combine to differentially highlight and underscore those things that would push capital juries in the direction of death verdicts and neutralize or de-emphasize those things that favor life.

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of the concept of capital "mitigation." Mitigation is the legal category into which penalty phase evidence must be placed before it can be used by jurors in reaching merciful and compassionate decisions that can spare capital defendants' lives. Its elusiveness derives from two basic sources: the miseducation of the American juror and the inadequacies of the capital trial process.

As I already have suggested, many jurors come to the courthouse with firmly entrenched, preconceived ideas about the roots of violent criminality. As one commentator has argued, these familiar mental constructs not only "help shape the outcome of criminal cases and predispose us to play out certain scripts, schemata, and stereotypes," but they also "demand those narrative genres that best reflect a preferred sense of truth and justice" (Sherwin 1994:54). Most of the information from which such mental constructs and narrative genres are built derives from media accounts of crime and punishment that are terribly incomplete when they are not simply wrong. Like most citizens, then, capital jurors are not used to thinking about crime in terms of the social and developmental factors that may have contributed to it. For many, a capital penalty trial will be their first encounter with the tragic life history of someone who has committed a violent crime. It will also be their first opportunity to consider the ways in which these powerful social historical forces and influences—sometimes so extreme and traumatic that it will be difficult for jurors to fully appreciate or comprehend them—should be taken into account as "mitigation" in deciding whether the defendant should live or die.

This is in part because of the narrow and misleading information they have been provided as citizens about the nature of crime and criminals. Social and economic context is typically ignored by the news media in crime reporting (e.g., Barlow, Barlow, and Chiricos 1995; Humphries 1981) as well as television crime drama (e.g., Haney and Manzolari 1980). By the time information about the background and social history of the defendant has been gathered and becomes publicly accessible in a criminal trial—in those comparatively few cases in which it ever does—most cases are no longer "news" and—again, except for the most highly publicized cases—are no longer of interest to the press. For example, one study analyzed the content of newspaper crime reporting in a major city during a one year period and found that over two-thirds of the articles related to only the beginning stages of criminal justice system processing (e.g., crime incidents, arrests, charges being lodged against suspects). In addition, the study found that the commission of the crime itself accounted for the major details contained in the articles, and that post-arrest stages of criminal justice processing were seldom mentioned. It also found that "[s]urprisingly, suspects were seldom described in detail. The typical information given about them was their name, age, and address" (Sherizen 1978:218). Meaningful social and developmental history, context, and explanation are simply lacking in these accounts.

Prospective jurors are unlikely to find contextualized explanations of crime anywhere else in public discourse about the topic. Fictionalized portrayals and

popularized scholarship on the question of violent crime are of little help in educating the public about how criminogenic background and history can explain individual-level violence. Instead, citizens are treated to widespread media mystifications about "natural born killers" that even seep into contemporary academic commentary on the issue (cf. Harris 1988; McNulty 1995; Tarantino 1995). Serious-looking but oversimplified treatments of the topic have instructed members of the public that much crime reduces to the problem of "evil people" (Wilson 1975), is caused in part by the defective biology of its perpetrators (Wilson and Herrnstein 1985), and warn that our society is at risk of being overwhelmed by an epidemic of the "disease" of murder (Norris 1988). Thus, notwithstanding the extensive literature to which I will refer later in this chapter, the message that truly meaningful explanations for capital violence are rooted in the structure of the lives of those who commit it can rarely be found in the news media, dramatic renderings of crime and punishment, or popularized academic analyses of the topic.

For these reasons, teaching jurors to look carefully at the social histories of capital defendants to reach mitigating conclusions about the causes of crime and the culpability of capital offenders requires a special effort on the part of attorneys. Jurors must learn and then apply psychologically valid lessons that are nonetheless very much at odds with the stereotypes created by the media and nourished by the system of capital punishment that prevails in our society. Compared to the lifetime of learning that must be overcome, jurors must integrate these lessons within a relatively short period of time. And they must do so without much direct help from the legal system that has brought them to the capital jury box and structured a life and death decision for them to make.

Presenting the social history of the defendant—through lay and expert testimony—has become the primary vehicle by which capital defense attorneys attempt to correct the misinformed and badly skewed views of violent crime and violent criminals that many jurors hold (e.g., Haney 1995; 1997a; White 1987). But, despite the constitutional mandate that capital defendants must be permitted to present a broad range of potentially mitigating testimony—virtually anything that speaks to the background and character of the defendant—standard death penalty practices and procedures in many ways hinder the meaningful use to which this information is put. This occurs for several reasons, including the failure of the courts to *require* (rather than simply permit) that a detailed, in-depth, and psychologically-informed social history be compiled in every case; an apparent judicial inability or unwillingness to effectively *define* the concept of mitigation for jurors; and the failure of judges to further assist jurors in identifying specific and meaningful examples of the kinds of testimony that can and should legitimately be considered mitigating *in the case at hand* by providing tailored or "pinpoint" instructions rather than the abstract, generic, "boilerplate" versions presently in use. Instead, confusing and often incomprehensible capital sentencing instructions too frequently hinder the jury's

understanding of whether and how it is supposed to use social history testimony to understand the lives and contextualize the criminal behavior of those still too-few capital defendants who are fortunate enough to have it presented in their penalty trials.

Instructional Incomprehension and Capital Mitigation

It is now widely understood that *Furman v. Georgia* (1972) effected radical changes in the administration of the death penalty in the United States. To supposedly remedy the problems of arbitrariness and discrimination in the system of capital punishment that were identified in *Furman*, death-sentencing states devised new laws ostensibly designed to guide the discretion of the jury and regularize its decision-making. Although the "modern" death penalty differs from its pre-*Furman* predecessor in several ways, perhaps the most psychologically interesting and important is the role played by capital instructions in the attempt to structure and channel the capital jury's collective thought process. By Supreme Court mandate the "unbridled" discretion that previously characterized capital jury decision-making was to be eliminated by telling jurors what to think about, consider, and be guided by (and, by implication, what to ignore) in deciding between life and death. In many ways, these sentencing instructions became the key legal device by which the death penalty was to be made fair. For example, in *Pulley v. Harris* (1984), the Court seemed so certain that a sentencing template of factors for capital jurors to consider would "provide jury guidance and lessen the chance of arbitrary application of the death penalty...[and thereby] guarantee that the jury's discretion will be guided and its consideration deliberate" (at 51) that it concluded a proportionality review (comparing each case in which a death sentence was rendered to similar others) was not necessary.

Because of the emphasis placed on sentencing instructions to guide the discretion of the capital jury under the *Furman*-inspired reforms, these instructions have been the focus of intense legal scrutiny and scholarly attention (e.g., Diamond 1993; Haney and Lynch 1994; 1997b; Weisberg 1984; Wiener, Pritchard, and Weston 1995). Empirical studies of the capital sentencing process now indicate that these instructions do not accomplish in fact what they were designed to achieve in principle. The most significant problems stem from the general incomprehensibility of the instructions and, more pointedly in the present context, their failure to clarify the meaning of mitigation and provide jurors with guidance about how to find and use it in any of the evidence that typically is presented in a capital penalty trial.

Let me be more specific. Out of the frank recognition that "death is different," the Court has required states to specify those things that jurors may con-

sider as reasons for taking a defendant's life. Further, to prevent a range of idiosyncratic and impermissible factors from playing an explicit part in the process, aggravating circumstances must be specified by statute. But the court has given defendants wide latitude in presenting a vast array of potentially mitigating factors.³ As Justice O'Connor once noted: "The heart of the retributive rationale is that a criminal sentence must be directly related to the personal culpability of the criminal offender" (*Tison v. Arizona* 1987:148). In slightly different but related terms, the Court has stated that the capital jury's decision about whether or not a defendant should receive a death sentence must turn in part on an "individualized determination on the basis of the character of the individual [defendant]..." (*Zant v. Stephens* 1983:879). That determination is conceptualized very broadly: individualized capital sentencing "is satisfied by allowing the jury to consider *all relevant mitigating evidence*" (*Blystone v. Pennsylvania* 1990:299; emphasis added) in a process that is "expansive enough... to assure an assessment of the defendant's culpability" (*Tuilaepa v. California* 1994:973).

