

SPRING / SUMMER 2014

Crime, Law & Deviance News

Newsletter for the Crime, Law & Deviance section of the American Sociological Association

Art or Confession? Using Rap Lyrics as Evidence in Criminal Trials

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As we gear up for the annual meeting in San Francisco, a man by the name of Vonte Skinner sits in a jail cell waiting to learn his fate. He's been waiting for 6 years. In 2008, Mr. Skinner, a New Jersey drug dealer and aspiring rapper, was tried in the attempted murder of Lamont Peterson, a fellow drug dealer. When Mr. Skinner was arrested, police found pages of his violent rap lyrics in the back seat of his girlfriend's car. With lines like "In the hood, I am a threat / It's written on my arm and signed in blood on my Tech [Tec-9 handgun] / I'm in love with you, death," prosecutors

jumped at the chance to introduce the lyrics at trial to establish Mr. Skinner's "violent state of mind." During the trial, and over repeated objections from the defense, the prosecutor read the jury 13 pages of Mr. Skinner's violent lyrics, even though all were composed before the shooting – in many cases 3 to 4 years before – and none of them mentioned Peterson or details about the crime. The only other evidence against Mr. Skinner was testimony from witnesses who changed their stories repeatedly. And yet the jury found him guilty of attempted murder, and he was later sentenced to 30 years in prison.

But in 2012, Mr. Skinner's conviction was overturned by an appellate court which ruled that the lyrics should never have been admitted as evidence in the first place. The majority wrote "we have significant doubt about whether the jurors would have found the defendant guilty if they had not been required to listen to the

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extended reading of these disturbing and highly prejudicial lyrics." The State appealed this ruling to the New Jersey Supreme Court, which recently heard arguments in the case, and this brings us to where we are today.

Mr. Skinner's case is far from unique; rap lyrics are increasingly turning up as evidence in courtrooms across the country — a concern my collaborator Erik Nielson (University of Richmond) and I have repeatedly publicized in op-eds, media interviews, and most recently in our paper, "Rap on Trial," at press in *Race and Justice*. We argue that rather than treat rap music as an art form whose primary purpose is to entertain, prosecutors have become skilled at convincing judges and juries that the lyrics are either autobiographical confessions of illegal behavior (what we call the "lyrics as confessional" argument) or evidence of a defendant's knowledge, motive or identity with respect to the alleged crime (what we call the "circumstantial evidence" argument). Our research, as well as our experience as expert witnesses in such trials, suggests that rap lyrics are of questionable evidentiary value and that their use in court can result in unfair prejudice — a point I'll return to in just a minute.

While the scope of the practice is not entirely clear, our early research suggests that rap lyrics have been used against defendants in hundreds of cases across the country. Perhaps more troubling, all indicators suggest this practice is on the rise: from the increasing number of cases reported in the media, to the growing number of commentaries by academics, to the recognition among prosecutors that the practice is effective — so effective, in fact, they have begun promoting it. A training manual produced by the National District Attorneys Association, for example, advises prosecutors to use music lyrics so that they can, in the words of former Los Angeles Deputy District Attorney Alan Jackson, "invade

and exploit the defendant's true personality." No other form of fictional expression is treated this way in the courts.

While the exact number of criminal cases that involve rap lyrics as evidence may be up for debate, what is less debatable, we argue, is the harmful impact this practice may have. The movement to criminalize rap lyrics reflects a broader effort to redefine the meaning of rap music — from art or entertainment to autobiographical confessions that provide clear insight into a defendant's thoughts or actions. The problem from our standpoint, as scholars who study rap music, is that the fictional characters portrayed in rap songs are often a far cry from the true personality of the artists behind them (Google "rapper Rick Ross" and "Smoking Gun" for a case in point). The near universal use of stage names in rap is the clearest signal that rappers are fashioning a character, yet the first-person narrative form and artists' assertions that they are "keepin' it real" (providing authentic accounts of themselves and "the 'hood"), lend themselves to easy misreading by those unfamiliar with rappers' complex and creative manipulation of identity. This is particularly problematic with gangsta rap, where artists adopt larger-than-life criminal personas and weave embellished, graphic accounts of violence. If audiences don't appreciate that these are genre conventions, they can easily conflate artist with character and fiction with fact. In effect, they end up putting rap on trial.

