

Lives of Trouble: Criminal Offending and the Problems of Everyday Life

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2009

Introduction: Social Exclusion and Crime

A growing body of research carried out in a number of countries has shown that citizen's problems with the law are ubiquitous¹ among national and regional populations. Justiciable problems² can be characterized as nearly normal features of people's everyday lives.³ Further, two successive Canadian surveys have shown that for a sizable proportion of the population, troubles do not occur in isolation. The results of these surveys showed that between 15%⁴ and 18%⁵ of Canadians experience three or more problems within three years. Problems tended to cluster in to patterns in which certain legal problems triggered other legal problems, health-related and social problems.⁶ The emphasis on justiciable problems has, in most of the research carried out to date, focussed on civil justice problems. However, the social exclusion perspective which has been an important

¹ Findings of the Comprehensive legal Needs Study, Chicago, American Bar Association, , Chicago, 1994 and ABA Consortium on Legal Services and the Public, Report of the Legal Needs of the Moderate- Income Public, Findings of the Comprehensive Legal Needs Study, Chicago, American Bar Association, Chiago, 1994; Hazel Genn, Paths to Justice: What People Do and Think About Going to Law, Oxford, Hart Publishing, 1999; Hazel Genn and Alan Paterson, Paths to Justice Scotland: What People in Scotland Do and Think About Going to Law, Oxford, Hart Publishing, 2000; Pascoe Pleasence and Alexy Buck, Nigel Balmer, Aoife O'Grady, Hazel Genn and Marisol Smith, Causes of Action: Civil Law and Social Justice, Legal Services Commission, 2004; Pascoe Pleasence, Causes of Action: Civil Law and Social Justice, Second Edition, Legal Services Commission, 2006

² Defined by Genn, Hazel (1999) p. 12 as "a matter experienced by a respondent which raised legal issues, whether or not it was recognized by the respondent as being 'legal' and whether or not any action taken by the respondent to deal with the event involved the use of any part of the civil justice system.

³ Currie, A. (2008) The Legal Problems of Everyday Life, paper presented at the International Legal Aid Group Conference, Antwerp

⁴ Currie, A., (2006) A National Survey of the Civil Justice Problems of Law and Moderate Income Canadians, International Journal of the Legal Profession, Vol. 13, No. 3, November 2006

⁵ Supra, footnote 3, p. 20

⁶ Supra, footnote 3, p. 27

focus of research, particularly in the U.K.⁷, includes crime as an element in the inter-related problem clusters that are a defining feature of social exclusion. According to one frequently cited definition,

“social exclusion is a shorthand for what can happen when people or areas suffer from a combination of linked problems such as unemployment, poor skills, low incomes, poor housing, high crime, bad health and family breakdown.”⁸

It stands to reason that in the seamlessness of everyday life there is a relationship between the criminal justice problems that people experience and the other legal problems that we know from the research literature to be very prevalent. This is important in applying an access to criminal justice perspective on crime. It has been observed elsewhere that, “separating out the issues and services aimed at resolving civil problems, crime, and social exclusion often ignores the complex picture of injustices those deemed ‘vulnerable’ often face.”⁹

Access to Criminal Justice

The classic model of access to justice is the “three waves” model, famously stated by Cappelletti and Garth.¹⁰ The first wave of the access to justice movement was legal representation for individual litigants and accused. The second wave grew out of the recognition that more durable solutions to individual’s legal problems could be achieved by tackling the underlying or systemic problems rather than through individual case-by-case representation. This was identified as the representation of diffuse interests in which litigation was aimed at achieving legal remedies for problems effecting groups or classes of people. The third wave was characterized as the development a varied range of access to justice mechanisms, including public legal education, mediation, non-adversarial tribunals, the use of paralegals and other mechanisms all aimed at providing the appropriate solution taking into account the nature of the problem or dispute.

⁷ Buck, Alexy, Nigel Balmer and Pascoe Pleasence (2005) Social Exclusion and Civil Law: Experience of Civil Justice problems Among Vulnerable Groups, Social Policy and Administration, 39

⁸ Preventing Social Exclusion: Report by the Social Exclusion Unit, London: Cabinet Office, 2001. p. 10

⁹ Roberts, Rebecca and Will McMahon (2007) editorial preface to Vicky Kemp, Pascoe Pleasence and Nigel J. Balmer, The Problems of Everyday Life: Crime and the Civil Justice Survey, Centre for Crime and Justice Studies, Briefing 5

¹⁰ Cappelletti, Mauro and Bryant Garth (1976) Access to Justice: A World Survey, Book 1, Part 1,

In its general form, the “three waves” model applies quite well to access to criminal justice.¹¹ The first and second waves of access to criminal justice are easily discernable as individual legal representation and, in the Canadian context, the litigation of *Charter* rights issues under the *Canadian Charter of Rights and Freedoms*.¹² The third wave of access to criminal justice has been slowly taking shape over the decades, beginning with the victim-offender reconciliation movement, evolving into the development of the restorative justice movement¹³ and, most recently, in the proliferation of problem solving courts which all (drug courts, mental health courts and community wellness courts) pursue the common approach of addressing the significant causes of criminal offending – mental health problems, substance abuse or social conditions.

Ideas about access to justice tend to follow on from changes in ideas about what is meant by justice. Traditionally, access to justice meant assistance allowing people to pursue a just claim or to defend against a civil or criminal legal action. With regard to criminal justice, this meant access to advice upon arrest or representation in court. This is a very system-focused and legalistic version of access to justice. The objective in providing access to justice services in this “first wave” version of access to justice is to assure a fair legal process for the accused. Like the Cappelletti and Garth analogy of waves following on one another, justice and access to justice have come to mean something in addition to legal representation and a fair legal process. Achieving justice within the emerging problem-solving justice paradigm involves addressing the problems that produce criminal offending and attending to the consequences.¹⁴ This requires viewing criminal offending in its social context.