The good news is that this individualization requirement has placed the background and life circumstances of the defendant center stage in a capital penalty trial in a way that is replicated nowhere else in the criminal law. The

3. As I have mentioned, the line of United States Supreme Court cases establishing this right began more than two decades ago. In *Woodson v. North Carolina* (1976) the Court wrote that: "[I]n capital cases the fundamental respect for humanity underlying the Eighth Amendment... requires consideration of the character and record of the individual offender and the circumstances of the particular offense as a constitutionally indispensable part of the process of inflicting the penalty of death" (at 304). Over the next 20 plus years a series of cases has consistently reaffirmed that principle. Thus, the Court ruled in *Lockett v. Ohio* (1978) that the capital sentencing authority must "not be precluded from considering, as a mitigating factor, any aspect of a defendant's character or record... that the defendant proffers as a basis for a sentence less than death" (at 604); and in *Eddings v. Oklahoma* (1982) that the sentencer may not be precluded from considering and may not "refuse to consider, as a matter of law, any relevant mitigating evidence... [including] evidence of a turbulent family history, of beatings by a harsh father, and of severe emotional disturbance" (at 877). It found in *Skipper v. South Carolina* (1986) that even evidence of positive post-offense prison or jail adjustment could not be excluded from the penalty trial if the defendant elected to present such testimony because a jury might interpret it to mean that defendant "would pose no undue danger to his jailers or fellow prisoners and could lead a useful life behind bars if sentenced to life imprisonment" (at 7). The Court noted in *California v. Brown* (1987) that "evidence about the defendant's background and character is relevant because of the belief, long held by this society, that defendants who commit criminal acts that are attributable to a disadvantaged background, or to emotional and mental problems, may be less culpable than defendants who have no such excuse" (at 545); and concluded in *Penry v. Lynaugh* (1989) that because "mitigating evidence of mental retardation and childhood abuse has relevance to [the defendant's] moral culpability" (at 322), the capital jury must at least be able to consider and, if it so chooses, give it mitigating effect.

bad news is that the capital instructions that are intended to structure the jury's penalty decision-making—supposedly providing them with much needed guidance about what to make of social history and other background testimony in the penalty trial—border on incomprehensible in most respects. For example, my colleagues and I have conducted research indicating that California's entire penalty instruction is very poorly understood by upper-level college students (Haney and Lynch 1994), that these problems are not clarified in actual cases through attorney arguments (Haney and Lynch 1997b), and that jurors who had served in actual capital cases were plagued by fundamental misconceptions about what the instructions meant (Haney, Sontag, and Costanzo 1994). However, we also found that, in addition to the overall lack of clarity and difficulty in comprehension, these instructions were especially vague, unhelpful, and confusing with respect to the crucial concept of mitigation. Indeed, mitigation stood out as the least well understood and most difficult of the specific factors to correctly identify. Thus, the typical capital juror is given virtually no clear instruction on what mitigation is, little or no help on how to find it amidst the evidence that is presented in the typical penalty trial, and no real guidance on how to use it in reaching a merciful and just sentencing verdict.

Moreover, specific statutory mitigating factors are defined in most states in such a way as to be rarely if ever applicable. Factors like the possibility that the victim was an accomplice in his or her own demise really never come into play in any capital case. Rather, most defense attorneys must depend upon an expansive, catchall or "anything else the defendant offers as a reason for a sentence less than death" factor as the vehicle by which meaningful mitigating testimony can be introduced. This factor has the advantage of giving counsel the widest possible evidentiary swath with which to approach the question of mitigation, but the disadvantage of giving jurors no clue about whether and which parts of such testimony are mitigating, how much weight (if any) to give them (individually or overall), and how to combine the evidence introduced under this "catchall" rubric with other statutorily enumerated factors to produce a final sentencing verdict. Geimer (1990–91) has noted that "[t]he law would seem a likely source from which to derive elements of an entitlement to life. However, death penalty statutes are barren of helpful guidelines" (at 284). Unlike aggravation—which is both a more commonly understood general concept and represented in specifically enumerated factors that are far more likely to apply in the typical case—mitigation is left largely to the various and sundry subjective interpretations that jurors bring with them or can be persuaded by attorneys to apply.

Yet, despite the systematic miseducation they have received at the hands of the media and the lack of instruction and clarification they will receive from the courts, capital jurors and other citizens are *not* impenetrably insensitive or unsympathetic to properly presented mitigating testimony. Indeed, al-

though attitude surveys conducted throughout the United States document overwhelming support for the death penalty, careful examination of these data suggest that support is largely symbolic and generic. Americans support the *idea* of the death penalty, and hold the general belief that it should be implemented, but they differ widely in their views about when and how it should be used and the kind of defendant on whom it should be imposed (e.g., Haney, Hurtado, and Vega 1994). Moreover, in response to a variety of specific factors that are present in the social histories of many capital defendants, but absent any education about why or how these things should be taken into account and without any contextualizing framework to demonstrate the ways in which they fit together in a social history, many persons reported that they would be influenced toward life verdicts by factors like the defendant's history of child abuse, the fact that he had never received treatment for his problems, and evidence that he would adjust well in prison.

Thus, media mystifications and political distortions about the nature of violent criminality ensure that most jurors will have no real theory of mitigation themselves, and our current capital jurisprudence ensures that they will not be given one via judicial sentencing instructions. Both facts place a special burden on attorneys to assemble, present, and explain the defendant's social history and its mitigating significance. Since mitigation is very difficult for most jurors to define accurately, many people who do not comprehend the concept at all may well ignore it in their penalty calculations. Others who have idiosyncratic and incorrect definitions may employ the concept in a way that narrows the focus of penalty deliberations or introduces a randomness or arbitrary quality to the outcome of the cases. Rather than a life-giving effect, mitigation therefore may function as a kind of error term in the death penalty equation. The coherent presentation of a capital defendant's social history, along with a clear explanation about its meaning and significance to the task at hand, can help to reduce the size of that error term. The effort adds fairness and predictability to capital sentencing.

The Normative Structure of the Lives of Capital Defendants⁴

It is important to acknowledge that mitigating evidence—here the psychobiographical summary of a capital defendant's life and the account of his social history that is presented at the penalty trial—is not intended to excuse,

4. A more detailed discussion of this issue can be found in Haney (1995).

justify, or diminish the significance of the crimes that he has committed. Instead, it is used as an indispensable aid in understanding the defendant's "background and character" in a way that hopefully will illuminate critical issues in the decision capital jurors must make about sentencing. Mitigating social histories are not intended to in any way diminish the significance of the defendant's actions, his responsibility for the harm that he has perpetrated, or the human tragedy that capital violence represents for victims and their families. Quite the contrary, I do not believe that we can begin to acknowledge and pay fitting tribute to the victims of these crimes without honestly and comprehensively addressing their causes. As Robin West (1990) has argued, we must learn about the life circumstances of capital defendants, as well as the social realities that created those circumstances, "because the victims of crime deserve it, the communities that fear crime need it, and the intractable problem of violent crime demands it" (at 176).⁵ Looking carefully and deeply at the lives of those who commit capital crimes allows us to overcome the fictionalized, demonized caricatures the media has concocted for us—including those of us who will sit on capital juries. This is an important step in learning the necessary lessons by which future victims can be spared.

Social histories, then, are not excuses but explanations. An explanation does not necessarily dictate a judgment. In this context, as attorneys who have employed them can attest, some explanations lead to life verdicts and some do not. However, social history testimony is offered out of the belief that no jury can render justice in the absence of an explanation of the life of the person whose fate is being decided. In each such case, the goal of a mitigating social history is to place the defendant's life in a larger social context and, in the final

5. In an otherwise especially insightful discussion of these issues, Professor West seemed to suggest that the "defense narrative" in a capital penalty trial was one that categorically excluded individual responsibility. It does (or, at least, should) not. Because the model of individual responsibility that dominates our criminal law is so pervasive and omnipresent, many capital defense attorneys may simply assume that jurors will employ it without any special prompting from them. That does not mean that these attorneys categorically reject their client's legal responsibility for his actions nor that, in asking the jury to spare his life, they are inviting jurors to ignore his blameworthiness or shift all of the responsibility to his family or society at large. A social historical approach to these issues serves instead to balance a prosecutorial narrative that typically acknowledges *only* personal ill-will and evil (Cf. Lynch and Haney 1997). The same kind of incorrect caricature of the social historical approach was reflected in Alfieri's (1996) discussion of these issues. An honest and meaningful social history—the only kind that discharges an attorney's duties to both the client and the jury—is precisely one that emphasizes "throughout the capital proceedings the defendant's human vulnerability to both good and bad motive and the possibility of redemption" (Alfieri 1996:348). Yet, even a narrative that emphasized societal deprivation—so long as it was accurate and true—would enrich rather than impoverish a model of moral blameworthiness.

analysis, to reach conclusions about how someone who has had certain life experiences, been treated in particular ways, and experienced certain kinds of psychologically-important events has been shaped and influenced by them. It reflects a turning away from a century-old bias that located the causes of violent criminality exclusively inside the individuals who engaged in it (Haney 1982). It urges the application of a more contemporary theoretical and empirically well-documented framework in its place.

This new framework conceptualizes the roots of violent behavior as extending beyond the personality or character structure of those people who perform it, and connecting historically to the brutalizing experiences they have commonly shared as well as the immediately precipitating situations in which their violence transpires. The study of the lives of capital defendants yields important truths about the social and developmental roots of extreme violence in our society. Ironically, capital penalty trials have become unique legal forums in which these truths can be told. This approach can assist in understanding the causes of capital murder as well as providing a psychological framework for comprehending a single, violent social history. Moreover, the lessons contained in these psychobiographies can serve as the basis for a responsible social policy of violence prevention in lieu of the categorically punitive approach with which our society recently has become so enamored.