But they are indeed genre conventions. Metaphor and hyperbole are among the many common poetic devices used by rappers. And while one can find isolated examples of rappers with real-life connections to crime (name one art form where you can't!), as we argue, it would be a mistake to extend this characterization to rappers generally. If rappers were guilty of even the tiniest fraction of violence they project in their music, we'd all be in big trouble, a point Erik and I have repeatedly

emphasized while testifying. Unfortunately, judges and juries do not always understand this – an ignorance prosecutors either share or exploit. In case after case, the results have been devastating for the accused. Social science research helps explain why.

In one study psychologist Stuart Fischhoff conducted an experiment to determine the impact gangsta rap lyrics might have on potential jurors. His test subjects were presented with basic biographical information about a hypothetical 18-year old African American man, but only some were shown a set of violent, sexually explicit rap lyrics that he had written (the lyrics had been used as evidence in a 1995 murder trial). The subjects were then asked about their perceptions regarding the young man's personality (e.g., caring-uncaring; selfish-unselfish; likeable-unlikeable; capable of murder-not capable of murder). Fischhoff found the lyrics exerted a significant prejudicial impact on his subjects, generating more negative evaluations on all dimensions. Most relevant was his finding that the subjects who read the lyrics were significantly more likely to think the man was capable of committing murder.

In another experimental study, social psychologist Carrie Fried presented two groups of subjects with an identical set of violent lyrics (the opening stanza of the song *Bad Man's Blunder* by Kingston Trio) but removed any information that could identify the true source of the lyrics. One group was then told the lyrics came from a country song, while the other was told they came from a rap song. As Fried hypothesized, re-

spondents found the lyrics more threatening and dangerous when they were represented as rap compared to country. The racial dimensions are pretty obvious here; whereas country music is traditionally associated with white performers, rap primes negative culturally held stereotypes of urban blacks.

Here is where another critical implication of putting rap on trial begins to surface. In these trials, authorities are often prosecuting a young man of color, someone who already looms as a threatening stereotype in the minds of society. In nearly every case we've encountered, the individual being accused and tried is a young African American or Latino male. Using rap lyrics as evidence, then, is not just a matter of art being sacrificed for the sake of an easy conviction. Rather, the practice also constitutes a pernicious tactic that plays upon and perpetuates enduring stereotypes about the inherent criminality of young men of color. The lyrics must be true because what is written "fits" with what we "know" about criminals – where they come from, what they look like, and so on.

Finally, we argue putting rap on trial raises serious questions about the equal application of 1st Amendment protections and the right of all Americans to receive a fair trial. Will there be a chilling effect as more and more aspiring rappers find themselves locked up for their lyrics? In such a climate, we are left with a freedom of speech that comes with caveats, or as Rapper Ice-T ironically put it, "Freedom of Speech...Just Watch What You Say!"

Author's Note: If you are interested and want to learn more, I encourage you attend the CLD-sponsored session, "Rap on Trial," at the upcoming ASAs (see this newsletter for details). And for additional information see our op-eds, [Rap Lyrics on Trial](#) published in the *New York Times*, [A new California trend-- prosecuting rap](#) published in the *Los Angeles Times*, and [Rap Lyrics on True Threats? It's Time for the High Court to Decide](#) published in *Forbes* on May 24, 2014. . Read more in-depth coverage in [Legal Debate on Using Boastful Rap Lyrics as a Smoking Gun](#) from the *New York Times* and in [Your Rap Lyrics Can Be Held Against You in a Court of Law](#) from *Mother Jones*. For discussions related to rap on trial, see interviews from NPR's *On the Media*, [Rap Lyrics as Evidence](#); *CBC Radio's As It Happens*, [New Jersey Supreme Court to Decide If Rap Lyrics Can be Used as Evidence](#); *HuffPost Live's Hip-Hop on Trial* and check out a [video segment](#) from *CBS This Morning*.