¹¹ Currie, A. (2004) *Riding the Third Wave: Thinking about Criminal Legal Aid from an Access to Justice Perspective*, Department of Justice, Ottawa

¹² This does not take the form of a coherent access to justice strategy in criminal matters. However, the majority of *Charter* litigation in Canada during the first decade following the implementation of the *Charter* in 1984 focussed on the rights of the criminal accused

¹³ Clairmont, Don (n.d.) *Restorative Justice: From the Margins to the Mainstream*, Atlantic Institute of Criminology, Halifax

¹⁴ Roderick A. Macdonald (2005) “Access to Justice in Canada Today: Scope, Scale, Ambitions” in W.A. Bogart, Frederick H. Zemans and Julia Bass, *Access to Justice for a New Century: A Way Forward*, Toronto, Irwin. Professor Macdonald proposes a fifth wave of access to justice encompassing the idea that access to justice is interconnected with other aspects of social life.

It is important to recognize that the criminal accused do not comprise a homogeneous category. They include offenders whose criminal offending is related to very different factors. The following is intended to illustrate the point rather than to provide a coherent and careful typology to answer the question: Who are the criminal accused? For example, the criminal accused include people whose offending is driven by mental disorders or substance addiction, or more likely both.¹⁵ They include accused whose offending represents rational, calculating behaviour; a deliberate choice to engage in crime as a means to earn a living. Highly socially excluded offenders who are homeless or near homeless and who are chronic offenders but typically charged with minor offences might be another category. Any typology of criminal accused would no doubt consist of many overlapping categories.

This paper focuses on the extent to which criminal offending is embedded in a complex set of problems including the family law and civil justice problems of everyday life, long standing social problems and mental and physical health issues. As pointed out above, this sort of problem complex is what is often referred to as social exclusion. The analysis presented below focuses on offenders of this type. They are not the highly socially excluded "skid road" population, homeless or near homeless, with serious mental disorders and substance abuse problems, although they exhibit a range of characteristics related to social disadvantage. They are referred to in this paper as low social exclusion offenders, or LSE offenders for short.

Data Source and Methodology

The data for the analysis presented in this paper are from the 2008 National Survey of Justiciable Problems. This was a random survey of 7002 Canadians 18 years of age and older conducted by telephone in January and February 2008.

The questionnaire consisted of several parts. A problem identification section asked respondents if, during the previous three years, they had experienced any of 83 specific problems that could be characterized as "serious" and "difficult to resolve. The problems were carefully worded such that the problem involved a legal issue, and thus has a potential legal solution. Following problem identification,

¹⁵ Somers, Julian M., Lydia Carter and Joan Russo, Corrections, Health and Human Services, Centre for Applied Research in Mental Health and Addictions, Simon Fraser University, n.d. estimate that more than half of the B.C. corrections population between 1999 and 2004 suffered from a mental disorder and drug dependency problem or both. This does not include alcohol dependency.

subsequent sections asked about problem resolution, related problems and connections between problems.

Overall, 54% of the sample reported having experienced one or more justiciable problems within the three-year period. The results of a nearly identical survey¹⁶ carried out in 2006, 44.6% of adult Canadians had experienced one or more problems within the three-year period preceding the interview date. The increase reflects the addition in the 2008 survey of a section on neighbourhood problems. Neighbourhood problems, including excessive noise from neighbours, threats or harassment by neighbours or strangers passing through the neighbourhood and vandalism were experienced by 19.5% of respondents. Excluding neighbourhood problems, 48.6% of respondents experienced one or more problems.¹⁷ The 83 separate problems were grouped into 16 problem types for purposes of analysis. Table I shows the percentage of respondents experiencing at least one problem in each problem category.

Table I: Percentage of Respondents Reporting One or More Problems by Problem Type

Problem Type	Percent Among the total Sample with One or More Problems
Consumer	29.4% (2062)
Employment	16.6% (1161)
Debt	19.8% (1337)
Social Assistance	1.1% (78)
Disability Pensions	1.0% (72)
Housing	2.0% (138)
Immigration	1.4% (76)
Discrimination	2.1% (150)
Police Action	1.8% (129)
Relationship Breakdown	4.1% (285)
Other Family Law Problems	1.3% (93)
Wills & Powers of Attorney	6.3% (441)
Personal Injury	2.7% (189)
Hospital Treatment & Conditions of Release	1.8% (126)
Threat of Legal Action	2.9% (201)
Neighbourhood Problems	20.6% (1443)
	n = 7002

¹⁶ A telephone survey, n = 6665; see Currie, A., supra footnote 3

¹⁷ The margin of error for both surveys was about +/- 1.3%. Thus the confidence intervals do not overlap suggesting a statistically significant difference (44.6% = 1.3% = 45.9% and 48.6% - 1.3% = 47.3%, leaving a 2.7% gap between the upper limit of the 2006 estimate and the lower limit of the 2008 estimate.

The questions on criminal activity were asked in the context of a question on problems related to police action. Respondents were asked if they had been unreasonably stopped and questioned by the police, felt had been verbally or physically threatened or had been physically assaulted. Then respondents were asked if they had been arrested and/or charged in connection with any of these problems. Following that question, respondents were asked if they had been arrested and/or charged in connection with any other situation. Several questions were asked about the nature of the offence, legal representation and the outcome of the case. This strategy was chosen to minimize the risk that respondents would consider a more direct line of questioning about criminal offending too sensitive and would terminate the interview.

In this survey 2.7% of respondents reported they had been arrested for a criminal offence (n= 187) within the three-year study period. Among those who had been arrested, 54.9% said they had been charged by the police. Based on this percentage the estimated number of people charged in the population charged over the three-year period is about 353,800. This only about 25% of the number persons charged with a Criminal Code offence in the three-year period up to 2006 according to Uniform Crime Report data.¹⁸

A lower number would be expected in the survey since it would not be expected to represent the underclass of chronic offenders for whom criminal offences are driven by factors such as substance addiction or mental disorders. Also, the sample is probably not representative of rational, acquisitive criminals for whom criminal activity is a deliberately chosen means of support. Notably, therefore, it may be concluded that the offenders represented in this study are people for whom crime is, in a meaningful sense, a criminal justice *problem* more similar to the other justiciable problems they experience than would be the case for career criminals or offenders for whom patterns of offending are driven by the overwhelming and uncontrollable forces of substance abuse and mental disorders.

