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JUVENILE VIOLENCE IN POLICY CONTEXT

FRANKLIN E. ZIMRING*

I. INTRODUCTION

There is a concern about rates of juvenile violence in the United States of the mid-1990s that much resembles what sociologists call a moral panic.¹ A recent study sponsored by the federal government reported that during the period 1992-1995, no fewer than forty-seven of the fifty American states passed legislation designed to change juvenile or criminal court procedures addressing violent juvenile offenders.²

Historical perspective is one of the first victims of an emergency, and the alarm expressed about serious juvenile violence these days is no exception to this pattern. This Article will provide some basic data on patterns of juvenile violence in the United States since the mid-1970s. It will then address the implications of the known facts about current serious violence by juveniles for appropriate policies toward youth violence in both juvenile and criminal courts. The data suggest that violence during adolescence is both quite different from violence among older age groups and stable over time except for a small number of gun assaults. The implications of these patterns for policy are pretty clear. There is no change in the character of youth violence that would justify wholesale changes in legal policy. A small proportion of gun cases deserve special attention from police, prosecutors, and judges.

II. CHARACTERISTICS OF YOUTH VIOLENCE

Two of the elements that distinguish violence during adolescence from the patterns of violence found in older population groups are high volume and low lethality. For most males, the adolescent years are peak periods for reported episodes of serious fighting. This phenomenon is seen more clearly in victim surveys about injury and assaults where high rates of self-reported assault

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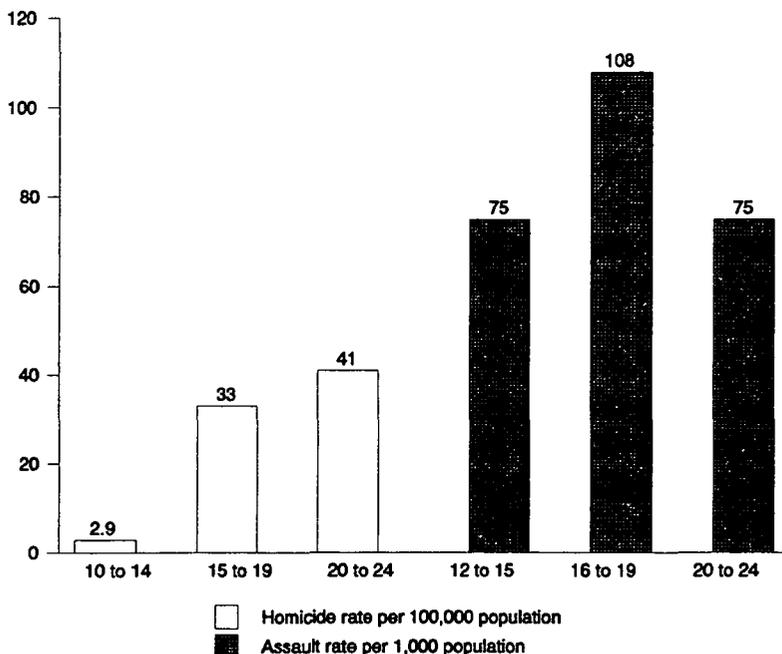
1. THE BLACKWELL DICTIONARY OF SOCIOLOGY defines moral panic as "an extreme social response to the perception that the moral condition of society is deteriorating at a calamitous pace. Most often such panics are promoted by mass media reports reinforced by officials in various institutions. . . ." A.G. JOHNSON, THE BLACKWELL DICTIONARY OF SOCIOLOGY 184 (1995).

2. OFFICE OF JUSTICE PROGRAMS, U.S. DEP'T OF JUSTICE, STATE RESPONSES TO SERIOUS AND VIOLENT JUVENILE CRIME, at xv fig.2 (1996).

victimization are reported as early as age twelve.³ The years of adolescent transition produce rates of fighting, particularly in peer group settings, that are much higher than rates for normal adults in most groups in almost all cultural settings.⁴ Yet very high rates of youth assault are traditionally associated with very low rates of lethal violence. Early adolescence particularly is a period of high rates for assault and very low rates of death.

Figure 1 compares self-reported victimization rates for assault in the national crime survey with homicide rates reported by the *Vital Statistics of the United States* for 1991. The age groups reported do not match completely, but the categories are close enough to make a clear pattern.