MEMBER NEWS

Trina Nycol Brown was awarded membership into the College of the State Bar of Texas as a Paralegal Member, continuing her membership from 2012 and 2013. The College of the State Bar of Texas is an honor society chartered by the Supreme Court of Texas recognizing lawyers, paralegals, and judges who make an extraordinary commitment to professional education. In addition, she was awarded membership into the Paralegal Pro Bono College of the State Bar of Texas for outstanding pro bono service, continuing her membership from 2013. The Pro Bono College recognizes attorneys who exceed the State Bar's goals for addressing the unmet legal needs of the poor.

John Hipp and **Adam Boessen** released a new Stata ado file allowing researchers to create variables aggregated to “egohoods.” They introduced the concept of egohoods in the May 2013 issue of *Criminology* as a technique for ecological studies of crime. The file is available here:

https://webfiles.uci.edu/hippj/johnhipp/egohoods_documentation.htm

Specifically, two ado files are available: MakeEgohoods.ado and MakeEgohoodsFast.ado (the latter is much faster, but can sometimes run into computational problems on computers with more limited amounts of active memory). The code creates variables aggregated to egohoods based on a radius defined by the user.

BOOK AWARD

Randol Contreras was awarded the 2013 UC Press Exceptional First Book Award for his book *The Stickup Kids: Race, Drugs, Violence, and the American Dream* (University of California Press, 2013). He received the honor at the 23rd Annual Literary Award Festival, hosted by PEN Center USA.

John Hipp and **Charis Kubrin** co-direct the Irvine Laboratory for the Study of Space and Crime (ILSSC) in the Department of Criminology, Law and Society at UC Irvine. ILSSC is dedicated to researching questions related to 3 broad categories within the social ecology of crime: 1) *Foundational issues*, including the dynamics of urban crime, the micro-environment of crime, and the role of local institutional resources for fighting crime; 2) *Enduring challenges* including inequality, concentrated poverty and concentrated affluence, urban processes such as economic redevelopment and gentrification, and trends in immigration and other demographic population shifts; and 3) *Contemporary challenges* including the housing crisis and foreclosures, and the continuous cycling of offenders in and out of prison and on and off of supervision. The ILSSC currently seeks graduate students to work in the lab and encourages professors to share this opportunity with students who might be interested. More information is available at <http://faculty.sites.uci.edu/ilssc/>.

MEMBER NEWS

Candace Kruttschnitt, William D. Kalsbeek, and Carol C. House edited a National Research Council report titled *Estimating the Incidence of Rape and Sexual Assault*.

Christopher Linne received an award from the Council of Ghanaian Associations of New Jersey (COGA-NJ) for sponsoring a Ghanaian international peacekeeper to attend a conference at the US Institute of Peace in Washington, DC and for his work with a school district in Ghana. In addition, he received the Circle of Influence Award at the 42nd Annual Spring Conference of the Educational Opportunity Fund Professional Association of New Jersey, Inc. (EOFPA-NJ) in Atlantic City, NJ.

Gary T. Marx was a visiting professor at Vrije Universiteit in Brussels and received the inaugural Surveillance Studies Network Outstanding Achievement Award at a presentation in Barcelona.

William F. McDonald co-edited a special volume of *Crime, Law and Social Change* (2014) on human trafficking and authored the introductory article, "Explaining the Under-Performance of the Anti-Human-Trafficking Campaign: Experience from the United States and Europe."

Eleanor M. Miller, Professor at the University of Vermont, has been awarded a Fulbright Grant to research Portugal's innovative drug policy and teach in the School of Law at Nova University in Lisbon during the 2015 spring semester.

