

Journal of Law and Social Deviance

Volume Six
2013

Interdisciplinary and Independent Studies of
Sociality, Deviance, and Law

Carmen M. Cusack
Editor

Brian Balduzzi
Senior Copy Editor

Matthew Waranius
Production Manager

Journal of Law and Social Deviance, Copyright 2013 ©

ISSN 2164-4721 (online)

ISSN 2165-5219 (print)

Editorial Advisory Board:

Frances Bernat, JD, PhD
Texas A&M International University

Michael Boyer, JD
University of Alaska Southeast

John Kilburn, PhD
Texas A&M International University

Tammy Kushner, PsyD
Nova Southeastern University

Dave Noon, PhD
University of Alaska Southeast

Lesley Northup, PhD
Florida International University

Claudia San Miguel, PhD
Texas A&M International University

Grace Telesco, PhD
Nova Southeastern University

Abigail Tucker, PsyD
Nova Southeastern University

David Walter, MA, JD
Florida International University

Journal of Law and Social Deviance

Volume Six

2013

ABSTRACT BOOKLET CONTENTS

Journal Contents.....ii

Irish in the Criminal Justice System

Carmen M. Cusack.....1

Law and Order and White Power: White
Supremacist Infiltration of Law Enforcement and
the Need to Eliminate Racism in the Ranks

William Y. Chin.....3

Collateral Damage: Circumcision, Child Fatalities,
and Constitutional Free Exercise in New York

Harper S. Seldin.....4

The Dark Knight Rises: An Examination of the
Insanity Plea and James Holmes' Case

Kathleen A. Bantley, Esq. and
Susan V. Koski, LP.D.....6

Journal of Law and Social Deviance

Volume Six

2013

JOURNAL CONTENTS

Editor's Introduction.....i

Contribution.....ii

Irish in the Criminal Justice System

Carmen M. Cusack.....1

Law and Order and White Power: White
Supremacist Infiltration of Law Enforcement and
the Need to Eliminate Racism in the Ranks

William Y. Chin.....30

Collateral Damage: Circumcision, Child Fatalities,
and Constitutional Free Exercise in New York

Harper S. Seldin.....99

The Dark Knight Rises: An Examination of the
Insanity Plea and James Holmes' Case

Kathleen A. Bantley, Esq. and
Susan V. Koski, LP.D.....154

IRISH IN THE CRIMINAL JUSTICE SYSTEM

Carmen M. Cusack

Within the criminal justice system, Irish Americans have voluntarily or involuntarily played many roles, including politicians, cops, mobsters, belligerent drunkards, and undesirable immigrants. Irish American culture has traversed from the lowest criminal class to the upper echelons of national politics and local government over the past two centuries in the U.S. Their role in the criminal justice system was transformative of their group and of the system. This Essay discusses Irish and Irish American's involvement in the criminal justice system as criminals and terrorists, police officers, and community members and leaders. First, Part II of this Essay reviews racist attitudes and prejudices towards Irish in the U.S. Part II also discusses pressures placed on Irish communities that subjected them to abuses within the system, but also helped bond communities. Then, Part III discusses development of stability and criminality in Irish neighborhoods, stigmatization of Irish men as drunks and thugs, and the link between community and political power. Part

Cusack

III also discusses distinctions between Irish men and women who immigrated during the late 1800s. This section differentiates between roles played by Irish men and roles played by Irish women as observant domestic servants, patrons, and feminists. Part IV discusses stigmatization of Irish as terrorists. This part briefly reviews terrorism in Northern Ireland and overall crime in Ireland. Part IV also explores the relationship between U.S. Irish American communities, terrorists, and international law. Finally, Part V explains how Irish became involved in police work and rose to prominence in the U.S. through the criminal justice system. This involvement is interesting because Irish were an abused class who broke free of governmental oppression by integrating into the criminal justice system, not by continuing to defy it. Their survival, adaptation, and growth could possess generalizable patterns that other groups can emulate to transfigure from oppressed to politically valuable. However, Irish American involvement in the U.S. criminal justice system seems somewhat unique thus far, which is why it is the subject of this Essay.