Age and Gender of the Offender Group

The basic characteristics of the offender sub-sample are typical of all offenders. In terms of gender, 82.0% were male.¹⁹ This is similar to the 78% male figure derived from the Uniform Crime Report II (UCR

¹⁸ Statistics Canada (2007) Crime Statistics in Canada, Cat. # 85-002-XPE

¹⁹ $\chi^2=93.1$, $p<.0001$

II) data, representing all persons charged with criminal offences.²⁰ Slightly more than half of offenders, 55.4%, were in the 18 to 35 age group, 27.2% were aged 36 to 50 and the remaining 17.4% were over 50 years of age.²¹ The age distribution of the sample offenders is somewhat younger than in the UCR II data. According to the UCR II data, 55.4% of persons charged are between 18 and 35 years of age, 30.4% are between 36% and 50% and 9.4% are over 50 years old.²² The older age distribution in the sample is probably a function of the types of people most likely to respond to telephone surveys. All things considered, however, the sample distributions for age and sex and not far off what would be expected on the basis of the national police-based data.

The Experience of the Offender Subgroup in the Justice System

Slightly over half, 54.9% of all respondents who were arrested were charged with an offence. Four offence types, assaults, impaired driving, other traffic offences and drug offences made up more than half of all offences.

Table II: Offences Committed by the Offender Subgroup

Type of Offence	Percent	Cumulative Percent
Assault	21.3%	--
Impaired Driving	21.2%	42.4%
Traffic	11.1%	53.3%
Drugs	9.0%	62.5%
Other	37.5%	100.0%

n = 92

Among respondents who were charged with an offence, 68.5% (n = 69) went to court. Slightly more than one third, 36.3%, were unrepresented at some or all of their court appearances.

Table III: Legal Representation

Extent of Legal Representation	Percent
Represented at All Appearances	62.9%
Represented at Some Appearances	13.3%
Unrepresented at All Appearances	23.3%

n = 69

²⁰ Statistics Canada, (2008) Uniform Crime Report II, special tabulation prepared by the Department of Justice

²¹ $\chi^2=170.9, p<.0001$

²² Supra, footnote 19

Being represented by legal counsel makes a difference. A majority of respondents who proceeded to court, 61.8% (n = 45) entered a plea of guilty. Respondents who were unrepresented at all appearances were much more likely to have entered a guilty plea. People who were not represented at any appearances entered a guilty plea 73.8% of the time. People who had legal representation at least some of the time were considerably less likely to enter a guilty plea.

Table IV: Percent Represented by Legal Counsel and Guilty Pleas

Legal Representation	Percent Pleading Guilty
Represented at All Appearances	58.0%
Represented at Some Appearances	55.4%
Unrepresented at All Appearances	73.8%

n = 45

Being represented by a lawyer also made a difference for case outcome. For the 32 respondents whose court cases had been resolved, 75.0% who had no legal representation for any appearances were found guilty. On other hand, 45.8% of respondents with legal representation at some or all appearances were found guilty.

The Social Context of Criminal Offending

It was noted above that from the social exclusion perspective committing crimes can be viewed as part of part of a broader context of social disadvantage. This part of the analysis examines the extent to which respondents in the LSE offender group in this sample reflect that supposition; that is, are embedded in troubled lives. These are not offenders who are highly socially excluded. Offenders for whom conflicts with the law are driven by drug or alcohol dependency, mental disorders or cognitive functioning problems are likely highly socially excluded. They experience a number of social, mental and substance abuse problems that are inter-related with criminal justice problems in a complex cluster of problems. Long-standing mental health and substance addiction problems are likely the predisposing conditions that trigger the civil and criminal law problems of this group.²³ The offenders in this sample are a more normal group in some respects. They are not professional criminals. They are not the

²³ Currie, A. (2006), *The Social and Health Consequences of Civil Justice Problems: Three Studies*, Department of Justice, Ottawa, 2006 and Currie, A. (2006) *Justiciable Problems and Social Exclusion*, Working Group on the Legal Professions, Peyresq, France

highly socially excluded, the homeless or near homeless underclass that populates the skid road areas of our cities. They are employed, have families and otherwise lead lives closer to the middle class ideal. However, social exclusion is a matter of degree rather than a dichotomy. Social exclusion is also a process, one in which people can fall away from lives of relative self-sufficiency within the mainstream of society in to lives of disadvantage and dependency of on social assistance. The respondents who make up the criminal accused subgroup can be viewed as being situated somewhere along the continuum of social exclusion. Thus a recent judicial bench book observes that "there is evidence that a disproportionate number of persons drawn into the justice system are from what may be described as socially excluded backgrounds. To understand the circumstances which have brought the case to court it is necessary to understand how the processes of social exclusion operate."²⁴

This analysis will show the offender subgroup identified by this analysis has more problems of a variety types than others in the society. The causal linkages within problem clusters experienced by this subgroup of criminal offenders can not be demonstrated by this exploratory analysis. However, the present analysis may provide a beginning to understanding and addressing criminal offending by people within this group.

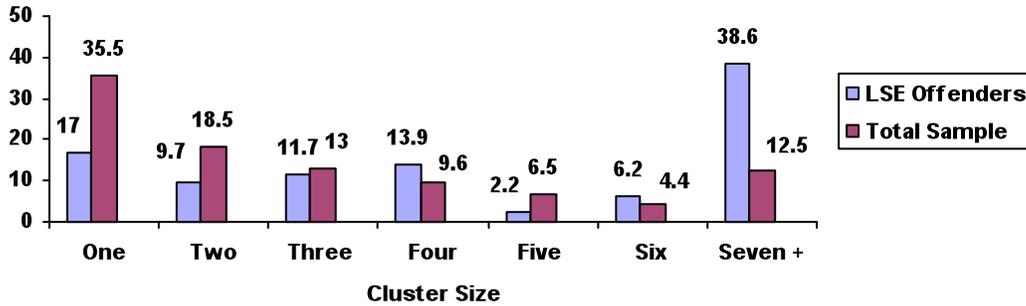
The Prevalence of Civil Justice Problems

The offender population in this sample experiences a considerably larger number of problems than people in general. About 54% of the total sample (n = 3502) experienced one or more problems within the three-year reference period for the study. In contrast, 86.9% of the LSE offender group experienced one or more justiciable problems (n = 187).