Guðmundur "Gummi" Oddsson, Ph.D. University of Missouri, recently accepted a tenure-track Assistant Professor position in the Department of Sociology and Anthropology at Northern Michigan .

Caitlin Patler (PhD Candidate, UCLA Department of Sociology) has accepted a 2014 University of California President's Postdoctoral Fellowship in the UC Irvine Department of Criminology, Law and Society.

Heather Schoenfeld and **Michael Campbell** received an honorable mention for the Law and Society Association's Article Award for their co-authored article, "The Transformation of America's Penal Order: A Historicized Politicized Sociology of Punishment.

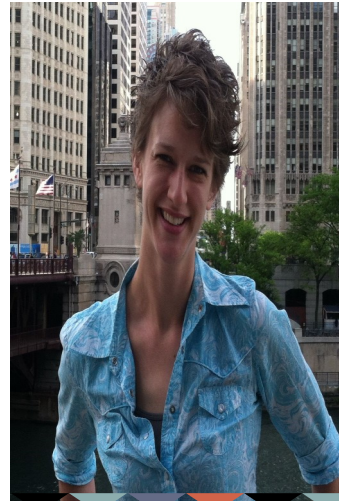
Sheldon X. Zhang and **Ronald Weitzer** co-edited a special issue of the *Annals of the American Academy of Political and Social Science* (May 2014) that focuses on human trafficking around the world. The volume contains a collection of articles that are empirically based with nuanced analysis and balanced treatment of the oft-sensationalized topic. This volume can become a valuable reader for those who are teaching a course on human trafficking or transnational human migrations.

GRADUATE STUDENT MARKET



SARAH BRAYNE

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Sociology and Social
Policy (expected 2015)
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CHRIS SMITH

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2015)
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Sarah Brayne's research interests include the criminal justice system, stratification and technological change. More specifically, she studies the social consequences of "big data" analytics in police surveillance practices. There are three components to her dissertation. The first component is a quantitative study of the individual-level consequences of surveillance practices and data sharing across institutions.

She uses two nationally representative datasets to demonstrate the relationship between involvement to the criminal justice system and attachment to medical, financial, educational, labor market, civic and religious institutions. She finds individuals involved in the criminal justice system engage in "system avoidance," avoiding institutions that keep detailed formal records (i.e., put them "in the system") and therefore heighten the risk of surveillance and apprehension by authorities. This research has been published in the *American Sociological Review*.

The second component of her dissertation is a qualitative study of surveillance practices within a large urban police department. She studies how new ways of collecting, analyzing and deploying data are transforming police surveillance practices, and what the implications of such changes are for social inequality. In the third component of her dissertation she analyzes surveillance in institutions that typically do not have a crime control mandate. Specifically, she is researching the intersection of criminal justice and medical surveillance in a hospital emergency room. Sarah also teaches college-credit sociology classes at state prisons in New Jersey.

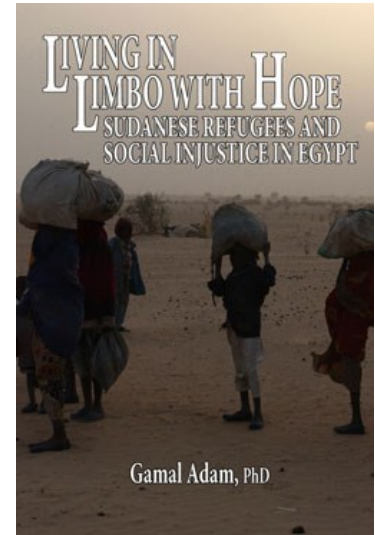
Chris Smith's areas of specialization include social network analysis, gender, historical research methods, urban sociology, and criminology theory. Her dissertation, "The Shifting Structure of Chicago's Organized Crime Network and the Women It Left Behind," combines social network analysis and historical research methods to show how women's structural positions in organized crime networks diminished over time. Women paid extortion and protection fees, got arrested, operated brothels, posted bail, trafficked other women, and attended political galas with their male counterparts.