This way of understanding capital defendants also connects directly with a renewed emphasis in the discipline of psychology on the use of social historical techniques (e.g., Elder 1981; Gubrium and Holstein 1995), or what is sometimes called "the study of lives" (cf. Polkinghorne 1996; Runyan 1983; White 1992). It is based in part on the vast and growing literature on the importance of past and present social context in understanding human behavior (e.g., Mischel 1968; Moen, Elder, and Luscher 1995; Ross and Nisbett 1991), as well as on studies of the ways in which certain kinds of past experiences can shape and influence human development over the life course (e.g., Caspi, Bem, and Elder 1989; Sroufe, Egeland, and Kreutzer 1990). As one researcher has noted, the social or life history approach "implies a holistic stance to social reality" and is the "method of choice when complex human events are at stake, when inquiries into the subjective realm of human beliefs, motives and actions in complex social matrices are involved" (Ortiz 1985:100). This method is in many ways uniquely suited to the task of providing capital jurors with insights into how the background of the defendant has helped to shape his character, influenced the course of his development, and affected his actions as an adult— and to do so in ways that speak directly to the critical issue of individualized culpability.

The compilation of a detailed and in-depth social history is also a labor intensive, time consuming, emotionally draining, and psychologically complex undertaking. It cannot be done quickly and it cannot be done effectively by someone who lacks training or experience in relevant aspects of developmental, social, or clinical psychology. One commentator has summarized the com-

plexity of the "complete background investigation" of the capital defendant's life that must be performed by investigators and experts in the construction of a social history:

This typically requires counseling with members of the [defendant's] family, loved ones, and friends in order to uncover intimate information which could be critical to the litigation. The investigation must cover the inmate's childhood, family life, education, relationships, important experiences, and overall psychological make-up. Crucial witnesses such as childhood friends, teachers, employers, religious advisors, and neighbors may be 'scattered like a diaspora of leaves along the tracks of the defendant's travels'; nevertheless, they must be located and interviewed in order to determine whether they can provide favorable...evidence (Mello 1990-91:895, footnotes omitted).

When done properly, this background and social history investigation and analysis provides the experts who conduct it and the jurors to whom it is presented an extraordinary amount of in-depth information with which to understand a capital defendant's life course. Indeed, it represents an investigatory and analytical effort that is rarely matched in any other setting, including academic research or clinical practice.

The Risk Factors Model in Social History Evaluation

It is often helpful to frame the social history of a capital defendant with a "risk factors" model of the sort that is employed in developmental and social psychology as well as by epidemiologists and medical researchers. Here, "risk factors" can be defined as those events whose presence in one's background indicates "a higher probability for the development of a disorder; as such, these factors are statistically associated with higher incidence rates" (Masten and Garmezy 1985:3). Under this rubric, "stressors" refer to "any change in the environment which typically—i.e., in the average person—induces a high degree of continual tension and interferes with normal patterns of response" (at 6). Because it allows for the analysis of many of the background experiences that are so commonplace in the lives of capital defendants—recognized as "risk factors"—along with the immediate situational pressures under which they act—here conceptualized as "stressors"—this model often provides an especially valid and meaningful way of establishing and illuminating the complex interplay of a defendant's social history and adult behavior. Indeed, Masten and Garmezy have summarized a portion of the developmental literature on risk factors in terms that regularly apply to capital defendants: "Children who pursue delinquent careers may have

been exposed to very severe stresses and harmful life events, genetic disadvantage, inappropriate parental models, selective reinforcement by parents of the child's maladaptive behavior, and chronic low self-esteem" (at 25).

Moreover, when added up over the course of a life, the risk factors that can be identified in a capital defendant's social history form a whole that is greater than its individual parts. This way of conceptualizing social histories allows juries to understand and appreciate the role that one or (typically) many of these risk factors that distinguish a capital defendant's life history from others play in accounting for his presence in the courtroom. Along with the numerous stressors that typically are present as precipitating factors, these forces constitute the psychological context of capital crime. The model also helps to account for individual variations in responding to the same or similar risk factors and stressors by acknowledging, on the one hand, different "vulnerabilities" to certain kinds of problems for certain children and, on the other hand, the role of so-called "protective factors" (like warm and supportive family milieus, or the presence of an extended support system) that can buffer children from otherwise damaging elements in their environment.

The Longterm Effects of Childhood Trauma

The lives of many capital defendants are bereft of the things we now know are essential to normal psychological development—"dependable attachment, protection, guidance, stimulation, nurturance, and ways of coping with adversity" (Hamburg 1993:60). Instead, they often confront the multiple risk factors of poverty, chronic neglect, emotional and physical abuse, and extreme familial instability with little to buffer them from the predictable harm. *

The Effects of Poverty on the Lives of Capital Defendants

Some capital defendants are the children of profound poverty and deprivation. They are the legacy of a society that has, over the last 20 years, systematically turned its back on its poor and on their children. Indeed, the widespread poverty of capital defendants is so generally accepted that it has escaped much academic commentary (e.g., Egelko 1994), except as it affects the quality of their legal representation (Bright 1992). But poverty also affects their quality of life, and plays an important role in the social histories that surround the crimes for which they may be put to death. Although we are just beginning to assess the long-term consequences of childhood poverty, researchers have documented the persistent despair that profound economic deprivation can inflict. Not surprisingly, children who grow up in economically deprived households are less likely to be hopeful, self-directed, and confident about their

future than those who grow up under better economic conditions (e.g., Duncan, Brooks-Gunn, and Klebanov 1994; Elder 1979). One national survey found that welfare status or perceived financial stress was significantly related to children's emotional and behavioral problems—specifically, to higher levels of depression, antisocial behavior, and impulsivity (Takeuchi, Williams, and Adair 1991).

Consistent with these and other findings, unemployment and employment in poor quality jobs are systematically related to the arrest rates among juveniles and young adults (Allen and Steffensmeier 1989). In the United States, of course, poverty and unemployment are inextricably interrelated with race. Thus, one study found that although single year poverty rose about the same amount among both Black and White children between 1970 and the mid-1980s, the differences between them remained quite large. That is, the average percentage of those considered poor rose from 10.5 percent to 12.9 percent during this period among White children, and a staggering 42.5 percent to 45.1 percent among Black children (Duncan and Rodgers 1991). Moreover, African American children are more likely to live under conditions of *chronic* poverty (e.g., Bane and Ellwood 1986).

Over the last several decades, researchers have given increased attention to the mechanisms by which the structural variable of poverty translates into significant psychological consequences for children who experience it. We have learned that poverty forces family members to adapt to scarcity in ways that influence interpersonal relationships and, in turn, adversely affects child development. One ethnographer studying children growing up in a poor urban neighborhood concluded that despite their resourcefulness, children are “no match for the physical toll of poverty and its constant frustrations and humiliations.” Specifically:

A number of the children I know came into the world already victimized by prenatal undernourishment and, as a result, by premature birth or a low birth weight. Since then, inconsistent mealtimes, punctuated by feasts on hunger-numbing junk food bought with proceeds from odd jobs or the leftovers from welfare checks, have left many kids alternately drained, hyperactive, and irritable. Frustration at their parents inability to provide and memories of those adults' defensive responses to requests for food and clothes inevitably help engender...mistrust and manipulative behavior... Poverty also often engenders a deep sense of personal failure and humiliation (Nightingale 1994:55).

We also have learned that poverty pushes children too rapidly toward adult status and roles. Because interpersonal resources within the family must be devoted more to survival than to child rearing, younger children tend to grow up “undersocialized” (e.g., Elder and Caspi 1988). Other researchers have documented an absolutely critical issue—the ways in which economic hardship

produces psychological distress for both parents and children. It is this distress—more than the direct effect of poverty—that undermines parents' ability to provide nurturant care and increases tendencies toward inconsistent discipline. These problematic parenting styles are, correspondingly, associated with increased depression, drug use, and delinquency among adolescent children (e.g., Lempers, Clark-Lempers, and Webb 1989).

In any individual social history, the linkages from childhood poverty to adult violence may be complex but they are rarely difficult to comprehend. There are indirect routes by which poverty can have long-term effects on adult criminal behavior. Thus, persistent poverty is predictive of severe and recurrent child abuse—family “[v]iolence does occur at all income levels but it is more often repeated among the persistently poor” (Kruttschnitt, McLeod, and Dornfeld 1994:310)—which in turn predicts higher levels of delinquency and adult criminality, including violence. In addition to the role that poverty plays in increasing despair and undermining self-esteem, in forcing the undersocialization of children, and in interfering with consistent and nurturant parenting—all of which put children at greater risk of delinquent behavior—poverty can result in increased levels of frustration. Of course, chronic poverty can result in chronic frustration. Research reveals that, depending on the circumstances—particularly, the *reasons* a person perceives his or her desired goals are blocked—such frustration can produce greater levels of “angry aggression” (Berkowitz 1989). Not surprisingly, then, we know that economic inequality is statistically associated with violence, and that severe poverty is associated with high rates of lethal aggression (e.g., Huff-Corzine, Corzine, and Moore 1991; Williams 1984).

In this context, race-based poverty forces minority group members to confront higher levels of frustration as well as exposing them to a higher number of other risk factors that are associated with poverty. For example, higher rates of poverty create greater levels of psychological distress for parents and children alike, which can adversely affect the quality of parenting and the development of the child (e.g., McLoyd 1990). We already know that, as one researcher put it: “Black children suffer disproportionately from virtually every form of stress affecting full and healthy development...” (Lassiter 1987:39). Yet, as this same researcher concluded, “none of these stressors is more threatening to the healthy development of black children and to the stability of their families than intrafamilial child abuse” (at 39).