People in the LSE offender population have larger problem clusters compared with the overall sample. Figure I shows the size of clusters of the 16 justiciable problem types for LSE offenders and the total sample.

²⁴ Equal Treatment Bench Book, Judicial Studies Board, United Kingdom, March 2004. p. I - 40

Figure I: Size of Problem Clusters for the LSE offender Group and Total Sample

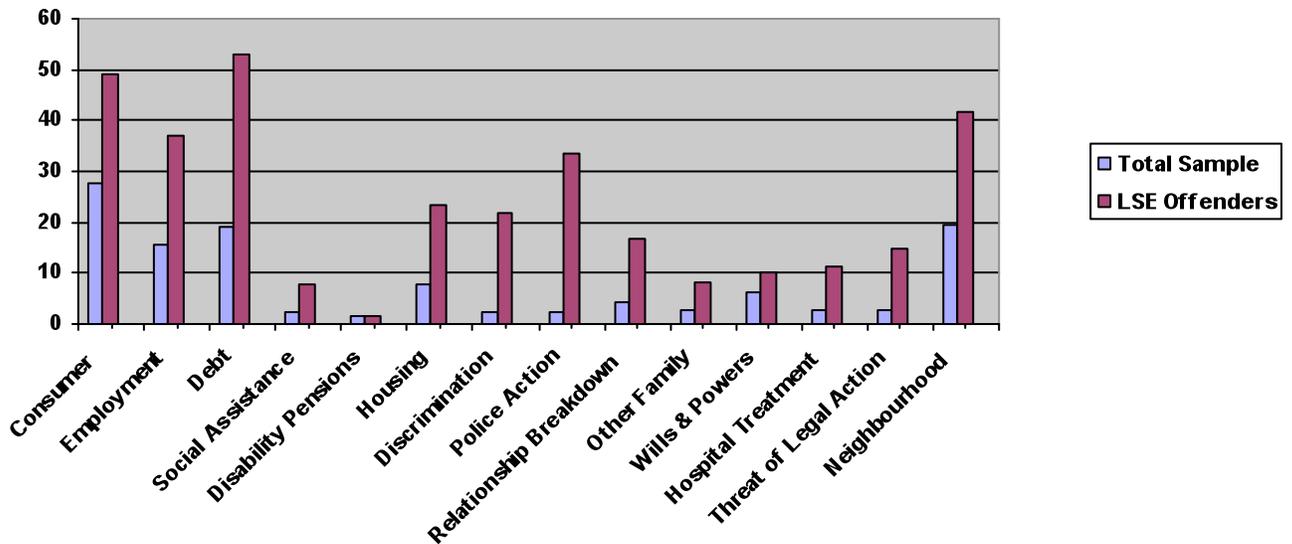


*LSE offenders = 163; total sample n = 3780

Clearly, the offender subgroup tends to experience larger problem clusters. Combining the problem clusters of three or more problems, 73.2% of LSE offenders experienced three or more justiciable civil law problems compared with 46.0% percent of the total sample.

As would be expected, the LSE offender population experiences more problems that other respondents. Figure II shows the percentage of respondents with one or more problems within each problem type comparing the offender group with the total sample.

Figure II: Justiciable Problems Experienced by LSE Offenders and the Total Sample



It is quite remarkable that the respondents in the LSE offender group experience greater numbers of problems in every category, with the exception of immigration.²⁵ The Overall pattern of prevalence is much the same for the two groups. However, several problem categories have especially high percentages among offenders reporting one or more problems. The percentage of respondents reporting one or more problems is especially high for debt, consumer, employment and housing problem. As one might expect, an especially high percentage of the LSE offender population also reports one or more problems. LSE offenders also appear to live in troubled neighbourhoods, since a very large percentage of respondents in this subgroup reported one or more problems.

Long-Term Problems

The analysis above shows that a much larger percentage of the LSE offender group experienced debt, housing and employment problems than the population as a whole. These can be markers of social exclusion, especially if they persist over time. In a secondary analysis of the 2004 U.K. Legal Services Commission data, Sandefur has shown that there is little difference in the prevalence of justiciable problems across income levels. However, the poor suffer more serious consequences from similar problems.²⁶ Based on that observation, one would expect that people experiencing long-term problems signalling the absence of secure, stable lives might also be more likely to experience crime problems.

Respondents were asked about the frequency with which debt, employment and housing problems had been occurring problems over their adult lives. The series of three figures below show that the LSE crime sub-group experienced long standing problems in these areas to a much greater extent than the overall population.

Figure III compares the degree to which debt problems had been experienced by the LCD crime and the total populations. The LCD offender group is more strongly represented among respondents who have experienced debt problems throughout their lives. 11.5% of respondents who had been arrested for or charged with an offence reported that they have frequently had debt problems throughout their

²⁵ This category is omitted from the graph because no immigration problems were reported by respondents in the offender group.

²⁶ Sandefur, Rebecca (2008) Experience with Civil Justice Problems: Strategies and Consequences, paper presented at the 7th International Legal Services Research Centre International Conference, Greenwich, June 2008

lives, compared with 4.4% of the total sample. Similarly, 30.7% of offenders said they sometimes had debt problems, compared with 19.5% of non-offenders. This pattern is reversed for respondents who said they had rarely or never experienced debt problems.