Chris reveals configurations of relationships between women and men that contributed to the organized crime network's size, strength, structure, and durability. The empirical foundation of the dissertation is an original archival database that contains over 3,000 individuals and 14,000 social relationships between them; Chris constructed this database from more than 4,000 pages of archival documents related to crime in early 1900s Chicago.

Chris is developing a broader theory of gendered criminal capital to explain inequalities within social networks. Her dissertation research has received funding from the National Science Foundation and the National Institute of Justice. She has published in *City & Community*, *Crime & Delinquency*, and two edited volumes.

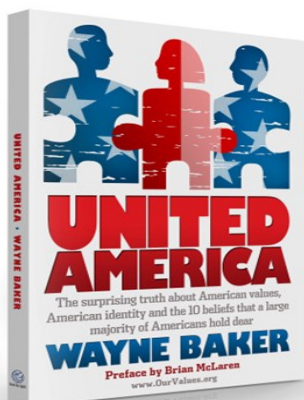
MEMBER BOOK PUBLICATIONS

“Living in Limbo with Hope: Sudanese Refugees and Social Injustice in Egypt” by **Gamal Adam** (JCharlton Publishing, 2014). Within this book, Dr. Gamal Adam explores the resilience and hope that Sudanese refugees exhibit despite the social injustice they experience, while living in Cairo, Egypt, on a daily basis. His book is not about refugee life in rural East Africa, but about refugee life in a major urban center. This differentiates Dr. Adam’s work, as the majority of existing research on East African refugees tends to concentrate upon camp life in rural areas. Dr. Adam accomplishes three crucial things within this book. First, he describes coping strategies employed by urban Sudanese refugees. Next Dr. Adam examines emerging identities that urban Sudanese refugees are forming in result of their lived experiences of exclusion and exploitation. Finally, Dr. Adam explores what hopes urban Sudanese men, women and chil-



“Criminology: A Sociological Understanding” by **Steven E. Barkan** (Pearson Education, 2015), 6th edition.

“Atrocity, Deviance and Submarine Warfare: Norms and Practices during the World Wars” by **Nachman Ben-Yehuda** (University of Michigan Press, 2013).



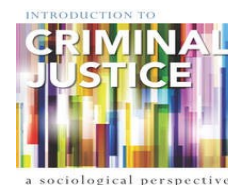
“United America: The Surprising Truth about American Values, American Identity, and the 10 Beliefs that a Large Majority of Americans Hold Dear” by **Wayne Baker** (ReadTheSpirit Books, 2014). Americans may seem to be hopelessly divided, but UNITED AMERICA shows that Americans are united by a set of 10 core values – values that are strongly held by a large majority, shared across demographic, religious and political lines, and stable over time. Based on four national surveys conducted by the University of Michigan Institute for Social Research, these 10 values include respect for others, symbolic patriotism, freedom of expression, pursuit of happiness, and justice and fairness. The book is written in an accessible style for a general audience. Free discussion guides and other resources are available at www.UnitedAmericaBook.com.

MEMBER BOOK PUBLICATIONS

“Witches, Tea Plantations and Lives of Migrant Laborers in India: Tempest in a Teapot” by **Soma Chaudhuri** (Lexington Books, 2013). Dr. Soma Chaudhuri presents the first systematic book length project on the topic of contemporary witch hunts in Sociology, and on India. Bringing together a holistic theoretical perspective drawing from sociology, anthropology, and post-colonial history, Chaudhuri argues that witchcraft accusations among the *adivasi* worker communities in the tea plantations of Jalpaiguri, India, are a protest against the plantation management. The book illuminates how witchcraft accusations should be interpreted within the backdrop of labor-planters relationship, characterized by rigidity of power, patronage, and social distance. At the height of the conflict, the exploitative relationship between the plantation management and the *adivasi* migrant workers often gets hidden, and the *dain* (witch) becomes a scapegoat for the malice of the plantation economy. The book should appeal to a wide range of scholars and readers interested in gender, social movements, violence, worker-management conflicts, criminology, and South Asia.