Two interrelated and very significant risk factors in the lives of many capital defendants—familial instability and lack of predictable structure—often are related to poverty, but also can occur for a variety of other reasons. Indeed, the structure of the lives of capital defendants is often pervaded by personal and social chaos and instability. Their family structure is erratic, fluid, and unpredictable; their parents separate and divorce often, and there are numerous new adults who come in and out of their lives. As children, they move because of

poverty, they move because of their parents' chronic instability and interpersonal conflicts, they move because of the restlessness and whimsy of those adults who are in charge of them, and they move because their families have such a tenuous grasp on harsh labor markets that they are buffeted around from job to job at the slightest economic shift. All of this external chaos and instability makes the critical developmental tasks of creating internal anchors or controls and a stable sense of self more difficult to accomplish. Moreover, it creates an internal environment in which other forms of maltreatment are more likely. Thus, one study of abused children reported that: "[T]he homes of many of these children are characterized by chaos, disruption, and disorganization" (Egeland and Erickson 1987:115).

Childhood Abandonment and Neglect

In addition to the abject poverty, economic and emotional deprivation and instability that they often confront, there are other risk factors that routinely appear in the social histories of capital defendants. Many have experienced abandonment and chronic neglect. Abandonment may occur because of divorce, parental incarceration, or the overwhelmingness of parenting and other responsibilities. Whatever its causes, it can have profound effects on a child's life course (e.g., Mishne 1992; Wolfenstein 1976). Indeed, studies of its psychological sequelae indicate that abandoned children are at high risk for mood disorders such as depression (e.g., Schonfeld 1995) and related problems (e.g., Crouch and Milner 1993; Freudenberger and Gallagher 1995), and that they also are more likely to manifest a specific set of behaviors that can be related to subsequent criminality—aggressiveness, rebelliousness, and disobedience (e.g., Burnstein 1981).

Emotional abandonment—in the form of parental withdrawal and chronic neglect—is another risk factor that frequently pervades the lives of capital defendants. Because it often results from the fact that parents are themselves grappling with overwhelming economic circumstances, interpersonal problems, alcohol and drug addictions and the like, neglect is often not the product of any conscious or intentional desire to do harm. Its consequences are nonetheless profound. Indeed, one study acknowledged that neglectful parenting was "often the result of chronic stress, situations arising from frequent or prolonged spells of unemployment, physical or mental disabilities among members of the family, and an often permanent condition of poverty..." (Wilson 1980:232). This study also concluded that neglectful parenting was "highly likely" to contribute to patterns of delinquency and should, therefore, be regarded as creating "severe social handicap" in children exposed to it (at 233). Another study found that "psychologically unavailable caregiving" in which parents passively rejected children, were detached and uninvolved with them except when absolutely necessary, had dramatic con-

sequences. At two years these children were "angry, extremely frustrated, noncompliant and displayed a great deal of negative affect." As they got older they "were less persistent and enthusiastic" than other children and also "expressing a great deal of negative emotion, lacking impulse control, and [were] highly dependent" (Egeland and Erickson 1987:115). Similarly, Gerald Patterson and his colleagues have identified a causal connection between poor parenting (e.g., harsh, inconsistent discipline, little positive involvement, and inadequate monitoring and supervision) and coercive, socially unskilled behavior on the part of children that often leads, through a series of intervening steps, to delinquency and substance abuse problems (e.g., Patterson, DeBaryshe, and Ramsey 1989).

Physical Abuse and Maltreatment in the Lives of Capital Defendants

Child neglect occurs in conjunction with physical abuse in a high percentage of cases and, unfortunately, both co-occur with unusual frequency in the lives of capital defendants. We now know that: "Inappropriate parental behavior may produce physical, emotional, or sexual damage. Although we cannot always accurately predict what effects maltreatment will produce, victims most often suffer multiple damage, and individual susceptibilities to harm differ" (Garbarino 1989:221; see also, Wolfe 1987). Although it is difficult to predict precisely which of the harmful effects of maltreatment any particular child will manifest, studies show that juveniles who have become involved in delinquency "have endured child abuse and neglect at far greater rates than estimates for the population as a whole and for the low-income groups in particular" (Garbarino 1989:251). We certainly know that abused children are much more likely to engage in violence as adults, giving rise to what is now routinely referred to as a "cycle of violence" (Dodge, Bates, and Petit 1990; Widom 1989a; 1989b). As one early study concluded: "Violence does appear to breed violence. . . . The child who experiences violence . . . has the potential of becoming a violent member of society in the future" (Silver, Dublin, and Lourie 1969:407).

Some research has suggested that aggressive fathers may create a social environment that is conducive to aggressive behavior (McCord 1991; 1994a). Similarly, one study that documented the neurological, cognitive, socioemotional consequences of physical abuse focused on the "interpersonal" nature of the transgression and the way in which it adversely affected children's social behavior and their understanding of social relationships. Specifically, "[g]iven the child's exposure to parental violence as a legitimate means of interacting with other people," these researchers were not surprised to find that "abused children are more aggressive, showing more hostile, externalizing and negative social behavior with other people than nonabused children" (Salzinger, Feldman, Ham-

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mer, and Rosario 1991:74). Other studies suggest that these violent patterns may be psychologically encoded through "identification with the aggressor," wherein abused children learn to model the behavior of the powerful parent figures who mistreat them. Other researchers have focused more specifically on the developmental role of aggression in protecting the more fragile self against a hostile, seemingly psychologically life-threatening environment of the sort that is created by an abusive parent. That is: "Faced with profoundly insensitive or cruel parenting, the young child's representation of all mental life will be fragile. Ordinary frustration of aims will signal potential destruction of the reflective self, accompanied by intolerable anxiety" (Fonagy, Moran, and Target 1993:475). Others have interpreted the cycle of violence as "reenactment behavior" that is "an attempt to manage the confusion and stress" that are generated by the abuse (McCormack, Rokous, Hazelwood, and Burgess 1992:226).

However, despite these different perspectives about exactly how and why aggression appears to recur in subsequent generations, there is little doubt "that violence is transmitted intergenerationally from parents to their adolescent offspring and that psychological mechanisms are, at least in part, a feature of this transmission" (Truscott 1992:332; see also, Rutter, Quinton, and Liddle 1983; Tolman and Bennett 1990). These mechanisms are useful in understanding the intergenerational transmission of violence and abuse that characterizes the lives of so many capital defendants. It is a destructive legacy that continues to plague its victims through adolescence and into adulthood. Thus, as one study concluded: "[e]ven among a relatively homogeneous group of youthful offenders, the majority of whom had substantial criminal records, evidence of family violence, parental criminality, and parental neglect or poor supervision significantly increased parolees' risk of rearrest for violent crimes" (Lattimore, Visher, and Linster 1995:76; see also, Lake 1995). Similarly, Rivera and Widom (1992) found that neglected and abused African American male children have a higher likelihood of arrests for delinquency, adult criminality, and violent criminal behavior.

In addition to the harmful effects of direct physical abuse, we also know that witnessing the abuse of others can be an extremely damaging psychological risk factor (e.g., Rosenberg 1987; Rosenberg and Giberson 1991). Thus, one study found that boys appeared to be more vulnerable to the effects of marital discord and, although they could make no simple causal connections between witnessing abuse and subsequent adjustment problems, the researchers concluded that "[b]esides inappropriate modeling of conflict resolution, these children are affected by their mothers' diminished effectiveness as a parent, negative changes in family status, and related factors that result from family violence" (Wolfe, Jaffe, and Wilson 1988:239). Other researchers have found that exposure to parental conflict and aggression was one of the "instigating conditions" to adult criminality (e.g., McCord 1994a; 1994b). This risk factor is common in the lives of many capital defendants. Indeed, many capital defendants come from chronically abusive homes in which their mothers and other

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siblings have been physically attacked in their presence, sometimes despite their noble but typically ineffective attempts to intervene.

Institutional Failure and Capital Mitigation

This pattern of childhood poverty, familial instability, and parental neglect and abuse predictably results in higher rates of juvenile institutionalization among capital defendants. Indeed, for many of them, as they approach their teenage years, their social history merges into an institutional history. Although intended as agencies of resocialization and enhanced social control, supposedly designed to produce conforming behavior and to decrease unlawful activity, juvenile and adult penal institutions often constitute their own kind of risk factor, independently increasing rather than decreasing the likelihood of subsequent re-offending. The literature on the failure of our adult prison system is clear, although the impact of this failure on the problem of worsening violence in our society has yet to be adequately told (e.g., Christie 1993; Haney 1997b). Indeed, institutional failure is another theme that is prominent in the lives of many capital defendants—ranging from the lack of desperately needed intervention, to intervention that is ill-conceived, poorly and inadequately funded and staffed, and intervention that is terribly destructive of the human psyche and spirit.

Nowhere is the price of institutional failure clearer and more painful to contemplate than in the case of children who are confined by agencies of social control, only to have that experience worsen, sometimes irreparably, the very problems their incarceration was designed to remedy. However inadequate the dominant “free choice” rhetoric has proven for understanding adult criminality, it does not even begin to explain most juvenile crime. Yet, far too often in the lives of capital defendants, juvenile institutionalization represents a kind of “turning point,” an experience that helps them resolve the internal struggle over who to be—indeed, over who they can be—in a profoundly negative way. Destructive juvenile incarceration forces children to commit to a value system and a way of being that is angry and rejecting, and which places individualistic survival above all else.