Figure III: Long Standing Debt Problems Comparing LSE Offenders and Total Sample

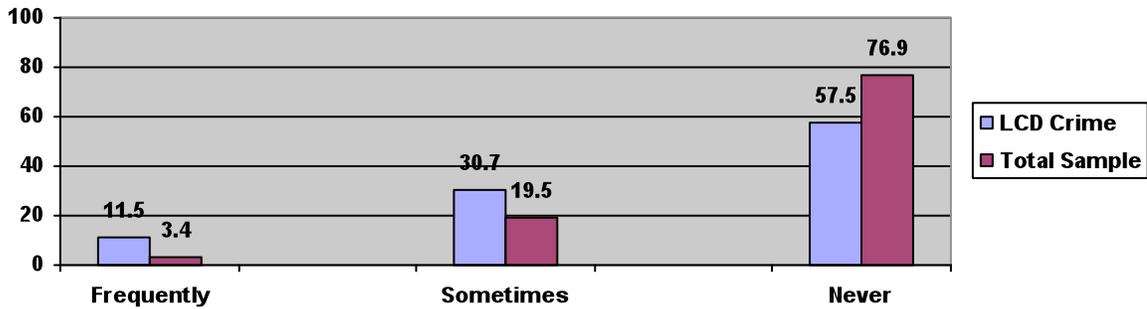
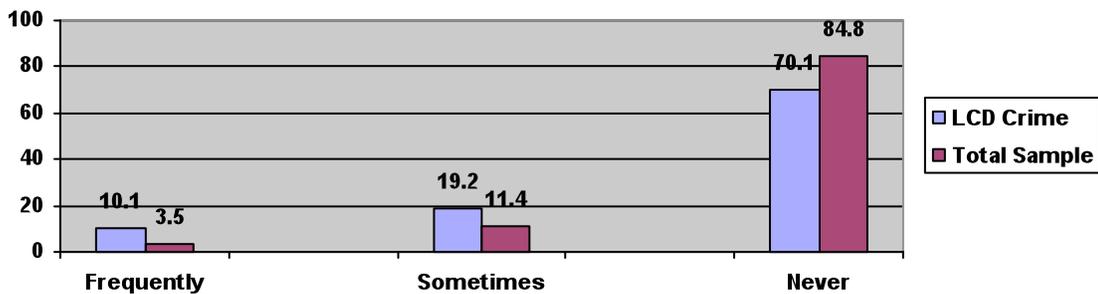


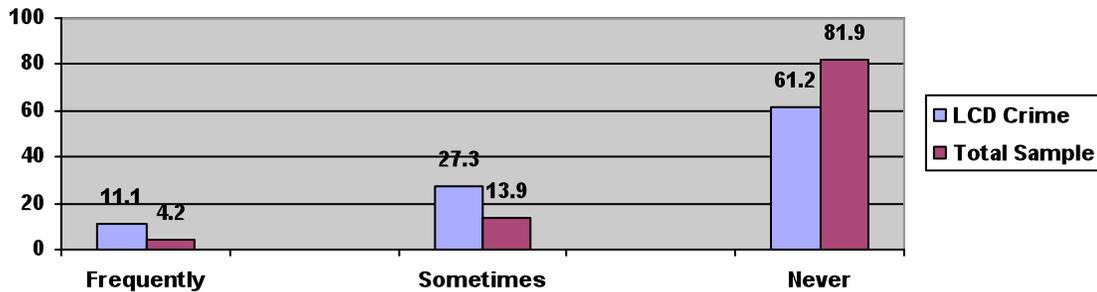
Figure IV shows the same comparison for long-standing housing problems, while Figure V presents the same data for employment problems. These figures show the same patterns as for debt problems.

Figure IV: Long Standing Housing Problems Comparing LSE Offenders and Total Sample



For each of these three problem areas, respondents reporting conflict with the criminal justice system say they have frequently had problems throughout their adult lives twice as frequently as people not reporting crime problems. They are twice as likely compared with respondents having no conflict with the law during the three years prior to the survey date to have sometimes had housing and employment problems and almost twice as likely to have sometimes had debt problems.

Figure V: Long Standing Employment Problems Comparing LSE Offenders and Total Sample



The 'frequently' and 'sometimes' categories were combined to create a binomial variables (frequently or sometimes a problem versus never a problem) and run against LSC accused versus no criminal offences to obtain odds ratios. The results of this analysis, presented in Table V, indicates that respondents having long term problems are almost three times more likely to have criminal justice problems that the population overall (housing = 2.6 times more likely, debt = 2.7 times and unemployment = 2.9 times).

Table VI: Likelihood of Respondents with Criminal Justice Problems Having Long Standing Social Problems Compared with the Total Population

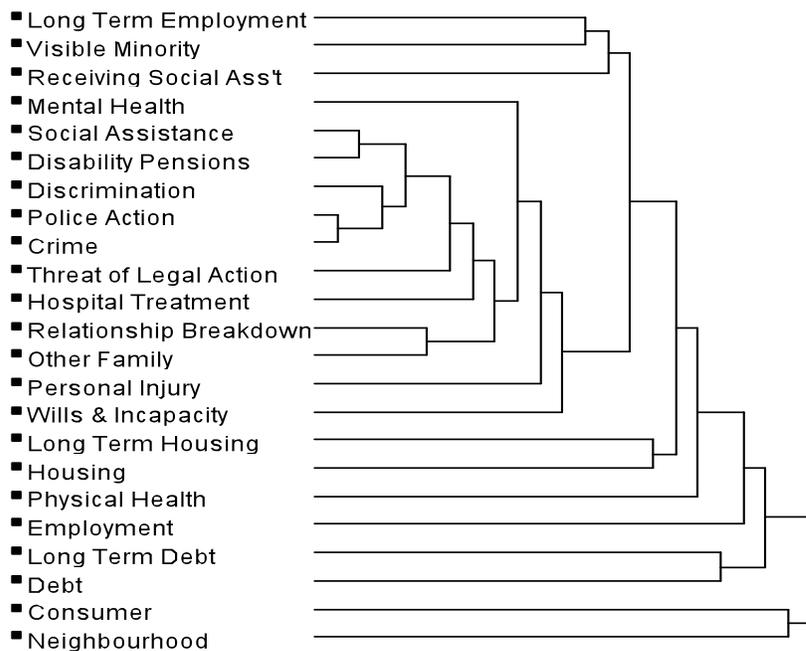
Type of Long Standing Problem	Odds Ratio and Confidence Interval	Chi-Square and Probability
Housing	2.6 (1.8 - 3.7)	$\chi^2=29.8$ $p<.0001$
Debt	2.7 (1.9 - 3.8)	$\chi^2=23.3$ $p<.0001$
Unemployment	2.9 (2.0 - 4.1)	$\chi^2=32.5$ $p<.0001$

Problem Clustering

Problems occur with greater frequency for some groups than for others, and this is certainly the case for the offender group in this sample. As well, it is now a familiar observation that problems tend to cluster in certain patterns. Figure VII shows how crime clusters with a range of other problems. The analysis includes not only the civil justice problems²⁷ but also five other life problems. These include physical health and mental health problems, long-term employment, debt and housing problems.