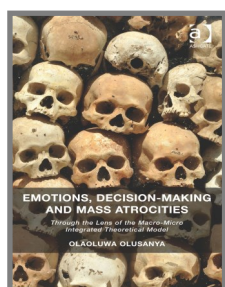
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CHARIS E. KUBRIN
and THOMAS D. STUCKY

“Introduction to Criminal Justice: A Sociological Perspective” by **Charis E. Kubrin** and **Thomas D. Stucky** (Stanford University Press, 2013).



“The Ex-Prisoner’s Dilemma: How Women Negotiate Competing Narratives of Reentry and Desistance” by **Andrea Leverentz** (Rutgers University Press, 2014).

“Crime as Structured Action: Doing Masculinities, Race, Class, Sexuality, and Crime” by **James W. Messerschmidt** (Rowman & Littlefield, 2014), 2nd edition.



“Emotions, Decision-Making and Mass Atrocities: Through the Lens of the Macro-Micro Integrated Theoretical Model” by **Olaoluwa Olusanya** (Ashgate, 2014).

“Leaving Prostitution: Getting Out and Staying Out of Sex Work” by **Sharon Oselin** (NYU Press, 2014).

“Alcohol and Violence: The Nature of the Relationship and the Promise of Prevention” by **Robert Nash Parker** and **Kevin J. McCaffree** (Lexington Books, 2012).

“License to Wed: What Legal Marriage Means to Same-Sex Couples” by **Kimberly D. Richman** (NYU Press, 2013).

ASA MEETING SESSIONS

MONDAY AUGUST 18, 2014

8:30AM to 10:10AM

Section on Crime, Law, and Deviance Invited
Session: Race, Criminal Justice, and Inequality

10:30AM to 12:10PM

Section on Crime, Law, and Deviance Council
and Business Meeting

2:30PM to 4:10PM

Section on Crime, Law, and Deviance Invited
Session: Rap on Trial

4:30PM to 6:10PM

Section on Crime, Law, and Deviance
Roundtable Session

MONDAY AUGUST 18, 2014

6:30PM to 8:30PM

Joint Reception: Section on Crime, Law, and
Deviance and Section on Sociology of Law

Address: Urban Tavern 3330 O'Farrell St.

TUESDAY AUGUST 19, 2014

4:30PM to 6:10PM

Section on Crime, Law, and Deviance Invited
Session: Social Networks and Crime

Crime, Law, & Deviance Section Information

Chair: Dana L. Haynie, Ohio State University

Former Chair: Ross Matsueda, University of Washington

Chair Elect 2013-14: Christopher Uggen, University of Minnesota

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2014: Eric Stewart, Florida State University

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2015: Sara Wakefield, Rutgers University

2016: Ramiro Martinez, Northeastern University

2016: Michelle Inderbitzen, Oregon State University

Newsletter Editors: Michelle D. Mioduszewski and Nicholas Branic, University of California, Irvine