The potentially destructive effects of normatively ineffective, stigmatizing juvenile justice system processing has been recognized for some time (e.g., Forer 1970; Schur 1973). For example, a study of California’s vast “youth authority” began with the observations: “The institutional environment at California Youth Authority training schools is in many ways detrimental to the health and behavior of the 5,700 young men and women who are detained in these facilities. . . . It is the thesis of this report that not enough attention has been paid to the negative impact which remarkably stressful living conditions at the Youth Authority have on its institutionalized population” (Lerner 1982:8). Similarly, a nationwide examination of juvenile justice facilities concluded with a series of scathing observations, including the fact that “[y]oungsters sent to juvenile de-

rehabilitation centers and training schools are likely to be brutalized rather than rehabilitated" (Silberman 1978:312) and that the "overwhelming majority of detained juveniles receive no help worthy of the name" (at 330). Studies continue to document the absence of adequate and appropriate services for children who suffer from serious emotional problems (e.g., Cohen, Preiser, Gottlieb, Harris, Baker, and Sonenklar 1993). Many such children are inadequately or badly treated by juvenile justice institutions that have too little in the way of resources, time, and expertise with which to reverse years of pre-existing trauma and address the consequences of exposure to substantial numbers of risk factors (e.g., Greene 1993; Zigler, Taussig, and Black 1992).

There is a second form of institutional failure that extends beyond the lack of treatment for pre-existing problems—the proactive harm that may be inflicted on young people by harsh and degrading conditions of confinement. The early sociological literature on juvenile justice institutions underscored their destructive potential (e.g., Zald 1960), including their tendency to undermine self-esteem (Fetrow and Fetrow 1974) and subject young offenders to brutalizing experiences from which they may never recover (Bartollas, Miller, and Dinitz 1976). In many of the facilities in which adult capital clients were confined as juveniles, this conclusion—reached more than 20 years ago—has remained accurate:

[T]he bare fact remains that some of the [living units] are worse than the streets; that some of the strong in the streets become the meek in the institution; that the juvenile correctional institution is a misnomer, as is the industrial school, the training school, the adjustment center. All are euphemisms. No matter how pleasant the place may seem, very little correction, training, or adjustment occurs—or can, in fact, occur under present circumstances and social policies (Bartollas, Miller, and Dinitz 1976:271).

Other researchers have reached similar conclusions about other juvenile facilities. Moreover, Nightingale (1994) has written about the way in which institutions of social control now have begun to play increasingly larger roles in the lives of inner-city children, their harshness reinforcing the lessons of what he euphemistically refers to as the "forceful parenting" many have already received at home. Further: "[B]y equating child punishment with jails and being prepared to employ the police, parents demonstrated just how closely their philosophies resonated with those of mainstream institutions of law and order" (at 95). Not surprisingly, institutional placement appears to adversely affect subsequent parole adjustment, especially among youthful offenders whose family life is problematic (Fendrich 1991). Indeed, one study of California juvenile institutions reached the "specific and urgent" recommendation that "our present system for dealing with youthful offenders needs drastic overhauling, in large part because of the extent to which it 'returns[s] to freedom young men and women who have been brutalized by their institutional

experience" (Lerner 1986:46). This fact led to the conclusion that such institutions actually "promote crime rather than deter it, and increase the criminal population at great expense to the rest of us" (at 47).

Institutional failure extends with a vengeance to adult correctional institutions. Some commentators have speculated that, over the long run, increasingly high levels of imprisonment will worsen rather than reduce the problem of violent crime (Haney 1997b). In addition to the direct effects of institutionalization on persons who will subsequently be released (e.g., Goodstein 1980; Orsagh and Chen 1988), especially high levels of incarceration in some communities will have disastrous effects on family formation, maintenance, and survival. Incarceration intensifies many of the problems of poverty and instability described earlier, indirectly contributes to increases in criminality, and amplifies the structural linkages between unemployment, economic deprivation, family disruption and criminal behavior (e.g., Sampson 1987). Indeed, one commentator has warned that "imprisonment will become the most significant factor contributing to the dissolution and breakdown of African American families during the decade of the 1990s" (King 1993:145).

Moreover, the causes of escalating violence following incarceration are all the more apparent for those defendants whose prison sentences were accompanied by pre-existing psychiatric disorders and substance abuse problems that either went unrecognized, or whose recommendations for treatment simply went unheeded. The lack of mental health services for prisoners continues to plague our nation's prison system. A recent federal case provided a description of the shocking inadequacies in mental health services available to psychologically troubled and psychiatrically disturbed California prisoners (see *Coleman v. Wilson* 1994 and the related discussion in Specter 1994). Unfortunately, the California system is not alone in failing to provide the resources with which to treat its mentally-ill prisoners, or in employing the practice of putting emotionally disturbed prisoners in punitive isolation rather than treatment facilities (Haney and Lynch 1997a; Toch 1982; *Madrid v. Gomez* 1994).

Nor is it alone in exposing citizens to the increased risk of capital violence committed by persons inadequately treated, psychologically harmed, or otherwise brutalized by criminal justice institutions that achieve the opposite of their intended effect. Prisons often fail by not providing meaningful vocational or educational training, so that the scars of poverty cannot be overcome. They can fail because they create destructive and hostile environments where the damage of earlier mistreatment worsens. They can produce criminalizing habits of mind and behavior that, along with the persistent stigma of past incarceration, may disable prisoners once they are released (see Haney 1997b, for a more detailed discussion). And they can neglect to provide badly needed psychological counseling and, especially, treatment for the drug and alcohol problems that are so clearly implicated in much violent crime. The lives of capital defendants too often bear the marks of all these institutional failures.

Criminogenic Adaptations to Childhood Trauma: Alcohol, Drugs, and Gangs

The residue of early developmental history interacts with current circumstances to shape behavioral patterns over a life course. The legacy of a child's prior treatment persists, such that "children with early internal models of available care and self-worth are more responsive to positive features of the environment and more resilient to stress" (Sroufe, Egeland, and Kreutzer 1990:1371). Not only does past experience influence present decision-making, but it can lead in some cases to the development of self-fulfilling interactional patterns and styles. Thus, some adolescents react to the memory of past mistreatment and rejection by becoming aggressive or emotionally distant which, in turn, leads to further mistreatment and rejection and the possibility of ever-escalating misbehavior and disconnection from others (e.g., Patterson, DeBaryshe, and Ramsey 1989).

Other adaptations provide short term relief from the pain of one's past or the press of intolerable present circumstances, but lead to long-term destructive consequences later in life. Thus, many victims of early abuse and neglect turn to drugs and alcohol as a form of "self-medication" that promises to reduce their emotional pain. Indeed, often their own parents' drug and alcohol abuse provides them with their most available and salient model for reducing intolerable stress, relieving depression, and resolving interpersonal conflict. Yet, we know that alcohol and drug use represent major risk factors for subsequent criminality, including violence (Langevin, Paitich, Orchard, Handy, and Russon 1982; Langevin, Ben-Aron, Wortzman, Dickey, and Handy 1987; Parker 1995). For example: "Although drug use does not appear to initiate a criminal career, a large volume of research clearly indicates that frequency of drug use has a strong impact on the extent, direction, and duration of that (criminal) career" (McBride and McCoy 1994:268). Indeed, "[i]t is generally acknowledged that drug use is an important factor in crimes of violence, including homicide" (Spunt, Brownstein, Goldstein, Fendrich, and Liberty 1995:125). Drug abuse may have direct effects on behavior that may further marginalize users, undermine school or job performance and, depending upon the particular drug, increase aggressive reactivity (e.g., Miller and Potter-Efron 1989). It also places users in direct contact with a subculture in which both criminal and violent behavior are more normative (e.g., McCarthy and Hagan 1995). Particularly in cases of addiction, high levels of drug use may create an economic strain for addicts that can only be met through illicit activity (see generally, Goldstein 1989; Stephens 1991).

Gang membership represents another short term adaptation taken in adolescence and young adulthood by some capital defendants to overcome the legacy of their early developmental problems and the pressures of the communities in which they live. It often exacts a significantly negative, life-altering

long-term price. Early studies of urban Latino gangs noted that membership could be explained in part by the "absence of a secure cultural (and personal) identity" brought about by the marginality of the groups from which their members originated (Vigil 1983:47). Researchers talked about turning to gangs as a way of coping with the "multiple marginality" of the rest of their existence. Indeed, the multiple marginality that Vigil (1983) described applies to many capital defendants who must cope with the effects of "low socioeconomic status, culture conflict, and impaired development of self-esteem which arise in a complex of ecological, socioeconomic, cultural, and psychological factors" (at 46). Luis Rodriguez (1994), who has written eloquently about the pull of gang life, has noted that for many young people "a gang embraces who they are, gives them the initiatory community they seek and the incipient authority they need to eventually control their lives" (at 605). Indeed, they turn to gangs in large part because "[t]hese are things other institutions, including schools and families, often fail to provide" (at 605; see also, Hagedorn 1988; Sanchez-Jankowski 1991; Smith and Tarallo 1995; Vigil 1988).