²⁷ Immigration problems does not appear because the offender group reported no problems in that category.

Figure VII: The Clustering of Crime and Other Problems*



*n = 2404, Respondents with two or more problems

From the dendrogram shown in Figure VI we can see that crime is nested within a fairly distinct problem cluster. Perhaps not surprisingly, crime and problems related to police action are the most closely related, in turn linked with problems related to discrimination. Next, this cluster is most closely related with a small cluster linking problems related to social assistance and disability pensions. Threat of legal action forms the next link, then with a link to problems related to hospital treatment and release. At a somewhat greater "distance", self-reported mental health problems are linked through a connection involving two types of family law problems.

It is clear, overall, that crime is nested within clusters of other problems, experienced in abundance in the everyday lives of LSE offenders. Criminal offending can from this perspective be viewed as one of the legal and social problems of everyday life.

Socio-economic Status and Vulnerability

Respondents in the accused sub-group are also more likely to be in lower socio-economic categories and other minority groups that suggest social vulnerability.

Table VIII compares the income levels of the LSE group compared with the overall sample. The results show that respondents accused of criminal offences are more likely to have incomes of less than \$25,000.

Table VIII: Income Levels of LSE Offenders and the Total Sample

Income Level	LSE Offenders	Total Sample
< \$25,000	29.1%	15.2%
\$25,000 - \$49,000	22.3%	24.5%
\$50,000 - \$74,000	19.8%	21.7%
\$75,000 and over	28.7%	38.7%
	100% (n = 168)	100% (n = 5587)

$$\chi^2=10.2, p=.01$$

Table IX shows a more detailed income distribution comparing the LSE crime group and the total population for incomes under \$25,000 only. These data show that the lower the income within the lowest income category the greater the proportion in the offender group.

Table IX: Detailed Income Levels Below \$25,000 Comparing LSE Offenders and the Total Sample

Income Level	LSE Offenders	Total Sample
< \$15,000	15.1%	4.7%
\$15,000 - \$19,000	7.3%	5.8%
\$20,000 - \$24,000	7.0%	4.9%
	100% (n = 160)	100% (n = 5587)

$$\chi^2=21.1, p=.001$$

The accused subgroup has lower levels of education. Table IX shows that 15.6% of the LSE accused group has less than high school education compared with 10.5% of the total sample.

Consistent with the results relating to income, the offender group is significantly more likely to report having been on social assistance during the study period. Whereas 14.7% of the total sample (n = 6914) reported having been on social assistance during that time, 27.9% of the offender population said they had been. Respondents in

the offender group were 2.2 times more likely than all others to have been on social assistance.²⁸

Table X: Education Levels Comparing LSE Offenders and the Total Sample

Level of Education	LSE Offender Group	Total Sample
1 to 6 years	0.7%	1.0%
7 to 9 years	5.4%	2.2%
9 to 11 years	9.5%	7.3%
High School	20.3%	15.6%
Some Community College	9.5%	8.1%
Completed Community College	20.9%	20.5%
Some University	9.5%	10.4%
Bachelor's degree	11.5%	19.6%
Post Graduate Degree	8.8%	14.8%
	100.0% (n = 148)	100.0% (n = 6919)

$\chi^2=14.2, p=.11$

As well, the offender group has a higher proportion with a high school education only, 20.3% compared with 15.6%.

The LSE offender group is more likely to be unemployed than the overall sample. More surprisingly, perhaps, offenders are more likely to be dependent on a disability pension as their main source of income, as are students.

²⁸ Relative Risk = 2.2, confidence interval for the RR = (1.6 to 3.0), n = 6914, $\chi^2=20.9, p = <.0001$. For an explanation of relative risk compared with other similar measures such as ratios (probabilities) and odds ratios see: Osborne, Jason W. (2006) "Bringing balance and technical accuracy to reporting odds ratios and the results of logistic regression analysis", Practical Assessment, Research and Evaluation, Volume 11, No 7, p. 3

Table XI: Employment Status and Source of Income Comparing LSE Offenders and the Total Sample

Employment Status	LSE Offender Group	Total Sample
Working Full Time	44.2%	44.7%
Working Part Time	7.5%	8.8%
Self-Employed	11.6%	9.9%
Unemployed	12.9%	4.7%
At Home	3.4%	4.0%
Student	6.8%	2.7%
Retired	10.2%	23.8%
Disability Pension	3.4%	1.3%
	100.0% (n = 147)	100.0% (n = 6776)

$\chi^2=40.8, p<.0001$

It is equally notable that there is little difference between the two groups with respect to the percentages working full and part time, and self-employed. This suggests that this particular group represents a type of offender that is more-or-less integrated into the rhythms of daily life, although, it is argued here, facing more troubles.

The data on offending and ethnicity are not conclusive since they analysis did not achieve conventional levels of statistical significance. However, the results are of substantive interest and are, therefore, reported with caution. Respondents who self-identified as visible minorities were 1.3 times as likely as all others in the sample to have been arrested or charged with a criminal offence.²⁹ This was 3.8% of the LSE offender group and 1.9% of the total sample.

In terms of particular ethnic groups, people identifying as East Asian, Black, Latin American and, especially, Aboriginal were more highly represented among the LSE offender population.

²⁹ Relative Risk = 1.3, confidence interval for the RR = (0.9 – 1.8), $\chi^2=1.8, p = .18$

Table XII: Ethnic Origins of LSE Offenders Compared with the Total Sample

Ethnic Group	LSE Offender Group	Total Sample
Aboriginal	19.2%	8.6%
Chinese	3.8%	6.7%
East Asian	3.8%	2.7%
South Asian/East Indian/ South-East Asian	3.8%	9.6%
Filipino	--	1.5%
Black	11.5%	10.2%
Latin American	3.5%	1.9%
Pacific Islands	--	0.1%
West Asian/ North African/ Arab	3.8*	4.3%
White	50%	50%
	100% (n = 26)	100% (n = 902)

$$c^2=7.8, p=.79$$

As would be expected, a larger proportion of the offender sub-group were single.