Figure 1. Male Homicide and Assault Victimization, by Age, 1991



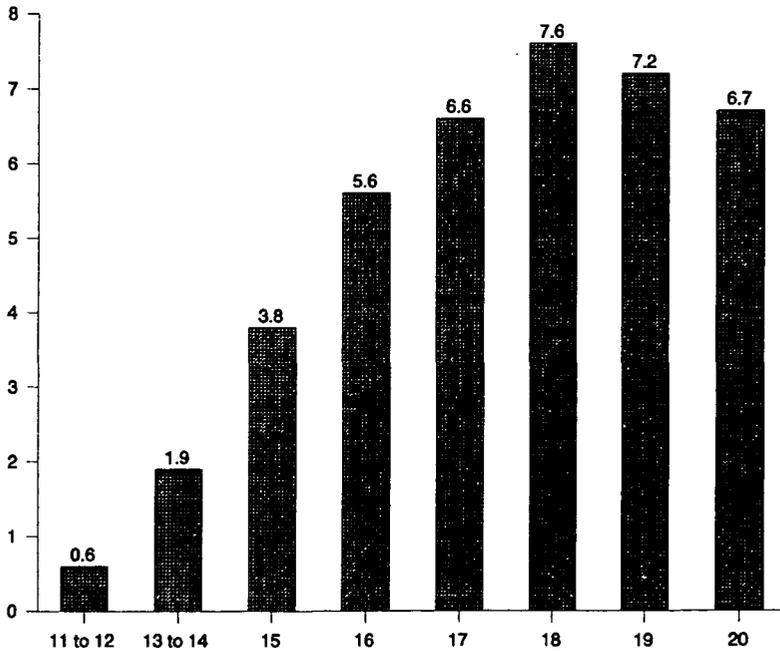
Sources: IIA NAT'L CENTER FOR HEALTH STATISTICS, VITAL STATISTICS OF THE UNITED STATES 36 (1991); BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, CRIMINAL VICTIMIZATION IN THE UNITED STATES 24 tbl.5 (1991).

3. See *infra* Figure 1.

4. For a discussion of juveniles' propensity to commit crimes in groups, see Franklin E. Zimring, *Kids, Groups, and Crime: Some Implications of a Well-Known Secret*, 72 J. CRIM. L. & CRIMINOLOGY 867, 880 (1981).

Rates of assault are reported per 1000 males in each age group in the national crime survey, so that the assault rate reported by twelve to fifteen-year-old boys is 7.5% or 75 per 1000 males. This assault rate is equal to that of twenty to twenty-four-year-old males and about one-third lower than the peak rate experienced in the next oldest age group, sixteen to nineteen-year-old males. Despite this high volume, the homicide victimization for younger adolescents is much lower than for adults. The homicide rate in ages twenty to twenty-four is fourteen times that of ages ten through fourteen despite the fact that ages twelve, thirteen, and fourteen report a rate of assault victimization equal to the older groups. Even during 1991 near the peak of the increase in juvenile homicide, the fifteen to nineteen-year-olds have a significantly lower homicide rate than the next oldest male age group in spite of a significantly higher assault rate.

Figure 2. Homicide Arrests per 100 Homicide and Assault Arrests by Age of Offender, 1992



Source: FEDERAL BUREAU OF INVESTIGATION, U.S. DEP'T OF JUSTICE, CRIME IN THE UNITED STATES (1992).

One way to measure the relative concentration of life-threatening violence in the different age groups is to express the ratio of assault to homicide victimizations. For the youngest group, there are more than 2500 reported assaults for each reported homicide. For the middle and older adolescents, the

ratio is about 327 to 1. For young men, it is 183 to 1. These are aggregate totals, but they show clearly that youth violence is distinctly different from adult violence in aggregate lethality.

The data from Figure 1 involve the broadest possible measure of youth violence: victim survey reports. We might expect that statistical comparisons of only those events that lead to serious arrests by the police would reveal more continuity between violence reported for the different age groups. Figure 2 shows, however, that even police reported aggravated assaults are much less dangerous in younger age groups. Figure 2 shows the number of homicide arrests for every 100 homicide and aggravated assault arrests for age groups from eleven to twenty. The higher the number, the larger the number of fatalities each 100 aggravated assaults produce.

Every 100 aggravated assault and homicide arrests for ages eleven to twelve contains less than one homicide arrest, a rate less than one-tenth of that found after age seventeen. The apparent death rate among thirteen and fourteen-year-olds is less than one-third as great as for seventeen and eighteen-year-olds.