This reliance by young people upon gangs to fulfill needs and provide opportunities that are otherwise denied them sometimes occurs in conjunction with, and serves to facilitate, alcohol and drug use (e.g., Fagan 1989; Sullivan 1989; Williams 1989), so that the negative consequences of both adaptations are compounded. This interaction also increases the likelihood that juvenile and adult institutionalization will follow. A kind of social historical cycle begins to develop in which risk factors amplify each other's effects. Attempts to overcome the legacy of one risk factor sometimes leads to a new and more powerful criminogenic influence as lives begin to spin dangerously out of control.

Indeed, the nexus between poverty, childhood abuse and neglect, social and emotional dysfunction, alcohol and drug abuse, and crime is so tight in the lives of many capital defendants as to form a kind of social historical "profile." The social ecology of crime is shaped by the neighborhoods in which its perpetrators are raised. The demographic mix of these communities determines the nature of the class and race conflict to which participants become accustomed. Criminal opportunities and social and economic pressures to succumb vary by neighborhood and family. In fact, recently published autobiographical and ethnographic accounts of the structural disadvantages of race and class underscore many of the cumulative difficulties that capital defendants have confronted (e.g., Canada 1995; Coyle 1993; Kotlowitz 1991; Frey 1994; Ladd 1994; McCall 1994; Rodriguez 1993; Staples 1994; Sullivan 1989).⁶ These new urban ethnographies depict the influence of sociopolitical and economic

6. For a lengthy response to the claim that the role of social historical disadvantage in mitigating capital crime is minimized or eliminated by virtue of the fact that "not everybody" who endures them also succumbs to criminal violence, see Haney (1995:589-608).

forces as they shape the choices of individual actors; choices that are often less a product of rational or conscious decision-making processes than attempts to struggle with "[f]eelings of sheer humiliation and embarrassment, disappointment and frustration, grief and loneliness, and fear and anxiety (especially concerning suspicion, rejection, and abandonment)" (Nightingale 1994:40). The consequences of such a combination of early, often prolonged abuse and neglect, continued economic and social marginalization, and juvenile and adult institutionalization in the lives of many capital defendants may even amount to what has been called "complex PTSD" [post traumatic stress disorder], reflecting chronic and repeated exposure to trauma that inflicts a deeper and broader pattern of psychic harm (e.g., Herman 1992a; 1992b).

Conclusion

Cornel West has written eloquently about the interrelationship between the structural and individual determinants of social behavior. He urged social scientists and policy makers to:

[a]cknowledge that structures and behavior are inseparable, that institutions and values go hand in hand. How people act and live are shaped—though in no way dictated or determined—by the larger circumstances in which they find themselves. These circumstances can be changed, their limits attenuated, by positive actions to elevate living conditions (West 1993:12).

This observation counsels not only in favor of social and political action to elevate the depressed circumstances in which many people are forced to live and to improve the structures and the values that shape and delimit their life chances, but also to acknowledge the importance of these social historical factors in legal decision-making about moral culpability and personal blameworthiness. Capital penalty trials provide an important and, in many ways, unique forum in which these issues can and should be addressed.

The social historical patterns I have discussed that emerge from the lives of capital defendants—and the trauma and the risk factors that accumulate within them—reflect the deep roots of violence in our society. The sins of the parents and the larger society in which these children are raised are visited not only on the children themselves but, with uncanny regularity, on the future victims of those children grown up. When many of us began examining the lives of capital defendants, now 20 or more years ago, we were struck by the frequency with which these men were brutalized and neglected as children, pushed to the social and economic margins of our society, and often mistreated by the very institutions we had entrusted with the task of helping them. The patterns were striking in the lives of these defendants and many

others and, after years of carefully documenting these effects, there is now little question about the causal connections. Study after study has confirmed the cycles of desperation, hopelessness, and violence; cycles in which many capital defendants have become enmeshed.

It is difficult to imagine how any jury could begin to meaningfully analyze and fairly assess a capital defendant's moral culpability and blameworthiness absent a painstakingly researched, thoughtfully assembled, and carefully and comprehensively presented chronicle of his life. In this regard, capital penalty instructions also must be revised and reframed in such a way as to legitimate such explanations and acknowledge their mitigating force. A social history—the in-depth and psychologically-informed study of a capital defendant's life—and judicial instructions that specifically underscore its importance add minimal fairness and a quantum of essential predictability to capital sentencing that are said by death penalty supporters to be its constitutional hallmarks. Absent either one, not even the pretense of having done justice can be claimed.

References

- Alfieri, A. (1996) "Mitigation, Mercy, and Delay: The Moral Politics of Death Penalty Abolitionists." *Harvard Civil Rights-Civil Liberties Law Review* 31:325-352.
- Allen, E. and D. Steffensmeier (1989) "Youth, Underemployment, and Property Crime: Differential Effects of Job Availability and Job Quality on Juvenile and Young Adult Arrest Rates." *American Sociological Review* 54:107-123.
- Balkwell, J. (1990) "Ethnic Inequality and the Rate of Homicide." *Social Forces* 69:53-70.
- Bane, M. and D. Ellwood (1986) "Slipping In and Out of Poverty: The Dynamics of Spells." *Journal of Human Resources* 21:1-23.
- Barlow, M., D. Barlow, and T. Chiricos (1995) "Mobilizing Support for Social Control in a Declining Economy: Exploring Ideologies of Crime Within Crime News." *Crime and Delinquency* 41:191-204.
- Bartollas, C., S. Miller, and S. Dinitz (1976) *Juvenile Victimization: The Institutional Paradox*. New York: Halsted.
- Berkowitz, L. (1989) "Frustration-Aggression Hypothesis: Examination and Reinterpretation." *Psychological Bulletin* 106:59-73.
- Blau, J. and P. Blau (1982) "The Cost of Inequality: Metropolitan Structure and Violent Crime." *American Sociological Review* 47:114-129.
- Blystone v. Pennsylvania* (1990) 494 U.S. 299.
- Bright, S. (1992) "In Defense of Life: Enforcing the Bill of Rights on Behalf of Poor, Minority and Disadvantaged Persons Facing the Death Penalty." *Missouri Law Review* 57:849-861.
- Burnstein, M. (1981) "Child Abandonment: Historical, Sociological and Psychological Perspectives." *Child Psychiatry and Human Development* 11:213-221.
- California v. Brown* (1987) 479 U.S. 538.
- Canada, G. (1995) *Fist Stick Knife Gun: A Personal History of Violence in America*. Boston: Beacon Press.

- Caspi, A., D. Bem, and G. Elder (1989) "Continuities and Consequences of Interactional Styles Across the Life Course." *Journal of Personality* 57:375-406.
- Christie, N. (1993) *Crime Control as Industry: Towards Gulags, Western Style?* London: Routledge.
- Cohen, R., L. Preiser, S. Gottlieb, R. Harris, J. Baker, and N. Sonenklar (1993) "Relinquishing Custody as a Requisite for Receiving Services for Children with Serious Emotional Disorders: A Review." *Law and Human Behavior* 17:121-134.
- Coleman v. Wilson* (1994) CIV S-90-0520 (E.D. Cal.).
- Coyle, D. (1993) *Hardball: A Season in the Projects*. New York: G.P. Putnam.
- Crouch, J. and J. Milner (1993) "Effects of Child Neglect on Children." *Criminal Justice and Behavior* 20:49-65.
- Diamond, S. (1993) "Instructing on Death: Psychologists, Judges, and Juries." *American Psychologist* 48:423-434.
- Dodge, K., J. Bates, and G. Petit (1990) "Mechanisms in the Cycle of Violence." *Science* 250:1678-1683.
- Dubrow, N. and J. Garbarino (1989) "Living in the War Zone: Mothers and Young Children in a Public Housing Development." *Child Welfare* 68:3-20.
- Duncan, G., J. Brooks-Gunn, and P. Klebanov (1994) "Economic Deprivation and Early Childhood Development." *Child Development* 65:291-316.
- Duncan, G. and W. Rodgers (1991) "Has Children's Poverty Become More Persistent?" *American Sociological Review* 56:538-550.
- Dutton, D. and S. Hart (1992) "Evidence for Long-term, Specific Effects of Childhood Abuse and Neglect on Criminal Behavior in Men." *International Journal of Offender Therapy and Comparative Criminology* 36:129-137.
- Eddings v. Oklahoma* (1982) 455 U.S. 104.
- Egeland, B. and M. Erickson (1987) "Psychologically Unavailable Caregiving." Pp. 110-120, in M.R. Brassard, R. Germain, and S. Hart (eds.), *Psychological Maltreatment of Children and Youth*. New York: Pergamon.
- Egelko, B. (August 14, 1994) "One Thing Constant on Death Row: Inmates Are Poor." *San Jose Mercury News*:3B.
- Elder, G. (1981) "Social History and Life Experience." Pp. 3-31, in D. Eichorn, J. Clausen, N. Haan, M. Honzik, and P. Mussen (eds.), *Present and Past in Middle Life*. New York: Academic Press.
- Elder, G. (1979) "Historical Change in Life Patterns and Personality." Pp. 117-159, in P. Baltes and O. Brim (eds.), *Life-Span Development and Behavior* (Vol. 2). New York: Academic Press.
- Elder, G. and A. Caspi (1988) "Economic Stress in Lives: Developmental Perspectives." *Journal of Social Issues* 44:25-45.
- Fagan, J. (1989) "The Social Organization of Drug Use and Drug Dealing Among Urban Gangs." *Criminology* 27:633-669.
- Feldman, M., K. Mallouh, and D. Lewis (1986) "Filicidal Abuse in the Histories of 15 Condemned Murderers." *Bulletin of the American Academy of Psychiatry and Law* 14:345-352.
- Fendrich, M. (1991) "Institutionalization and Parole Behavior: Assessing the Influence of Individual and Family Characteristics." *Journal of Community Psychology* 19:109-122.