Table XIII: Marital Status of LSE Offenders and the Total Sample

Marital Status	LSE Offender Group	Total Sample
Married or Couple	44.3%	65.8%
Single	35.0%	15.6%
Separated/Widowed/ Divorced	20.7%	18.6%
	100% (n = 149)	100% (n = 6935)

$$c^2=44.5, p<.0001$$

There was no difference between the two groups in terms of having dependent children. Among the LSE offenders 33.1% (n = 148) compared with 34.4% (n = 6791) in the total sample reported having dependent children.³⁰ The LSE offender group is different, but not far from Canadians overall.

Mental and Physical Disabilities

Respondents were asked if they had experienced a physical or mental condition that limited their normal day-to-day activities. Responses allowed respondents to indicate how frequently they experienced the mental or physical limitation.

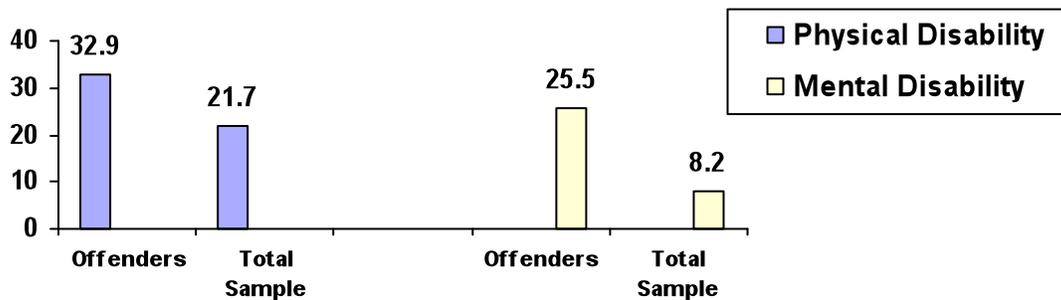
³⁰ $c^2=6.6, p =.36$

Table XIV: Percent of Respondents with Physical and Mental Disabilities

		Often	Sometimes	Never	
Physical Disability	LSE Offenders	18.1%	14.8%	65.9%	n = 149
		32.9%			
	Total Sample	12.6%	9.5%	77.9%	n = 6915
		21.7%			
$c^2=10.1, p=.006$					
Mental Disability	LSE Offenders	10.1%	15.4%	73.8%	n = 149
		25.5%			
	Total sample	3.5%	4.7%	91.8%	n = 6915
		8.2%			
$c^2=42.3, p< .0001$					

The LSE offender group was significantly more likely to suffer from both physical and mental disabilities. Figure VII shows the combined percentage of respondents who said they sometimes or often experienced a mental or physical health problems.

Figure XV: Self-reported Physical and Mental Disabilities Comparing Criminal Offenders and the Total Sample



Expressed in terms of odds ratios, that is, the greater the likelihood that the offender group will report suffering from a physical or mental disability compared with other respondents, offenders are 1.5 times more likely than other respondents in the total sample to report some

degree of physical impairment.³¹ There is a more striking relationship between self-reported mental disorders and having been charged or arrested. Respondents in the offender group are 3.7 times more likely than all others to report experiencing a mental disability of some kind.³² The offender group is less likely to say that the physical or mental problem has been diagnosed by a physician. They are about equally likely compared with all others to indicate that the problem is a long standing one.

Attitudes toward Justice

One would expect that offenders would be more disaffected from the justice system. It cannot be determined with the data at hand if disaffection is a cause or consequence of criminal offending; whether it reflects a sense of unfairness about the circumstances of one's life that become the rationale for conflict with the law, or it arises from a sense of unfairness about the consequences experienced as a result of that conflict. Whatever the case, the sense of disaffection may be viewed generally as part of the same set of predisposing conditions, along with the other factors discussed in this paper, that relate to criminal offending.

Respondents were asked four questions about their attitudes toward the justice system, intended to examine their attitudes in a broader sense rather than probing confidence in specific criminal justice functions or objectives. Table XII summarizes the responses to the four questions, expressing relationships in terms of relative risk.

³¹ Relative Risk = 1.5, confidence interval for the RR = (1.1 - 2.1), $c^2=10.1$, $p = .001$

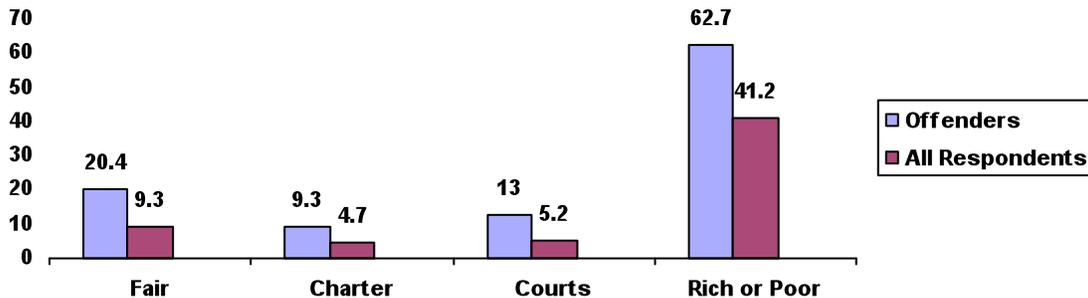
³² Relative Risk = 3.7, confidence interval for the RR = (2.7 - 5.1), $c^2=42.1$, $p = <.0001$

Table XVI: Attitudes toward the Justice System

Attitude Dimensions	Relative Risk	Confidence Interval of RR and Statistical Significance
The laws and the justice system are essentially fair.	2.2	(1.6 – 2.9) $c^2=18.1, p = <.0001$
The legal rights guaranteed in the <i>Charter</i> and in other legislation make a difference when people have legal problems.	1.5	(1.1 – 2.2) $c^2= 4.6, p = .03$
Courts are an important way for ordinary people to protect their rights.	1.9	(1.4 – 2.6) $c^2= 7.1, p = .005$
The legal system works better for the rich than for the poor.	1.5	(1.0 – 2.1) $c^2= 3.8, p = .05$

Respondents were asked to respond to these four statements on a four point scale from strongly agree to strongly disagree. The relative risk indicates the number of times more likely the offender group is to respond in the **negative** to the statements compared with all others. Offenders are 2.1 times more likely than all others to feel that the laws and the justice system are unfair, 1.7 times more likely to feel that the *Charter* and other legislation do not make a difference, 1.8 times more likely to feel that the courts are not important and 1.7 times more likely to feel that the legal system works better for the rich. The measures of relative risk may be a slight understatement because of the way the categories combine. On every indicator, the difference between the offender group and the total sample is greatest at the strongly negative end of the scale.