There are two important lessons about youth violence to be learned from Figure 2. First, police categories like aggravated assault are extremely heterogeneous in that they include a large variety of different types of attacks. All-but-fatal shootings and stabbings are mixed together with much less threatening attacks into a single broad category. It is prudent to suppose that the index crime of robbery is also a heterogeneous mix of very different types of violent offenses.⁵

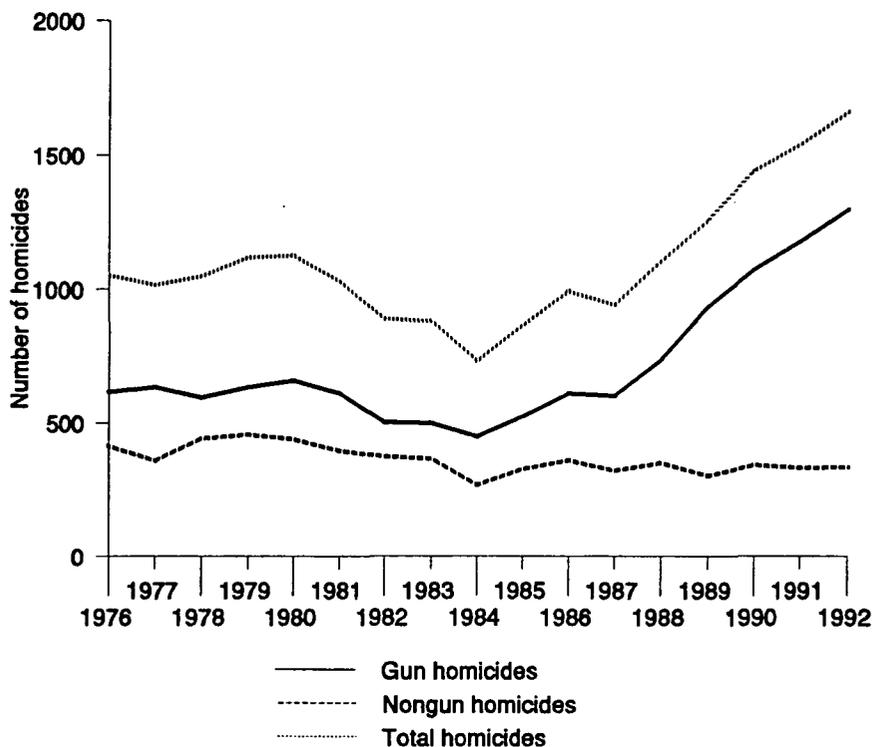
The second important point is that younger offenders tend to commit the less threatening forms of these crime categories more often than older offenders. The large difference in homicides per 100 assaults shows that younger adolescents arrested even for the highest grade assault in the Uniform Crime Reports are concentrated at the very bottom of the seriousness scale for aggravated assaults. Any policy that assumes that adolescent violence is similar to adult violence, even within the aggravated assault category, is demonstrably wrong.

The high volume/low death rate profile remains true in the 1990s as it was in earlier periods. But between 1985 and 1992, gun homicides increased dramatically among fourteen to seventeen-year-olds and this gun homicide

5. See Franklin E. Zimring, *Youth Homicide in New York*, 13 J. LEGAL STUD. 81, 94-95 (1984).

expansion produced a near tripling of the total deaths attributable to offenders under age eighteen, as shown in Figure 3.

Figure 3. Number of Gun, Nongun, and Total Homicides by Juvenile Offenders (10-17), 1976-1992.



Source: FEDERAL BUREAU OF INVESTIGATION, U.S. DEP'T OF JUSTICE, UNIFORM CRIME REPORTS: SUPPLEMENTARY HOMICIDE REPORTS, 1st ICPSR version (1976-1992).

Two characteristics of Figure 3 deserve special emphasis. First, only gun killings expanded during the post-1984 homicide boom. Non-gun homicide is essentially flat (and quite low) throughout the period from 1976 to 1992. The extreme contrast between gun and non-gun homicide trends suggests that there is more change in weapons at work since 1985 than any essential change in the character of the population. If there were a large group of "new, more violent juvenile offenders" that was the proximate cause of explosive increases in homicide, one would expect the increase in killing to be spread broadly across different weapon categories. Figure 3 tells us that a change in hardware rather than a change in software was the principal cause of higher youth homicide.

Obviously, one conclusion is that policies to minimize youth gun use should receive priority attention in responding to youth violence.

The second aspect of Figure 3 worth preliminary attention is that the number of homicides is not large in comparison to the high rates of youth assault we observe for a teenage population. This generalization is both true and misleading. Pushing all fatal and nonfatal assaults into a single fraction is probably bad criminology. Two quite different patterns are mixed into the aggregate data. Millions of fights and assaults with personal force or assorted weapons generate very few deaths and are stable over time. A relatively small number of gunshot woundings (20,000 to 50,000 per year)⁶ were growing rapidly and expanding the overall death risk from youth assault in the late 1980s and early 1990s.