- Fetrow, R. and A. Fetrow (1974) "How a Pre-trial Facility can Destroy the Self-esteem of the Juvenile." *International Journal of Offender Therapy and Comparative Criminology* 18:227-232.
- Fonagy, P., G. Moran, and M. Target (1993) "Aggression and the Psychological Self." *International Journal of Psycho-Analysis* 74:471-485.
- Forer, L. (1970) *No One Will Listen: How Our Legal System Brutalizes the Youthful Poor*. New York: John Day.
- Freudenberger, H. and K. Gallagher (1995) "Emotional Consequences of Loss for Our Adolescents. Special Issue: Adolescent Treatment: New Frontiers and New Dimensions." *Psychotherapy* 32:150-153.
- Frey, D. (1994) *The Last Shot: City Streets, Basketball Dreams*. Boston: Houghton Mifflin.
- Furman v. Georgia* (1972) 408 U.S. 238.
- Garbarino, J. (1989) "The Incidence of and Prevalence of Child Maltreatment." Pp. 219-261, in L. Ohlin and M. Tonry (eds.), *Family Violence*. Chicago: University of Chicago.
- Geimer, W. (1990-91) "Law and Reality in the Capital Penalty Trial." *New York University Review of Law and Social Change* 28:273-295.
- Goldstein, P. (1989) "Drugs and Violent Crime." Pp. 11-48, in N. Wiener and M. Wolfgang (eds.), *Pathways to Criminal Violence*. Newbury Park, CA: Sage.
- Goodpaster, G. (1983) "The Trial for Life: Effective Assistance of Counsel in Death Penalty Cases." *New York University Law Review* 58:299-362.
- Goodstein, L. (1980) "Inmate Adjustment to Prison and the Transition to Community Life." *Journal of Research on Crime and Delinquency* 10:241-265.
- Greene, M. (1993) "Chronic Exposure to Violence and Poverty: Interventions That Work for Youth." *Crime and Delinquency* 39:101-124.
- Gregg v. Georgia* (1976) 428 U.S. 153.
- Gubrium, J. and J. Holstein (1995) "Biographical Work and New Ethnography." Pp. 45-58, in R. Josselson and A. Lieblich (eds.), *Interpreting Experience: The Narrative Study of Lives*. Thousand Oaks, CA: Sage.
- Hagedorn, J. (1988) *People and Folks: Gangs, Crime and the Underclass in Rust Belt City*. Chicago: Lakeview.
- Hamburg, D. (1993) "The American Family Transformed." *Society* 30 (January-February):60-69.
- Haney, C. (1982) "Psychological Theory and Criminal Justice Policy: Law and Psychology in the 'Formative Era.'" *Law and Human Behavior* 6:191-235.
- Haney, C. (1983) "The Good, the Bad, and the Lawful: An Essay on Psychological Injustice." Pp. 107-117, in W. Laufer and J. Day (eds.), *Personality Theory, Moral Development, and Criminal Behavior*. Lexington, MA: Lexington Books.
- Haney, C. (1995) "The Social Context of Capital Murder: Social Histories and the Logic of Mitigation." *Santa Clara Law Review* 35:547-609. ✓ *
- Haney, C. (1997a) "Psychological Secrecy and the Death Penalty: Observations on 'the Mere Extinguishment of Life.'" *Studies in Law, Politics, and Society* 16:3-69. ✓ *
- Haney, C. (1997b) "Psychology and the Limits to Prison Pain: Confronting the Coming Crisis in Eighth Amendment Law." *Psychology, Law, and Public Policy* 3:499-588. ✓ *
- Haney, C. (1997c) "Violence and the Capital Jury: Mechanisms of Moral Disengagement and the Impulse to Condemn to Death." *Stanford Law Review* 49:801-840. ✓ *

- Haney, C., A. Hurtado, and L. Vega (1994) "Modern' Death Qualification: New Data on its Biasing Effects." *Law and Human Behavior* 18:619-634.
- Haney, C. and M. Lynch (1994) "Comprehending Life and Death Matters: A Preliminary Study of California's Capital Penalty Instructions." *Law and Human Behavior* 18:411-434.
- Haney, C. and M. Lynch (1997a) "Regulating Prisons of the Future: A Psychological Analysis of Supermax and Solitary Confinement." 23 *New York University Review of Law and Social Change* 477-570. ✓ ✕
- Haney, C. and Lynch, M. (1997b) "Clarifying Life and Death Matters: An Analysis of Instructional Comprehension and Penalty Phase Arguments." *Law and Human Behavior* 21:575-595. ✓ ✕
- Haney, C. and J. Manzolati (1980) "Television Criminology: Network Illusions of Criminal Justice Realities." Pp. 125-136, in E. Aronson (ed.), *Readings on the Social Animal*. San Francisco, CA: W.H. Freeman.
- Haney, C., L. Sontag, and S. Costanzo (1994) "Deciding to Take a Life: Capital Juries, Sentencing Instructions, and the Jurisprudence of Death." *Journal of Social Issues* 50:149-176.
- Harris, T. (1988) *The Silence of the Lambs*. New York: St. Martin's Press.
- Harvey, W. (1986) "Homicide among Black Adults: Life in the Subculture of Exasperation." Pp. 153-171, in D. Hawkins (ed.), *Homicide Among Black Americans*. Lanham, MD: University Press of America.
- Herman, J. (1992a) "A New Diagnosis." Pp. 115-129, in J. Herman (ed.), *Trauma and Recovery*. New York: Basic Books.
- Herman, J. (1992b) "Complex PTSD: A Syndrome in Survivors of Prolonged and Repeated Trauma." *Journal of Traumatic Stress* 5:377-391.
- Huff-Corzine, L., J. Corzine, and D. Moore (1991) "Deadly Connections: Culture, Poverty, and the Direction of Lethal Violence." *Social Forces* 69:715-732.
- Humphries, D. (1981) "Serious Crime, News Coverage, and Ideology: A Content Analysis of Crime Coverage in a Metropolitan Paper." *Crime and Delinquency* 27:191-205.
- King, A. (1993) "The Impact of Incarceration on African American Families: Implications for Practice." *Families in Society: The Journal of Contemporary Human Services* 74:145-153.
- Kotlowitz, A. (1991) *There Are No Children Here*. New York: Doubleday.
- Kruttschnitt, C., J. McLeod, and M. Dornfeld (1994) "The Economic Environment of Child Abuse." *Social Problems* 41:299-315.
- Ladd, J. (1994) *Out of the Madness: From the Projects to a Life of Hope*. New York: Warner.
- Lake, E. (1995) "Offenders' Experiences of Violence: A Comparison of Male and Female Inmates as Victims." *Deviant Behavior* 16:269-290.
- Langevin, R., D. Paitich, B. Orchard, L. Handy, and A. Russon (1982) "The Role of Alcohol, Drugs, Suicide Attempts and Situational Strains in Homicide Committed by Offenders Seen for Psychiatric Assessment." *Acta Psychiatrica Scandinavica* 66:211-228.
- Langevin, R., M. Ben-Aron, G. Wortzman, R. Dickey, and L. Handy (1987) "Brain Damage, Diagnosis, and Substance Abuse among Violent Offenders." *Behavioral Sciences and the Law* 5:77-94.
- Lassiter, R. (1987) "Child Rearing in Black Families: Child-Abusing Discipline?" Pp. 39-54, in R. Hampton (ed.), *Violence in Black Families*. Lexington, MA: Lexington Books.