**LAW AND ORDER AND WHITE
POWER: WHITE SUPREMACIST
INFILTRATION OF LAW
ENFORCEMENT AND THE NEED TO
ELIMINATE RACISM IN THE RANKS**

William Y. Chin

Law enforcement officials must guard against not only external threats, but also internal threats. An internal threat is white supremacist infiltration of law enforcement. White supremacy ideology and law enforcement have been conjoined since the Colonial Period. In the modern era, white supremacists continue to seek positions in law enforcement to advance their cause. The election of the first black president has revived these supremacists' efforts to advance their cause. Equal enforcement of the law requires law enforcement employers to adopt a zero-tolerance policy that discharges racist officers in the ranks. Courts look favorably on efforts to rid law enforcement of racists. Such efforts benefit police departments, local communities, and society.

CIRCUMCISION, CHILD FATALITIES, AND CONSTITUTIONAL FREE EXERCISE IN NEW YORK

Harper S. Seldin

Parents' rights include considerable leeway when raising children, and the state cannot substitute its judgment for parental decisions. However, under the "best interest of the child" standard, the State will intervene swiftly when children's health is at stake, even at the risk of alienating parents or limiting these parents' authority.

One particular group of children, however, seems to slip through the cracks. Male infants of Orthodox Jewish families, who practice a form of ritual circumcision called *metzizah b'peh* ("MBP"), are not included in the context of child abuse. During the practice, the *mohel*, a ritual circumciser, removes an infant's foreskin, and then applies oral suction to clean the wound with his mouth. Even though religious and secular authorities have failed to intervene, the deaths of several infants who contracted herpes from the *mohelim* performing the procedure has brought the practice into the public eye as a child welfare and safety issue.

Seldin

This Article addresses the MBP controversy in New York from 2004 to the present day, contextualizing both the practice itself and the State's response to it in Free Exercise jurisprudence, faith healing exemptions to child abuse and neglect laws in the United States, and New York State criminal law. This Article suggests that New York's informed consent regime will both fail to protect infants and fail to withstand strict scrutiny. Further, this Article argues that the practice is already criminal under New York penal law and discusses possible explanations for why New York has chosen to fight the battle over MBP in the public health arena. Finally, this Article evaluates other ways to conceptualize and effectuate the protection of children in communities practicing MBP.

**THE DARK KNIGHT RISES:
AN EXAMINATION OF THE
INSANITY PLEA AND JAMES
HOLMES CASE**

Kathleen A. Bantley, Esq.
Susan V. Koski, LP.D

Undoubtedly, the insanity plea is one of the most controversial defenses available in American criminal jurisprudence. The defense and others like it were created to avoid punishing defendants who are not blameworthy. These defenses are commonly referred to as “excuse” defenses. Although rarely used, and seldom ever used successfully, the insanity defense has gained much public attention. Some of the most notorious defendants who have successfully used the insanity plea include John Hinckley Jr., Lorena Bobbitt, and Andrea Yates. Now, James Holmes, a mass murderer from Aurora, Colorado, seeks to use the insanity defense.

Public opinion about the insanity defense has been controversial. Many people disfavor the insanity plea because they believe that it allows a guilty person to “beat the rap” or “get off easy”. Members of the public misunderstand the insanity defense

because they are usually exposed to only high profile cases that receive intense media coverage. It will be interesting to see the public's reaction to James Holmes's potentially successful use of an insanity defense.

This article examines the insanity defense and the public's perception of the defense. The primary focus is on the different legal standards used across the country. The author examines the definition used in Colorado and its possible application in the James Holmes case. The article concludes by recommending that media ought to educate the public about the plea so that members of the public can be more accepting of it.