Webmaster: Mike Vuolo, Purdue University

Website: <http://www2.asanet.org/sectioncld/>

MEMBER ARTICLE PUBLICATIONS

- Brayne, Sarah.** 2014. "Surveillance and System Avoidance: Criminal Justice Contact and Institutional Attachment." *American Sociological Review* 79(3).
- Brennan, Tim and William L. Oliver.** 2013. "The Emergence of Machine Learning Techniques in Criminology." *Criminology & Public Policy* 12(3).
- Chiarello, Elizabeth.** 2013. "Contextualizing Consequences: A Socio-Legal Approach to Social Movement Outcomes in Professional Fields." *Mobilization: An International Quarterly* 18(4).
- Chiarello, Elizabeth.** 2013. "How Organizational Context Affects Bioethical Decision-Making: Pharmacists' Management of Gatekeeping Processes in Retail and Hospital Settings." *Social Science & Medicine* 98.
- Chiarello, Elizabeth.** (In press). "The War on Drugs Comes to the Pharmacy Counter: Frontline Work in the Shadow of Discrepant Institutional Logics." *Law & Social Inquiry*.
- Gillespie, Lane K., Thomas A. Loughran, M. Dwayne Smith, Sondra J. Fogel, and Beth Bjerregaard.** 2014. "Exploring the Role of the Victim in Capital Punishment Sentencing: Victim Sex, Victim Conduct, and Victim-Defendant Relationship." *Homicide Studies* 18.
- Greenberg, David F.** 2013. "Here's to You, Mr. Robinson: Men Who Have Sexual Relations with Male Minors." In *Censoring Sex Research: The Debate over Male Intergenerational Relations*, edited by T. K. Hubbard and B. Verstraete. Left Coast.
- Gustafson, Kaaryn.** 2013. "Degradation Ceremonies and the Criminalization of Low-Income Women." *3 UC Irvine Law Review* 297.
- Kadane, Joseph B. and Ferdinand Linthoe Næshagen.** 2014. "Homicide Rates in Rural Southern Norway 1300 - 1569." *Scandinavian Journal of History*.
- Marx, Gary T.** 2014. "Conceptual Matters: The Ordering of Surveillance." In *Histories of State Surveillance in Europe and Beyond*, edited by K. Boeresma, R. van Brdakel, C. Fonio, and P. Wagenaar. Taylor & Francis.
- Marx, Gary T.** 2014. "Toward an Imperial System of Surveillance Ethics." *Surveillance and Society* 12(1).
- Richards, Tara N., Lane K. Gillespie, and M. Dwayne Smith.** 2014. "An Examination of the Media Portrayal of Femicide-Suicides: An Exploratory Frame Analysis." *Feminist Criminology* 9.

MEMBER ARTICLE PUBLICATIONS

- Savelsberg, Joachim J.** 2013. "Highlights in the Sociology of Law: Globalizing Law and Penalizing Human Rights Violations." *Contemporary Sociology* 42(2).
- Savelsberg, Joachim J.** 2013. "Review Essay on Aryeh Neier's *The International Human Rights Movement: A History*." *Law and Social Inquiry* 38 (2).
- Savelsberg, Joachim J.** 2013. "Trials, Collective Memory, and Prospects of Human Rights." In *Tribunals*, edited by W. Gephart et al. Vittorio Klostermann.
- Savelsberg, Joachim J. and Lara Cleveland.** 2013. "Law and Society." In *Oxford Bibliographies Online: Sociology*, edited by J. Manza. Oxford University Press.
- Savelsberg, Joachim J., Ryan D. King, and Yu-Ju Chien.** 2013. "The Narrative Potential of Criminal Trials: War Crimes before the International Criminal Tribunal for the former Yugoslavia" (German). *Zeitschrift für Rechtssoziologie* 33(2).
- Savelsberg, Joachim J.** 2014. "Human Rights Violations in Criminal Courts." In *Encyclopedia for Criminology and Criminal Justice*, edited by G. Bruinsma and D. Weisburd. Springer Publishing.
- Savelsberg, Joachim J.** 2014. "Institutional and Historical Explanations of Criminal Punishment." In *Encyclopedia for Criminology and Criminal Justice*, edited by G. Bruinsma and D. Weisburd. Springer Publishing.
- Schaffner, Laurie.** 2014. "Out of Sight, Out of Compliance: US Detained Girls' Health Justice." *Contemporary Justice Review* 12(1).
- Zacher, Meghan, Hollie Nyseth Brehm, and Joachim J. Savelsberg.** 2014. "NGOs, IOs, and the ICC: Diagnosing and Framing Darfur." *Sociological Forum* 29(2).

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