- Lattimore, P., C. Visher, and R. Linster (1995) "Predicting Rearrest for Violence among Serious Youthful Offenders." *Journal of Research on Crime and Delinquency* 32:54-83.
- Lempers, J., D. Clark-Lempers, and V. Webb (1989) "Economic Hardship, Parenting, and Distress in Adolescence." *Child Development* 60:25-39.
- Lerner, S. (1986) *Bodily Harm: The Pattern of Fear and Violence at the California Youth Authority*. Bolinas, CA: Commonweal Research Institute. ✓
- Lerner, S. (1982) *The CYA Report: Conditions of Life at the California Youth Authority*. Bolinas, CA: Common Knowledge Press.
- Lewis, D., R. Lovely, C. Yeager, G. Ferguson, W. Friedman, G. Sloane, H. Friedman, and J. Pincus (1988) "Intrinsic and Environmental Characteristics of Juvenile Murderers." *Journal of the American Academy of Child and Adolescent Psychiatry* 27:582-587.
- Lockett v. Ohio* (1978) 438 U.S. 586.
- Lynch, M. and C. Haney (1997) "Arguing Life and Death: The Narrative Structure of the Debate over Whether a Defendant Lives or Dies." Unpublished manuscript, University of California, Santa Cruz.
- Madrid v. Gomez* (1995) 889 F.Supp. 1146 (N.D. Cal.).
- Masten, A. and N. Garmezy (1985) "Risk, Vulnerability and Protective Factors in Developmental Psychopathology." Pp. 1-52, in F. Lahey and A. Kazdin (eds.), *Advances in Clinical Child Psychology*. New York: Plenum.
- McBride, D. and C. McCoy (1994) "The Drugs-Crime Relationship: An Analytical Framework." *Prison Journal* 73:357-278.
- McCall, N. (1994) *Makes Me Wanna Holler: A Young Black Man in America*. New York: Random House.
- McCarthy, B. and J. Hagan (1995) "Getting into Street Crime: The Structure and Process of Criminal Embeddedness." *Social Science Research* 24:63-95.
- McCord, J. (1994a) "Aggression in Two Generations." Pp. 241-251, in L. Huesmann (ed.), *Aggressive Behavior: Current Perspectives*. New York: Plenum.
- McCord, J. (1994b) "Inner City Life: Contributions to Violence." Pp. 100-104, in National Research Council (eds.), *Violence in Urban America: Mobilizing a Response*. Washington, D.C.: National Academy Press.
- McCord, J. (1991) "The Cycle of Crime and Socialization Practices." *Journal of Criminal Law and Criminology* 82:211-228.
- McCormack, A., F. Rokous, R. Hazelwood, and A. Burgess (1992) "An Exploration of Incest in the Childhood Development of Serial Rapists." *Journal of Family Violence* 7:219-228.
- McLoyd, V. (1990) "The Impact of Economic Hardship on Black Families and Children: Psychological Distress, Parenting, and Socioemotional Development." *Child Development* 61:311-346.
- McNulty, P. (1995) "Natural Born Killers: Preventing the Coming Explosion of Teenage Crime." *Policy Review* 71:84-87.
- Mello, M. (1990-91) "On Metaphors, Mirrors, and Murders: Theodore Bundy and the Rule of Law." *New York University Review of Law and Social Change* 18:887-938.
- Miller, M. and R. Potter-Efron (1989) "Aggression and Violence Associated with Substance Abuse." *Journal of Chemical Dependency Treatment* 3:1-36.
- Mischel, W. (1968) *Personality and Assessment*. New York: Wiley.
- Mishne, J. (1992) "The Grieving Child: Manifest and Hidden Losses in Childhood and Adolescence." *Child and Adolescent Social Work Journal* 94:471-490.

- Moen, P., G. Elder, and K. Luscher (eds.) (1995) *Examining Lives in Context: Perspectives on the Ecology of Human Development*. Washington, DC: American Psychological Association.
- Nightingale, C. (1994) *On the Edge: A History of Poor Black Children and Their American Dreams*. New York: Basic Books.
- Norris, J. (1988) *Serial Killers: The Growing Menace*. New York: Doubleday.
- Orsagh, T. and J. Chen (1988) "The Effect of Time Served on Recidivism: An Interdisciplinary Theory." *Journal of Quantitative Criminology* 4:155-171.
- Ortiz, K. (1985) "Mental Health Consequences of Life History Method: Implications from a Refugee Camp." *Ethos* 13:99-120.
- Parker, R. (1995) "Bringing 'Booze' Back In: The Relationship Between Alcohol and Homicide." *Journal of Research in Crime and Delinquency* 32:3-38.
- Patterson, G., B. DeBaryshe, and E. Ramsey (1989) "A Developmental Perspective on Antisocial Behavior." *American Psychologist* 44:329-335.
- Penry v. Lynaugh* (1989) 492 U.S. 302.
- People v. Morse* (1964) 338 P.2d 33 (Cal.).
- Polkinghorne, D. (1996) "Narrative Knowing and the Study of Lives." Pp. 77-99, in J. Birren, G. Kenyon, J. Ruth, J. Schroots, and T. Svensson (eds.), *Aging and Biography: Explorations in Adult Development*. New York: Springer.
- Pulley v. Harris* (1984) 465 U.S. 37.
- Rivera, B. and C. Widom (1992) "Childhood Victimization and Violent Offending." *Violence and Victims* 5:19-35.
- Rodriguez, L. (November 21, 1994) "Throwaway Kids: Turning Youth Gangs Around." *The Nation* 259:605-609.
- Rodriguez, L. (1993) *Always Running, La Vida Loca: Gang Days in L.A.* Los Angeles: Curbstone.
- Rosenberg, M. (1987) "Children of Battered Women: The Effects of Witnessing Violence on Their Social Problem-Solving Abilities." *Behavior Therapist* 10:85-89.
- Rosenberg, M. and R. Giberson (1991) "The Child Witness of Family Violence." Pp. 231-253, in R. Ammerman and M. Hersen (eds.), *Case Studies in Family Violence*. New York: Plenum Press.
- Ross, L. and R. Nisbett (1991) *The Person and the Situation: Perspectives of Social Psychology*. New York: McGraw-Hill.
- Runyan, M. (1983) "Idiographic Goals and Methods in the Study of Lives." *Journal of Personality* 51:413-437.
- Rutter, M., D. Quinton, and C. Liddle (1983) "Parenting in Two Generations: Looking Backwards and Looking Forwards." Pp. 60-98, in N. Madge (ed.), *Families at Risk*. London: Heinemann.
- Salzinger, S., R. Feldman, M. Hammer, and M. Rosario (1991) "Risk for Physical Child Abuse and the Personal Consequences for its Victims." *Criminal Justice and Behavior* 18:64-81.
- Sampson, R. (1987) "Urban Black Violence: The Effect of Male Joblessness and Family Disruption." *American Journal of Sociology* 93:348-382.
- Sanchez-Jankowski, M. (1991) *Islands in the Street: Gangs and American Urban Society*. Berkeley: University of California Press.

- Vigil, J. (1988) *Barrio Gangs: Street Life and Identity in Southern California*. Austin, TX: University of Texas Press.
- Vigil, J. (1983) "Chicano Gangs: One Response to Mexican Urban Adaptation in the Los Angeles Area." *Urban Anthropology* 12:45-75.
- Weisberg, R. (1984) "Deregulating Death." Pp. 305-395, in P.B. Kurland, G. Casper, and J. Hutchinson (eds.), *The Supreme Court Review 1983*. Chicago: University of Chicago Press.
- West, C. (1993) *Race Matters*. Boston, MA: Beacon.
- West, R. (1990) "Narrative, Responsibility and Death: A Comment on the Death Penalty." *Maryland Journal of Contemporary Legal Issues* 1:161-177.
- White, R. (1992) "Exploring Personality the Long Way: The Study of Lives." Pp. 3-21, in R. Zucker, A. Rabin, J. Aronoff, and S. Frank (eds.), *Personality Structure in the Life Course: Essays on Personology in the Murray Tradition*. New York: Springer.
- White, W. (1987) *The Death Penalty in the Eighties: An Examination of the Modern System of Capital Punishment*. Ann Arbor, MI: University of Michigan Press.
- Widom, C. (1989a) "Child Abuse, Neglect, and Adult Behavior: Research Design and Findings on Criminality, Violence, and Child Abuse." *American Journal of Orthopsychiatry* 59:355-367.
- Widom, C. (1989b) "The Cycle of Violence." *Science* 244:160-166.
- Wiener, R., C. Pritchard, and M. Weston (1995) "Comprehensibility of Approved Jury Instructions in Capital Murder Cases." *Journal of Applied Psychology* 80:455-467.
- Williams, K. (1984) "Economic Sources of Homicide: Reestimating the Effects of Poverty and Inequality." *American Sociological Review* 49:283-289.
- Williams, T. (1989) *The Cocaine Kids: The Inside Story of a Teenage Drug Ring*. Reading, MA: Addison-Wesley.
- Williams, T. and W. Kornblum (1994) *The Uptown Kids: Struggle and Hope in the Projects*. New York: Grosset/Putnam.
- Wilson, H. (1980) "Parental Supervision: A Neglected Aspect of Delinquency." *British Journal of Criminology* 20:203-234.
- Wilson, J. (1975) *Thinking About Crime*. New York: Basic Books.
- Wilson, J. and R. Herrnstein (1985) *Crime and Human Nature*. New York: Simon and Schuster.
- Wolfe, D. (1987) *Child Abuse: Implications for Child Development and Psychopathology*. Newbury Park, CA: Sage.
- Wolfe, D., P. Jaffe, and S. Wilson (1988) "A Multivariate Investigation of Children's Adjustment to Family Violence." Pp. 228-239, in G. Hotaling and D. Sugarman (eds.), *Family Abuses and Its Consequences*. Newbury Park, CA: Sage.
- Wolfenstein, M. (1976) "Effects of Adults on Object Loss in the First Five Years." *Journal of the American Psychoanalytic Association* 24:659-668.
- Woodson v. North Carolina* (1976) 428 U.S. 280.
- Zald, M. (1960) "The Correctional Institution for Juvenile Offenders: An Analysis of Organizational 'Character.'" *Social Problems* 8:57-67.
- Zant v. Stephens* (1983) 462 U.S. 862.
- Zigler, E., C. Taussig, and K. Black (1992) "Early Childhood Intervention: A Promising Preventative for Juvenile Delinquency." *American Psychologist* 47:997-1006.