III. POLICY IMPLICATIONS

Following are three policy-relevant conclusions supported by a close reading of this data. First, the increase in lethal violence among fourteen to seventeen-year-old offenders is wholly attributed to increases in gun use. Second, the relatively thin layer of gun assault should be clearly distinguished from most juvenile crime, indeed from most juvenile violence, which has not changed significantly over the last decade. And third, to reframe the age boundaries, punishment powers, or rationale of juvenile justice because of 20,000 to 50,000 shootings per year is letting a very small tail wag a very large dog. Each of these conclusions deserves further discussion.

A. The Increase in Lethal Violence Among Fourteen to Seventeen-Year-Old Offenders Is Wholly Attributable to Increases in Gun Use.

Obviously, shooting and risk-generating behavior with handguns should therefore be a priority focus in prevention, policing, and justice system response. Does this mean that juveniles who are apprehended shooting or possessing handguns should be subjected to adult penalties? I have argued elsewhere that this would be inconsistent with the view of adolescents that led us to prohibit them from purchasing and possessing guns.⁷ The very immaturity that makes possession of handguns worrisome even where adult possession is approved qualifies the culpability of those young persons who misuse guns. So equal punishment is inconsistent with the schemes of age grading that lead us to define firearms possession by minors as a special problem.

6. See *infra* section III.C.

7. Franklin E. Zimring, *Kids, Guns, and Homicide: Policy Notes on an Age-Specific Epidemic*, 59 LAW & CONTEMP. PROBS. 25 (1995).

But the juvenile offender who shoots intentionally should be defined as the most serious problem in the wide range of behaviors that constitute American youth violence in the 1990s. Within the special framework of juvenile justice, firearms injury is the highest penal priority. But only in those cases where death results will it be likely that the minimum sanction necessary to justice in a particular case exceeds the level of punishment that a juvenile court can or should be in power to impose.⁸ In most juvenile shooting cases, the best place for adjudication would be in the juvenile court, but the penal stakes of such cases will be close to that court's maximum.

B. The Relatively Thin Layer of Gun Assault Should Be Clearly Distinguished from Most Juvenile Crime, Indeed from Most Juvenile Violence, Which Has Not Changed Significantly over the Last Decade

Any change in treatment that covers juvenile aggravated assault and armed robbery will include many more cases of low-lethality forms of youth violence than of acts highly dangerous to life. Any law that reclassifies entire categories of violent crime other than homicide will be grossly overbroad because of the great range of seriousness in the aggravated assault and robbery crime categories and the tendency for the large majority of youth violence acts to be clustered near the low end of the seriousness scale.

C. To Reframe the Age Boundaries, Punishment Powers, or Rationale of Juvenile Justice Because of 20,000 to 50,000 Shootings Per Year Is Letting a Very Small Tail Wag a Very Big Dog

Two thousand killings per year would suggest a volume of highly dangerous attacks in a range from 20,000 to 50,000 per year nationwide, most of these shootings. There is, of course, a wide margin of error associated with such an estimate. Using a ratio of nonfatal to fatal shootings of one to seven, one could generate a high-lethality attack estimate well under 20,000 per year. Adding large numbers of marginal cases could push the number over 50,000.

If 20,000 to 50,000 highly dangerous behaviors were the proximate cause of recent increases in youth homicide, this figure constitutes a small fraction of youth crime and youth violence. The annual volume of delinquency cases in United States juvenile courts is about 1.5 million. The total volume of high lethality assaults would be between 1.4% and 3.5% of formal delinquency cases. The great majority of juvenile assault and robbery cases are not different in the 1990s from previous decades.

8. Franklin E. Zimring, *The Treatment of Hard Cases in American Juvenile Justice: In Defense of Discretionary Waiver*, 5 NOTRE DAME J.L. ETHICS & PUB. POL'Y 267 (1991).

Yet the high-lethality cases have come to symbolize the current profile of delinquency for many who wish to gang up on the juvenile court as a legal process for responding to youth crime. The juvenile court is an institution designed to balance the immaturity and special needs of kids against the need to condemn and control the criminal harms caused by their actions. It seems the best institution available to confront the thin layer of high lethality violence in all but the most serious cases. And the vast bulk of its work concerns far less serious community threats.