Figure VIII: Percent Indicating the Strongest Negative Attitudes toward the Justice System³³



³³ The values of "n" and the levels of statistical significance of the tables from which the percentages are derived are as follows: 1) fairness of the laws and the justice system; n = 6763, $c^2=21.2, p = <.0001$; 2) Charter makes a difference; n = 6254, $c^2=7.9, p = .05$; 3) courts are important; n = 6757, $c^2=20.2, p = .0002$; 4) justice system works better for the rich; n = 6482, $c^2=26.4, p = <.0001$.

The offender population is more than twice as likely to *strongly* disagree with the indicators related to fairness, the *Charter* and the courts. Twice as many offenders feel strongly that the laws and the justice system are essentially unfair and that the Charter does not make a difference. Three times as many offenders feel that the courts are not important for ordinary people to protect their rights. A very large percentage of the offender population agreed that the justice system serves the rich better than the poor. However, this is a sentiment that is felt widely among the population and therefore the relative difference is not as great.

Conclusion

The results of this analysis show that the offences committed by some people are embedded in complex of troubling problems. These include all types of civil justice problems measured by the study, with the exception of immigration problems. The group of offenders examined in this study have a much higher incidence of a range of civil justice problems and they are more likely to have experienced long-standing social problems such as employment, housing and debt than the overall sample. They are more likely to report having a physical or mental disability that limits their activities to some degree. Their incomes are lower, they are less educated and they are more likely to be unemployed. They were more than twice as likely as all others to have been on social assistance during the three years covered by the study. They are more likely to be Aboriginal, Latin American or Black. Finally, they are consistently more likely to have negative attitudes toward aspects of the justice system.

These results indicate that the patterns of offending of this group appear to be embedded in lives of trouble. The strongest support for this generalization lies in the relationship between long-standing problems. Since the long-standing employment, debt and housing problems can be presumed to precede criminal offending in terms of time ordering, this provides some indication of a possible causal relationship.

The results of the cluster analysis provide further evidence that crime is, for the offenders in this survey, clustered around certain justiciable civil law and other social problems. Experiencing an interconnected set of problems is one of the defining features of social exclusion. Other research supports the conclusion that the experience of civil justice problems is a part of the process of social exclusion. By establishing the connection between criminal offending and a range of indicators of

social exclusion, this research suggests that criminal offending may be embedded these same patterns of disadvantage and dependency.

The major implication of results of this research is a greater emphasis on problem solving justice and less of an exclusive emphasis on adversarial justice. The criminal justice system traditionally focuses on criminal charges and the related court appearance(s) primarily as isolated events, taking into account the offender's criminal history and certain circumstances associated with the commission of the offence such as the use of a weapon and the degree of violence to determine the severity of the sentence. Problem-solving justice places far more direct emphasis on problem-solving criminal justice approaches that treat the whole client. Various forms of problem-solving justice; restorative justice, drug courts, mental health courts, community wellness courts and holistic criminal defence attempt to address the complex set of factors, parts of the same set of predisposing set of conditions, that give rise to and may also be consequences of criminal offending.

Many of the insights that are lending form and substance to the growing problem-solving justice movement come from the body of theory and practise known as holistic criminal defence. Relevant to the results of this research, Smyth observes that:

most people cycle through the criminal justice system as a result of deep and interrelated social problems [and] the ensuing arrest, criminal charge or conviction can result in significant practical difficulties that only exacerbate the problem.³⁴

Based on these precepts, the holistic criminal defence movement attempts to "tackle crime" at its roots by interrupting the cycle of recidivism. Because the clients of criminal legal aid services are, by virtue of typically stringent financial eligibility guidelines, are the most disadvantaged and possibly the most deeply enmeshed in the cluster of deep and interrelated social problems described by Smyth, criminal legal aid might most carefully consider the results presented here and their implications for representing criminal accused. Criminal legal aid is publicly funded criminal defence. The publicly funded aspect is important because if holistic criminal defence represents an

³⁴ Smyth, McGregor (2004-2005) Holistic Is Not a Bad Word: A criminal Defence Attorney's Guide to Using Invisible Punishments as an Advocacy Strategy, University of Toledo law review, 36, p. 481

investment of public funds that pays off, then it is an obligation flowing from the value for money obligation of spending public money. A Christian Science Monitor article reporting on the Georgia Justice Project (GJP), a holistic criminal defence project indicated that 70% of all convicted criminals in the United States and 45% of the poor defendants in Georgia return to prison within two years, compared with 18% of clients of the GJP.³⁵ Other public defenders offices in Maryland³⁶, in New York³⁷ and in other American cities³⁸ practising holistic criminal defence have also claimed success in tackling the roots of crime. The results of this research provide an empirical foundation to a description of the nature of the crime problem that is the foundation for the holistic approach to criminal defence. In that sense it lends support to the idea of holistic criminal defence as an approach to tackling crime agenda that has become common currency in many jurisdictions in recent decades.

Draft: March 2009
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³⁵ Johnson, Patrick (2002) "Lawyers Defend Poor: If They Mend Their Ways" Christian Science Monitor, USA Section p. 1, January 23, 2002.

³⁶ Pinard, Michel (2004) "Broadening the Holistic Mindset: Incorporating Collateral Consequences and Re-entry into Criminal Defence Lawyering" Fordham Urban Law Journal, May 2004

³⁷ Brooks, Terry and Shubhangi Deoras (2002) "Indigent Defence", 17 Criminal Justice.

³⁸ Steinberg, Robin and Davis Feige (2002) "Cultural Revolution: Transforming the Public Defender's Office" in Public Defence: Papers from the Executive Session in Public Defence, John F. Kennedy School of Government, Bulletin #3, Harvard University